



UNPRECEDENTED

**A Legal Analysis of the Report of the Committee
to Examine the Status of Building in Judea and
Samaria [the West Bank] ("The Levy Committee") –
International and Administrative Aspects**

January 2014



הקתדרה לזכויות אדם ע"ש אמיל זולא
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The Emile Zola Chair for Human Rights





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Yesh Din – Volunteers for Human Rights

The Emile Zola Chair for Human Rights
The Haim Striks School of Law
The College of Management Academic Studies

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Writing: Keren Michaeli (Part A - International aspects),
Adv. Anu Deuelle-Luski (Part B - Administrative aspects)

Editing and legal consultation: Adv. Michael Sfard; Prof. Orna Ben-Naftali

Legal research: Adv. Noa Amrami, Rafi Reznik

Additional editing: Ziv Stahl

Hebrew copy editing: Noa Cohen

English translation: Shaul Vardi

English editing: Adv. Emily Schaeffer

Graphic design: Studio Yuda Dery

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Public Council: Akiva Eldar, Dan Bavli, Michael Ben Yair, Orna Ben Naftali, Naomi Chazan, Ruth Cheshin, Joshua Sobol, Uzi Smilansky, Yehudit Karp, Paul Kedar, Dani Karavan, Yair Rotlevi, Zeev Sternhell.

Yesh Din Volunteers: Dr. Aviram Hanna, Dr. Elkana Yehudit, Afek Rachel, Bailey Maya, Ben Shaul Ruth, Barag Hanna, Atty.Dr. Bartor Osnat, Gilboa Rony, Gross Tami, Hecht Dina, Harari Avner, Weiss Zucker Ruth, Sussmann Ayala, Chayut Rochale, Haklai Chen, Toledano Sara, Prof. Jablonka Eva, Yavne Lior, Kahn Daniel, Lehmann Yoram, Lotz Judy, Magal Aryeh, Marliss Sarah, Amit Dahlia, Inbar Niva, Polak Nava, Peled Noam, Pelli Roni, Plesser Rina, Kedar Ruthie, Kaldor Edna, Prof. Klinov Ruth, Dr. Klemes Joel, Katzin David, Karlin Nurit, Rothschild Maya, Rokni Yael, Dr. Resh Nura, Stern Yudkevich Rivki, Dr. Shintel Hadas, Schlesinger Idit, Shapira Ilana meki, Dr. ShapiraTzvia.

Staff: Shada Aamer, Firas Alami, Adv. Noa Amrami, Muhannad Anati, Yudit Avidor, Azmi Bdeir, Noa Cohen, Adv. Anu Deuelle-Luski, Adv. Adar Grayevsky, Yossi Gurvitz, Haim Erlich, Eyal Hareuveni, Moneer Kadus, Alex Liport, Reut Mor, Connie Martinez-Varela Pedersen, Kela Sappir, Adv. Emily Schaeffer, Adv. Michael Sfard, Mai Shabaita, Hagar Shezaf, Muhammed Shuqier, Ziv Stahl, Daniel Tsal, Adv. Shlomy Zachary.

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Yesh Din – Volunteers for Human Rights

Telefax: 03-516-8563

info@yesh-din.org

www.yesh-din.org

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Preface

On February 13, 2012, Prime Minister Benjamin Netanyahu and then-Justice Minister Professor Yaacov Neeman decided to establish a committee headed by retired Supreme Court Justice Edmund Levy to examine the legal status of Israeli construction in the West Bank (also referred to by the biblical name, “Judea and Samaria”).

The Committee was established against the backdrop of numerous legal proceedings pending before the Supreme Court (sitting as the High Court of Justice), many of which involved petitioners represented by the legal team of Yesh Din – Volunteers for Human Rights. These legal petitions requested that the Court order the State to demolish illegal constructions by Israeli civilians, to implement demolition orders issued against such construction, and to evacuate outposts the construction of which had not been approved by the Israeli government. Following numerous delays in the implementation of the Court’s decisions in these proceedings, and after the State had failed to fulfill various commitments, the Israeli government sought a means of avoiding the execution of its own demolition and evacuation orders against illegal Israeli construction. However, it encountered legal obstacles on the way. Attorney General Yehuda Weinstein determined that there is no means of approving Israeli construction on privately-owned Palestinian land, and that a government decision is required for the establishment of an outpost on public land – a process that would entail the Israeli government reneging on its numerous international undertakings not to establish new settlements in the West Bank.

Thus, the idea of establishing the Levy Committee reflected the government’s desire to legalize hitherto illegal construction in the outposts established in the West Bank, despite the absence in most cases of a legal framework for such process. The Levy Committee was intended to grant legitimization to approval processes that were otherwise inconsistent with the legal approach of the Attorney General.

Right-wing elements in Israel vigorously supported the formation of the Levy Committee. In their eyes, this was an opportunity not only to establish a legal foundation that would alter the status quo and permit Israeli construction in the West Bank, but also – for the first time – to present a report refuting the opinion concerning the unauthorized outposts prepared by Adv. Talia Sasson in her former position as a senior official in the State Prosecutor’s Office. Adv. Sasson’s report had been commissioned by then-Prime Minister Ariel Sharon and with the consent of then-Attorney General Meni Mazuz. The “Sasson Report,” submitted in 2005, summarized the legal principles regarding the legality (or rather – the illegality) of the outposts, and presented the facts uncovered by Adv. Sasson’s research on behalf of the Israeli government. The report was approved by the Attorney General and adopted by the Israeli government in a formal resolution.

For the sake of due disclosure, we should clarify that Yesh Din was invited to present its position to the members of the Levy Committee but declined to do so. In a letter sent to the Committee in April 2012 explaining the grounds for this decision, Yesh Din wrote:

“...Yesh Din’s position is that the establishment of the Committee has improper origins and is a slap in the face to the rule of law and to the status of the head of law enforcement in Israel – the Attorney General. **Accordingly, Yesh Din, which has devoted itself to the struggle to defend human rights by strengthening the rule of law, cannot lend its hand to a process that is essentially an act of defiance against the functionary responsible for law enforcement.**”

A copy of the letter is attached as **Appendix C** to this document.

On June 21, 2012, the members of the Levy Committee submitted their report. The report deviated considerably from the Committee’s mandate, which was confined to the procedures for regulating construction and clarification of land issues in the West Bank. The first 10 pages of the report discussed “the status of the Judea and Samaria areas from the perspective of international law.” The members of the Committee found that **“from the perspective of international law, the law of ‘occupation,’ as reflected in the relevant international conventions, do not apply to the special historical and legal circumstances of Israeli presence in Judea and Samaria...”**¹ Regarding the outposts, the members of the Committee found that **“the establishment of these communities [some of the unauthorized outposts] was undertaken over the years with the knowledge, encouragement and consent of the most senior political echelon – government ministers and prime ministers, and, accordingly, this conduct is to be considered tantamount to implied consent.”**²

In other words, the Committee found that there is no occupation in the West Bank and that a large portion of the unauthorized outposts are lawful.

The legal opinion presented below aims to provide a critical examination of the Levy Report through a single prism: the legal prism. Although the Levy Report raises diverse moral, political, and value-based questions, the sole purpose of the present document is to examine the Committee’s findings from a legal perspective.

The determinations reached by the Levy Committee are innovative, exceptional, and unprecedented. That fact in and of itself does not render them invalid; some of the best ideas in any human discipline were revolutionary when they were first expressed and diverged dramatically from the mainstream. However, as the study herein demonstrates, the legal analysis applied by the Levy Committee is completely divorced from the professional discourse to which it ostensibly belongs. An examination of the manner in which the legal grounds leading to the Levy Committee’s conclusions were presented

1 **Report of the Committee to Examine the Status of Building in the Judea and Samaria Area** (hereinafter: **Levy Report**) June 2012, 83.

2 **Ibid.**, pp. 84-85.



shows that the Committee chose to ignore dozens of decisions by international bodies, thousands of articles and books by jurists and academics, and hundreds of rulings by the Israeli Supreme Court, without offering any rationale for doing so. The legal methodology adopted by the Levy Committee in addressing both the question of the status of the territories occupied by the State of Israel in 1967 and that of the legality of the outposts exists in a vacuum and is devoid of any tangible anchor. The Committee's position entirely ignores, and evades engaging in the discourse of, the opposing legal position (in respect of which, such as for instance, the question of the existence of an occupation in the West Bank, there is rare legal consensus).

Moreover, the conclusions of the Levy Committee are designed to facilitate grave and irreversible damage to the right to property. In essence, the Levy Committee proposes a mechanism for the confiscation of land on which outposts have been established without official authorization and without the required permits, while paying compensation to the Palestinian owners. The Levy Committee thus seeks to introduce a constitutional revolution that subjugates the right to property to overtly political interests and prefers the interests of trespassers to those of landowners. Once again, the Committee's report fails to address the extensive reflections, writings and case law regarding the right to property in general and particularly the status of the right of property held by civilians under military occupation.

In conclusion, the Levy Committee suggests that there is no occupation, that the outposts are legal, and that the property rights of Palestinians may be trampled on at will. The Levy Committee proposes a series of revolutionary innovations in the legal field, without reconciling these with the current legal consensus and without providing an accompanying legal foundation.

The Levy Report is unprecedented. It is not based in law; indeed, it is contrary to the law. The Israeli government must reject the report.

Part A:

The Status of the West Bank Under International Law

In examining the issue of Israeli construction in the West Bank, the Levy Committee's point of departure is that according to international law, the West Bank is not considered occupied territory and, thus, in principle there is no legal barrier to the establishment of Jewish settlements in the area. This determination is fundamentally erroneous and cannot provide a foundation for the remaining conclusions of the Committee's report. The following section addresses the above-mentioned point of departure and criticizes its conclusion – one that runs contrary to the position of the State of Israel itself, including its Supreme Court, as well as to that of all of the international legal bodies and the vast majority of international legal experts in Israel and around the world.

The structure of Part A is as follows: Section 1 discusses the relevance of international law in determining the status of the West Bank and the status of the settlements. Section 2 presents the basis on which the Levy Committee reached its determination and conclusion. Section 3 focuses on Israeli policy, including the position of the Supreme Court, concerning the status of the Occupied Palestinian Territories (OPT). Finally, section 4 presents the position of the international bodies and experts.

1. The Relevance of International Law in Determining the Status of the West Bank and the Settlements

The status of any area, including the West Bank, is regulated not merely by the domestic law of states, but in accordance with the rules of international public law. Thus, for example, a state cannot declare its sovereignty over the open sea³ or over outer space,⁴ since both domains have been recognized (separately) as belonging to humankind as a whole by international conventions and international customary law. Likewise, the various means by which a state may acquire a territory, or is prohibited from so doing, are primarily regulated in accordance with international law.⁵

It follows that the status of the West Bank cannot be determined solely in accordance with Israeli law. Indeed, even the Levy Committee concurred on this point. In the relevant

3 United Nations Convention on the Law of the Sea, Dec. 10, 1982, 1833 U.N.T.S. 396, Article 89.

4 Res. 1962 (XVIII). Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space 13 December 1963; Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, January 27 1967, 610 U.N.T.S. 205.

5 R. Y. Jennings, **The Acquisition of Territory in International Law** (1963).



framework of international law, the question of Israeli sovereignty over the West Bank depends upon the circumstances in which Israel assumed control of the area, the manner in which it has regulated said control over the years, and the agreements it has reached with the representatives of the Palestinian population of the area. In accordance with this law, as will be detailed below in section 4, the West Bank is an occupied territory. Contrary to the Levy Committee's conclusion, Israel has no legal basis for "claiming the rights of sovereign over the area."

2. The Legal Foundation for the Committee's Conclusions

2.1 The Status of the OPT

The brief discussion on the status of the West Bank in the Levy Committee Report is divided into two parts:

The first part establishes that the legal basis for the sovereign right of the State of Israel to this area rests in the Mandate for Palestine granted to Great Britain by the League of Nations in 1922. The Committee states that the mandate explicitly established that Palestine is the national home of the Jewish people and that the recognition granted to non-Jewish groups in the mandate area is restricted to their civil and religious rights. The Committee notes the Balfour Declaration of 1917 and the Resolution of the San Remo Conference of 1920 as events that preceded the mandate, but is otherwise silent on their legal or other significance.⁶

The second part of the discussion relates to various events subsequent to 1922 which, in the Committee's opinion, have no bearing on the legal status of the OPT.

- The discussion first addresses Resolution 181 of the United Nations General Assembly, adopted in 1947, which partitioned Mandatory Palestine between the Arab and the Jewish communities in the area and approved the establishment of two states within these borders (the Partition Plan). In the Committee's opinion, the General Assembly was not empowered to change the Mandate in light of Article 80 of the United Nations Charter, which establishes that nothing in the Charter shall alter the rights of states and peoples as recognized under mandates. The Committee further concludes that the Resolution did not acquire any standing in international law, as it was rejected by the Arab states and dissipated in the reality following the War of Independence (1948), with the occupation of the Gaza Strip and the West Bank by Egypt and Jordan, respectively.

6 Levy Report, pp. 9-10.

- Secondly, the discussion addresses the armistice lines determined at the end of the war in 1949. The Committee posits that these were not intended to constitute boundaries, given what the Committee describes as the demands of “the Arab states, which did not recognize the outcome of the war.”⁷
- Thirdly, the Levy report mentions the annexation of the West Bank by Jordan, which never secured international recognition and ended in 1988 upon the Jordanian formal waiver of all rights to the area. Regarding this waiver, the Committee asserts that “thus the original legal status of the territory was restored, namely, a territory designated as a national home for the Jewish people, who had a “right of possession” to it during Jordanian rule while they were absent from the territory for several years due to a war imposed on them, and have now returned to it.”⁸
- Lastly, the report discusses the Israeli position regarding the West Bank. According to the Committee, Israel had every right to claim sovereignty over this area, and (it argues) this position has been shared by all Israeli governments. The Committee further determines that the decision not to annex the West Bank territories was made solely for pragmatic reasons, “in order to enable the pursuit of peace negotiations with the representatives of the Palestinian people and the Arab states.”⁹

This discussion appears in the Levy Report after a preliminary discussion on the applicability of the law of occupation to the West Bank. In its discussion, the Committee rejects the assertion that this area constitutes an occupied territory based on two grounds:

- Firstly, the relevant legal provision regarding occupation describes a situation of short-term occupation, in contrast to Israeli control over the OPT, which has lasted for many years.
- Secondly, occupation applies only to areas taken from a sovereign state. The West Bank was not under any sovereignty at the time it was taken, since its annexation by Jordan had not been recognized and, in any case, Jordan has long since relinquished this sovereignty.

Accordingly, the Levy Committee concludes that “the State of Israel has a claim to sovereign rights in the area”¹⁰ of the West Bank.

2.2 The Status of the Settlements

The Committee’s decisive conclusion that Jewish settlement in the West Bank (“Judea and Samaria,” to use the term employed by the Committee) is consistent with international law is based on its above-mentioned assertion that “accordingly, Israel had every right

⁷ *Ibid.*, p. 11.

⁸ *Ibid.*, pp. 11-12.

⁹ *Ibid.*, p. 12.

¹⁰ *Ibid.*, p. 6.



to claim sovereignty over this area". However, the Committee also saw fit to challenge the argument concerning the illegality of the Jewish settlement in the West Bank, even assuming that this area does constitute an occupied territory.

The main legal basis for the arguments presented to the Committee concerning the prohibition on the settlement of citizens of the occupying power in the occupied territory relates to Article 49 of the Fourth Geneva Convention of 1949. According to this article, "The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies." The Committee rejects the claim that Israeli settlement in the OPT falls under the prohibition detailed in Article 49, and posits as follows:

The prevailing opinion is that this section was intended to respond to the difficult reality imposed on some of the nations during the Second World War, when some of their residents were deported and forcibly transferred to the territories they had conquered. This process was accompanied by a substantial deterioration in the condition of the occupied population.¹¹

On the basis of this interpretation of Article 49 of the Fourth Geneva Convention, the Committee concludes:

We are not of the opinion that it can be deduced from this legal provision and its goals regarding persons who sought to settle in Judea and Samaria not because they were 'deported' or 'exiled' thereto by force, but because of their worldview – the settlement of the Land of Israel.¹²

The Levy Committee maintains that the above conclusion reflects the "prevailing view" on the basis of the following grounds:

- The interpretation of the Fourth Geneva Convention adopted by the International Committee of the Red Cross (ICRC) in 1958.
- An article by Alan Baker, one of the three members of the Committee, published on the website of the Jerusalem Center for Public Affairs, 2011; an opinion piece by Eugene Rostow, former Dean of the School of Law at Yale University, published in 1990 in the **American Journal of International Law**; and an article by David Phillips, a law professor at Northeastern University, published in **Commentary** in 2009.

11 Ibid.

12 Ibid., p. 8.

3. Israeli Policy Recognizing the West Bank as an Occupied Territory

Since the occupation of the West Bank in 1967, the official Israeli position has refrained from declaring that the State of Israel has a sovereign right in this area. With the exception of what has become known as 'East Jerusalem' (an area the scope of which increased dramatically post-1967), Israel has declared that Judea and Samaria are "administered" areas and to this day has administered these areas subject to the law of occupation.

3.1 The Decision to Apply the Law of Occupation to the OPT

Immediately pursuant to the seizure of the West Bank from Jordan, Israel accepted the obligation to administer the area in accordance with the law of occupation. Although Israel rejected the claim that the area had belonged to Jordan prior to its occupation, its legal policy was nevertheless that the law of occupation provides the source of authority for administering the area. On the basis of this policy it was determined that the administration of the area would observe the "humanitarian provisions" included in the Fourth Hague Convention and the Fourth Geneva Convention.¹³

Accordingly, Proclamation No. 2 Concerning the Regulation of Administration and Law, issued by the Commander of the Israel Defense Forces (IDF) in the West Bank, brought the governance of the area (legislation, appointment and administration) under his authority and explicitly established that "the law that was in force in the area as of 28 Iyar 5727 (June 7, 1967) will remain in force, insofar as it is not contrary to this proclamation or to any proclamation or order that I shall issue, and with the changes accruing from the establishment of the rule of the Israel Defense Forces in the Area."¹⁴ Moreover, Proclamation No. 3, which enacted the Order Concerning Security Provisions and granted the IDF governing powers in the West Bank, established (in section 35) that a military court and the administration of a military court would observe the provisions of the Fourth Geneva Convention concerning the protection of civilians, "and where there is a contradiction between this order and the said convention, the provisions of the convention take precedence."¹⁵

Following the publication of these proclamations, the West Bank was governed in accordance with the law of occupation. The legislation and the municipal and judicial institutions that were in place in the West Bank prior to the Israeli occupation remained intact, subject to the orders published by the IDF Commander who, in accordance with the provisions of international law, was vested with the supreme legislative and executive

13 See the opinion of the attorney general at the time, Meir Shamgar: M. Shamgar, "The Observance of International Law in the Administrated Territories," 1 Isr. Y.B. Hum. Rts. (1971) 262, 266-7.

14 Proclamation Concerning the Administration of Rule and Justice (West Bank Region) (No. 2), 5727-1967.

15 Proclamation Concerning the Entry Into Force of the Order Concerning Security Provisions (West Bank Area) (No. 3), 5727-1967, dated June 7, 1967. This section was deleted in 1970, when Proclamation No. 3 was replaced by the Order Concerning Security Provisions (Judea and Samaria) (No. 378), 5730-1970.



authority in the area.¹⁶ Over the years, extensive institutional and legislative changes were introduced by means of these orders. Prominent examples include the establishment of a network of military courts¹⁷ and the creation of the Civil Administration, which is responsible for all civilian activities in the area.¹⁸

Israeli awareness of the implications of the legal status of the OPT was reflected in its position regarding the construction of Israeli settlements in the West Bank. As early as September 1967, a legal opinion prepared by then legal advisor to the Foreign Ministry, Theodor Meron, established that in legal terms it is difficult to justify the construction of the settlements in light of various articles in the Fourth Geneva Convention and the Hague Regulations.¹⁹ Later, Israel for many years justified the construction of the settlements in the West Bank on security grounds, i.e. grounds that the military commander is entitled to consider in accordance with international law, rather than on the basis of any claim to a sovereign right to the territory.²⁰

The only exception to this is the annexation of East Jerusalem and its surroundings. In June 1967, the State of Israel imposed Israeli law and administration on this area by means of primary²¹ and secondary legislation.²² It should be noted that the State of Israel objected to the use of the term “annexation” to describe these steps, claiming that its incorporation of the area had been purely municipal and administrative in nature.²³ This policy was only changed in 1980 upon the enactment of Basic Law: Jerusalem, Capital of Israel.²⁴

3.2 Supreme Court Findings that the Area is Under “Belligerent Occupation”

In hundreds of legal judgments relating to the actions of the military commander in the West Bank (the most significant of which are presented in **Appendix A** of the Hebrew version of this report found on the Yesh Din website), the Supreme Court of Israel has

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- 16 For details regarding the legislative, executive and judicial system established in the area, see: M. Drori, “The Legal System in Judea and Samaria: A Review of the Previous Decade with a Glance to the Future,” 8 *Isr. Y.B. Hum. Rts.* (1978), 144. It is, however, impossible to ignore the increasing application of the laws of the State of Israel to the settlers, a development that creates two parallel legal systems in the Judea and Samaria Area.
- 17 S. Weil, “The Judicial Arm of the Occupation: the Israeli Military Courts in the Occupied Territories,” 89 *Int’l Rev. Red Cross* (2007), 395.
- 18 Order Concerning the Establishment of a Civil Administration (Judea and Samaria) (No. 947), 5742-1981.
- 19 See the September 14, 1967 opinion of Theodor Meron, legal advisor to the Foreign Ministry, who later served as president of the Tribunal for War Crimes in the Former Yugoslavia: <http://southjerusalem.com/wp-content/uploads/2008/09/theodor-meron-legal-opinion-on-civilian-settlement-in-the-occupied-territories-september-1967.pdf> (generously provided by Gershon Gorenberg).
- 20 HCJ 608/78, **Ayoub v. Minister of Defense**, PD 33(2) 113 (hereinafter: **Ayoub**); HCJ 390/79, **Dweikat et al. v. Government of Israel et al.** 34(1) 1 (hereinafter: **Elon Moreh**).
- 21 The addition of section 11B to the Law and Administration Arrangements Ordinance, 5708-1958, and the addition of section 8A to the Municipalities Ordinance [revised].
- 22 The enactment of the Law and Administration Arrangements Order (No. 1), 5727-1967 and the Declaration by the Interior Minister Regarding the Extension of the Area of Jurisdiction of the Jerusalem Municipality, 20 Sivan 5727-1967.
- 23 Taken from the letter of then-Foreign Minister Abba Eban to the UN Secretary-General, UN Doc. S/8052 (July 10, 1967).
- 24 In November 2000 the law was amended by means of the addition of Article 5, thereby officially defining the area of Jerusalem in accordance with the Declaration of the Interior Minister, 5727.

consistently adopted the legal approach that the area is under belligerent occupation by Israel and, accordingly, the source of authority to act in the area is derived from the international law of occupation.

This approach was consolidated in the early decisions of the Supreme Court. The first relevant petition submitted to the Court, in 1971, concerned the authority of the military commander to amend Jordanian legislation by means of an order. The Court examined this authority in light of the provisions of The Hague Regulations and the Fourth Geneva Convention. The application of these provisions was possible given that the State did not dispute their relevance.²⁵ It should be noted that in this decision, as in subsequent ones, the Court adopted the premise that Israel is an occupying power,²⁶ irrespective of the problem of sovereignty in the West Bank.²⁷

In most cases, Israel's position that it observes the humanitarian provisions of The Hague and the Geneva Conventions sidestepped the need to discuss the presence of the legal conditions required for the applicability of these provisions – in other words, the question of sovereignty over the West Bank is an aspect that the Court has consistently refrained from discussing. It should be noted, however, that the State of Israel went out of its way to prove to the Court that its actions did not entail the annexation of parts of the West Bank. In the early judgments discussing the legality of expropriation of land for the purpose of constructing Israeli settlements in the area, the Court determined that such expropriation constitutes a security measure within the authority of the military commander, rather than one intended to result in confiscation and annexation – acknowledging that the latter are prohibited under international law.²⁸ Similarly, the Court refused to recognize the expansion of the settlement blocks as determining a new political border.²⁹ The Court adopted a similar approach in determining the legality of the construction of the separation barrier (also referred to as “the Wall”) around the settlements, and the resulting permit regime: it rejected the petitioners' arguments that the act entailed the de facto annexation of parts of the West Bank, establishing that:

the military commander is not authorized to order the construction of a separation fence, if the reason behind the fence is a political goal of ‘annexing’ territories of the area to the State of Israel and to determine Israel's political border. The military commander is authorized to order the construction of the separation fence if the reason behind its construction is a security and military one.³⁰

25 HCJ 337/71, **Al-Jamaya al-Masihya lil-Arabi al-Muqadasa v. Minister of Defense**, PD 26(1) 574, 580.

26 HCJ 256/72, **Jerusalem District Electric Company Ltd. v. Minister of Defense**, PD 27(1) 124, 137-8; HCJ 351/80, **Jerusalem District Electric Company Ltd. v. Minister of Energy and Infrastructures**, PD 35(2) 673, 688.

27 HCJ 61/80, **Haetzni v. State of Israel**, PD 34(3) 595, 597; HCJ 69/81, **Abu 'Ita et al. v. Commander of Judea and Samaria Area**, PD 37(2) 197, 228.

28 Ayoub, *supra* note 20, Opinion of Justice Ben Porat.

29 HCJ 3125/98, **Ayad v. Commander of IDF Forces in the Judea and Samaria Area**, PD 58(1) 913.

30 HCJ 7957/04, **Mara'abe v. Prime Minister of Israel**, PD 60(2) 477 (hereinafter: **Mara'abe**); HCJ 9593/04, **Morar v. Commander of IDF Forces in Judea and Samaria** (2006), Tak-EI 2006(2), 362 (June 26, 2006), (hereinafter: **Morar**).



The Court's approach regarding the status of the OPT was summarized in a petition submitted by the Gaza Coast Regional Council ("the Disengagement Petition"). Rejecting the petitioners' claim that the Gaza Strip constitutes part of the State of Israel, the Court held: "This Court has established in a long series of judgments that Judea, Samaria, and the Gaza Strip are subject to the belligerent occupation of the State. They are not part of the State of Israel."³¹ Justice Levy, who sat on the judicial panel comprising 11 justices in this case, disagreed with this approach stating as follows:

Prior to the entry of the State of Israel, there was no sovereign in the areas of Judea, Samaria, and the Gaza Strip recognized in accordance with international law. Conversely, the State of Israel, which now holds these territories, does so not by virtue of it being an 'occupying power,' but by virtue of the fact that on the one hand it replaced the Mandate government, and on the other hand, it is the representative of the Jewish people. As such, it enjoys not only the historical right to hold and settle these areas, about which it is not necessary to speak at length but simply to study the Bible, but also a right enshrined in international law.³²

This position constituted a single minority opinion among the eleven justices on the panel; It follows that it does not reflect the legal position of the Supreme Court as manifested consistently over all of the years in which the relevant judgments were granted, including in the Disengagement Petition.

The Court's decision in the Disengagement Petition established in the clearest possible terms the connection between the status of an occupied territory and the status of the settlements. Over the years, the Court has refrained from discussing the question of the legality of the establishment of the settlements, on the basis of its position that this issue is non-justiciable.³³ Instead, it has confined itself to examining the legality of the expropriation of Palestinian land to this end.³⁴ In addition, the Court has rejected the possibility of drawing on Article 49 of the Fourth Geneva Convention as a ground for the illegality of the settlements, determining that the Fourth Geneva Convention does not constitute customary international law and, therefore, is not binding Israeli law.³⁵ In the Disengagement Petition, the Court determined that settlements established in an area subject to belligerent occupation – which is temporary – are not immune from evacuation based on political needs:

The only factor that can mitigate the extent of the damage to the evicted Israelis is the normative reality that they are being evacuated from an area held under belligerent occupation. By the very nature of such an area, the presence of Israelis therein is temporary and subject to a peace agreement or to a unilateral

31 HCJ 1661/05, **Gaza Coast Regional Council v. The Israel Knesset** PD 59(2) 481, para. 76 (hereinafter: **Gaza Coast**).

32 *Ibid.*, para. 14 of the judgment.

33 HCJ 4481/91, **Bargil v. Government of Israel**, PD 47(4) 210.

34 **Ayoub**, *supra* note 20.

35 HCJ 698/80, **Qawasmeh v. Minister of Defense**, PD 35(1) 617; HCJ 785/87, **Afu v. Commander of IDF Forces in the West Bank**, PD 42(2) 4. However, in HCJ 7015/02, **Ajuri v. Commander of IDF Forces in the West Bank**, PD 56(6) 352, this article was discussed without examining the question of its applicability.

decision by Israel to evacuate the area. The possibility that such an evacuation might occur one day hangs over the head of the Israeli at all times.³⁶

This ruling of the Supreme Court is not merely consistent with its past rulings, it also clearly stands in contradiction with the conclusion of the Levy Committee that Israelis are entitled to rely on their right to permanent residency in the West Bank by virtue of the area being subject to Israeli sovereignty.

3.3 The Signing of the Oslo Accords by Israel and the Palestinian Authority

The interim agreements signed between the State of Israel and the PLO in the 1990s constitute a further platform for consolidation of Israel's policy regarding the status of the OPT. Among other provisions, the Declaration of Principles on Interim Self-Government Arrangements, signed in September 1993, recognized the PLO for the first time as the representative of the Palestinian people and acknowledged the reciprocal political rights of both parties.³⁷ The Declaration of Principles created a framework of action for a five-year transitional period at the end of which permanent arrangements would be agreed upon for the West Bank and the Gaza Strip. In the framework of this process additional agreements were signed, such as the Gaza-Jericho Agreement,³⁸ the Agreement on Preparatory Transfer of Powers and Responsibilities,³⁹ the Interim Agreement on the West Bank and Gaza Strip,⁴⁰ and the Wye Agreement.⁴¹

3.3.1 Recognition of the Palestinian People's Right to Self-Determination

A significant aspect of the above-mentioned agreements was the recognition of the Palestinian people and its representatives as an entity that is due to acquire sovereignty over large sections of the Gaza Strip and the West Bank. This recognition ended any link between Jordanian rule in the West Bank prior to the "Six Day War" of 1967 and the question of Israel's sovereignty over the area. By recognizing the Palestinian entity as the relevant body for negotiations regarding control of the OPT, the State of Israel fell in line with the international position recognizing the Palestinian people's right to self-determination within these territories (see section 4 below).⁴² This recognition continued to apply even after the outbreak of the second Intifada in 2000. The Israeli government explicitly adopted US policy as formulated in the "Road Map," including the idea of a Palestinian state.⁴³

³⁶ **Gaza Coast**, *supra* note 31, para. 115.

³⁷ http://www.knesset.gov.il/process/asp/event_frame.asp?id=37

³⁸ http://www.knesset.gov.il/process/asp/event_frame.asp?id=38

³⁹ http://www.knesset.gov.il/process/asp/event_frame.asp?id=45

⁴⁰ <http://www.knesset.gov.il/process/docs/heskemb.htm>

⁴¹ <http://www.mfa.gov.il/NR/exeres/EE54A289-8F0A-4CDC-93C9-71BD631109AB.htm>

⁴² G. Sher, **Within Touching Distance** (2001) (Hebrew), p. 420.

⁴³ See the speech by then-Prime Minister Ariel Sharon at the Herzliya Conference in 2002 on the website of the Prime Minister's Office: <http://www.pm.gov.il/PMO/Archive/Speeches/2003/12/Speeches8996.htm>



3.3.2 Transfer of Parts of the West Bank to the Control of the Palestinian Authority

The agreements signed established various arrangements for the transfer of powers from the military commanders of the West Bank to the Palestinian Authority and for the withdrawal of IDF forces from certain areas within the OPT.⁴⁴ The Interim Agreement divided the entire territory into three types of areas. Area A included the major Palestinian cities, such as Jericho, Qalqiliya, Ramallah, Bethlehem, Jenin, and Tulkarem. The agreement established that this area would be subject to the civil and security control of the Palestinian Council. Area B included most of the built-up areas of rural Palestinian communities; civil control in this type of area was transferred to the Palestinian Council, while security control was divided between the latter and the IDF. Area C, accounting for the majority of the area of the West Bank (over 60 percent), and including the Israeli settlements, remained under the full civil and security control of the IDF, although the Palestinian Council was granted certain powers regarding the Palestinian residents who live in this area, such as in matters relative to health and education. Under the Interim Agreement Israel maintained powers over security and foreign relations regarding the OPT, as well as any other power not explicitly transferred to the Palestinian Council.⁴⁵

Following the outbreak of the second Intifada, Israeli forces invaded the cities of the West Bank and the division of powers achieved in the peace agreements collapsed almost entirely. However, both Israel and the Palestinian Authority deliberately refrained from declaring the agreements void.⁴⁶ In his minority opinion in the Disengagement Petition, Justice Levy cast doubt on the validity of the peace agreements that had been signed and held that they do not constitute a waiver of Israel's sovereign rights over the OPT, pending a permanent agreement that would resolve various issues, such as the settlements.

This assertion is erroneous from the perspective of international law for two main reasons. The first reason concerns the validity of the various peace agreements in light of their mutual and repeated violation: under the international law of treaties, even if the violations establish grounds for the nullification or suspension of the peace agreements,⁴⁷ as long as the injured party has not declared its intention to suspend or nullify the treaty, it remains valid.⁴⁸ The second reason concerns the right to self-determination: nullification of the agreements cannot invalidate the Palestinian people's right to self-determination, since this right is considered to be an erga omnes right under international law, and hence, one that cannot be invalidated by an individual state.⁴⁹

44 For details, see Y. Singer, "The Israeli-Palestinian Interim Agreement concerning Arrangements for Autonomy in the West Bank and Gaza Strip," *Mishpatim* 27, 5757, p. 605.

45 Section XVII of the Interim Agreement.

46 Israel did, however, threaten to nullify the agreements following the campaign by the Palestinian Authority in the United Nations for recognition of Palestine as a state.

47 Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations, art. 60, May 23, 1986, UN Doc. A/CONF.129/15.

48 *Ibid.*, art. 65.

49 See the opinions of the International Court of Justice in The Hague concerning Namibia and East Timor: Legal Consequences for States on the Continued Presence of South Africa in Namibia (South West Africa), Advisory Opinion, 1971 I.C.J. 16 (June 21); Case Concerning East Timor (Port. v. Austl.), 1995 I.C.J. 90 (June 30).

The above analysis thus demonstrates that the position of the Levy Report regarding Israel's status in the OPT stands in complete contradiction with the legal arrangement as understood for decades by the State of Israel and its legal and judicial authorities. As we shall show below, the Levy Committee's conclusions further stand at odds with the prevailing, indeed unequivocal, international view on Israel's status in the OPT.

4. The International Position: Recognizing the Status of the West Bank as an Occupied Territory

The Levy Committee's conclusions are also inconsistent with the prevailing legal interpretation of international institutions, including legal and judicial authorities. The unequivocal and consistent position of the international community is that the West Bank is an area subject to Palestinian sovereignty (regardless of the identity of the actual sovereign prior to the 1967 War), and that the establishment and ongoing presence of the settlements constitute a clear violation of the prohibition, under the law of occupation, on the transfer of the occupier's population to the occupied territory. This position is formalized in the documents detailed below.

4.1 The Interpretation of International Political Bodies

4.1.1 Security Council Resolutions

The following are the main United Nations Security Council resolutions regarding the status of the West Bank and the (il)legality of the settlements:

- **Resolution 242** of November 1967 was adopted after many months of negotiations, and its essence lies in the consolidation of the formula of "land for peace." According to this resolution, Israel must withdraw from the territories it conquered in the 1967 War, and the countries involved in the war must mutually recognize each other's territorial and political sovereignty. In October 1973, following the Yom Kippur War, the Security Council adopted **Resolution 338**, which called on all countries to begin implementation of Resolution 242. Both of these resolutions were included in the Joint Declaration of Principles by Israel and the PLO in 1993.
- **Resolution 446** of March 1979 explicitly established that the territories occupied in the 1967 War are occupied territories to which Israel must apply the Fourth Geneva Convention. The resolution further determined that Israel's policy of establishing settlements in these territories is completely illegal. Additionally, the resolution established a committee to examine the subject of the settlements. Based on the committee's reports, the Security Council has adopted additional resolutions condemning Israel's policy of constructing settlements. **Resolution 465** of March 1980 establishes that the construction of the settlements represents an attempt to



alter the physical character of the occupied territory, its demographic makeup and its institutions and that, as such, it violates the Fourth Geneva Convention.

- **Resolution 1435** of September 2002 was adopted following “Operation Defensive Shield,” in which Israel again seized control of most of the West Bank. The resolution again confirmed the applicability of the Fourth Geneva Convention to this territory and demanded that Israel withdraw its occupying forces to the lines of September 2000 prior to the outbreak of the second Intifada.

The Levy Committee Report does not even mention these resolutions, adopted by an institution whose decisions are binding under international law.

4.1.2 General Assembly Resolutions

Since 1967, the United Nations General Assembly has adopted hundreds of resolutions regarding various aspects of the Israeli-Palestinian conflict. During the period immediately after the war, the General Assembly adopted a series of resolutions that describe Israel as an occupying power in the territories it conquered, confirm the applicability of the Fourth Geneva Convention to these territories, reject any claim of Israeli sovereignty over these territories, and utterly repudiate the legality of the establishment of Israeli settlements therein. These positions have been manifested consistently in resolutions over the past 46 years. **Appendix B** to this document details these resolutions.

The disproportionate focus placed by the General Assembly on the Palestinian issue as compared with other issues has led to considerable criticism regarding the body’s bias against Israel. While this criticism is certainly appropriate, it is impossible to ignore the consistent and continuous opinion held by the General Assembly, which represents the majority of the world’s nations. In legal terms, this broad-based foundation of resolutions offers an indication of the manner in which the rules of international law are to be interpreted regarding the West Bank. As described in section 4.3 of this document, the opinion of the International Court of Justice regarding the illegality of the separation barrier relied on the General Assembly’s resolutions as an interpretative tool in determining that the West Bank is an occupied territory and that the settlements constitute a violation of the Fourth Geneva Convention, therefore rendering them illegal.

The Levy Committee Report does not mention the numerous UN General Assembly resolutions cited above.

4.2 The Interpretation of the International Committee of the Red Cross

The Levy Committee’s interpretation of the relevant articles of the Fourth Geneva Convention is inconsistent with the interpretation given to these articles by the International Committee of the Red Cross (ICRC) and with their applicability to the West Bank. It

is thus hardly surprising that following the publication of the Levy Report, the head of the ICRC delegation in Israel, Juan Pedro Schaerer, issued a clarification regarding the organization's position and criticized the Committee's conclusions.⁵⁰ The official position of the ICRC is important in light of the organization's mandate as the body that oversees the international codification of the humanitarian conventions adopted since 1863. Moreover, the status of the ICRC as a body active in protecting the rights of people who are not taking part in hostilities has been explicitly recognized in various conventions, including the 1949 Geneva Conventions.

According to the ICRC, in light of Israel's effective control over the West Bank, the latter constitutes occupied territory under the accepted legal definition of military occupation.⁵¹ This framework provides the basis for the ICRC's operations in the region, including access to security prisoners held in Israel.

As the above-mentioned position implies, the ICRC regards the Israeli settlements as contrary to the provisions of Article 49 of the Fourth Geneva Convention. The organization's official interpretation of Article 49, upon which the Levy Committee itself relied, prohibits not only the forced transfer of portions of the occupying power's population into the territory occupied, but also the making any demographic change, as part of the general prohibition against the alteration of substantive characteristics of the occupied territory (the 'conservation principle'). The reference in the interpretation of Article 49 to forced deportation common during the Second World War was included solely by way of providing background to the enactment of this particular article, and it cannot serve to restrict the prohibition contained therein solely to such instances.⁵²

The Levy Report makes no reference to the interpretation of the ICRC – the body responsible for the codification of the laws of war - nor an accurate reference to its position regarding the status of the West Bank and the (il)legality of the Israeli settlements located therein.

4.3 The Interpretation of International Legal Bodies

4.3.1 The Judgment of the International Court of Justice

The issues of the status of the West Bank and the legality of the settlements were discussed by the International Court of Justice (ICJ) in the advisory opinion requested from the court by the United Nations General Assembly in 2004 concerning the legality of the construction of the separation barrier (or Wall) in the West Bank.⁵³ The following are the relevant legal determinations reached by the ICJ:

50 <http://www.haaretz.com/opinion/the-levy-report-vs-international-law-1.474129>

51 This definition is embodied in Article 43 of the Fourth Hague Convention of 1907. The Supreme Court has based its position on this definition, for instance, in its determination in 2008 that Gaza is no longer considered an occupied territory. HCJ 9132/07, **Al-Bassiouni v. Prime Minister** (September 17, 2008).

52 J.S. Pictet, *Commentary – The Geneva Convention Relative to the Protection of Civilian Persons in Time of War* (1958) 243.

53 Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory (Advisory Opinion)



- The Fourth Geneva Convention applies to any territory occupied during the course of a conflict between states that are parties to the convention. The ICJ rejected the claim that the Fourth Geneva Convention was intended to exclude territories seized from an unrecognized sovereign. Accordingly, since the area was occupied during a conflict with a state that is party to the convention (Jordan), Israel is obligated to observe the provisions of the Fourth Geneva Convention within this area, regardless of the question of Jordan's sovereignty over it.⁵⁴
- Insofar as the separation barrier constitutes an attempt to annex parts of the OPT, Israel is in violation of the international customary prohibition on the annexation of a territory by means of military force, and it also stands in violation of the Palestinians' right to self-determination.⁵⁵ The ICJ established that this right is not disputed, and that it was recognized by Israel itself in the Declaration of Principles with the PLO in 1993.
- The settlements constitute the prohibited transfer of residents of the occupying power to the occupied territory, in violation of Article 49 of the Fourth Geneva Convention. The ICJ interpreted this article as prohibiting not only the forced transfer of parts of the population by the state, but also actions that serve to organize or encourage the movement of part of the population into the occupied territory.⁵⁶

Although the ICJ advisory opinion does not in itself bind Israel directly (since unlike judgments rendered by the ICJ in disputes between states, binding force is not attached to its advisory opinions) the legal determinations underlying the opinion undermine any contrary legal interpretation raised by Israel: as the principal judicial organ of the United Nations, the International Court of Justice enjoys a high level of international prestige, and this extends to its legal determinations.⁵⁷ This reality in general and in relation to the opinion on the separation barrier in particular, has been recognized by the Israeli Supreme Court noting that: "The opinion of the International Court [of Justice] constitutes an interpretation of international law undertaken by the supreme judicial body in international law... Full, due weight is to be given to an interpretation made by the International Court."⁵⁸

[2004] I.C.J. Rep. 136.

54 **Ibid.**, para. 101. The ICJ's interpretation is based on the intention of the authors of the convention and on the interpretation of its humanitarian purpose, as well as on the interpretation of the convention by the member states and by the ICRC, among other bodies. **Ibid.**, paras. 95-97. In this context, the ICJ also referred to the Security Council and General Assembly resolutions as noted in **Appendix B**.

55 **Ibid.**, paras. 117-118, 121.

56 **Ibid.**, para. 120. It should be noted that even the American Judge Buergenthal, who was the only member of the ICJ panel to find that the court had erred in its decision to accept the application for an advisory opinion and who insisted that the court had not properly examined the security risk in response to which the barrier was constructed – also determined that the settlements constitute a violation of Article 49 and that their protection by means of a barrier (wall) cannot be justified on security grounds (section 9 of Judge Buergenthal's opinion).

57 By way of example, the ICJ's conclusion in its advisory opinion that UN member states are prohibited from recognizing or supporting the establishment of the wall/separation barrier and the accompanying regime led the European Union to demand that Israel dismantle the separation barrier. On July 20, 2004, 150 states voted in favor of General Assembly Resolution A/RES/ES-10/15, which adopted the opinion.

58 **Mara'abe**, *supra* note 30.

Against this backdrop, the problematic nature of the legal analysis underlying the Levy Committee's conclusions becomes all the more apparent. As described in section 2 of part A of this document, the Committee's analysis led to conclusions that run completely contrary to those of the International Court of Justice. Nonetheless, the Committee completely failed to address this contradiction. In its discussions on the status of the OPT and the legality of the settlements in light of international law, the Levy Committee should, at the very least, have addressed the ICJ's interpretation and its position (as the Supreme Court in Israel did).⁵⁹

The Levy Report fails to refer to, let alone engage with the Advisory Opinion of the International Court of Justice, the supreme judicial institution of the United Nations.

4.3.2 Decisions of International Expert Committees

The status of the West Bank has been discussed on numerous occasions by human rights committees responsible for supervising the implementation of conventions to which Israel is party. These committees are professional and apolitical bodies and their membership includes several Israeli scholars.

- The United Nations Human Rights Committee, which is responsible for supervising the implementation of the provisions of the 1966 International Covenant on Civil and Political Rights, has mentioned in all three of its opinions regarding the reports submitted to it by the State of Israel that the West Bank is an occupied territory.⁶⁰ The Committee also has noted its concern regarding Israel's policy of confiscating land for the purpose of establishing the settlements, and in 2010 it urged Israel to desist from further construction of settlements.
- The Committee on the Elimination of Racial Discrimination (CERD), which is empowered to supervise the implementation of the 1965 International Convention on the Elimination of All Forms of Racial Discrimination, has determined in the four opinions it has published regarding Israel that the West Bank constitutes an occupied territory and that the settlements violate Article 49 of the Fourth Geneva Convention.⁶¹
- The committee responsible for supervising the 1966 International Convention on Economic, Social and Cultural Rights,⁶² the Committee on the Elimination of Discrimination Against Women (CEDAW), which is charged with supervising

59 **Ibid.** The judgment rejected the conclusions of the International Court of Justice on the grounds that the ICJ was not in possession of the full factual basis, since the State of Israel chose not to present it to the court. It is important to note that although the Supreme Court addressed many of the determinations reached by the ICJ, it chose not to do so regarding the status of the West Bank and the settlements, in keeping with its position that the issue of the settlements is non-justiciable.

60 U.N. Doc. CCPR/C/79/Add.93 (1998); U.N. Doc. CCPR/CO/78/ISR (2003); U.N. Doc. CCPR/C/ISR/CO/3 (2010).

61 U.N. Doc. A/49/18, paras. 73-91 (1994); U.N. Doc. CERD/C/304/Add.45 (1998); U.N. Doc. CERD/C/ISR/CO/13 (2007); U.N. Doc. CERD/C/ISR/CO/14-16 (2012).

62 U.N. Doc. E/C.12/1/Add.27 (1998); U.N. Doc. E/C.12/1/Add.90 (2003); U.N. Doc. E/C.12/ISR/CO/3 (2011).



the 1979 Convention on the Elimination of All Forms of Discrimination against Women;⁶³ and the Committee Against Torture, which oversees implementation of the 1984 Convention against Torture (CAT)⁶⁴ have all consistently related to the West Bank as an occupied territory in their opinions published in response to the reports submitted by Israel. The Committee on Economic, Social and Cultural Rights has also consistently condemned the policy of settlement construction and the accompanying regimes.

The issue of the settlements formed the focus of an opinion submitted by an independent international fact-finding mission to the United Nations Human Rights Council in January 2013.⁶⁵ The United Nations Fact-Finding Mission on Israeli Settlements was charged with examining the implications of the settlements in the West Bank, including East Jerusalem, on the human rights of the Palestinian population. The State of Israel did not cooperate with the commission and refused to recognize it as an independent commission.

The legal framework that was adopted by the Fact-Finding Mission, and provided the basis for its findings, was that established by the ICJ in its opinion regarding the separation barrier (wall). The Fact-Finding Mission reaffirmed that the West Bank, including East Jerusalem, is an occupied territory whose administration is regulated by the Fourth Hague Convention and the Fourth Geneva Convention. It also reaffirmed that the settlements constitute a clear violation of the prohibition in Article 49 of the Fourth Geneva Convention and in international customary law. In its conclusions, the Fact-Finding Mission urged Israel to dismantle the settlements and to compensate the Palestinian population for the damage caused by their establishment. Likewise, it urged United Nations member states not to recognize the settlements and the resulting legal arrangements, and to ensure that private companies under their authority and in their territory that are active in the West Bank or in the context of the settlements respect the human rights of the Palestinian population.

The Levy Report fails to refer to, let alone engage with the positions of the numerous international committees operating in accordance with, and serving as interpreters of, international law.

63 U.N. Doc. A/60/38, paras. 221–268 (2005); U.N. Doc. CEDAW/C/ISR/CO/5 (2011).

64 U.N. Doc. A/49/44, paras. 159–171 (1994); U.N. Doc. A/53/44, paras. 232–242 (1998); U.N. Doc. CAT/C/XXVII/Concl.5 (2001); U.N. Doc. CAT/C/ISR/CO/4 (2009).

65 UN Human Rights Council, "Report of the independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem" (January 2013), <http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/FFM/FFMSettlements.pdf>.

4.4 The Interpretation of the Vast Majority of International Legal Experts

As in the case of the position of international political and legal bodies, and that of Israeli policy (including the position of the Supreme Court), so, too, international legal scholarship regarding the status of the West Bank and the settlements largely differs from the Levy Committee's conclusions. In this context too, the Levy Report does not include references to this comprehensive corpus of literature, confining itself to a small number of sources, only one of which was written after the 2004 advisory opinion of the International Court of Justice. The reliance of the Levy Committee on these sources in determining that its legal conclusions constitute the "prevailing opinion" is, to put it mildly, particularly problematic. The Committee's legal position is quite simply diametrically opposed to the "prevailing opinion."

The list of experts on international humanitarian law whose writings were not even mentioned by the Levy Committee includes, among others, Prof. Antonio Cassese, who, among other positions, served as President of the International Criminal Tribunal for the Former Yugoslavia;⁶⁶ Prof. Adam Roberts of the Faculty of International Relations at Oxford University;⁶⁷ Prof. Joseph Weiler of New York University;⁶⁸ Prof. James Crawford of Cambridge University;⁶⁹ Prof. Eyal Benvenisti of the Faculty of Law at Tel Aviv University;⁷⁰ Prof. Yoram Dinstein, Professor Emeritus at the Faculty of law in Tel Aviv University and former President of the university;⁷¹ Prof. Orna Ben-Naftali, who served as Dean of the Haim Striks School of Law at the College of Management Academic Studies; Prof. Yuval Shani, Dean of the Faculty of Law at Hebrew University and a member of the United Nations Human Rights Committee;⁷² and Prof. David Kretzmer, Professor Emeritus of the Faculty of Law at the Hebrew University of Jerusalem and a former member of the United Nations Human Rights Committee.⁷³ All of the above-mentioned scholars, without exception, support the opposite conclusions of those reached by the Levy Committee.

Critical articles published by several senior legal experts in response to the Levy Report reflect discomfort, at best, with the report's conclusions. These experts include Prof. Ian Scobbie of the University of London,⁷⁴ Prof. Shani, mentioned above,⁷⁵ Prof. Kretzmer,

66 A. Cassese, "Legal Considerations on the International Status of Jerusalem," 3 Palestine Y.B. Int'l L. (1986) 13.

67 A. Roberts, "Prolonged Military Occupation: The Israeli Occupied Territories since 1967," 84 Am. J. Int'l L. (1990) 44.

68 J.H.H. Weiler, "Israel, the Territories and International Law: When Doves are Hawks" in A.E. Kellermann et al. eds., *Israel Among the Nations* (1998) 381.

69 James Crawford, "Third Party Obligations with respect to Israeli Settlements in the Occupied Palestinian Territories" (January 2012). <http://www.tuc.org.uk/tucfiles/342/LegalOpinionIsraeliSettlements.pdf>

70 E. Benvenisti, *The International Law of Occupation* (2nd ed., 2012).

71 Y. Dinstein, "The International Legal Status of the West Bank and the Gaza Strip – 1998," 1999 *Isr. Y. B. Hum. Rts.* 38.

72 O. Ben-Naftali and Y. Shani, **International Law between War and Peace** (Hebrew) (2006).

73 D. Kretzmer, *The Occupation of Justice: the Supreme Court of Israel and the Occupied Territories* (2002).

74 Ian Scobbie, "Justice Levy's Legal Tinsel: The Recent Israeli Report on the Status of the West Bank and Legality of the Settlements" (September 2012). <http://www.ejiltalk.org>

75 Y. Shani and E. Rosenzweig, "Groundless – The Levy Report on the Legality of the Settlements and International Law," **Orech Hadin** 17 (Oct. 2012), 18.



mentioned above⁷⁶ Prof. Francis Raday of the Haim Striks School of Law and a former member of the United Nations Committee for the Elimination of Discrimination against Women and the United Nations Human Rights Council's Working Group on Discrimination against Women,⁷⁷ and Prof. Aeyal Gross of the Faculty of Law at Tel Aviv University.⁷⁸

The above-mentioned scholars constitute but an extremely limited selection among hundreds of scholars and international legal experts who have written on this subject. Indeed, our research revealed a near absolute consensus (a phenomenon that is quite rare on any legal issue) that the West Bank is an occupied territory and the establishment of the settlements therein is a violation of international law.

The Levy Report fails to refer to, let alone engage with this extensive literature by the world's leading experts on international law.

76 D. Kretzmer, "Bombshell for the settlement enterprise in Levy report" (July 2012), <http://www.haaretz.com/opinion/bombshell-for-the-settlement-enterprise-in-levy-report-1.450170>

77 F. Raday and E. Rosenzweig, "The Legality of the Settlement Enterprise in accordance with International Law – True or False?" (Hebrew) on the website of the Israel Democracy Institute (August 2012): <http://www.idi.org.il>

78 A. Gross, "If there are no Palestinians, there's no Israeli occupation" (July 2012), <http://www.haaretz.com/misc/article-print-page/if-there-are-no-palestinians-there-s-no-israeli-occupation-1.449988?block=true>

Part B:

The Status of the Unauthorized Outposts and the Legal Option of Granting Them Retroactive Approval

1. Introduction

This part examines the positions of the Levy Committee as presented in the second section of its report. In particular, this includes the legal determinations underlying the Committee's conclusion that, in many cases, it is possible to grant retroactive approval to outposts established by settlers in the West Bank unofficially and without government approval.

The Committee argues that the involvement of the political echelon in the establishment of the unauthorized outposts in the West Bank is active and multifaceted. The Committee members are of the opinion that this activity amounts to **consent by conduct** to the establishment of some or all of the outposts, and this consent meets the conditions established in case law for the application of **administrative promise** doctrine. Such an administrative promise, the Committee believes, may oblige the authorities to grant retroactive approval to the illegal outposts. The Committee relies on the factual findings revealed in the report submitted by Adv. Talia Sasson in 2005,⁷⁹ which it adopts in full. Accordingly, the Levy Report is not an independent report, but an opinion based on the factual findings of another report.

As we will show, the Levy Committee's interpretation of the administrative promise doctrine, particularly in terms of its breadth, deviates dramatically from the interpretation applied to this doctrine by the Supreme Court. Accepting the Committee's interpretation would strip the doctrine of its meaning and, above all, create vast areas of application to which it was never intended to relate, with far-reaching and even dangerous ramifications. As we will argue here, the Committee's interpretation is goal-oriented and seeks to realize a political agenda through the use of legal tools. In attempting to accomplish its goal, the Committee ignored the most basic principles of administrative law and clear rulings made by the Supreme Court. In essence, the Committee completely detached itself from the relevant legal discourse.

This part will begin with a brief presentation of the conditions established in case law for the presence of an "administrative promise" that may bind the authorities. We will then

⁷⁹ See below, Talia Sasson, (Interim) Report Concerning Unauthorized Outposts, 2005 (hereinafter: **Sasson Report**.)



present the general position of the Levy Committee, the interpretative disagreements between the various authorities regarding the relevant government decisions on construction in the West Bank, and the Committee's determination in this regard. Lastly, we will offer a critique of the manner in which the Levy Committee applies the doctrine of the administrative promise, including by way of reference to the (binding) approach of the Supreme Court on this subject.

To be clear: the authors of this document do not believe that there is any way to grant legal approval for any Israeli settlement in the West Bank, since this is an occupied territory in which the establishment of settlements is completely prohibited. Nevertheless, this part will examine the question of the processes that led to the establishment of settlements in accordance with the procedures and laws followed by the Government of Israel and the IDF. In other words, we will examine the necessary conditions for the approval of the establishment of a settlement in accordance with the standards that guide the Government of Israel. For this purpose, we will set aside our own position that international law does not permit the establishment of any settlements.

2. The Administrative Promise Doctrine and the Position of the Levy Committee

2.1 The Normative Framework: Conditions for the Presence of an Administrative Promise

The Levy Committee's position regarding the legality of some of the outposts is based on its interpretation of a doctrine developed by the Supreme Court in the field of administrative law, namely **the administrative promise doctrine**.

The administrative promise doctrine establishes that, under certain conditions, a promise made by a governmental agent to a citizen **will be binding**, i.e. the authority will be obligated to fulfill its promise even if it does not wish to do so. In accordance with the Supreme Court judgments granted on this issue, three cumulative conditions must be met in order for a promise made by a governmental authority to be binding it vis-à-vis an individual:

The person who made the promise was authorized to do so: An administrative promise binds the authorities of the State only if the person making the promise is empowered to do so, i.e. the person holds the authority, within the administrative system, to make decisions and commitments on the State's behalf in the matter in which the promise was made.⁸⁰

80 H CJ 135/75, **Scitex Ltd. et al. v. Minister of Trade and Industry**, PD 30(1), 673 (hereinafter: **Scitex**); H CJ 594/78, **Oman Knitwear Factories Ltd. and 4 others v. Minister of Trade, Commerce and Tourism**, Piskei Mechozi 32(3), 469, p. 474 (hereinafter: **Oman Knitwear Factories**).

The promise was made with the intention that it be legally binding: The person claiming an administrative promise must prove that the promise he or she received was sufficiently explicit, clear and unequivocally formulated as a promise, as required of a legal undertaking that does not constitute a mere declaration of intent.⁸¹

The person who made the promise was capable of keeping it: the promise is detailed and feasible.⁸²

Over the years there has been a development in case law in terms of the requirement that the promise be made by an authorized person. In the 1960s, the Supreme Court established in the Jaffa Sun case that an administrative promise had been made, but it declined to enforce this promise, noting:

No legal value should be attached to the Minister's promise in this instance, since its realization is not within the power of any of the government authorities, including the Minister's own ministry, who, it may be argued, are obliged to honor the ministers' promises in matters within their field of operation.⁸³

In the 1970s, the Supreme Court reiterated these comments in the Scitex case,⁸⁴ consolidating the rule that the Court is not to order the execution of a promise made by a government minister outside his or her sphere of responsibility and which he or she could not realize. The rationale behind the rule is that enforcing a promise made without authority is liable to lead to the violation of key norms of administrative law, undermine the principle of administrative legality, and harm the foundations of public administration.⁸⁵ Moreover, enforcing such a decision is liable to disrupt the administration's organizational and financial management mechanisms, particularly when such enforcement entails putting a strain on the national budget, as in the case of the approval of outposts.⁸⁶ As the Court ruled in the Sharon Coast case, such enforcement is liable "to encourage conspiracies and cause harm to third parties that suffer from the externalization of unlawful activities."⁸⁷

Although this ruling was restricted in later judgments, the Court has reiterated its findings in Scitex on several occasions,⁸⁸ and has refrained from examining the presence of the remaining conditions in cases in which the first condition, concerning lack of authority, was not met.⁸⁹ In this context, the Court noted:

81 HCJ 585/01, **Klechman v. Chief of Staff**, PD 58(1) 694, 710 (2003) (hereinafter: **Klechman**).

82 Civil Appeal 2019/92, **Ministry of Housing and Construction v. Mordechai Zisser**, 52(3) 208.

83 HCJ 11/63, **Jaffa Sun (Citrus Products) Ltd. v. Minister of Commerce and Industry**, 744 (Justice Branson) (hereinafter: **Jaffa Sun**).

84 **Scitex**, *supra* note 80, 676.

85 HCJ 9634/08, **Sharon Coast Regional Council v. Minister of Interior**, ([published in Nevo], October 5, 2009), para. 28 (hereinafter: **Sharon Coast**); Civil Appeal 831/76, **Levy v. Haifa Assessing Officer**, PD 32(1) 421, pp. 432-435 (1977); Civil Appeal 6996/97, **I. Abada Ltd. v. Development Authority**, PD 53(4) 117, pp. 123-124 (1999) (hereinafter: **Abada**).

86 **Klechman**, *supra* note 81, pp. 710-712.

87 **Sharon Coast**, *supra* note 85 para. 24.

88 HCJ 3978/06, **Maimuni v. IDF** ([published in Nevo] June 29, 2008); HCJ 714/06, **Ziv v. Head of IDF Computerization Division et al.** (hereinafter: **Ziv**).

89 **Oman Knitwear Factories**, *supra* note 80; HCJ 250/78, **Daniel Aviuv v. Minister of Agriculture**, PD 32(3), 742.



A promise by a public official or public body that is contrary to the law they purport to serve shall not be upheld, and the courts will not sanction the enforcement of such a promise due to the clear danger that by enabling such promises, the authorities will extend their powers beyond the jurisdiction the legislature has set for them.⁹⁰

The two additional conditions for the presence of an administrative promise have been interpreted in case law in an essentially similar manner to the contractual demand of specificity and deliberate expression (as distinct from a mere declaration of intent).⁹¹ The rationale behind these conditions lies in the public interest in maintaining the authority's freedom of action and in ensuring that the authority will not be required to implement every statement, expression or general declaration of intent,⁹² but rather only those promises made with the explicit intention of imbuing them with binding legal validity.⁹³

However, the Court's judgments show that there may be instances in which it will not be possible to require the authority to meet its promise, even when the above-mentioned three conditions have been met, given the presence of legal grounds for relieving the authority of its promise.⁹⁴ The principal ground for relieving an authority of its promise is the claim that the damage that will be caused to the public interest following the realization of the promise exceeds the individual and public interest in observing the promise.⁹⁵

In the *I.B.M. Assets case*,⁹⁶ the Supreme Court delineated the parameters of the authority's capacity to retract its promise. The Court held that in the case of a decision that contradicts the law, or that otherwise involves a deviation from authority, as well as in the case of a decision originating in a technical bureaucratic error resulting from inattention – the authority will, in general, be permitted to retract the promise it has made. Conversely, when the decision constituted an error in the sense that the official implemented his or her ministry's policy unwisely or incorrectly, or, alternatively, when he or she exercised discretion in an unreasonable manner, the authority will generally be obliged to fulfill the decision, particularly when the citizen has already acted in accordance with the original decision.

90 Klechman, p. 710; Ziv, *supra* note 88, para. J(1) of the opinion of Justice E. Rubinstein; HCJ 640/78, **Katzain v. Chairperson of Netanya Local Planning Council**, PD 34(2).

91 Klechman, *supra* note 81, p. 706; HCJ 580/83, **Atlantic Fishing and Shipping Company Ltd. v. Minister of Industry and Trade**, PD 39(1) 29, p. 36 (hereinafter: **Atlantic**).

92 HCJ 3978/06, **Maimuni v. IDF**, ([published in Nevo] June 29, 2008).

93 HCJ 4915/00, **Reshet Media and Production Company (1992) Ltd. v. Government of Israel**, PD 54(5) 451, 477-478 (2000).

94 **Oman Knitwear Factories, supra** note 80; HCJ 142/86, **Dishon Cooperative Village for Agricultural Settlement v. Minister of Agriculture et al.**, PD 40(4) 223 (hereinafter: **Dishon**); HCJ 636/86, **Nachlat Jabotinsky Workers' Moshav v. Minister of Agriculture**, 41(2) 701 (hereinafter: **Nachlat Jabotinsky**); HCJ 5941/91, **American Gas Company Ltd. v. Ministry of Energy and Infrastructure**, 46(2) 806; HCJ 4383/91, **Chaim Shepeckman v. Herzliya Municipality**, 46(1) 447 (hereinafter: **Shepeckman**).

95 HCJ 6268/00, **Kibbutz Hahotrim Registered Agricultural Cooperative Society v. Israel Land Administration**, PD 55(5) 639, para. 18 (hereinafter: **Kibbutz Hahotrim**); **Atlantic, supra** note 91.

96 Civil Appeal 433/80, **I.B.M. Assets Israel Ltd. v. Director of Property Tax and Compensation Fund**, Tel Aviv, PD 37(1) 337, pp. 353-355 (hereinafter: **I.B.M. Assets**).

When the Court is asked to examine the authority's claim of **legal grounds** for breaking an administrative promise, it must weigh two considerations against one another: on the one hand, it must consider the public interest in enabling an authority to correct aberrations or errors in its operations, thereby preventing potential damage to the public through the implementation of the undertaking; on the other hand, the Court must examine the interest in maintaining consistency in the actions of the administration, as a condition for proper administrative procedures and in order to maintain citizen confidence in the authorities. As the Court determined, the point of balance between these two types of considerations is not fixed, but rather depends on various criteria. Most important – for our purposes – is the weight to be attached to the extent to which the promise distorts and deviates from accepted, proper and desirable administrative norms.⁹⁷

In its discussion regarding the outposts, the Levy Committee concluded that the government, through its agents, had effectively granted the settlers an administrative promise recognizing and supporting the establishment of the illegal outposts in the West Bank. The Committee members argued that the three conditions detailed above were indeed met in the case of the establishment of the outposts. Accordingly, a binding promise was made on this matter, and there is no legal justification for releasing the State therefrom. Since this administrative promise was ostensibly based on the government's consent to the establishment of the outposts, we must re-examine whether the content of the promise, i.e. the act of establishing the said outposts, was effected in accordance with the law and in a manner consistent with the conditions required under Israeli law for the establishment of a new settlement.

2.2 Conditions for the Establishment of a New Settlement in the West Bank

The Supreme Court was presented with the issue of approval of construction in the West Bank in the *Amanah* case,⁹⁸ in which it determined that approval of the establishment of a new settlement requires compliance with three cumulative conditions:

- 1) **Completion of procedures in the political realm** – a government decision to establish a new settlement or neighborhood;
- 2) **Completion of procedures in the municipal realm** – issuance of an order by the IDF military commander in the West Bank establishing the municipal boundary of the settlement and granting it legal status;
- 3) **Completion of procedures in the planning realm** – the deposit and approval of an outline plan with the Civil Administration planning bodies and receipt of building permits from the relevant planning authorities.

97 HCJ 5018/91, **Petrochemical Industries Ltd. v. Government of Israel**, PD 47(2) 773, pp. 454-455 (hereinafter: **Petrochemical Industries**); Shpeckman, *supra* note 94, pp. 785-786; Atlantic, *supra* note 91, p. 36.

98 HCJ 5853/04, **Amanah Gush Emunim Settlement Movement et al. v. Prime Minister et al.**, PD 59(2) 289.



In her opinion, **Adv. Talia Sasson noted an additional condition for the establishment of settlements in the West Bank, concerning the nature of the rights to the land on which establishment of the settlement is intended.**⁹⁹ This condition is based on the ruling made in the Elon Moreh case¹⁰⁰ in 1979, according to which Israeli settlements cannot be established in the OPT on private land seized for security needs. As the result of this Supreme Court judgment, and due to a subsequent government decision, Israeli governments have since held the position that settlements would not be established on privately-owned Palestinian land; rather, they will be built solely on land classified as “state land” (public land).

As of 2004, according to Adv. Sasson’s study,¹⁰¹ all the outposts established in the West Bank from the 1990s onward have not been given approval by a government decision prior to their establishment and have failed to meet any of the above-mentioned conditions. In other words, not only were the political procedures for their establishment incomplete, but they also did not receive the required planning authorizations.¹⁰² Adv. Sasson’s study also revealed that in some cases the outposts were established outside the area of jurisdiction of the existing settlement, often on privately-owned Palestinian land.¹⁰³

The Levy Committee did not dispute the legal analysis presented above regarding the necessary conditions for the establishment of a legal settlement, nor did it dispute the factual infrastructure presented in the Sasson Report showing that these conditions were not met with regard to the establishment of over 100 outposts in the West Bank. However, in order to avoid the subsequent conclusion that these outposts are illegal due to the absence of government decisions, planning authorizations, and orders issued by the military commander defining municipal areas for the outposts, **the Committee members found a creative legal solution: the doctrine of the administrative promise.** The Committee summarized its comments on the matter as follows:

The said behavior on the part of the government, through its agents, also constitutes the violation of an ‘administrative promise’ granted to the settlers. As noted, the latter were entitled to assume that the government was acting as required by law and without contradicting its own decisions regarding settlement in Judea and Samaria... Moreover, there can be no doubt that a promise of this type was made by a person empowered to do so, with the intention of granting it legal validity, and that those making the promise (the Government of Israel, through its agents) are capable of fulfilling it. A further question is whether the government has grounds to retract the said promise, and a negative response to this question would seem to be obvious... Regarding the substance of the

99 **Sasson Report**, p. 20.

100 **Elon Moreh**, *supra* note 20.

101 For general statistics concerning the number of unauthorized outposts, see **Sasson Report**, pp. 21-23 and 95-105. For a detailed list of outposts and existing data, see Booklet A of the Sasson Report and Appendix 1 to Booklet A of the Sasson Report. See also the website of Peace Now: <http://peacenow.org.il/content/%D7%A8%D7%A9%D7%99%D7%9E%D7%AA-%D7%94%D7%AA%D7%A0%D7%97%D7%9C%D7%95%D7%99%D7%95%D7%AA-%D7%95%D7%9E%D7%90%D7%97%D7%96%D7%99%D7%9D>

102 These two conditions are interrelated: without a government decision to establish a settlement, the military commander will not declare a municipal area and it will not be possible to promote an outline plan.

103 **Sasson Report**, pp. 97-105.

promise, too, we did not find that the government has grounds for retraction... Our conclusion is that the establishment of these settlements was undertaken with the knowledge and encouragement of the most senior political echelon... and, accordingly, this conduct is to be considered tantamount to implied consent. Accordingly, in our opinion, it is possible to proceed to regularizing the status of these settlements without requiring a further decision by the government or any of its ministers.¹⁰⁴

In other words: the Committee members found a substitute for compliance with the first condition (and also, in effect, the second and third conditions) for the establishment of a new settlement, that is to say – a substitute for the substantive and essential requirement to receive the approval of the political echelon – in the administrative promise doctrine.

2.3 The Requirement of Completion of Procedures in the Political Realm as a Condition for the Establishment of a New Settlement

As noted, **the exclusive authority to approve the establishment of a new settlement** rests with the political echelon, namely the government in its plenum form. As we shall discuss in depth, the decision to establish a new settlement within the borders of the State of Israel, and all the more so within the borders of the OPT, is a portentous one and has extremely broad ramifications. Accordingly, the authority to reach a decision on this matter has always been reserved for the supreme body of the executive authority – the government (the cabinet).

In contrast, the authority to approve the expansion of an existing settlement has been transferred among various bodies over the years. Accordingly, the question as to whether an approval that has been granted (if at all) for the expansion of an existing settlement has met the condition of approval by the political echelon depends on the period in which the approval was granted:

Until March 1999, in accordance with Government Resolution No. 640,¹⁰⁵ any expansion of construction in an existing settlement that is not contiguous¹⁰⁶ with the built-up area (i.e. does not continue the area of existing construction) required a government decision. Accordingly, as far as construction through this date is concerned, there is no difference, in terms of the requisite authority, between a decision to establish a new settlement and

¹⁰⁴ Levy Report, pp. 58-60.

¹⁰⁵ Government Resolution HT/40 No. 640 (May 1984) (hereinafter: **Resolution 640**).

¹⁰⁶ See **Sasson Report**, p. 79: "The establishment of a new settlement and the 'expansion' of an existing settlement are not one and the same and must be interpreted in accordance with the relevant physical data; the expansion of a rural settlement is contiguous with the settlement. The establishment of buildings at a substantial distance from the edge of the settlements (hundreds of meters or more as the crow flies) does not constitute the expansion of an existing settlement, but rather the establishment of a new one, even if the parent settlement and the new settlement lie within the area of jurisdiction of a single settlement or local authority."



a decision to expand a settlement in a manner not contiguous with an existing one. **In both cases, a government decision was required.**¹⁰⁷

Since March 1999, in accordance with Government Resolution No. 175,¹⁰⁸ any expansion of an existing settlement, whether contiguous or not, requires the approval of **the defense minister, with the agreement of the prime minister**. According to Adv. Sasson, in the case of construction that is not contiguous with an existing settlement, the rule remains intact, requiring **approval by the government in its plenum form**, since this effectively constitutes the establishment of a new settlement.¹⁰⁹ Resolution No. 175 did not address the issue of the jurisdictional boundaries of the settlement and, accordingly, the Levy Committee saw this omission as authorizing the defense minister (with the agreement of the prime minister) to approve extensions of construction outside the area of jurisdiction.¹¹⁰

It thus emerges that a government decision was required in order to establish the outposts constructed prior to March 1999 in a manner not contiguous with the built-up area of the parent settlement. As noted, this requirement was not met with regard to any of the outposts examined and included in the Sasson Report. As for outposts constructed after this date, their establishment required, at the very least, the approval of the defense minister with the agreement of the prime minister, whether they were established contiguous to the parent settlement or some distance away. In cases of expansion of construction deviating from the area of jurisdiction of the settlement, the approval of the entire government was required, since this is considered tantamount to the establishment of a new settlement. Despite this, the Levy Committee expressed its opinion that the approval of the defense minister (with the agreement of the prime minister) was sufficient in these instances.

However, reality differed considerably from procedure. In practice, the operational echelon responsible for implementing government decisions on the ground – including the Supervisor of Governmental and Abandoned Property in Judea and Samaria (an official in the Civil Administration, hereinafter: **the Supervisor**), the Settlement Division in the World Zionist Organization (hereinafter: **the Settlement Division**), the Civil Administration, and the Rural Construction Authority in the Housing Ministry (now the Housing and Construction Ministry) – all interpreted the government decisions in a substantially different manner. The interpretation applied by these bodies to the above-mentioned government decisions led to their involvement in the establishment of dozens of outposts in the West Bank over the past twenty years, without having received approval from the political echelon and without the necessary building permits.

107 *Ibid.*, pp. 68-69.

108 Government Resolution No. 175 (March 1999) (hereinafter: **Resolution 175**).

109 **Sasson Report**, p. 69.

110 See **Levy Report**, p.48, where it is noted that Government Resolution No. 175, which replaced Resolution 640, obviated the need for a government decision to expand an existing settlement in Judea and Samaria, "regardless of contiguity on the ground or their location inside or outside the area of jurisdiction." See also, **Levy Report**, p. 60, which details the committee's conclusion regarding the authority to decide on the expansion of an existing settlement beyond the area of jurisdiction.

2.4 The Interpretation Given by Operational Bodies to Government Decisions and the Requirement of “Contiguity”

The interpretation the various operational echelons have given to the term “contiguous area” (or “contiguity”) as it appears in Government Resolutions 640 and 175 has extensive ramifications for our purposes, as it influences the level of authority granted to the settling body to approve new construction. Until March 1999, as noted above, contiguous expansion did not require a special decision by the political echelon. In light of this interpretation, the various bodies claimed that they enjoyed the authority to approve the establishment of new settlements, provided they were constructed on state land and within the area of jurisdiction of a given settlement.

As the Levy Report describes in detail, the approach of the Supervisor, the Settlement Division, and the Rural Construction Authority of the Housing and Construction Ministry is that any construction **within the area of jurisdiction of the parent settlement and in the “area of the allotment” allocated thereto by the Supervisor is considered contiguous construction**, and, accordingly, **does not require the decision or approval of the political echelon.**¹¹¹

The “area of allotment” is defined as the area of the settlement appearing in the authorization agreement between the Supervisor and the settling body. The military commander’s order, the highest authority in the OPT, defines the allotment area as the municipal area of a single settlement and, in accordance with the authorization framework, no more than one settlement is to be established in this area. The interpretation of the above-mentioned operational bodies that the term “contiguity” refers to a continuum within the allotment (and not to a continuum within the built-up area) granted them free reign to expand settlements and establish new neighborhoods within the allotment. According to these operational bodies, these expansions, as distinct from the establishment of a new settlement, do not require the approval of the political echelon; and so, the involvement of the political echelon is confined to the approval of the defense minister during the various planning stages.¹¹² This interpretation completely strips the concept of “contiguity” of its meaning, since in any case construction outside the area of jurisdiction is impossible without a military commander’s order defining a new area of jurisdiction.

The later Government Resolution No. 175 was interpreted in a similar manner. According to the operational bodies, the consent of the defense minister and the approval of the prime minister are required solely for the purpose of expanding a settlement outside the

¹¹¹ For the detailed position of the different bodies, see *Ibid.*, pp. 32-43.

¹¹² According to Government Resolution No. 150 (from August 1996) (hereinafter: **Resolution 150**) regarding the allocation of state land, any construction or allocation will be effected solely after the approval of the defense minister. In addition, the approval of the defense minister is required for each of the planning stages – approval of authorization for planning and for the various planning stages (approval for discussion of a plan, granting validity, etc.).



area of jurisdiction.¹¹³ Conversely, the operational bodies do not regard new construction within the area of jurisdiction as the establishment of a new settlement, regardless of the distance between the new construction and the existing built-up area.

As noted, this interpretation differs fundamentally and substantively from that presented in the Sasson Report. It implies that, in effect, the regional or local authority has the authority to approve the establishment of a new settlement, since in many cases the area of jurisdiction is quite expansive, while the built-up area is concentrated in a small section of that area. According to this approach, the vast majority of the outposts established since 1984, when Government Resolution No. 640 came into effect, are legal, as they were constructed with the authority, knowledge and even encouragement of the political echelon.¹¹⁴

Adv. Sasson included a discussion of this interpretation in her report, presenting numerous arguments that undermine it.¹¹⁵ We shall merely note here the obvious point: “expansions” that are not contiguous effectively create new settlements. These settlements have political, social, economic, security, and other ramifications and, accordingly, it must be ensured that the authority for approving the establishment of a new settlement rests solely with the government. Entrusting this authority to a settlement or local council damages the governmental hierarchy and puts far-reaching political and social power in the hands of local government. As Adv. Sasson noted:

Can it really be accepted that any settlement or council as stated can approve the ‘expansion’ of the settlement, and in practice, in accordance with this interpretation – **the establishment of new settlements** within their areas? And since new construction lies within the council’s area of jurisdiction it will be called an ‘expansion,’ despite the fact that in physical terms it is miles from the parent settlement. All this – without the approval of any political echelon regarding **the very decision to establish it**?! Even inside Israel, where the establishment of a new settlement is less charged than in the [Occupied Palestinian] Territories, no-one would imagine that a given local council could decide, based solely on its own advice, to establish a new settlement (emphases in the original).¹¹⁶

As an aside, we should add that in any case the required approvals by the minister for the various planning stages were not provided. Accordingly, even according to the approach taken by the above-mentioned bodies – these outposts are illegal.

113 **Sasson Report**, p. 70.

114 According to Mr. Yuval Funk, Deputy Director of the Settlement Division of the World Zionist Organization, and Ms. Sarah Aharon, Head of the Rural Authority, all the outposts mentioned in the Sasson Report were approved and authorized, with the exception of three that did not receive any authorization (see, **Levy Report**, pp. 32, 43).

115 **Sasson Report**, pp. 70-79.

116 **Ibid.**, p. 73.

2.5 The Levy Committee's Position regarding the Interpretive Dispute and its Assertion that the Political Echelon's Conduct May be Considered Approval

The Levy Committee only partially adopted the interpretation of the settling bodies. Regarding Government Resolution No. 640, the Committee determined that logic supports the position of these bodies concerning their interpretation of the term "contiguous area." The Committee argued that the expansion need not be "contiguous" to the built-up area of an existing settlement (the government resolution itself did not employ the term "contiguous"), given that in many cases, contiguous expansion is impossible for topographical reasons. However, the Committee noted several reservations that significantly restrict the ramifications of this assertion:

- 1) One of the objectives of Government Resolution No. 640 was to prevent the establishment of new settlements without a government decision.¹¹⁷ Accordingly, the greater the distance between the neighborhood and the parent settlement within the area of jurisdiction, and certainly in the case of a neighborhood outside the area of jurisdiction, the more it may be perceived as the establishment of a new settlement requiring a government decision (particularly when the said "neighborhood" maintains an autonomous life, including a separate association, secretarial body, admission committees, tax collection system, and bears a separate settlement emblem).¹¹⁸
- 2) As of August 1996,¹¹⁹ the interpretation of the settling bodies has been correct only in cases in which the area intended for the expansion was included in an original urban building plan approved by the planning institutions for the parent settlement.¹²⁰ In any other instance, Government Resolution No. 150 applies; accordingly, any new authorization for the planning and allocation on state land in the OPT requires the approval of the defense minister.
- 3) As of March 1999 (Government Resolution No. 175), any expansion implemented in the OPT, whether inside or outside the area of jurisdiction, and whether contiguous on the ground or not, requires the approval of the defense minister, with the agreement of the prime minister.

Accordingly, it may be concluded from the Levy Committee's reservations that the Committee is of the opinion that two types of outposts exist:

¹¹⁷ On this aspect, see **Levy Report**, p. 46.

¹¹⁸ **Ibid.**, p. 48.

¹¹⁹ Government Resolution No. 150, *supra* note 111.

¹²⁰ On this aspect, see **Levy Report**, p. 47.



- A) Outposts established before March 1999 and meet the above-mentioned conditions; accordingly, no special government decision was required for their establishment and they are to be considered legal; and
- B) Outposts that do not meet the above-mentioned conditions and, accordingly, their establishment required a government decision or the approval of the defense minister:
 - 1) Outposts established prior to 1999, which function as independent settlements and which were built on an area not included in an approved urban building plan, or outposts built without receiving the approval of the defense minister for all construction stages since 1996; and
 - 2) All outposts built since 1999 that were not approved by the defense minister (with the agreement of the prime minister).

In order to determine that outposts included in the second group will be recognized as settlements for all purposes, the Levy Committee examined the question of whether the various arms of government consented “by conduct” or gave “tacit consent” to their establishment. The Committee was of the opinion that consent “by conduct” may replace the decision or formal approval of the political echelon, and that such consent even creates a binding administrative promise toward the settlers. **In other words: The Levy Committee believes that there is no need for a government decision (where the law requires a government decision), since the “conduct” of the members of the government or of governmental bodies is sufficient to imply what the decision would have said.**

The Committee members find various manifestations of the government’s consent to the construction of the outposts in the documents and statements of official bodies. These findings show that the members of the government were not only aware of the construction of the outposts but also provided concrete assistance to them. The Levy Committee views the fact that various government elements directly or indirectly supported funding for the construction, or its advancement by other means (funding of infrastructure, connection to the electricity and water grids, planning and financing of architectural works, allocation of land through the signing of development contracts, and so forth) as governmental consent “by conduct” to the establishment of the outposts.¹²¹

The Committee was particularly impressed by the positions expressed by **Deputy Director of the Settlement Division, Mr. Yuval Funk**,¹²² **Director of the Settlement Division in the Jewish Agency for Israel, Adv. Shlomo Ben Eliyahu**,¹²³ and **Head of the Rural Construction Authority in the Housing and Construction Ministry, Ms. Sarah Aharon**.¹²⁴ These officials adamantly claimed that all actions relating to the establishment of the outposts, from the allocation of the land to the actual establishment

¹²¹ *Ibid.*, pp. 49-53, 58-61.

¹²² *Ibid.*, pp. 32-37.

¹²³ *Ibid.*, p. 37.

¹²⁴ *Ibid.*, pp. 40-43.

of the settlement, with all that they entail, were undertaken with the knowledge, support and funding of the government and in cooperation with various government ministries, including the Housing and Construction Ministry, the Agriculture Ministry (now the Agriculture and Rural Development Ministry), the Interior Ministry, the Ministry of National Infrastructures (now the Energy and Water Resources Ministry), the Defense Ministry, and the Prime Minister's Office.

Alongside these comments, the authors of the Levy Report present statements from the most senior political echelon, the Prime Minister's Office and the Defense Ministry, ostensibly reflecting knowledge of, and active involvement in, the construction of the outposts. In particular, the Committee emphasizes the request by the **Director-General of the Prime Minister's Office in the late 1990s, Mr. Avigdor Liberman**, to approve a special framework for each communal neighborhood functioning separately from the parent settlement and to treat these neighborhoods as independent settlements in budgetary terms.¹²⁵ Similarly, the Committee emphasizes the request made to the Settlement Division by **Mr. Avigdor Yitzhaki, the Director-General of the Prime Minister's Office in the early 2000s**, to attend to the settlement and outpost sites detailed in his letter¹²⁶ "just as you attend to all the settlements within your area of responsibility."¹²⁷ Lastly, the Levy Committee notes the position of **the former Assistant to the Defense Minister, Mr. Ron Shechner**¹²⁸ that the list of settlements detailed in his letter¹²⁹ to the Settlement Division "function as independent settlements for all purposes and are to be treated as such for all purposes and matters, including the subject of the budget and the settlement emblem."

This concerted activity by numerous individuals lead the Levy Committee to the conclusion that the settlers were entitled to assume that the government was acting as required by law and without contradicting its own decisions, that it was settling them on land under its rightful ownership, and that, in the future, it would also regulate the status of the settlement in the planning realm.¹³⁰ The Committee found that alongside the statements by members of the political echelon, the involvement of government ministries in financing the establishment of the outposts and their support for the operational echelon (from turning a blind eye to the absence of building permits, to securing the necessary permits for connection to the water and electricity grids) may be taken as implying that the government was interested in the establishment of the outposts. If this is the case, then the requirement established in law for a government decision to establish a new settlement has been met.

125 Dated 3 Adar I 5747 (February 10, 1997). Appendix 19 to the Sasson Report; **Levy Report**, p. 49.

126 The reference is to the following settlements: Harasha (Telmon), Mevo'ot Yeriho (Yitav), Pnei Kedem (Meitzad), Negohot, Mitzpe Yair, Shirat Hayam, and Shalev.

127 June 2004, see **Levy Report**, pp. 49-50.

128 February 2003. **Sasson Report**, pp. 243, 246; Appendices 14-15 to the Sasson Report. **Levy Report**, pp. 44, 50.

129 The list included the following settlements: Pnei Kedem, Ibey Nahal, Harasha, Neve Erez, Migron, Mitzpe Kramim, and Mevo'ot Yeriho.

130 **Levy Report**, pp. 58-60.



Adv. Sasson noted in her report that all of the above-mentioned actions taken by the public authorities and the various official bodies constitute **a violation of the law**. In her report, Adv. Sasson presented in great detail the various means of assistance provided by government ministries, public bodies, government officials, and elected representatives for the establishment of the outposts, and she determined that in so doing they had broken the law. In her recommendations, Adv. Sasson demanded an immediate remedy of the situation, the clarification of definitions and the nullification of powers, the tightening of criteria, and the investigation of those who had violated the trust placed in them and acted in contravention of the law, including consideration of possible criminal charges. By contrast, the members of the Levy Committee used exactly the same factual data, yet reached the opposite and far-reaching conclusion that all of the actions defined by Adv. Sasson as legal violations actually constitute consent by conduct on the part of government authorities, and even bind those authorities by way of an administrative promise.

In other words: According to the Levy Committee, the fact that authorities assist lawbreakers in breaking the law does not render the authorities themselves lawbreakers, but rather, renders the offense lawful. The Committee is of the opinion that not only does the extensive departure from the requirements stipulated in the government decisions for the establishment of settlements fail to lead to the conclusion that the settlements established in this manner are unlawful, but it actually obliges the government to back the actions that were undertaken, and when doing so, the government should be seen as merely completing the missing steps in the process (primarily replacing the government decision on the establishment of a settlement).

3. A Critique of the Levy Committee's Position

3.1 No Administrative Promise Was Made

The decision to establish a new settlement involves economic, social, geographical, environmental, public, social and cultural considerations. The establishment of a new settlement in the West Bank also requires the examination of additional considerations, including national and international political and security factors.¹³¹

As early as 1975, the government determined that the establishment of a new settlement requires a government decision. As noted, Israeli governments over the years have maintained this authority.¹³² The Committee's argument that the government voluntarily relinquished this central authority, albeit not explicitly, is problematic and raises considerable doubts.

¹³¹ Sasson Report, pp. 19-20.

¹³² Ibid., p. 57.

When the government decides to establish or approve a settlement, it acts openly by means of a public decision, as with any other published government decision.¹³³ A government does not speak in code, wink or mime its intentions. As Adv. Sasson noted in her report, there is no principled reason why the government could not make a decision to establish new settlements in the OPT.¹³⁴ However, the government has declined to take this course of action regarding the unauthorized outposts.¹³⁵ Accordingly, even if the members of the government were interested in announcing the establishment of new settlements in the OPT, it may be deduced that various considerations have dissuaded them from so doing.

The law directs the government (the cabinet), as the supreme administrative body in the hierarchy of the executive branch, how to express its position and its decisions such that they may be realized by the administrative bodies. The law also establishes that the government's position and will acquire normative and binding validity only when they are translated into a formal resolution following discussion by the government.¹³⁶

A government discussion requires that a proposed resolution be put on the agenda at a specified time, as well as that relevant information regarding the economic ramifications of the proposal, previous resolutions adopted on the same subject, alternative proposals, and so forth be provided.¹³⁷ The proposal is also accompanied by work to collect the relevant data in order to hold a comprehensive discussion, and the government resolution published after the completion of the discussion creates a legal obligation and legal authority for the government apparatus to work toward its implementation.

In legal terms, therefore, there is no room for a "genuine will" of the government that has not been manifested in its formal decisions. A determination such as that reached by the Levy Committee, which recognizes and validates the "true will" of the authorities, runs contrary to the values of democracy and transparency, the legality of the administration and the rule of law, and it also undermines the basic principles of governmental stability and certainty.

The numerous sources and documents to which the Levy Committee refers in order to substantiate its claim that an administrative promise was made do not include even a single declaration by a relevant and authoritative political figure in which he/she undertakes to approve the establishment of the outposts in general or of any specific outpost.

133 Thus, for example, the settlements of Kiryat Arba, Ariel and Beit El were established or legalized by means of a government decision.

134 For the purpose of this analysis, we ignore the prohibition in international law on the establishment of settlements, which was discussed in the first part of this document. Our position, of course, is that the government may not approve the establishment of settlements in an occupied territory and that such a decision is unlawful.

135 **Sasson Report**, p. 94.

136 In the case of confidential matters, the procedure is regulated in Section 35 of Basic Law: The Government, 5761-2001.

137 See Art. 4 of the Government Rules of Procedure, (the 32nd government, adopted on April 5, 2009): <http://www.pm.gov.il/PMO/Government/Documents/takanongov.htm>



Moreover, senior political figures have explicitly declared that the government consciously and deliberately avoided granting such approval. Thus, for example, Adv. Ahaz Ben Ari, the legal advisor to the Defense Ministry, testified before the Levy Committee that only after facts were created on the ground by settlers who “got involved,” as he put it, and established outposts without any official and authorized body having decided or approved this, was the question then raised in the ministry as to whether these outposts should be approved retroactively. Adv. Ben Ari claimed that there is no impediment to granting such approval, but the government does not wish to do so. On page 2 of the Committee hearing minutes, Adv. Ben Ari states: “There is a government decision that prevents the granting of permits. There is a policy that hides behind this...”¹³⁸

Subsequently, on page 8 of the minutes, Adv. Ben Ari comments:

At the end of the day, it isn't that we oppose the establishment of a settlement. After you see involvement, that people have come and settled, it isn't that it is impossible to approve this behavior retroactively. But it is a political question – the government is unwilling or unable, in diplomatic terms, to declare the establishment of new settlements.¹³⁹

Similarly, in a discussion held in 1998, then-Deputy Attorney General Adv. Meni Mazuz opposed a request by then-Interior Minister Eliyahu Suissa to remove the words “contiguous area” from Government Resolution No. 640, warning of the consequences of such a decision:

Whereas Resolution 640... from 1984 removed the need for a special decision to ‘expand the contiguous area of the settlement,’ it is being requested here, without explanation, that an expansion that is not in a contiguous area also be so exempted. **The governments of Israel over the years have maintained the authority to approve the establishment of new settlements, due to the significances and ramifications that such a decision has in various aspects, and particularly in the case of the establishment of settlements in the areas of Judea, Samaria and the Gaza Strip, and the matter is well known...** The ‘expansion’ of a settlement, not in a contiguous area, is similar in its essence and in its ramifications, in many ways, to the establishment of a new settlement, and is indeed liable, in practice, to serve the establishment of new settlements under the guise of ‘expansions (emphases added, with the exception of the underlined section).’¹⁴⁰

The fact that Mr. Mazuz’s position was accepted, while the interior minister’s proposal was rejected, shows that the government sought to avoid the possibility that new settlements would be established under the guise of neighborhoods or expansions without an official

138 **Levy Report**, p. 51. From the minutes of the Committee hearing on 23 Nissan 5772, April 18, 2012.

139 **Ibid.**

140 **Ibid.**, 46.

government decision having been made on the matter. As noted, the Levy Committee did not dispute this fact.

In its report, the Levy Committee presented a series of documents¹⁴¹ that formed the basis for its assertion that an administrative promise was given to construct outposts in the West Bank. Some of these documents were presented to the Court in the past in the Weinstock case,¹⁴² in which the petitioners submitted letters sent by the former Director-General of the Prime Minister's Office, Mr. Avigdor Yitzhaki, and the Assistant to the Defense Minister, Mr. Ron Shechner, to the Settlement Division. The letters showed that the relevant governmental bodies had been asked to regard the "Shirat Hayam" settlement (established in the Gaza Strip) as an independent settlement. However, the Supreme Court established, by a majority,¹⁴³ that these documents did not constitute documentation of an approval for the establishment of the settlement by the legally-empowered authorities. Justice Cheshin noted in the case [emphasis added]:

If the truth be told, the government policy toward the settlement of Shirat Hayam may be characterized as somewhat hesitant... However, we are aware, and counsel for the Petitioners explicitly admitted this, that the Petitioners have never claimed that the settlement of Shirat Hayam received a lawful permit to settle in the location. Indeed, until a settlement is established the essential preliminary procedures must be completed, and it may be assumed that the Petitioners are well aware of this. Among these essential preliminary procedures we may mention: **a government decision, the presence of an outline plan, a permit from the planning supervisor of the Area, a building permit, a permit for the transportation of caravans, and so forth. In the absence of all these – or one of these – the orderly and legal establishment of a settlement cannot be described.**¹⁴⁴

Thus, **the Court did not consider that the letters from the director-general of the Prime Minister's Office and the assistant to the defense minister for settlement affairs substantiated or proved the claim that the outpost was legal, nor did they establish the presence of any promise (still less an administrative promise) to establish the outpost.** These documents constitute internal correspondence between authorities that cannot amount to a public declaration regarding a government decision to establish a new settlement. Even if these requests – to establish a separate framework (for each neighborhood functioning separately from the parent settlement), to provide separate budgetary attention, to allocate a separate code to the settlement, and so

141 The reference is to documents issued by the director-general of the Prime Minister's Office and the assistant to the defense minister for settlement affairs, as presented above in this document, *supra* notes 124-28 in this document.

142 HCJ 9195/03, **Hekhalya Weinstock v. Supervisor of Government Property in the Gaza Strip**, Tak-Ei 2003(4), 1504 (hereinafter: **Weinstock**).

143 The case related to an eviction demand issued against two caravans in the Shirat Hayam outpost. The minority opinion, written by Justice Dorner, established that since high ranking governmental authorities had expressed their opinion that they considered Shirat Hayam to be a settlement for all matters and purposes, and since these authorities had enlisted the support of the World Zionist Organization for the site, it was appropriate to issue a temporary decree obliging the state to explain its duplicitous position. It should be noted that the minority opinion did not argue that the documents presented rendered the settlement legal.

144 **Weinstock**, *supra* note 142, para. 8.



forth – may be considered legal guidelines (which they may not), then they are merely administrative and bureaucratic guidelines within the authority, and not consent or a promise granted to the settlers.

Moreover, as Adv. Sasson notes, the remarks by the director-general of the Prime Minister's Office¹⁴⁵ that these neighborhoods maintain a way of life requiring a “separate framework” actually reflect the fictitious nature of the claim by the Settlement Division and the operational bodies and support the conclusion that their interpretation that these neighborhoods are merely an expansion of an existing settlement cannot be accepted.

The essence of the matter is that the outposts were established without a government decision (the authorized body); accordingly, the natural conclusion is that the first condition for the presence of an administrative promise is not met – the “promise” was not made by an authorized body.

The second condition for the presence of an administrative promise – that the promise made (in cases when it was indeed made) was clear and unequivocal – is also not met. As explained in the previous section, in order for an administrative promise to be legally binding, it must be sufficiently explicit, made using clear language that does not leave room for doubt regarding its intention, and specify the nature and scope of the promise.¹⁴⁶

The Levy Committee's position on this is completely contrary to Supreme Court case law on the matter. A collection of documents constituting, at most, requests from various governmental bodies to provide a particular service to the outposts as settlements, cannot be considered a clear, unequivocal and explicit promise to approve these outposts.

An examination of the statements and correspondence on which the Committee based its claim that a promise was made to the settlers shows that the governmental bodies contradicted themselves, refrained from determining in an official and overt manner that the construction was indeed legal, and disagreed regarding the proper interpretation of the government decisions. All of this undermines the certainty required in order to transform a pledge into an administrative promise on the government's part. In this case, even if there was an intention to make such a promise, it was formulated in a general, vague, and highly contradictory manner.

Thus, for example, the director of the Settlement Division of the Jewish Agency for Israel, Adv. Shlomo Ben Eliyahu, notes in his letter¹⁴⁷ that the Division was instructed to treat the settlements as independent settlements in budgetary terms only. Conversely, and

¹⁴⁵ See pp. 37-38 and *supra* note 127 in this document.

¹⁴⁶ HCJ 534/75, *Association of Hotels in Israel et al. v. Minister of Tourism et al.*, PD 30(1) 837; HCJ 8013/10, *Eshkol Regional Council v. Prime Minister*, para. 6 ([published in Nevo], August 8, 2011); HCJ 2470/11, *Yeshia Hayeruka v. Prime Minister*, p. 11 (November 1, 2011).

¹⁴⁷ Letter dated 24 Kislev 5765 (December 7, 2004) to Adv. Talia Sasson (Appendix 10 to the Sasson Report): “... Moreover, the settling body was instructed to attend to some of these neighborhoods by way of independent settlements in budgetary terms only; that is: to create a separate budgetary framework for them, despite the fact that they are neighborhoods of a single settlement.” Elsewhere, Adv. Ben Eliyahu notes: “The government bodies saw the ‘new settlements’ or ‘outposts,’ as defined in your letters, as neighborhoods belonging to existing settlements and constituting part of their allotments” (Levy Report, p. 38).

in line with Mr. Shechner's position, the former chairperson of the Settlement Division of the World Zionist Organization,¹⁴⁸ Mr. Sallai Meridor, noted that these are independent settlements for all intents and purposes and, accordingly, should be allocated a separate framework.

A similar picture emerges regarding the allocation of a separate settlement emblem to these neighborhoods. The head of the Rural Construction Authority in the Housing and Construction Ministry stated that a settlement emblem is allocated for purely administrative needs and does not constitute approval of the establishment of a separate settlement.¹⁴⁹ However, the request presented by the Assistant to the Defense Minister for Settlement Affairs conveys the opposite message, noting that a separate settlement emblem should be allocated to each of these outposts since they are independent settlements.¹⁵⁰ If this were not enough, when Adv. Sasson asked Mr. Shechner¹⁵¹ about his intention in the request he sent to the Settlement Division, Mr. Shechner replied that he had never claimed that this was a legal settlement and had not intended to take any position regarding its status, but rather to focus primarily on its security aspects. Accordingly, not only is there an absence of any official declaration from an authorized source regarding the legality of the outposts, but there is also an absence of any such a declaration from Mr. Shechner (who, in any case, is not the authorized functionary). What we see here is a gross interference on the part of operational functionaries, lacking both authority and validity, with the intention of providing the outposts with services on behalf of the authorities and at their expense. We shall discuss this aspect further below.

Alongside the comments by officials as presented above, and the active support provided by the authorities for the establishment of the outposts, the law enforcement agents in the Civil Administration and the State Attorney's Office acted against the construction of the outposts. Accordingly, thousands of demolition orders and stop-work orders and several delimitation orders (which are effectively eviction orders) were issued against structures in the outposts and against entire outposts.¹⁵² The scope of the law enforcement operations, manifested by the issuance of demolition and eviction orders, **renders unreasonable the claim that the settlers believed that their actions on the ground were backed by a governmental promise.** In her report, Adv. Sasson discussed at length the double-edged message conveyed by the government, whereby one arm promotes construction in the outposts while another seeks to end it. We will only add that **in the absence of a**

148 Letter from February 1997 quoted in the Levy Report, p. 38: "... were constructed at a considerable distance not enabling, at this stage of their life, connection between the neighborhood and the parent settlement. These associations effectively maintain an independent way of life, including admission committees, membership fees, a separate secretariat, and so forth. I ask that a separate budgetary framework be approved for each community neighborhood functioning separately from the parent neighborhood, including a separate calculation of the base quota in each neighborhood."

149 Head of the Rural Construction Authority in the Ministry of Construction and Housing, Ms. Sarah Aharon, in letters dated October 13, 2004 and December 19, 2004, included in Appendices 13-14 to the Sasson Report. On this matter, see also the Levy Report, p. 42.

150 See the Sasson Report, pp. 243 and 246, and Appendices 14-15 thereto. The assistant to the defense minister for settlement affairs is quoted as stating: "I hereby confirm that the settlements detailed below function as independent settlements for any purpose, and are to be treated as such for any purpose and matter, including regarding a budget and the settlement emblem..."

151 *Ibid.*, pp. 246-7.

152 For details, see *Ibid.*, pp. 38, 43.



clear, explicit, declared, uniform, and coherent decision by an authoritative body, the authority cannot be bound by the administrative promise doctrine.

Accordingly, as we see it, the second condition of the administrative promise doctrine is also not fulfilled: There is no promise in clear language reflecting the intention to create a legal obligation to approve the establishment of the outposts.

Lastly, we should emphasize briefly that the third condition, which requires that the promise be feasible, is also not met regarding some of the outposts. Even if the government were able to overcome the international difficulties involved, its undertaking to approve illegal outposts constructed on private Palestinian land lacks legal validity since the government has no authority to confiscate Palestinian land for the purpose of establishing settlements.

Thus the Levy Committee's conclusions lead to an absurd outcome whereby deviation by governmental bodies from the provisions of the law changes the law. The unlawful transfer of budgets, the unlawful allocation of land, the connection to infrastructure, and the turning of a blind eye to illegal construction: all of these actions, for which their perpetrators – who are public servants – should have been brought to trial, are interpreted by the Levy Committee as actions that grant approval to the outposts. To offer an analogy, it is as if a private citizen were to claim that the act of a civil servant having stolen money from public funds and transferred them to him is to be considered tantamount to an administrative promise to allocate state funds to him.

3.2 Even if a Promise Was Made, it Was Made Without Authority

There can be no dispute, it would seem, that in the present case there has been no undertaking by the defense minister or the Government of Israel **themselves** to approve the establishment of outposts. Mr. Shaul Mofaz, the defense minister at the time at which the Sasson Report was written, confirmed this fact in response to Adv. Sasson's question regarding the allocation of private land belonging to Palestinians:

The real problem on this matter is not the allocation by the State of private land for settlement, but the unauthorized seizure by private elements of private and state land that is not theirs. This phenomenon must be combated.¹⁵³

In the absence of any explicit promise by the Government of Israel, the Levy Committee adopts the position that the written or verbal comments and the actions of officials in the government and in various governmental units amount to this same "promise." However, assistants to the defense minister on settlement affairs, directors-general of the Prime Minister's Office, and even government ministries are in no way capable of making an administrative promise on behalf of the Government of Israel. The comments made by these individuals do not represent the government's official position, and indeed most of them do not claim that this is the case.

¹⁵³ *Ibid.*, p. 179.

As noted, the exclusive authority to approve the establishment of a new settlement rests with the Government of Israel. Accordingly, and on the basis of the first condition in the administrative promise doctrine, only the government, as the body authorized to approve the establishment of a settlement, is empowered to make an undertaking that creates a legal obligation to establish a new settlement. A chance letter written by the assistant to the defense minister for settlement affairs or by the director-general of the Prime Minister's Office, or the transfer of funds from the Housing and Construction Ministry, **do not create an undertaking; rather they constitute violations of the law.**

Accordingly, the request forwarded by the Assistant to the Defense Minister, Mr. Ron Shechner, to the Settlement Division to recognize certain settlements as independent is contrary to the decisions of the government, and the Settlement Division should have refused the request. The Government of Israel never decided to establish the settlements mentioned by Shechner in his letter, and the defense minister never approved their establishment by way of the expansion of an existing settlement. These letters were sent without his knowledge and stood in contrast to his position.¹⁵⁴ Moreover, the outposts mentioned by Shechner do not have a legal, detailed plan, and some of them are established on privately-owned Palestinian land.¹⁵⁵ This is also supported by the comments of Brig.-Gen. Baruch Spiegel, the Assistant to the Defense Minister, who was asked to present data concerning the illegal outposts to the Knesset on the minister's behalf. The settlements mentioned by Brig.-Gen. Spiegel included some of those mentioned in Shechner's letter.¹⁵⁶

Certain governmental bodies had an ideological interest in promoting construction in the outposts and deviated from their spheres of authority in order to realize this interest. This reality in no way implies that the condition requiring that the person making the promise enjoy the necessary authority to bind the government in an administrative promise was met. Adv. Ben Eliyahu, the legal advisor to the Defense Ministry, was sharply critical of this phenomenon:

This is a painful point and suggests anarchy. There are ministers who were close to the settlement [movement] and who did not pay strict attention to these matters. Things were done without permission. This fact embarrasses the government. Migron cannot be established without the help of the authorities, but that does not mean that it is okay.¹⁵⁷

On August 9, 2004, the Assistant Attorney General wrote a letter to the legal advisor to the defense establishment, Ms. Zvia Gross, regarding the connection of the illegal outposts to the electric grid and the transportation of caravans to destinations lacking planning status, with the approval of the assistant to the defense minister for settlement affairs.¹⁵⁸ The letter noted [emphasis added]:

¹⁵⁴ *Ibid.*, p. 246.

¹⁵⁵ *Ibid.*, pp. 245, 249.

¹⁵⁶ *Ibid.*, p. 245.

¹⁵⁷ *Levy Report*, p. 51.

¹⁵⁸ *Sasson Report*, pp. 249-250.



Alongside the above, [...] a disturbing factual fabric is described whereby many of the buildings in the outpost were transported to the site on various dates with the approval of the Assistant to the Defense Minister [...]. **These authorizations were granted without authority.** On this matter we see fit to draw your attention once again to section 10 in the Attorney General's Instructions [...] as follows:

The transfer of government resources for illegal needs is liable to lead to disciplinary proceedings against those involved, when the person responsible for the transfer was aware, or should have been aware, of the illegality...¹⁵⁹

These remarks clarify that the Assistant to the Defense Minister far exceeded the authority granted to him, which by definition is confined to attending to the security of settlements and does not include the authority to approve the establishment or recognition of settlements.

Lastly, the claim regarding the financing of the outposts, on which the Committee seeks to rely, once again cannot substantiate the claim that there is an administrative promise. In the Shalom Cohen case, the Supreme Court noted that the fact that a particular action was carried out, even if it was an action involving financing, cannot suggest – let alone prove – that it was carried out as part of official functions of the relevant body; it can be implied, therefore, that such an action does not constitute an administrative promise:

The fact that the Respondents [the defense minister and three others] executed a certain action, and even the presumption that they financed this action in the framework of their legally-approved budget, cannot provide even prima facie proof that this action was executed as part of fulfilling the function with which they are lawfully charged.¹⁶⁰

Even if the Levy Committee managed to prove that the assistant to the defense minister for settlement affairs and the director-generals of the Prime Minister's Office wished to support the illegal outposts and attended to their financing, this does not mean that these actions were carried out as part of their official functions and with legal authority. **In sum, the competent authorities for the relevant purpose (the Government of Israel and, in certain matters, the defense minister) did not make any promise, and indeed it has not been argued that they did. In this matter, only promises made by these bodies hold the potential to become a binding administrative promise.**

159 Ibid., p. 250.

160 HCJ 29/62, **Shalom Cohen v. Minister of Defense**, PD 16(2), p. 1023.

3.3 Even if a Promise Was Made, and Even if it Was Made with Authority, There is Legal Justification for Refraining from its Enforcement

In the Scitex ruling, as discussed above, a qualification was established: even if an administrative promise has been made that can ostensibly be enforced, the presence of a **legal justification** obviates the obligation incumbent on the State to fulfill the promise. It was further established that the granting of a promise meeting the three conditions defined in case law cannot impose an absolute liability on the authority; however, the authority bears the burden of proof regarding the presence of reasonable grounds to justify violation of the promise.¹⁶¹

The Levy Committee determined that the government does not enjoy legal justification releasing it from the administrative promise made to the settlers.¹⁶² Firstly, the Committee argued that not only is the current government not interested in retracting its promise, but it is actually seeking a means of granting legal character to the promise made. As to the substance of the decision, the Committee further claimed that the government has no grounds for release from its promise, in the absence of any impediment in international law to the expansion of the settlements in the West Bank (due to its position that this area is not an occupied territory). The Committee viewed the government's consent to the construction of the outposts as having been granted by way of tacit consent, even if no promise was made. It further explained the absence of building permits by way of a temporary and resolvable situation resulting from the freezing of proceedings by the political echelon, rather than by any incapacity on the part of the relevant institutions to honor such permits.

As noted in section 2.1 above, legal justification for an authority to relinquish itself of its promise will be present if the public interest therein exceeds the interests of both the individual and the public in upholding the promise. In such cases, the Court will balance the existing interest in protecting a public need of supreme importance and basic values of the system against the interests the individual and the public have in the fulfillment of the promise.¹⁶³

In the I.B.M. Assets case, the Court defined the instances in which the authority may retract its promise due to legal justification according to three groups.¹⁶⁴ The issue of the construction of illegal outposts clearly falls under the first category, namely a promise that is contrary to the law or that otherwise entails deviation from authority, and which therefore is void. As we shall see below, and in contrast to the Levy Committee's conclusion, the construction of the outposts runs contrary to international law and established rules in Israeli law.

¹⁶¹ See **Dishon**, *supra* note 94.

¹⁶² **Levy Report**, p. 59.

¹⁶³ See **Kibbutz Hahotrim**, *supra* note 95, para. 18, and **Shpeckman**, *supra* note 94.

¹⁶⁴ **I.B.M. Assets**, *supra* note 96, pp. 353-355.



The first part of this document discussed **the rules and provisions of international law** and the circumstances on account of which this law applies in the OPT. We shall briefly recall that international law explicitly prohibits the transfer of parts of the population from the occupying power to the occupied territory, as established under Article 49 of the Fourth Geneva Convention, which forms part of international humanitarian law and the law of occupation applying to the West Bank.¹⁶⁵ Moreover, the occupying power bears an obligation to protect the property of the civilians, or the “protected persons,” living in the occupied territory under its control, including their land, with the exception of injury to property for urgent security needs.¹⁶⁶

Regarding Israeli law, many of the outposts that the Levy Committee seeks to approve were constructed on privately-owned Palestinian land, or on “survey land” and/or land outside the areas of jurisdiction of existing settlements. As Adv. Sasson explicitly noted in her report, an outpost constructed on private Palestinian land cannot be approved under any circumstance, even retroactively, and its only fate can be evacuation.¹⁶⁷ Apart from the grave injury to Palestinians’ property rights, the establishment of outposts on private land may, in certain circumstances, constitute a criminal offense liable to lead to criminal prosecution. All of the outposts were constructed contrary to planning and building laws and without submission of a detailed plan, which is the only way of securing building permits.¹⁶⁸ According to Government Resolution No. 150 of 1996, authorization to engage in planning on state land, as well as discussion of an outline plan or detailed plan, require the approval of the defense minister. Since the areas in which the outposts were established do not have a valid plan, it is obvious that the political echelon could not have granted approval for their establishment.¹⁶⁹ Accordingly, the administrative promise – insofar as one was granted – is a promise to execute actions contrary to the law and, accordingly, there is clear legal justification for violating the promise.

A further legal justification for the non-enforcement of an administrative promise of this type is the obligation incumbent on an authority not to permit ideological crime and ongoing legal violations. Ideological crime motivated by a political worldview or by religious belief perceives itself as superior to, and exempt from, the law. Conditioning obedience to the law solely on instances in which it is perceived as just, and the adoption by an authority of a discriminatory policy that ignores certain actions and grants concessions regarding others, undermines the very foundation of the principle of the rule of law and places democracy in tangible danger. An extremist ideological position that rejects the binding force of the law paves the way for additional ills, including the expansion of unlawful activity and its positioning as the focus of ideological identification and imitation among the public. Such a situation may even deteriorate into dissent and insurgency, posing a real threat to the system of government and its values.

165 HCJ 393/82, **Jamayat Iscan al-Ma’alamun v. Commander of IDF Forces**, PD 37(4), 785, pp. 791-792; **Mara’abe**, *supra* note 30, p. 3340.

166 See Articles 23 and 46 of the Hague Convention, Article 53 of the Fourth Geneva Convention, and HCJ 306/72, **Sheikh Suleiman Hussein Uda Abu Hilu and 3 Others v. the Government of Israel**, PD 27(2), 169, 178-179 (1973).

167 **Sasson Report**, p. 22.

168 *Ibid.*, p. 92.

169 *Ibid.*, p. 134.

The ideological and political support of official institutions and public figures, manifested in pressure on law enforcement agencies to adopt a lenient approach toward criminal activity, endangers social stability and the rule of law and impedes the application of the principle of equal law enforcement. The inevitable conclusion, therefore, is that it is important to act firmly and with determination to prosecute such offenders to the full extent of the law.¹⁷⁰

The Supreme Court has identified the inherent danger in such conduct, establishing that it is vital to combat the phenomenon of ideological crime by means of “strict and painful” penalization, to use its phrase, designed to serve as concrete deterrence to potential offenders of this type.¹⁷¹ In another case on this matter, the Court established that:

Ideological zealotry – which, if truth be told, would appear to form the foundation for the Petitioners’ actions, rather than the legal arguments they have raised – belongs in public struggles, but not in illegal actions... The fact that the authorities do not always manage to enforce [the law] in every place, and that there remains much work to be done, does not mean that an individual may act as he sees fit and as he chooses, even if he truly and genuinely believes that it is for the noblest of causes. There is often concern of a slippery slope and fear of excessive zealotry and, accordingly, there is a need for self-restraint.¹⁷²

Accepting the proposal of the Committee members to grant retroactive approval to the outposts is perceived as legitimizing those elements that knowingly acted unlawfully. The Levy Committee’s perception of the settlers as victims “who against their wishes became building violators and trespassers” ignores the fact that all of those involved in the issue were clearly aware that their actions were against the law, and it therefore frees the settlers of any responsibility. The authority cannot, as the Committee recommends, restrict or relinquish its legal powers, undertake to refrain from fulfilling its public obligation, consent to an action that is contrary to the law, or commit an action that exceeds the powers with which it has been vested. In such cases, the authority will enjoy **legal justification** to retract its promise. As the Court noted in this matter [emphasis added]:

Indeed, all admit and all are aware that the authority cannot restrict or relinquish its legal powers... and all the more so, the authority is not bound by its consent to any action that is contrary to the law or exceeds its powers.¹⁷³

In light of the above, even if we assume that an administrative promise was made, such a promise is contrary to public interest and to Israeli and international law, and it constitutes a deviation from authority.¹⁷⁴

170 Y. Zamir, *The Rule of Law in the State of Israel*, *Hapraklit* 5747 1987, pp. 72-73 (hereinafter: **Y. Zamir**).

171 Crim.A. 8469/99, *Askin v. State of Israel*, PD 55(2) 65, p. 96.

172 HCJ 1547/07, *Gershon Bar Kochva v. Israel Police*, remarks by Justice Rubinstein on p. 11 (June 11, 2007).

173 *Petrochemical Industries*, *supra* note 97; HCJ 298/70, *H. G. Polk Ltd. v. Minister of Trade and Industry et al.*, PD 25(2) 3, p. 8 (hereinafter: **Polk**); *Atlantic*, *supra* note 91.

174 HCJ 4225/91, *Godowitz v. Government of Israel et al.*, PD 45(5) 781; **Polk**, *supra* note 173, p. 8; **Jaffa Sun**, *supra* note 83, p. 744; **Scitex**, *supra* note 80, p.676.



Two further judgments are relevant to the issue of legal justification for breaking an administrative promise. In the Petrochemical Industries case,¹⁷⁵ the Supreme Court established that an administrative promise that would lead to the improper exercise of governmental authority substantiates legal justification to withdraw the said promise. In the above-mentioned case of I.B.M. Assets, it was established that when the need arises to secure a "just outcome," i.e. to amend and change previous decisions liable to cause injustice, miscarriage of justice, or discrimination, for example due to a deviation from authority, there is an obligation to do so.¹⁷⁶ Such determinations lead to the conclusion that, on the question of the construction of the illegal outposts, there is clear legal justification for relieving the authority from an administrative promise, insofar as such a promise was indeed granted.

In conclusion, the Levy Committee claims that the senior political echelon was and still is interested in the construction of the illegal outposts in the West Bank. This claim is then used to argue for the presence of a binding administrative promise on the basis of the conduct of governmental officials, despite the fact that this promise contradicts government decisions. However, actions carried out by government officials cannot bind the government when the government has reserved and not delegated the authority required to make the undertaking. Evidently such an undertaking cannot be enforced when it is not clear, explicit, and unequivocal. Even if we accept that an administrative promise was made here, the public interest not to allow ideological crime to dictate a political, economic, social and settlement agenda to the government and the citizens of Israel creates legal justification to retract this questionable promise. The Levy Committee used the principle of the administrative promise without even attempting to address the conditions for the promise as established by the judgments of the Supreme Court.

The Committee failed to address the fundamental difficulties created by the application of this doctrine to the issue of the outposts. As in the case of the actions of those who established the outposts, this disregard for the legal foundation appears to have been adopted in order to promote a political agenda.

Lastly, we should note as an aside that the argument supporting the settlers' actions in constructing the outposts is neither based on any right in law, nor on the existence of any valid contract. The government's obligation to ensure the general public interest within the framework and boundaries of the law is one that cannot be altered by a contractual obligation, let alone by the promises of unauthorized elements. This is the basic obligation of any government and it must not be abrogated in order to avoid a situation whereby the needs of the State and the public are ignored due to an agreement reached with an individual.¹⁷⁷

175 **Petrochemical Industries**, *supra* note 97.

176 **I.B.M. Assets**, *supra* note 96, p. 344.

177 **Petrochemical Industries**, *supra* note 97, pp. 785-788; **Nachlat Jabotinsky**, *supra* note 94, p. 710.

4. Estoppel, Acquiescence, and Good Faith

In addition to its reliance on the administrative promise doctrine, the Levy Committee also asserted that approval of the outposts is required in accordance with the principles of estoppel and acquiescence. It argued that the government, through its various arms, made a presentation to the settlers suggesting that their activities were welcome and acceptable. The Committee claims that the settlers relied on this presentation in good faith and in a reasonable manner and, accordingly, the government is now estopped, or prevented, from claiming that the outposts constructed with its encouragement are illegal.¹⁷⁸

According to the rules of estoppel, “the principle of acquiescence applies when a person made a presentation to another, and the latter relied on it and accordingly changed his condition to his detriment. In these circumstances, this reliance stops the maker of the presentation from reneging on its content.”¹⁷⁹ However, when an authority makes a presentation, the application of estoppels raises special difficulties, particularly the concern that the use of this principle will enable the violation of norms representing a supreme public interest, such as the principles of the legality of administration and the rule of law. These principles require, inter alia, that an action taken ultra vires by an authority is invalid, and that the authority cannot extend its powers beyond those permitted under law.¹⁸⁰

In the Sharon Coast case,¹⁸¹ it was established that in certain instances, even if a promise was made by a body lacking the authority to do so, if the individual believed in good faith and while acting reasonably that the promise was executed with due authority, the authority may be obliged to adhere to its decision. The presence of these conditions will be determined according to the circumstances of the case. In other words, according to this rule, the condition for applying estoppel is that the individual acted in good faith and reasonably assumed that the decision had been granted by a body authorized to do so.¹⁸² In this case, the Court explicitly noted that the purpose of this test is not to make the enforcement of decisions of an authority granted without power a commonplace occurrence:

It must be emphasized that this test does not propose that the enforcement of promises made without authority become a commonplace occurrence. Clearly we cannot accept a situation in which a person filling a public position can promise

¹⁷⁸ **Levy Report**, pp. 47-50.

¹⁷⁹ Appeal Adm. Pet. 7275/10, **Special Committee under the Implementation of the Disengagement Law 5765-2005 v. Amiram Shaked and 18 Others**, p.13 (July 28, 2011) (hereinafter: **The Special Committee**); Perm. Civ. App. 4928/92, **Ezra v. Tel Mond Local Council**, PD 47(5), 94, 100 (1993). See also: Prof. Daphne Barak-Erez, **Administrative Law**, Vol. A (2010), p. 153.

¹⁸⁰ Civil Appeal 831/76, **Levy v. Haifa Assessing Officer**, PD 32(1) 421, pp. 434-435 (hereinafter: **Levy**); **The Special Committee**, *supra* note 179, para. 24.

¹⁸¹ **Sharon Coast**, *supra* note 85, para. 28.

¹⁸² **Levy**, *supra* note 180, pp. 434-435; **Abada**, *supra* note 85, pp 123-124. See also the position of President Shamgar in HCJ 5023/91, **Poraz v. Minister of Housing and Construction**, PD 46(2) 793, 804-5 (1992), in a case involving purchasers whose condition changed to their detriment after they relied on an unlawful allocation of land by the Israel Lands Council.



anything he likes without authority, while the public authority will pay the “cost” and be obliged to stand by the promise and bear its consequences. Neither will this test allow the enforcement of a promise which, in addition to failing to meet the conditions of authority underlying the enforcement of administrative promises, also fails to meet the condition that the person making the promise intended to grant legal validity thereto. All that is proposed is to refrain from establishing a sweeping negative rule that could cause grave, and sometimes unjust, injury to the single individual, and instead to undertake a concrete balance taking into account the considerations on both sides. **Accordingly, this test does not contradict the determination made by the Court in Kelchman that 'the Court will not, in general, enforce an administrative promise made by a governmental body that is not authorized to grant it'**(emphasis added).¹⁸³

Elsewhere it has been established that insofar as the authority's presentation was made by way of conspiracy and for appearance's sake, and that the person relying on the presentation was aware of this, there is no room for estoppel.¹⁸⁴ Over the years, as already noted, the settlers in the outposts received demolition orders, eviction orders, delimitation orders, and stop-work orders. Accordingly, there is no cause for imagining that they were unaware of the improper nature of their actions.¹⁸⁵ Lastly, even if it could be claimed that the settlers acted in good faith (and, as noted, this is not the case), the public good would still outweigh the estoppel or acquiescence, insofar as it might be argued that these were established.¹⁸⁶

In clarifying why, in certain instances, a promise granted is not to be enforced, the Supreme Court explained that alongside the realization of the individual's interest, it must also be considered whether the enforcement of the presentation will damage third-party interests. This consideration is of central importance for our purposes in the context of Palestinian landowners whose land has been usurped by these ideological actors, as well as additional Palestinian residents who have been injured by the establishment of the outposts in diverse ways.¹⁸⁷

The Levy Committee appears to have failed to anchor its arguments in the broad-based legal discourse regarding estoppel as raised against a public authority acting within and under the law.

Within the confines of the doctrine of estoppel as delineated in Israeli law, there is no way to argue that this doctrine applies to the instance of the unauthorized outposts. In this case, clearly the presentation is not unequivocal; the establishment of the outposts was

¹⁸³ Sharon Coast, *supra* note 85, p. 25.

¹⁸⁴ The Special Committee, *supra* note 179, para. 24.

¹⁸⁵ Moreover, in *Scitex*, p. 541, the Court discussed an instance in which the petitioners relied on the decision of the local committee and decided to build before receiving all the necessary building permits. The committee's decision was frozen and later nullified. The Court established that, in any case, it was not possible to commence building before receiving all the necessary permits, and accordingly the authority could not be “estopped” concerning nullification of the decision.

¹⁸⁶ *Abada*, *supra* note 85, p. 125, where the Supreme Court established that in the case of a grave defect damaging the public good, it will not be possible to enforce the authority's decision.

¹⁸⁷ *Ibid.*, p. 124.

not the outcome of reliance on a presentation, insofar as one was made; the settlers are not acting in good faith; and neither can they claim to be doing so, in light of the stop-work and demolition orders they have received and in light of the public debate that has developed around the outposts. Above all: estoppel does not silence third parties injured by the establishment of the outposts, to whom the authorities must grant relief.

5. Injury to the Status of the Right to Property

5.1 Introduction

As we have discussed, the Levy Committee's finding that the illegal outposts may be approved is based on the concept of the administrative promise. In the previous sections we presented in detail our critique of this approach. In this section we will focus on the specific instance of outposts established on privately-owned Palestinian land. Even the members of the Levy Committee recognized that an administrative promise cannot sanction construction in such instances, since they involve the usurping of private property.

Accordingly, after a three-page review of the right to property as a constitutional right in Israeli law,¹⁸⁸ the Committee's report proposes a solution to the complex legal situation created in such instances: Alongside the administrative promise, which absolves the violation of the law, the violation of the Palestinian landowners' property rights will also be absolved by means of the payment of compensation:

Even if private ownership of the land on which a Jewish settlement was established is proven, consideration should be given to possible claims of defense raised by the possessor and to additional solutions preferable to eviction and demolition, such as: payment of compensation to the owner, particularly when the settlers in the locale have acted in good faith.¹⁸⁹

Awarding compensation to the owner of property on account of its coercive and non-consensual seizure constitutes confiscation. In essence, the Levy Committee proposes that, in cases in which an outpost was established on private Palestinian land, the possibility of confiscating this land and transferring it to the settlers' use will be considered. In other words, not only have the settlers trespassed onto land that did not belong to them and build on it without the required permits, but the land is now to be confiscated from its owner, with state-funding, and transferred for use by the trespassers.

This suggestion represents a dramatic departure from the prevailing legal opinion. Even in the rare instances in which modern legal systems that respect the right to property nevertheless permit its expropriation, they do so solely for public purposes (such as the

¹⁸⁸ Levy Report, pp. 65-67.

¹⁸⁹ Levy Report, pp. 74-75. Emphasis in original.



construction of a road or the establishment of an infrastructure facility serving the general public). Confiscation or expropriation are under no circumstances permitted for private purposes, such as the interests of a person who has trespassed and is living on another's land. We are not aware of any precedent in any legal system that respects human rights in general, and particularly the right to property, in which the law permits the confiscation of an individual's property for the purpose of its transfer for the private use of another individual who is not its owner. Nor does the Levy Committee offer any example of such a precedent. Such an action is intolerable, as it constitutes the exploitation of governmental power for the purpose of transferring property from one person to another by force.

Moreover, the Committee's proposal completely ignores the fact that international law utterly prohibits (without exception, which is rare) the confiscation of the property of civilians in an occupied territory.¹⁹⁰

5.2 The Status of the Right to Property and Permitted Violations

The Levy Committee mentions some of the legal sources that have established the status of the right to property in Israel and in the OPT. However, it does not reconcile its position, which harms the right to property, with these sources. We shall examine some of the relevant sources below.

In Israel, the right to property is a protected, basic constitutional right forming part of the rights granted to all persons per se. Injury to this right requires compliance with the proportionality tests established in Section 8 of Basic Law: Human Dignity and Liberty.¹⁹¹

As the Supreme Court has established on many occasions, this right also applies throughout the West Bank. The comments of former Supreme Court President Justice Dorit Beinisch on this matter in **the judgment in the Morar case** are pertinent in this context:

In our legal system, property rights are protected as a constitutional human right (s. 3 of the Basic Law: Human Dignity and Liberty). This right is of course also recognized in public international law [...]. Therefore, the residents in the territories held under belligerent occupation have a protected right to their property.¹⁹²

As was already noted, the absolute prohibition on the confiscation of the private property of residents of an occupied territory is established in Article 46 of the Hague Regulations [emphases added]:

190 In accordance with regulation 46 of the Regulations Annexed to the Fourth Hague Convention Respecting the Laws and Customs of War on Land, 1907.

191 Basic Law: Human Dignity and Liberty, arts. 3, 8.

192 **Morar**, *supra* note 30, para. 14.

Family honour and rights, the lives of **persons, and private property**, as well as religious convictions and practice, **must be respected. Private property cannot be confiscated.**

The Fourth Geneva Convention includes a similar provision. Article 53, among other provisions, establishes that destruction of the property of the occupied population is prohibited:

Art. 53 – Prohibited Destruction

Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations.¹⁹³

Thus, in accordance with the rules of war under international law, injury to the right to property, including injury to the individual's land rights, is completely prohibited, except when it is absolutely necessary for the security of the occupying power.¹⁹⁴

Moreover, in addition to the general prohibition establishing the “negative” obligation incumbent on the military commander to refrain from taking actions liable to harm local residents, the military commander also bears a “positive” obligation to act in order to ensure that these residents, their dignity and their property are not injured.¹⁹⁵ In *Morar* (above), the Court noted:

The respondents should act [...] to protect the property rights of the petitioners so that they are not violated unlawfully. [...] [T]he protection of the security and property of the local inhabitants is one of the most fundamental duties imposed on the military commander in the territories.

Accordingly, and since the right to property is clearly enshrined in customary humanitarian law, the authorities are obligated to ensure that this right is upheld, refrain from injuring it, and protect it from injury by others. This obligation is intensified in the case of an occupied and disempowered population, and it should go without saying that this population is not to be exploited in the manner proposed by the Levy Committee in order to enable injury to it for the purposes of the citizens of the occupying power.

193 Statements in a similar vein may be found in many additional documents, including a study by the International Committee of the Red Cross regarding the rules of customary international humanitarian law: J.M Henckaerts and L. Doswald-Beck, **Customary International Humanitarian Law**, Volume I: Rules (Cambridge University Press and ICRC, 2005), pp. 173-182. This study found that there is a customary obligation to refrain from destroying and damaging the property of enemy civilians, particularly in the case of an occupied territory, where the occupying power is required to protect and respect private property: “Rule 50. *The destruction or seizure of the property of an adversary is prohibited, unless required by imperative military necessity.* Rule 51. *In occupied territory: [...] (c) private property must be respected and may not be confiscated; except where destruction or seizure of such property is required by imperative military necessity.*”

194 HCJ 7862/04, *Abu Daher v. Commander of IDF Forces in Judea and Samaria*, PD 59(5) 368 2005, pp. 376-377.

195 HCJ 4764/04, *Physicians for Human Rights et al. v. Commander of IDF Forces in Gaza*, PD 58(5), 385, pp. 393-394, 408.



International human rights law also establishes the obligation to protect the right to property of civilians under occupation. Despite the disagreement regarding the scope of application of the law of occupation in the West Bank, the Israeli Supreme Court has been willing to recognize the applicability of the basic rights enshrined under this law in the territory subject to belligerent occupation.¹⁹⁶ Since its inception international human rights law has recognized the individual's right to own property, alone or with others. Meanwhile, the second, negative pillar establishes that no person is to be arbitrarily deprived of his or her right to property. This is established in Article 17 of the 1948 Universal Declaration of Human Rights:

- (1) Everyone has the right to own property alone as well as in association with others.
- (2) No one shall be arbitrarily deprived of his property.

Furthermore, this principle is also reflected in additional international legal documents that found it appropriate to recognize this right. By way of example, these include the European Convention on Human Rights, which recognizes both foundations of the right to property, as is apparent from the accompanying Protocol 1, drafted in 1952.¹⁹⁷

In order to address these legal sources, the Levy Committee referred to various provisions in military law and in Ottoman land law applying in the West Bank, which it believes permit deviation from the full recognition of landowners' property rights. The Levy Committee argued that these provisions indicate that, on occasion, the interests of a person in possession of another's land are to be preferred to those of the landowner. However, the provisions to which the Levy Committee refers are not appropriate for the issue of the outposts. The Committee referred to provisions regarding a situation created due to transactions made by the Supervisor of Governmental and Abandoned Property in good faith, but based on an error,¹⁹⁸ as well as provisions in Ottoman law establishing procedural prescription (as a barrier to eviction) or substantive prescription (creating a right), when a person's possession and use of another's land has continued over an extended period and additional conditions are met.¹⁹⁹ Neither of these examples is relevant for our purposes. The principle underlying the former rule is to protect a third

196 **Mara'abe, supra** note 30, para. 75; HCJ 3969/06, **Head of Deir Samit Village Council, Muhammad Abd Mahmoud al-Harub et al. v. Commander of IDF Forces in the West Bank et al.** (not yet published; judgment dated October 22, 2009), paras. 10, 17; HCJ 10356/02 **Yoav Hass v. State of Israel et al.**, (not yet published, judgment dated March 4, 2004); HCJ 1890/03 **City of Bethlehem and 21 others v. State of Israel et al.**, Tak-EI 2005(1) 1114 (2005).

197 **Protocol 1 to the European Convention on Human Rights Regarding Enforcement of certain Rights and Freedoms not included in Section I of the Convention, Done at Paris on the 20th day of March 1952.** Available at: <http://www.hri.org/docs/ECHR50.html#P1>.

198 Sections 5 and 10 of the Order Concerning Governmental Property (Judea and Samaria (No. 59), 5727-1967, which establishes that a transaction made on the basis of an assumption in good faith by the Supervisor that a particular property was government property will be valid even if it emerges that this was not the case. Section 10 of the Israeli Land Law, 5729-1969 also discusses the protection of the interest of a third party that has relied in good faith on an error made by the authorities – in this case, incorrect registration in the Land Registry.

199 Ottoman Land Law, 1868, secs. 20, 78.

party who has acted in good faith, while that underlying the second is obsolescence. Neither of these principles can be used to approve outposts constructed on private Palestinian land.

Firstly, it is evident that the outposts constructed on private land in the West Bank are not the product of errors made by the Civil Administration. Secondly, the issue of obsolescence is irrelevant in the case of these outposts, both because such prescription does not apply regarding outposts established on registered land and because in the case of most of the outposts established on unregistered land, the demand to evict the trespassers was presented prior to the obsolescence and therefore halted its application.

Accordingly, the Levy Committee does not refer to any example justifying the restriction of the right to property for the purpose of defending the interests of someone who has violated this same right.

A further example quoted by the Levy Committee addresses the possibility under Israeli law that a person who built on unregistered land belonging to another, **while honestly believing that this was his own land**, may enforce the purchase of the land from its owner in certain circumstances.²⁰⁰ Again, it is obvious that this scenario is irrelevant to the outposts constructed on land belonging to Palestinians, since the settlers who moved onto this land clearly do not honestly believe that they are its legal owners. Indeed, the opposite is the case: the absence of a purchase contract, the lack of registration, and the inability to secure lawful building permits should all lead, for a reasonable person, to recognition that this is not land that he or she has purchased.

The Levy Committee also refers to the State's position in Civil Appeal 8787/07 (Jerusalem Magistrate's Court), *Har Vagai Company Ltd. v. Supervisor of Governmental and Abandoned Property in Judea and Samaria et al.*²⁰¹ In this case, when numerous housing units were erroneously constructed on the plaintiff's land, "the relief of removal is not viable... given the character of the claim and the identity of the Plaintiff, the principal relief in this case is payment of a usage fee and compensation."²⁰²

We are at a loss to understand how the Levy Committee can seek to derive a principle that is so exceptional in the context of the right to property on the basis of comments made by the State's representative in a civil proceeding before the Jerusalem Magistrate's Court – a proceeding that was still pending at the time this position paper was written. Even if these comments support the Committee's position, they do not reach a normative level that enables them to outweigh the status of the right to property as established in Israeli and international law and in the judgments of the Supreme Court.

Lastly, the Levy Committee also relies on a judgment of the European Court of Human Rights in the well-known case of **Demopoulos v. Turkey**.²⁰³ In this judgment the Court

200 Land Law, 5729-1969, sec. 23.

201 **Levy Report**, pp. 67-68, 76.

202 *Ibid.*, p. 68.

203 <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-97649>



rejected the demand by Greek-Cypriots to return to their homes on land that had remained in the Turkish section of the island following Turkey's occupation of northern Cyprus. The Court found that since 40 years had passed since the end of the war, and taking into consideration political and demographic changes and the fact that others were living on the land, the solution to the injury to property was not restitution but payment of compensation.

The Levy Committee's reliance on this judgment, which involves the right of restitution, and not the question as to whether one may confiscate property from a person who is present – is nothing short of a diversion. The judgment does not address the question of whether one may confiscate another's land to establish homes or a settlement for others, but rather the question of whether persons who have been absent from an occupied area for many years have the right to return to their land, which has in the meantime been settled by others. The said ruling is relevant to the question of absentees within the borders of the State of Israel, but it is not relevant to the issue of the property of persons present in the West Bank.

In conclusion, the Levy Committee's proposal to refrain from evacuating and demolishing the illegal construction undertaken on privately-owned Palestinian land, and instead to provide compensation for the landowners, is inconsistent with Israeli law, with the judgments of the Supreme Court, with the provisions of international law that apply to the area, and with the status of the right to property as embodied in all of the above legal sources.

There can be no doubt that this jarring attempt to approve construction on the land of others and to justify the authorities' reluctance to enforce the law and evict the settlers is truly unprecedented.

Appendix



Appendix B: List of UN General Assembly Resolutions Referring to the West Bank as an Occupied Territory (By Year)

Year	Name	Decision
1967	2253 (ES-V) Measures taken by Israel to change the status of the city of Jerusalem	Measures taken by Israel are invalid. Israel should rescind measure that would alter the status of Jerusalem
	2254 (ES-V) Measures taken by Israel to change the status of the city of Jerusalem	Deplores Israel's failure to comply with resolution 2253 (ES-V)
1968	2443 Respect for and implementation of human rights in occupied territories	Establishment of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories
1969	2535 United Nations Relief and Works Agency for Palestine Refugees in the Near East	Problems of the Palestinian Arab refugees arose from the denial of their inalienable rights under the charter and the UDHR and are further aggravated by repressive acts against them and other inhabitants of the occupied territories
	2546 Respect for and implementation of human rights in occupied territories	Israel should desist from repressive practices and policies towards the civilian population in the occupied territories and should comply with its obligations under the Fourth Geneva Convention
1970	2672 United Nations Relief and Works Agency for Palestine refugees in the Near East	People of Palestine are entitled to equal rights and self-determination
	2727 Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories	Israel should comply with its obligations under the Fourth Geneva Convention
1971	2799 The situation in the Middle East	Acquisition of territories by force is inadmissible and that, consequently, territories thus occupied must be restored. The Assembly is Gravely concerned at the continuation of Israel's occupation of the Arab territories since 5 June 1967
	2851 Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories	Israel should desist from policies and practices such as annexation of the occupied territories including Jerusalem and the establishment of settlements
	2672 United Nations Relief and Works Agency for Palestine refugees in the Near East	People of Palestine are entitled to equal rights and self-determination
1972	3005 Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories	Israel should desist from policies and practices such as pillage, exploitation of resources and annexation of the occupied territories including Jerusalem and the establishment of settlements. Measures taken in contravention of the Fourth Geneva Convention are null and void. Occupied population possesses sovereignty over national wealth and resources
	2912 United Nations Relief and Works Agency for Palestine Refugees in the Near East	Measure affecting the physical, geographic and demographic structure of the occupied territories violate the Fourth Geneva Convention and Israel should desist such measures. People of Palestine are entitled to equal rights and self-determination

Year	Name	Decision
	2949 The situation in the Middle East	<p>Acquisition of territories by force is inadmissible and that, consequently, territories thus occupied must be restored.</p> <p>Changes carried out by Israel in the occupied Arab territories in contravention of the Fourth Geneva Conventions are null and void.</p> <p>Israel should desist from all policies and practices affecting the physical character of demographic composition of the occupied Arab territories</p>
1973	3175 Permanent sovereignty over natural resources in the occupied Arab territories	<p>Affirmation of the right of the Arab states and peoples whose territories are under Israeli occupation to permanent sovereignty over all their natural resources. Measures undertaken by Israel to exploit human and natural resources are illegal. These principles apply to all states, territories and people under foreign occupation, colonial rule or Apartheid.</p>
	3092 Report on the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories	<p>The fourth Geneva Convention applies to the Arab territories occupied by Israel since 1967. Israeli occupation authorities should respect and comply with the provisions of that Convention in the occupied Arab territories.</p> <p>Israel's policy of annexation, establishment of settlements and transfer of an alien population to the occupied territories is in contravention of the purposes and principles of the Charter of the United Nations, the principles and provisions of the applicable international law concerning occupation, the principles of sovereignty and territorial integrity, and the basic human rights and fundamental freedoms of the people</p> <p>Israel's policy of settling parts of its population and new immigrants in the occupied territories is a flagrant violation of the fourth Geneva Convention All measures taken by Israel to change the physical character, demographic composition, institutional structure or the status of the occupied territories, or any part thereof, are null and void</p>
	3089 United Nations Relief and Works Agency for Palestine Refugees in the Near East	<p>Israeli occupation authorities have persisted in adopting measures that obstruct the return of the displaced population to their homes and camps in the occupied territories--including changes in the physical and demographic structure of the occupied territories, by the displacement of inhabitants, the transfer of population, the destruction of towns, villages and homes, and the establishment of Israeli settlements- in violation of the provisions of the fourth Geneva Convention. Those measures null and void.</p> <p>The People of Palestine is entitled to equal rights and self-determination, in accordance with the Charter of the United Nations.</p> <p>The people of Palestine has been prevented by Israel from enjoying its inalienable rights and from exercising its right to self-determination;</p>



Year	Name	Decision
1974	3240 Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories	Annexation, establishment of settlements and transfer of alien population contravenes the Fourth Geneva Convention and principles of the Charter of the United Nations, in particular the principles of sovereignty and territorial integrity, the principles and provisions of the applicable international law concerning occupation and the basic human rights of the people. All measures taken by Israel to change the physical character, demographic composition, institutional structure or status of the occupied territories, or any part thereof, are null and void.
	3210 Invitation to the Palestine Liberation Organization	The Palestinian people is the principal party to the question of Palestine. GA Invites the Palestine Liberation Organization, the representative of the Palestinian people, to participate in the deliberations of the General Assembly on the question of Palestine in plenary meetings
	3237 Observer status for the PLO	GA Invites the Palestine Liberation Organization to participate in the sessions and the work of the General Assembly in the capacity of observer;
	3236 Question of Palestine	Reaffirmation the inalienable rights of the Palestinian people in Palestine, including: (a) The right to self-determination without external interference; (b) The right to national independence and sovereignty
	3336 Permanent sovereignty over national resources in the occupied Arab territories	Affirmation of the right of the Arab states and peoples whose territories are under Israeli occupation to permanent sovereignty over all their resources and wealth. Measures undertaken by Israel to exploit human and natural resources are illegal.
1975	3375 Invitation to the Palestine Liberation Organization to participate in the efforts for peace in the Middle East	Calls for the invitation of the PLO, the representative of the Palestinian People, to participate in al efforts on the Middle East on equal footing.
	3376 Question of Palestine	Establishment of the Committee on the Exercise of the Inalienable Rights of the Palestinian People
	3525 Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories	Condemnation of Israeli policies and practices: (a) The annexation of parts of the occupied territories; (b) The establishment of Israeli settlements therein and the transfer of an alien population thereto. All measures taken by Israel to change the physical character, demographic composition, institutional structure or status of the occupied territories, or any part thereof, are null and void. Israel's policy of settling parts of its population and new immigrants in the occupied territories is a flagrant violation of the fourth Geneva Convention. Israel should from the annexation and colonization of the occupied Arab territories.
	3414 The situation in the Middle East	The acquisition of territory by force is inadmissible and therefore all territories thus occupied must be returned. Condemnation of Israel's continued occupation of Arab territories GA Requests all States to desist from supplying Israel with any military or economic aid as long as it continues to occupy Arab territories and deny the inalienable national rights of the Palestinian people.

Year	Name	Decision
1976	31/20 Question of Palestine	Just and lasting peace in the Middle East cannot be established without the achievement, inter alia, of a just solution of the problem of Palestine on the basis of the attainment of the inalienable rights of the Palestinian people, including the right of return and the right to national independence and sovereignty in Palestine
	31/61 The situation in the Middle East	Condemnation of Israel's continued occupation of Arab territories Condemnation of all measures taken by Israel in the occupied territories to change the demographic and geographic character and institutional structure of these territories
	31/106 Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Occupied Territories	Deplores the measures taken by Israel in the Arab territories occupied since 1967 that alter their demographic composition or geographical nature, and particularly the establishment of settlements Such measures have no legal validity and cannot prejudice the outcome of the search for the establishment of peace. All legislative and administrative measures taken by Israel, including the expropriation of land and properties thereon and the transfer of populations, which purport to change the legal status of Jerusalem are invalid and cannot change that status
	31/186 Permanent sovereignty over national resources in the occupied Arab territories	Reaffirmation of the right of the Arab States and peoples whose territories are under Israeli occupation to regain full and effective control over their natural and all other resources and economic activities.
1977	32/5 Recent illegal Israeli measures in the occupied Arab territories	Strongly deplores the establishment of settlements in the occupied Arab territories, calling upon Israel to comply with the provisions of the Geneva Convention obligations. Determines that all measures and actions taken by Israel in the Palestinian and other Arab territories occupied since 1967 have no legal validity and are a serious obstruction of efforts aimed at achieving a just and lasting peace in the Middle East
	32/20 The situation in the Middle East	Israel's continued occupation of Arab territories is a violation of the Charter of the United Nations, the principles of international law and repeated resolutions of the United Nations.
	32/91 Report of the special committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories	Reaffirms that the fourth Geneva Convention is applicable to all the Arab territories occupied by Israel since 1967, including Jerusalem and Strongly deplores the failure of Israel to acknowledge the applicability of that Convention to the territories it has occupied since 1967.
	32/161 Permanent sovereignty over national resources in the occupied Arab territories	Affirms The right of the Arab States and peoples whose territories are under Israeli occupation to full and effective permanent sovereignty and control over their natural and all other resources, wealth and economic activities.
1978	33/28 Question of Palestine	Just and lasting peace in the Middle East cannot be established without a solution of the problem of Palestine on the basis of the attainment of the inalienable rights of the Palestinian people, including the right of return and the right to national independence and sovereignty in Palestine.



Year	Name	Decision
	33/29 The situation in the Middle East	Peace must be based on a comprehensive solution which takes into account all aspects of the Arab-Israeli conflict, in particular the attainment by the Palestinian people of all its inalienable rights and the Israeli withdrawal from all the occupied Palestinian and other Arab territories. Reaffirms previous calls for a full Israeli withdrawal from the occupied territories and an international peace conference with PLO participation. And Condemns Israel's continued occupation of Palestinian and other Arab territories.
	33/112 United Nations Relief and Works Agency for Palestine Refugees in the Near East	Reaffirms the inalienable right of all displaced inhabitants to return to their homes or former places of residence in the territories occupied by Israel since 1967. Israel to take immediate steps for the return of all the displaced inhabitants and To desist from all measures that obstruct the return of the displaced inhabitants, including measures affecting the physical and demographic structure of the occupied territories.
	33/113 Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories	All legislative and administrative measures taken by Israel, including the expropriation of land and properties thereon and the transfer of populations, which purport to change the legal status of Jerusalem are invalid and cannot change that status. Deplores the measures taken by Israel in the Arab territories occupied since 1967 that alter their demographic composition or geographical nature, and particularly the establishment of settlements, Such measures have no legal validity and cannot prejudice the outcome of the search for the establishment of peace.
1979	34/44 Importance of the universal realization of the right of peoples to self-determination and of the speedy granting of independence to colonial countries and peoples for the effective guarantee and observance of human rights	The inalienable right of the peoples of the Palestinian people under colonial and alien domination to self-determination, national independence, territorial integrity, and national unity and sovereignty without external interference.
	34/52 United Nations Relief and Works Agency for Palestine refugees in the Near East	The inalienable right of all the displaced inhabitants to return to their homes or former places of residence in the territories occupied by Israel since 1967 and declares once more that any attempt to restrict, or to attach conditions to, the free exercise of the right of return by any displaced person is inconsistent with that inalienable right and inadmissible. Calls upon Israel To take immediate steps for the return of all the displaced inhabitants and To desist from all measures that obstruct the return of the displaced inhabitants, including measures affecting the physical and demographic structure of the occupied territories
	34/65 Question of Palestine	The Camp David accords and other agreements have no validity in so far as they purport to determine the future of the Palestinian people and of the Palestinian territories occupied by Israel since 1967
	34/70 The situation in the Middle East	Concerned that the Arab territories occupied since 1967 have continued, for more than twelve years, to be under illegal Israeli occupation and that the Palestinian people, after three decades, is still deprived of the exercise of its inalienable national rights

Year	Name	Decision
	34/90 Report of the Special committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories	<p>All legislative and administrative measures taken by Israel, including the expropriation of land and properties thereon and the transfer of populations, which purport to change the legal status of Jerusalem are invalid and cannot change that status.</p> <p>Deplores the measures taken by Israel in the Arab territories occupied since 1967 that alter their demographic composition or geographical nature, and particularly the establishment of settlements, Such measures have no legal validity and cannot prejudice the outcome of the search for the establishment of peace.</p>
	34/136 Permanent sovereignty over national resources in the occupied Arab territories	The right of the Arab States and peoples whose territories are under Israeli occupation to full and effective permanent sovereignty and control over their natural and all other resources, wealth and economic activities
1980	35/13 Assistance to Palestine refugees	Calls Israel to take immediate steps for the return of all the displaced inhabitants and to desist from all measures that obstruct the return of the displaced inhabitants, including measures affecting the physical and demographic structure of the occupied territories.
	35/110 Permanent sovereignty over national resources in the occupied Arab territories	<p>The right of the Arab States and peoples whose territories are under Israeli occupation to full and effective permanent sovereignty.</p> <p>All measures undertaken by Israel to exploit the human, natural and all other resources, wealth and economic activities in the occupied Arab territories are illegal and calls upon Israel to desist immediately from such measures. The right of the Arab States and peoples subjected to Israeli aggression and occupation to the restitution of, and full compensation for, the exploitation, depletion and loss of and damages to, their natural, human and all other resources, wealth and economic activities, and calls upon Israel to meet their just claims.</p>
	35/122 Report of the Special Committee on Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories	<p>The fourth Geneva Convention is applicable to Palestinian and other Arab territories occupied by Israel since 1967, including Jerusalem and Israel should comply strictly with its provisions.</p> <p>GA deplores the failure of Israel to acknowledge the applicability of that Convention to the territories it has occupied since 1967 and therefore calls again upon Israel to acknowledge and to comply with the provisions of that Convention in Palestinian and other Arab territories it has occupied since 1967 including Jerusalem.</p> <p>All actions in particular the establishment of settlements in the Palestinian and other occupied Arab territories taken by Israel in the Palestinian territories occupied since 1967 have no legal validity</p>



Year	Name	Decision
		<p>Also, Israel as the occupying Power, has to desist forthwith from taking any action which would result in changing the legal status, geographical nature or demographic composition of the Arab territories occupied since 1967, including Jerusalem. And Condemns the following Israeli policies and practices:</p> <ol style="list-style-type: none"> 1. Annexation of parts of the occupied territories, including Jerusalem. 2. Establishment of new Israeli settlements and expansion of the existing settlements on private and public Arab lands, and transfer of an alien population thereto. 3. Illegal exploitation of the natural wealth, resources and population of the occupied territories; <p>All measures taken by Israel to change the physical character, demographic composition, institutional structure or status of the occupied territories, or any part thereof, including Jerusalem, are null and void, and that Israel's policy of settling parts of its population and new immigrants in the occupied territories constitutes a flagrant violation of the Geneva Convention relative to the Protection of Civilian Persons in Time of War and of relevant United Nations resolutions.</p>
	35/169 Question of Palestine	<p>The inalienable rights in Palestine of the Palestinian people, including the right to self-determination without external interference, and to national independence and sovereignty; and the right to establish its own independent sovereign State; Demands the complete and unconditional withdrawal by Israel from all the Palestinian and other Arab territories occupied since June 1967, including Jerusalem, in conformity with the fundamental principle of the inadmissibility of the acquisition of territory by force.</p>
	35/207 The situation in the Middle East	<p>GA Reaffirms previous calls for a full Israeli withdrawal from the occupied territories and the establishment of a Palestinian state.</p>
1981	36/15 Recent developments in connection with excavations in eastern Jerusalem	<p>Reaffirming that the fourth Geneva Convention is applicable to Palestinian and other Arab territories occupied by Israel since 1967, including Jerusalem. Expressing grave concern that Israel, as the occupying Power, persists in excavating and transforming the historical, cultural and religious sites of Jerusalem; such violations by Israel constitute a serious obstruction to achieving a comprehensive and just peace in the Middle East as well as a threat to international peace and security.</p>
	36/73 Living conditions of the Palestinian people	<p>The elimination of the Israeli occupation is a prerequisite for the social and economic development of the Palestinian people in the occupied Palestinian territories.</p>

Year	Name	Decision
	36/120 Question of Palestine	GA to convene, under the auspices of the United Nations, an International Conference on the Question of Palestine Reaffirms also the inalienable rights in Palestine of the Palestinian people, including: (a) The right to self-determination without external interference, and to national independence and sovereignty. (b) The right to establish its own independent sovereign State; Demands that Israel should withdraw completely and unconditionally from all the Palestinian and other Arab territories occupied since June 1967, including Jerusalem, with all property and services intact; declares that no State has the right to undertake any actions, measures or negotiations that could affect the future of the Palestinian people, its inalienable rights and the occupied Palestinian territories without the participation of the Palestine Liberation Organization on an equal footing.
	36/146 United Nations Relief and Works Agency for Palestine Refugees in the Near East	Israel as the occupying Power to co-operate in the implementation of the present resolution and to remove the hindrances which it has put in the way of establishing the University of Jerusalem. Calls once more upon Israel to desist from all measures that obstruct the return of the displaced inhabitants, including measures affecting the physical and demographic structure of the occupied territories.
	36/147 Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories	Reaffirms that the applicability of the fourth Geneva Convention to Palestinian and other Arab territories occupied by Israel since 1967, including Jerusalem; Condemns the failure of Israel as the occupying Power to acknowledge the applicability of that Convention to the territories it has occupied since 1967, including Jerusalem; Reaffirms the fact that occupation itself constitutes a grave violation of the human rights of the civilian population of the occupied Arab territories. Strongly condemns the following Israeli policies and practices: 1. Annexation of parts of the occupied territories, including Jerusalem. 2. Establishment of new Israeli settlements and expansion of the existing settlements on private and public Arab lands, and transfer of an alien population thereto. All measures taken by Israel to change the physical character, demographic composition, institutional structure or status of the occupied territories, or any part thereof, including Jerusalem, are null and void, and that Israel's policy of settling parts of its population and new immigrants in the occupied territories constitutes a flagrant violation of the Geneva Convention and of relevant United Nations resolutions
	36/150 Israel's decision to build a canal linking the Mediterranean Sea to the Dead Sea	The canal linking the Mediterranean Sea with the Dead Sea, if constructed, is a violation of the rules and principles of international law, especially those relating to the fundamental rights and duties of States and to belligerent occupation of land.



Year	Name	Decision
	36/173 Permanent sovereignty over national resources in the occupied Palestinian and other Arab territories	<p>Condemns Israel for its exploitation of the national resources of the occupied Palestinian and other Arab territories; the right of the Palestinian and other Arab peoples whose territories are under Israeli occupation to full and effective permanent sovereignty and control over their natural and all other resources, wealth and economic activities.</p> <p>All measures undertaken by Israel to exploit the human, natural and all other resources, wealth and economic activities in the occupied Palestinian and other Arab territories are illegal and calls upon Israel to desist immediately from such measures</p>
	36/226 The situation in the Middle East	<p>Concerned that the Arab and Palestinian territories occupied since 1967, including Jerusalem, still remain under Israeli occupation, that the relevant resolutions of the United Nations have not been implemented and that the Palestinian people is still denied the restoration of its land and the exercise of its inalienable national rights in conformity with international law, as reaffirmed by resolutions of the United Nations.</p> <p>Concerned also at recent Israeli actions involving the escalation and expansion of the conflict in the region, which further violate the principles of international law and endanger international peace and security.</p> <p>The occupation of the Palestinian and other Arab territories, including Jerusalem, is a violation of the Charter of the United Nations, the principles of international law and the relevant resolutions of the United Nations, and demands the immediate, unconditional and total withdrawal of Israel from all these occupied territories</p>
1982	37/86 Question of Palestine	<p>Gravely concerned that the Arab and Palestinian territories occupied since 1967, including Jerusalem, still remain under Israeli occupation, that the relevant resolutions of the United Nations have not been implemented and that the Palestinian people is still denied the restoration of its land and the exercise of its inalienable national rights in conformity with international law, as reaffirmed by resolutions of the United Nations.</p> <p>Reiterates all relevant United Nations resolutions which emphasize that the acquisition of territory by force is inadmissible under the Charter of the United Nations and the principles of international law and that Israel must withdraw unconditionally from all the occupied Palestinian and other Arab territories, including Jerusalem.</p> <p>GA Condemns Israel's continued occupation of the Palestinian and other Arab territories, including Jerusalem, in violation of the Charter of the United Nations, the principles of international law and the relevant resolutions of the United Nations, and demands the immediate, unconditional and total withdrawal of Israel from all these occupied territories as well as aggression and practices against the Palestinian people in the occupied Palestinian territories and outside these territories, particularly the establishment of settlements, which are in violation of the Charter and the principles of international law and the pertinent international conventions.</p>

Year	Name	Decision
	37/88 Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories	<p>Condemns the failure of Israel as the occupying Power to acknowledge the applicability of the fourth Geneva Convention to the territories it has occupied since 1967, including Jerusalem.</p> <p>Deplores the persistence of Israel in carrying out such measures, in particular the establishment of settlements in the Palestinian and other occupied Arab territories, including Jerusalem.</p> <p>Strongly condemns the following Israeli policies and practices such as establishment of new Israeli settlements and expansion of the existing settlements on private and public Arab lands, and transfer of an alien population thereto.</p>
	37/120 United Nations Relief and Works Agency for Palestine Refugees in the Near East	<p>Reaffirms the inalienable right of all displaced inhabitants to return to their homes or former places of residence in the territories occupied by Israel since 1967 and declares once more that any attempt to restrict, or to attach conditions to, the free exercise of the right of return by any displaced person is inconsistent with their inalienable right and inadmissible.</p> <p>Calls Israel To desist from all measures that obstruct the return of the displaced inhabitants, including measures affecting the physical and demographic structure of the occupied territories</p>
	37/123 The situation in the Middle East	Declares all Israeli policies and practices of, or aimed at, annexation of the occupied Palestinian and other Arab territories, including Jerusalem, to be in violation of international law and of the relevant United Nations resolutions.
	37/135 Permanent sovereignty over national resources in the occupied Palestinian and other Arab territories	<p>Emphasizes the right of the Palestinian and other Arab peoples whose territories are under Israeli occupation to full and effective permanent sovereignty and control over their natural and all other resources, wealth and economic activities.</p> <p>Affirms the right of the Palestinian and other Arab peoples subjected to Israeli aggression and occupation to the restitution of, and full compensation for the exploitation, depletion and loss of and damages to, their natural, human and all other resources, wealth and economic activities, and calls upon Israel to meet their just claims.</p>
1983	38/58 Question of Palestine	<p>The need to put an end to Israel's occupation of the Arab territories, in accordance with the principle of the inadmissibility of the acquisition of territory by force, and, consequently, the need to secure Israeli withdrawal from the territories occupied since 1967, including Jerusalem.</p> <p>The need to oppose and reject such Israeli policies and practices in the occupied territories, including Jerusalem, and any de facto situation created by Israel as are contrary to international law and relevant United Nations resolutions, particularly the establishment of settlements.</p>
	38/79 Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories	<p>Deplores the measures taken by Israel in the Arab territories occupied since 1967 that alter their demographic composition or geographical nature, and particularly the establishment of settlements, Such measures have no legal validity and cannot prejudice the outcome of the search for the establishment of peace.</p> <p>All legislative and administrative measures taken by Israel, including the expropriation of land and properties thereon and the transfer of populations, which purport to change the legal status of Jerusalem are invalid and cannot change that status</p>



Year	Name	Decision
	38/83 United Nations Relief and Works Agency for Palestine Refugees	Calls upon Israel, To desist from all measures that obstruct the return of the displaced inhabitants, including measures affecting the physical and demographic structure of the occupied territories.
	38/85 Israel's decision to build a canal linking the Mediterranean Sea to the Dead Sea	Affirmation of the principles of international law relative to belligerent occupation of land, including the fourth Geneva Convention and reaffirming their applicability to all Arab territories occupied since 1967, including Jerusalem. The canal linking the Mediterranean Sea with the Dead Sea, if constructed, is a violation of the rules and principles of international law, especially those relating to the fundamental rights and duties of States and to belligerent occupation of land.
	38/144 Permanent sovereignty over national resources in the occupied Palestinian and other Arab territories	Condemns Israel for its exploitation of the national resources of the occupied Palestinian territories. And emphasizes the right of the Palestinian and other Arab peoples whose territories are under Israeli occupation to full and effective permanent sovereignty and control over their natural and all other resources, wealth and economic activities.
	38/166 Living conditions of the Palestinian people in the occupied Palestinian territories	Rejects the Israeli plans and actions intended to change the demographic composition of the occupied Palestinian territories, particularly the increase and expansion of the Israeli settlements, and other plans and actions creating conditions leading to the displacement and exodus of Palestinians from the occupied Palestinian territories. Affirms that the Israeli occupation is contradictory to the basic requirements for the social and economic development of the Palestinian people in the occupied West Bank.
	38/180 The situation in the Middle East	A lasting peace in the region will be achieved without the full exercise by the Palestinian people of its inalienable national rights and the immediate, unconditional and total withdrawal of Israel from all the Palestinian and other occupied Arab territories. Declares all Israeli policies and practices of, or aimed at, annexation of the occupied Palestinian and other Arab territories, including Jerusalem, to be illegal and in violation of international law and of the relevant United Nations resolutions. Reaffirms once more the overriding necessity of the total and unconditional withdrawal by Israel from all the Palestinian and other Arab territories occupied since 1967, including Jerusalem
1984	39/95 Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories	Condemns once again the failure of Israel, the occupying Power, to acknowledge the applicability of that Convention to the territories it has occupied since 1967, including Jerusalem. Expressing grave anxiety and concern at the present serious situation in the occupied Palestinian and other Arab territories, including Jerusalem, as a result of the continued Israeli occupation and the measures and actions taken by Israel, the occupying Power, designed to change the legal status, geographical nature and demographic composition of those territories.
	39/101 Israel's decision to build a canal linking the Mediterranean Sea to the Dead Sea	Emphasizes that the canal linking the Mediterranean Sea with the Dead Sea, if constructed, is a violation of the rules and principles of international law, especially those relating to the fundamental rights and duties of States and to belligerent occupation of land.

Year	Name	Decision
	39/146 The situation in the Middle East	<p>A just and lasting peace in the region will be achieved without the full exercise by the Palestinian people of its inalienable national rights and the immediate, unconditional and total withdrawal of Israel from all the Palestinian and other occupied Arab territories.</p> <p>Declares all Israeli policies and practices of, or aimed at, annexation of the occupied Palestinian and other Arab territories, including Jerusalem, to be illegal and in violation of international law and of the relevant United Nations resolutions.</p> <p>Reaffirms the overriding necessity of the total and unconditional withdrawal by Israel from all the Palestinian and other Arab territories occupied since 1967, including Jerusalem.</p>
	39/169 Living conditions of the Palestinian people in the occupied Palestinian territories	<p>Alarmed by the continuation of the Israeli settlement policies, which have been declared null and void and a major obstacle to peace. And rejects the Israeli plans and actions intended to change the demographic composition of the occupied Palestinian territories, particularly the increase and expansion of the Israeli settlements, and other plans and actions creating conditions leading to the displacement and exodus of Palestinians from the occupied Palestinian territories.</p>
1985	40/161 Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories	<p>Deplores the persistence of Israel in carrying out such measures, in particular the establishment of settlements in the Palestinian and other occupied Arab territories, including Jerusalem.</p> <p>Reaffirms that all measures taken by Israel to change the physical character, demographic composition, institutional structure or legal status of the occupied territories, or any part thereof, including Jerusalem, are null and void, and that Israel's policy of settling parts of its population and new immigrants in the occupied territories constitutes a flagrant violation of the Geneva Convention and of the relevant resolutions of the United Nations.</p> <p>Also strongly condemns the following Israeli policies and practices:</p> <ol style="list-style-type: none"> 1. Annexation of parts of the occupied territories, including Jerusalem. 2. Establishment of new Israeli settlements and expansion of the existing settlements on private and public Arab lands, and transfer of an alien population thereto. 3. Eviction, deportation, expulsion, displacement and transfer of Arab inhabitants of the occupied territories and denial of their right to return
	40/165 United Nations Relief and Works Agency for Palestine Refugees in the Near East	<p>Alarmed that Israel's persists in their policy of demolishing shelters occupied by refugee families.</p> <p>Calls upon it to fulfill its obligations as the occupying Power in this regard, in accordance with the pertinent provisions of the Fourth Geneva Convention.</p>



Year	Name	Decision
	40/168 The situation in the Middle East	<p>Concerned at the present serious situation in the occupied Palestinian and other Arab territories, including Jerusalem, as a result of the continued Israeli occupation and the measures and actions taken by Israel, the occupying Power, designed to change the legal status, geographical nature and demographic composition of those territories.</p> <p>Demands that Israel, the occupying Power, desist forthwith from taking any action which would result in changing the legal status, geographical nature or demographic composition of the Palestinian and other Arab territories occupied since 1967, including Jerusalem.</p> <p>Reaffirms the fact that occupation itself constitutes a grave violation of the human rights of the civilian population of the occupied Arab territories.</p> <p>Strongly condemns the following Israeli policies and practices:</p> <ol style="list-style-type: none"> Annexation of parts of the occupied territories, including Jerusalem. Confiscation and expropriation of private and public Arab property in the occupied territories and all other transactions for the acquisition of land involving the Israeli authorities, institutions or nationals on the one hand and the inhabitants or institutions of the occupied territories on the other.
	40/201 Living conditions of the Palestinian people in the occupied Palestinian territories	<p>Rejects the Israeli plans and actions intended to change the demographic composition of the occupied Palestinian territories, particularly the increase and expansion of the Israeli settlements, and other plans and actions creating conditions leading to the displacement and exodus of Palestinians from the occupied Palestinian territories.</p>
1986	41/63 Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories	<p>Strongly condemns the arming of Israeli settlers in the occupied territories to commit acts of violence against Arab civilians and the perpetration of acts of violence by these armed settlers against individuals, causing injury and death and wide-scale damage to Arab property</p>
	41/69 United Nations Relief and Works Agency for Palestine Refugees in the Near East	<p>Holds Israel responsible for the security of the Palestine refugees in the Palestinian and other Arab territories occupied since 1967, including Jerusalem, and calls upon it to fulfill its obligations as the occupying Power in this regard, in accordance with the pertinent provisions of the fourth Geneva Convention</p>
	41/162 The situation in the Middle East	<p>A just and lasting peace in the region will be achieved without the full exercise by the Palestinian people of its inalienable national rights and the immediate, unconditional and total withdrawal of Israel from all the Palestinian and other occupied Arab territories.</p> <p>Declares all Israeli policies and practices of, or aimed at, annexation of the occupied Palestinian and other Arab territories, including Jerusalem, to be illegal and in violation of international law and of the relevant United Nations resolutions.</p> <p>Reaffirms the overriding necessity of the total and unconditional withdrawal by Israel from all the Palestinian and other Arab territories occupied since 1967, including Jerusalem.</p>

Year	Name	Decision
1987	42/69 United Nations Relief and Works Agency for Palestine Refugees in the Near East	<p>Condemns the failure of Israel as the occupying Power to acknowledge the applicability of the fourth Geneva Convention to the territories it has occupied since 1967, including Jerusalem.</p> <p>Strongly deplores the persistence of Israel in carrying out such measures, in particular the establishment of settlements in the Palestinian and other occupied Arab territories, including Jerusalem. And strongly condemns the following Israeli policies and practices:</p> <ol style="list-style-type: none"> 1. Establishment of new Israeli settlements and expansion of the existing settlements on private and public Arab lands, and transfer of an alien population thereto. 2. Interference with the freedom of movement of individuals within the occupied Palestinian and other Arab territories. 3. Illegal exploitation of the natural wealth, resources and population of the occupied territories.
	42/160 Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories	<p>Strongly deplores the establishment of settlements in the Palestinian and other occupied Arab territories, including Jerusalem.</p> <p>Reaffirms the fact that occupation itself constitutes a grave violation of the human rights of the civilian population of the occupied Arab territories.</p> <p>Strongly condemns Israeli annexation of parts of the occupied territories, including Jerusalem.</p>
	42/190 Living conditions of the Palestinian people in the occupied Palestinian territories.	Affirms that the Israeli occupation is contradictory to the basic requirements for the social and economic development of the Palestinian people in the occupied Palestinian territories
	42/209 The situation in the Middle East	<p>A just and lasting peace in the region will be achieved without the full exercise by the Palestinian people of its inalienable national rights and the immediate, unconditional and total withdrawal of Israel from all the Palestinian and other occupied Arab territories.</p> <p>Declares all Israeli policies and practices of, or aimed at annexation of the occupied Palestinian and other Arab territories, including Jerusalem, to be illegal and in violation of international law and of the relevant United Nations resolutions.</p> <p>Reaffirms once more the overriding necessity of the total and unconditional withdrawal by Israel from all the Palestinian and other Arab territories occupied since 1967, including Jerusalem.</p>
1988	43/21 The uprising (intifadah) of the Palestinian people	Reaffirms that the occupation by Israel of the Palestinian territories since 1967, including Jerusalem, in no way changes the legal status of those territories.
	43/54 The situation in the Middle East	<p>A just and lasting peace in the region will not be achieved without the full exercise by the Palestinian people of its inalienable national rights and the immediate, unconditional and total withdrawal of Israel from all the Palestinian and other occupied Arab territories.</p> <p>Declares all Israeli policies and practices of, or aimed at, annexation of the occupied Palestinian and other Arab territories, including Jerusalem, to be illegal and in violation of international law and of the relevant United Nations resolutions.</p> <p>Reaffirms once more the overriding necessity of the total and unconditional withdrawal by Israel from all the Palestinian and other Arab territories occupied since 1967, including Jerusalem</p>



Year	Name	Decision
	43/57 United Nations Relief and Works Agency for Palestine Refugees in the Near East	Calls upon Israel to fulfill its obligations as the occupying Power in this regard, in accordance with the pertinent provisions of the fourth Geneva Convention.
	43/58 Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories	Reaffirms the fact that occupation itself constitutes a grave violation of the human rights of the civilian population of the occupied Arab territories. In accordance with the fourth Geneva Convention, the Israeli military occupation of the Palestinian and other Arab territories is of a temporary nature, thus giving no right whatsoever to the occupying Power over the territorial integrity of the occupied territories.
	43/176 Question of Palestine	Aware of the ongoing uprising (intifadah) of the Palestinian people since 9 December 1987, aimed at ending Israeli occupation of Palestinian territory occupied since 1967. Affirms the following principles for the achievement of comprehensive peace: 1. The withdrawal of Israel from the Palestinian territory occupied since 1967, including Jerusalem, and from the other occupied Arab territories. 2. Dismantling the Israeli settlements in the territories occupied since 1967.
	43/177 Question of Palestine	Affirms the need to enable the Palestinian people to exercise their sovereignty over their territory occupied since 1967.
1989	44/48 Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories	GA concerned at the alarming situation in the Palestinian territory occupied since 1967, including Jerusalem, as well as in the other occupied Arab territories, as a result of the continued occupation by Israel, the occupying Power, and of its persistent policies against the Palestinian people. Reaffirms the fact that occupation itself constitutes a grave violation of the human rights of the Palestinian people in the occupied Palestinian territory, including Jerusalem, and other Arab territories occupied by Israel since 1967. And Strongly condemns the following Israeli policies and practices: 1. Annexation of parts of the occupied Palestinian territory, including Jerusalem. 2. Establishment of new Israeli settlements and expansion of the existing settlements on private and public Palestinian and other Arab lands, and transfer of an alien population thereto.
	44/47 United Nations Relief and Works Agency for Palestine Refugees in the Near East	GA demands that Israel desist from the removal and resettlement of Palestine refugees in the Palestinian territory occupied by Israel since 1967 and from the destruction of their shelters. Calls upon it to fulfill its obligations as the occupying Power in this regard, in accordance with the pertinent provisions of the fourth Geneva Convention.

Year	Name	Decision
	44/174 Living conditions of the Palestinian people in the occupied Palestinian territory	<p>Expresses its alarm at the deterioration, as a result of the Israeli occupation, in the living conditions of the Palestinian people in the Palestinian territory, including Jerusalem, occupied since 1967.</p> <p>Affirms that the Israeli occupation is contradictory to the basic requirements for the social and economic development of the Palestinian people in the occupied Palestinian territory.</p> <p>Rejects the Israeli plans and actions intended to change the demographic composition of the occupied Palestinian territory, in particular the increase and expansion of the Israeli settlements.</p>
	44/235 Assistance to the Palestinian people	<p>Taking into account the Intifadah of the Palestinian people in the occupied Palestinian territory against the Israeli occupation, including Israeli economic and social policies and practices.</p> <p>Affirming that the Palestinian people cannot develop their national economy as long as the Israeli occupation persists.</p>
	44/42 Question of Palestine	<p>Aware of the ongoing uprising (Intifadah) of the Palestinian people since 9 December 1987, aimed at ending Israeli occupation of Palestinian territory occupied since 1967.</p> <p>Reaffirms the following principles for the achievement of comprehensive peace:</p> <ol style="list-style-type: none"> 1. The withdrawal of Israel from the Palestinian territory occupied since 1967, including Jerusalem, and from the other occupied Arab territories. 2. Dismantling the Israeli settlements in the territories occupied since 1967.
	44/2 The uprising (Intifadah) of the Palestinian People	<p>Reaffirms that the occupation by Israel of the Palestinian territory since 1967, including Jerusalem, and of the other Arab territories, in no way changes the legal status of those territories.</p> <p>Deeply concerned at the alarming situation in the Palestinian territory occupied since 1967, as a result of the continued occupation by Israel, the occupying Power, and of its persistent policies and practices against the Palestinian people.</p>
1990	45/74 Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories	Deplores the continued refusal by Israel to allow the special committee access to the occupied Palestinian territory, including Jerusalem, and other Arab territories occupied by Israel since 1967.
	45/73 Palestine refugees in the Palestinian territory occupied by Israel since 1967	Calls once more upon Israel to desist from all measures that obstruct the return of the displaced inhabitants, including measures affecting the physical and demographic structure of the occupied territories.
1991	46/199 Adverse economic effects of Israeli settlements in the occupied Palestinian territory, including Jerusalem, and other Arab territories occupied since 1967	Deplores the establishment of settlements by Israel in the Palestinian territory, including Jerusalem and the other Arab territories occupied since 1967, and regards those practices as unlawful and therefore without any legal effect.



Year	Name	Decision
	46/199 Adverse economic effects of Israeli settlements in the occupied Palestinian territory, including Jerusalem, and other Arab territories occupied since 1967	Recognizes that the continuing establishment of settlements and their ongoing enlargement in the Palestinian territory and other Arab territories occupied by Israel since 1967 and the settlement of new immigrant have adverse consequences for the economic and social develop of the Arab population of hose territories.
	46/47 Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories	Reaffirms the fact that occupation itself constitutes a grave violation of the human rights of the Palestinian people in the occupied Palestinian territory, including Jerusalem, and Arab territories occupied by Israel since 1967.
1992	47/172 Economic and social repercussions of the Israeli settlements on the Palestinian people in the Palestinian territory, including Jerusalem, occupied since 1967, and on the Arab population of the Syrian Golan	Recognizes the economic and social repercussions of the Israeli settlements on the Palestinian people in the Palestinian territory, including Jerusalem, occupied by Israel since 1967.
	47/70 Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories	Deeply concerned about the alarming situation in the Palestinian territory occupied since 1967, including Jerusalem, as well as in the other Israel, the occupying power, and op its persistent policies against the Palestinian people.
1993	48/40 Palestine refugees in the Palestinian territory occupied by Israel since 1967	Demands once again that Israel desist from the removal and resettlement of Palestine refugees in the Palestinian territory occupied by Israel since 1967 and from the destruction of their shelters.
	48/40 Palestine refugees in the Palestinian territory occupied by Israel since 1967	Reaffirms the inalienable right of all displaced inhabitants to return to their homes or former places of residence in the territories occupied by Israel since 1967.
1994	49/132 Economic and social repercussions of the Israeli settlements on the Palestinian people in the Palestinian territory, including Jerusalem, occupied since 1967, and on the Arab population of the Syrian Golan	Reaffirms that Israeli settlements in the Palestinian territory, including Jerusalem, and other Arab territories occupied since 1967, are illegal and an obstacle to economic and social development. Recognizes the economic and social repercussions of the Israeli settlements on the Palestinian people in the Palestinian territory occupied by Israel since 1967, including Jerusalem, and on the Arab population of the Syrian Golan.
	49/43B Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories	Reaffirms that the fourth Geneva Convention is applicable to the occupied Palestinian territory, including Jerusalem, and other Arab territories occupied by Israel since 1967. Demands that Israel accept the de jure applicability of the Convention in the occupied Palestinian territory, including Jerusalem, and other Arab territories occupied by Israel since 1967, and that it comply scrupulously with the provisions of the Convention.

Year	Name	Decision
1995	50/29 Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories	<p>Convinced that occupation itself represents a primary violation of human rights Stressing that Israel, the occupying Power, should comply strictly with its obligations under international law</p> <ol style="list-style-type: none"> 1. Reaffirms that the fourth Geneva Convention is applicable to the occupied Palestinian territory, including Jerusalem, and other Arab territories occupied by Israel since 1967 2. Demands that Israel accept the de jure applicability of the Convention in the occupied Palestinian territory, including Jerusalem, and other Arab territories occupied by Israel since 1967, and that it comply scrupulously with the provisions of the Convention 3. Calls upon all States parties to the Convention, in accordance with article 1 common to the four Geneva Conventions to exert all efforts in order to ensure respect for its provisions by Israel, the occupying Power, in the occupied Palestinian territory, including Jerusalem, and other Arab territories occupied by Israel since 1967 <p>Reaffirms in particular that the Israeli settlements in the occupied Palestinian territory, including Jerusalem, and the other Arab territories occupied by Israel since 1967 are illegal and an obstacle to achieving comprehensive peace</p>
1996	96/40 Economic and social repercussions of the Israeli settlements on the Palestinian people in the Palestinian territory, including Jerusalem, occupied since 1967, and on the Arab population of the Syrian Golan	Reaffirms that Israeli settlements in the Palestinian territory, including Jerusalem, and other Arab territories occupied since 1967 are illegal and an obstacle to economic and social development.
	51/131 Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories.	Deplores those policies and practices of Israel which violate the human rights of the Palestinian people and other Arabs of the occupied territories, as reflected in the reports of the Special Committee covering the reporting period.
1997	52/67 Israeli practices affecting the human rights of the Palestinian people in the occupied Palestinian territory, including Jerusalem	<p>Reaffirming the principle of the inadmissibility of the acquisition of territory by force Reaffirming also the applicability of the fourth Geneva Convention.</p> <p>Determines that all measures and actions taken by Israel, the occupying Power, in the occupied Palestinian territory, including Jerusalem, in violation of the relevant provisions of the fourth Geneva Convention and contrary to the relevant resolutions of the Security Council, are illegal and have no validity.</p>
	52/56 Work of the Special Committee to investigate Israeli practices in the occupied territories	Convinced that occupation itself represents a primary violation of human rights.
	53/53 Israeli practices in the occupied territories	Expresses concern about the deterioration of the situation in the occupied Palestinian territory, including Jerusalem, as a result of Israeli practices and measures and the difficulties confronting the Middle East peace process.?



Year	Name	Decision
1998	53/55 Israeli settlements in the occupied Palestinian and other territories	<p>Expressing grave concern about the decision of the Government of Israel to resume settlement activities, including the construction of the new settlement in Jebel Abu Ghneim, in violation of international humanitarian law, relevant United Nations resolutions and the agreements reached between the parties.</p> <p>Reaffirms that Israeli settlements in the Palestinian territory, including Jerusalem, and in the occupied Syrian Golan are illegal and an obstacle to peace and economic and social development;</p> <p>Calls upon Israel to accept the de jure applicability of the fourth Geneva Convention to the occupied Palestinian territory, including Jerusalem, and to the occupied Syrian Golan and to abide scrupulously by the provisions of the Convention, in particular article 49.</p> <p>Demands complete cessation of the construction of the new settlement in Jebel Abu Ghneim and of all Israeli settlement activities in the occupied Palestinian territory, including Jerusalem, and in the occupied Syrian Golan.</p>
1999	54/79 Israeli Practices Affecting the Human Rights of the Palestinian People in the Occupied Palestinian Territory, including Jerusalem	<p>Concerned about the continuing violation of the human rights of the Palestinian people by Israel, the occupying Power, including the use of collective punishment, closure of areas, annexation and establishment of settlements and the continuing actions by it designed to change the legal status, geographical nature and demographic composition of the Occupied Palestinian Territory, including Jerusalem.</p>
	54/79 Israeli Practices Affecting the Human Rights of the Palestinian People in the Occupied Palestinian Territory, including Jerusalem	<p>Determines that all measures and actions taken by Israel, the occupying Power, in the Occupied Palestinian Territory, including Jerusalem, in violation of the relevant provisions of the fourth Geneva Convention and contrary to the relevant resolutions of the Security Council, are illegal and have no validity and that such measures should cease immediately.</p>
	54/78 Israeli settlements in the Occupied Palestinian Territory, including Jerusalem, and the occupied Syrian Golan	<p>Reaffirms that Israeli settlements in the Palestinian territory, including Jerusalem, and in the occupied Syrian Golan are illegal and an obstacle to peace and economic and social development.</p> <p>Calls upon Israel to accept the de jure applicability of the fourth Geneva Convention to the Occupied Palestinian Territory, including Jerusalem, and to the occupied Syrian Golan and to abide scrupulously by the provisions of the Convention, in particular article 49.</p>
	54/78 Israeli settlements in the Occupied Palestinian Territory, including Jerusalem, and the occupied Syrian Golan	<p>Demands complete cessation of the construction of the new settlement at Jebel Abu-Ghneim and of all Israeli settlement activities in the Occupied Palestinian Territory, including Jerusalem, and in the occupied Syrian Golan.</p>

Year	Name	Decision
2000	55/50 Jerusalem	<p>The decision of Israel to impose its laws, jurisdiction and administration on the Holy City of Jerusalem is illegal and has no validity</p> <p>GA Deplores the transfer by some States of their diplomatic missions to Jerusalem in violation of Security Council resolution 478 (1980)</p>
	55/55 Peaceful settlement of the question of Palestine	<p>It has been thirty-three years since the occupation of Palestinian territory, including Jerusalem, in 1967</p> <p>Affirming the principle of the inadmissibility of the acquisition of territory by war</p> <p>Affirming also the illegality of the Israeli settlements in the territory occupied since 1967 and of Israeli actions aimed at changing the status of Jerusalem,</p> <p>Recalling the mutual recognition between the Government of the State of Israel and the Palestine Liberation Organization, the representative of the Palestinian people</p>
	55/87 The right of the Palestinian people to self-determination	Affirmation of the right of the Palestinian people to self-determination, including their right to a State
	55/131 Applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to the occupied Palestinian territory, including Arab territories	<p>GA reaffirms that the fourth Geneva Convention is applicable to the Occupied Palestinian Territory, including Jerusalem, and other Arab territories occupied by Israel since 1967</p> <p>Israel should accept the de jure applicability of the Convention in the Occupied Palestinian Territory, including Jerusalem, and other Arab territories occupied by Israel since 1967, and comply scrupulously with the provisions of the Convention</p>
	55/132 Israeli settlements in the Occupied Palestinian Territory, including Jerusalem, and the occupied Syrian Golan	<p>Israeli settlements in the Palestinian territory, including Jerusalem, and in the occupied Syrian Golan are illegal.</p> <p>Israel to accept the de jure applicability of the fourth Geneva Convention to the Occupied Palestinian Territory, including Jerusalem, and to the occupied Syrian Golan and to abide scrupulously by the provisions of the Convention, in particular article 49</p>
	55/133 Israeli Practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including Jerusalem	<p>Concerned about the continuing violation of the human rights of the Palestinian people by Israel, the occupying Power, including the use of collective punishment, closure of areas, annexation and establishment of settlements and the continuing actions by it designed to change the legal status, geographical nature and demographic composition of the Occupied Palestinian Territory, including Jerusalem</p> <p>All measures and actions taken by Israel, the occupying Power, in the Occupied Palestinian Territory, including Jerusalem, in violation of the relevant provisions of the fourth Geneva Convention and contrary to the relevant resolutions of the Security Council, are illegal and have no validity</p> <p>Stresses the need to preserve the territorial integrity of all the Occupied Palestinian Territory</p>



Year	Name	Decision
	55/209 Permanent sovereignty of the Palestinian people in the Occupied Palestinian Territory, including Jerusalem, and of the Arab population in the occupied Syrian Golan over their natural resources	Reaffirmation of the inalienable rights of the Palestinian people over their natural resources, including land and water Israel, the occupying Power should not to exploit or cause loss or depletion of or to endanger the natural resources in the Occupied Palestinian Territory, including Jerusalem
2001	56/31 Jerusalem	The decision of Israel to impose its laws, jurisdiction and administration on the Holy City of Jerusalem is illegal and has no validity GA Deplores the transfer by some States of their diplomatic missions to Jerusalem in violation of Security Council resolution 478 (1980)
	56/36 Peaceful settlement of the question of Palestine	It has been thirty-four years since the occupation of Palestinian territory, including Jerusalem, in 1967. GA Affirms the principle of the inadmissibility of the acquisition of territory by war, as well as the illegality of the Israeli settlements in the territory occupied since 1967 and of Israeli actions aimed at changing the status of Jerusalem. Recalling the mutual recognition between the Government of the State of Israel and the Palestine Liberation Organization, the representative of the Palestinian people GA Stresses the need for: (a) The realization of the inalienable rights of the Palestinian people, primarily the right to self-determination and the right to establish their independent State; (b) The withdrawal of Israel from the Palestinian territory occupied since 1967
	56/56 Operations of the UN Relief and Works Agency for Palestine Refugees in the Near East	Calls upon Israel, the occupying Power, to accept the de jure applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949 and to abide scrupulously by its provisions GA calls upon Israel to abide by Articles 100, 104 and 105 of the Charter of the United Nations and the Convention on the Privileges and Immunities of the United Nations with regard to the safety of the personnel of the Agency, the protection of its institutions and the safeguarding of the security of the facilities of the Agency in the Occupied Palestinian Territory, including Jerusalem
	56/60 Applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to the Occupied Palestinian Territory, including Jerusalem, and the other occupied Arab territories	GA reaffirms that the fourth Geneva Convention is applicable to the Occupied Palestinian Territory, including Jerusalem, and other Arab territories occupied by Israel since 1967 Israel should accept the de jure applicability of the Convention in the Occupied Palestinian Territory, including Jerusalem, and other Arab territories occupied by Israel since 1967, and comply scrupulously with the provisions of the Convention
	56/61 Israeli settlements in the Occupied Palestinian Territory, including Jerusalem, and the occupied Syrian Golan	Israeli settlements in the Palestinian territory, including Jerusalem are illegal Israel to accept the de jure applicability of the fourth Geneva Convention to the Occupied Palestinian Territory, including Jerusalem and to abide scrupulously by the provisions of the Convention, in particular article 49 GA Demands complete cessation of the construction of the settlement in Jabal Abu-Ghneim and of all Israeli settlement activities in the Occupied Palestinian Territory, including Jerusalem

Year	Name	Decision
	56/62 Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including Jerusalem	<p>Concerned about the continuing violation of the human rights of the Palestinian people by Israel, the occupying Power, including the use of collective punishment, closure of areas, annexation and establishment of settlements and the continuing actions by it designed to change the legal status, geographical nature and demographic composition of the Occupied Palestinian Territory, including Jerusalem</p> <p>All measures and actions taken by Israel, the occupying Power, in the Occupied Palestinian Territory, including Jerusalem, in violation of the relevant provisions of the fourth Geneva Convention and contrary to the relevant resolutions of the Security Council, are illegal and have no validity</p> <p>Stresses the need to preserve the territorial integrity of all the Occupied Palestinian Territory</p> <p>All measures and actions taken by Israel, the occupying Power, in the Occupied Palestinian Territory, including Jerusalem, in violation of the relevant provisions of the fourth Geneva Convention and contrary to the relevant resolutions of the Security Council, are illegal and have no validity</p> <p>Measures and actions taken in violation of the Fourth Geneva Convention of 1949 cease immediately</p> <p>Israel, the occupying Power, to cease all practices and actions which violate the human rights of the Palestinian people</p>
	56/142 The right of Palestinian people to self-determination	Affirmation of the right of the Palestinian people to self-determination, including their right to a State
	56/204 Permanent sovereignty of the Palestinian people in the Occupied Palestinian Territory, including Jerusalem, and of the Arab population in the occupied Syrian Golan over their natural resources	<p>Affirmation the inalienable rights of the Palestinian people over their natural resources, including land and water</p> <p>Israel, the occupying Power, should not to exploit, to cause loss or depletion of or to endanger the natural resources in the Occupied Palestinian Territory, including Jerusalem</p>
2002	57/110 Peaceful settlement of the question of Palestine	Expressing its grave concern also at the repeated incursions into Palestinian controlled areas and the reoccupation of many Palestinian population centers by the Israeli occupying forces and stresses the need for a speedy end to the reoccupation of Palestinian population centers
	57/125 Applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to the Occupied Palestinian Territory, including East Jerusalem, and the other occupied Arab territories	<p>GA reaffirms that the fourth Geneva Convention is applicable to the Occupied Palestinian Territory, including Jerusalem, and other Arab territories occupied by Israel since 1967</p> <p>Israel should accept the de jure applicability of the Convention in the Occupied Palestinian Territory, including Jerusalem, and other Arab territories occupied by Israel since 1967, and comply scrupulously with the provisions of the Convention</p>
	57/126 Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan	<p>Israeli settlements in the Palestinian territory, including Jerusalem are illegal</p> <p>Israel to accept the de jure applicability of the fourth Geneva Convention to the Occupied Palestinian Territory, including Jerusalem and to abide scrupulously by the provisions of the Convention, in particular article 49</p>



Year	Name	Decision
	57/127 Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem	<p>Concerned about the continuing systematic violation of the human rights of the Palestinian people by Israel, the occupying Power, including the use of collective punishment, reoccupation and closure of areas, confiscation of land, establishment and expansion of settlements, destruction of property and all other actions by it designed to change the legal status, geographical nature and demographic composition of the Occupied Palestinian Territory, including East Jerusalem</p> <p>All measures and actions taken by Israel, the occupying Power, in the Occupied Palestinian Territory, including Jerusalem, in violation of the relevant provisions of the fourth Geneva Convention and contrary to the relevant resolutions of the Security Council, are illegal and have no validity</p> <p>Measures and actions taken in violation of the Fourth Geneva Convention of 1949 cease immediately</p> <p>Israel, the occupying Power, to cease all practices and actions which violate the human rights of the Palestinian people</p>
	57/188 Situation of and assistance to Palestinian children	Israel, the occupying Power, to respect relevant provisions of the Convention on the Rights of the Child and comply fully with the provisions of the fourth Geneva Convention in order to ensure the well-being and protection of Palestinian children and their families
	57/198 The right of the Palestinian people to self-determination	GA Reaffirms the right of the Palestinian people to self-determination, including the right to their independent State of Palestine
	57/269 Permanent sovereignty of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem, and of the Arab population in the occupied Syrian Golan over their natural resources	<p>Reaffirming the applicability of the fourth Geneva Convention to the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967</p> <p>Expressing its concern at the exploitation by Israel, the occupying Power, of the natural resources of the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967</p> <p>Reaffirms the inalienable rights of the Palestinian people over their natural resources, including land and water</p> <p>Calls upon Israel, the occupying Power, not to exploit, cause loss or depletion of or endanger the natural resources in the Occupied Palestinian Territory, including East Jerusalem</p>
2003	58/21 Peaceful settlement of the question of Palestine	<p>GA stresses the need for a speedy end to the reoccupation of Palestinian population center</p> <p>GA stresses the need for: (a) The withdrawal of Israel from the Palestinian territory occupied since 1967; (b) The realization of the inalienable rights of the Palestinian people, primarily the right to self-determination and the right to their independent State</p>
	58/93 Operations of the United Nations Relief and Works Agency for Palestine Refugees in the Near East	Israel, the occupying Power, to comply fully with the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949.

Year	Name	Decision
	58/97 Applicability of the fourth Geneva Convention to the Occupied Palestinian Territory, including East Jerusalem, and the other occupied Arab territories	<p>Noting the convening for the first time, on 15 July 1999, of the Conference of High Contracting Parties to the Fourth Geneva Convention, on measures to enforce the Convention in the Occupied Palestinian Territory, including East Jerusalem, and to ensure respect thereof in accordance with article 1 common to the four Geneva Conventions, and stressing the importance of the Declaration adopted by the Conference,</p> <ol style="list-style-type: none"> 1. Reaffirms that the fourth Geneva Convention is applicable to the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967; 2. Demands that Israel accept the de jure applicability of the Convention in the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967, and that it comply scrupulously with the provisions of the Convention.
	58/98 Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan	<ol style="list-style-type: none"> 1. Reaffirms that Israeli settlements in the Palestinian territory, including East Jerusalem, and in the occupied Syrian Golan are illegal and an obstacle to peace and economic and social development; 2. Calls upon Israel to accept the de jure applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949,¹ to the Occupied Palestinian Territory, including East Jerusalem, and to the occupied Syrian Golan and to abide scrupulously by the provisions of the Convention, in particular article 49; 3. Reiterates its demand for the complete cessation of all Israeli settlement activities in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan; 4. Demands that Israel stop and reverse the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem, which is in departure from the Armistice Line of 1949 and is in contradiction to relevant provisions of international law;
	58/99 Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem	<ol style="list-style-type: none"> 1. Determines that all measures and actions taken by Israel, the occupying Power, in the Occupied Palestinian Territory, including East Jerusalem, in violation of the relevant provisions of the fourth Geneva Convention are illegal and have no validity; 2. Demands that Israel, the occupying Power, comply fully with the provisions of the Fourth Geneva Convention of 1949⁵ and cease immediately all measures and actions taken in violation of the Convention. <p>Stresses the need to preserve the territorial integrity of all the Occupied Palestinian Territory</p>
	58/163 The right of the Palestinian people to self-determination	GA Reaffirms the right of the Palestinian people to self-determination, including the right to their independent State of Palestine.



Year	Name	Decision
	58/229 Permanent sovereignty of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem, and of the Arab population in the occupied Syrian Golan over their natural resources	Reaffirms the inalienable rights of the Palestinian people and the population of the occupied Syrian Golan over their natural resources, including land and water.
	58/292 Status of the Occupied Palestinian Territory, including East Jerusalem	Affirms that the status of the Palestinian territory occupied since 1967, including East Jerusalem, remains one of military occupation, and affirms, in accordance with the rules and principles of international law and relevant resolutions of the United Nations, including Security Council resolutions, that the Palestinian people have the right to self-determination and to sovereignty over their territory and that Israel, the occupying Power, has only the duties and obligations of an occupying Power under the fourth Geneva Convention and the Regulations annexed to the Hague Convention respecting the Laws and Customs of War on Land, of 1907.
2004	59/31 Peaceful settlement of the question of Palestine	<p>Recalling the advisory opinion rendered on 9 July 2004 by the International Court of Justice on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory and demands that Israel, the occupying Power, comply with its legal obligations, as mentioned in the advisory opinion.</p> <p>Reiterates its demand for the complete cessation of all Israeli settlement activities in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan, and calls for the implementation of the relevant Security Council resolutions</p> <p>Stresses the need for: (a) The withdrawal of Israel from the Palestinian territory occupied since 1967;</p>
	59/32 Jerusalem	Reiterates its determination that any actions taken by Israel to impose its laws, jurisdiction and administration on the Holy City of Jerusalem are illegal and therefore null and void and have no validity whatsoever
	59/122 Applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to the Occupied Palestinian Territory, including East Jerusalem, and the other occupied Arab territories	<ol style="list-style-type: none"> 1. Reaffirms that the fourth Geneva Convention is applicable to the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967; 2. Demands that Israel accept the de jure applicability of the Convention in the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967, and that it comply scrupulously with the provisions of the Convention; 3. Calls upon all High Contracting Parties to the Convention, in accordance with article 1 common to the four Geneva Conventions⁴ and as mentioned in the advisory opinion of the International Court of Justice of 9 July 2004,⁷ to continue to exert all efforts to ensure respect for its provisions by Israel, the occupying Power, in the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967.

Year	Name	Decision
	59/123 Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan	<ol style="list-style-type: none"> 1. Reaffirms that Israeli settlements in the Palestinian territory, including East Jerusalem, and in the occupied Syrian Golan are illegal and an obstacle to peace and economic and social development; 2. Calls upon Israel to accept the de jure applicability of the fourth Geneva Convention to the Occupied Palestinian Territory, including East Jerusalem, and to the occupied Syrian Golan and to abide scrupulously by the provisions of the Convention, in particular article 49; 3. Reiterates its demand for the complete cessation of all Israeli settlement activities in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan, and calls for the full implementation of the relevant Security Council resolutions; 4. Demands that Israel, the occupying Power, comply with its legal obligations, as mentioned in the advisory opinion rendered on 9 July 2004 by the International Court of Justice.
	59/124 Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem	<p>Reiterates that all measures and actions taken by Israel, the occupying Power, in the Occupied Palestinian Territory, including East Jerusalem, in violation of the relevant provisions of the fourth Geneva Convention and contrary to the relevant resolutions of the Security Council, are illegal and have no validity;</p> <p>Demands that Israel, the occupying Power, comply fully with the provisions of the Fourth Geneva Convention of 1949.</p> <p>Demands also that Israel, the occupying Power, comply with its legal obligations under international law, as mentioned in the advisory opinion rendered on 9 July 2004 by the International Court of Justice and as demanded in resolution ES-10/15 and resolution ES-10/13 of 21 October 2003, and that it cease the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem.</p>
	59/179 The right of the Palestinian people to self-determination	Reaffirms the right of the Palestinian people to self-determination, including the right to their independent State of Palestine.
	59/251 Permanent sovereignty of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem, and of the Arab population in the occupied Syrian Golan over their natural resources	Reaffirms the inalienable rights of the Palestinian people and the population of the occupied Syrian Golan over their natural resources, including land and water.



Year	Name	Decision
2005	60/39 Peaceful settlement of the question of Palestine	GA calls upon Israel, the occupying Power, in this regard, to comply strictly with its obligations under international law, including international humanitarian law, with respect to the alteration of the character and status of the Occupied Palestinian Territory, including East Jerusalem. Reiterates its demand for the complete cessation of all Israeli settlement activities in the Occupied Palestinian Territory, including East Jerusalem. Stresses the need for: (a) The withdrawal of Israel from the Palestinian territory occupied since 1967; (b) The realization of the inalienable rights of the Palestinian people, primarily the right to self-determination and the right to their independent State.
	60/41 Jerusalem	Any actions taken by Israel to impose its laws, jurisdiction and administration on the Holy City of Jerusalem are illegal and therefore null and void and have no validity whatsoever.
	60/104 Work of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories	GA expresses grave concern about the critical situation in the Occupied Palestinian Territory, including East Jerusalem, since 28 September 2000, as a result of unlawful Israeli practices and measures, and especially condemns all Israeli settlement activities and the construction of the wall.
	60/105 Applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to the Occupied Palestinian Territory, including East Jerusalem, and the other occupied Arab territories	GA Reaffirms that the fourth Geneva Convention is applicable to the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967; GA demands that Israel accept the de jure applicability of the Convention in the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967, and that it comply scrupulously with the provisions of the Convention.
	60/106 Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan	GA reaffirms that Israeli settlements in the Palestinian territory, including East Jerusalem, and in the occupied Syrian Golan are illegal and an obstacle to peace and economic and social development and calls upon Israel to accept the de jure applicability of the fourth Geneva Convention to the Occupied Palestinian Territory, including East Jerusalem, and to the occupied Syrian Golan and to abide scrupulously by the provisions of the Convention, in particular article 49.
	60/107 Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem	GA reiterates that all measures and actions taken by Israel, the occupying Power, in the Occupied Palestinian Territory, including East Jerusalem, in violation of the relevant provisions of the fourth Geneva Convention and contrary to the relevant resolutions of the Security Council, are illegal and have no validity. Demands that Israel, the occupying Power, comply fully with the provisions of the Fourth Geneva Convention of 1949 and cease immediately all measures and actions taken in violation and in breach of the Convention, including all of its settlement activities and the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem, as well as the extrajudicial executions;
	60/146 The right of the Palestinian people to self-determination	GA reaffirms the right of the Palestinian people to self-determination, including the right to their independent State of Palestine.

Year	Name	Decision
	60/183 Permanent sovereignty of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem, and of the Arab population in the occupied Syrian Golan over their natural resources	GA reaffirms the inalienable rights of the Palestinian people and the population of the occupied Syrian Golan over their natural resources, including land and water. Calls upon Israel, the occupying Power, in this regard, to comply strictly with its obligations under international law, including international humanitarian law, with respect to the alteration of the character and status of the Occupied Palestinian Territory, including East Jerusalem.
2006	61/25 Peaceful settlement of the question of Palestine	GA calls upon Israel, the occupying Power, to comply strictly with its obligations under international law, including international humanitarian law, and that it cease all of its measures that are contrary to international law and unilateral actions in the Occupied Palestinian Territory, including East Jerusalem, that are aimed at altering the character and status of the Territory, including via the de facto annexation of land, and thus at prejudging the final outcome of peace negotiations. Reiterates its demand for the complete cessation of all Israeli settlement activities in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan, and calls for the full implementation of the relevant Security Council resolutions.
	61/26 Jerusalem	Any actions taken by Israel, the occupying Power, to impose its laws, jurisdiction and administration on the Holy City of Jerusalem are illegal and therefore null and void and have no validity whatsoever, and calls upon Israel to cease all such illegal and unilateral measures.
	61/116 Work of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories	Expresses grave concern about the critical situation in the Occupied Palestinian Territory, including East Jerusalem, since 28 September 2000, as a result of unlawful Israeli practices and measures, and especially condemns all Israeli settlement activities and the construction of the wall.
	61/117 Applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to the Occupied Palestinian Territory, including East Jerusalem, and the other occupied Arab territories	GA Reaffirms that the fourth Geneva Convention is applicable to the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967; and demands that Israel accept the de jure applicability of the Convention in the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967, and that it comply scrupulously with the provisions of the Convention.
	61/118 Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan	GA Reaffirms that Israeli settlements in the Palestinian territory, including East Jerusalem, and in the occupied Syrian Golan are illegal and an obstacle to peace and economic and social development; Calls upon Israel to accept the de jure applicability of the fourth Geneva Convention to the Occupied Palestinian Territory, including East Jerusalem, and to the occupied Syrian Golan and to abide scrupulously by the provisions of the Convention, in particular article 49. Reiterates its demand for the immediate and complete cessation of all Israeli settlement activities in all of the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan.



Year	Name	Decision
	61/119 Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem	<p>All measures and actions taken by Israel, the occupying Power, in the Occupied Palestinian Territory, including East Jerusalem, in violation of the relevant provisions of the fourth Geneva Convention and contrary to the relevant resolutions of the Security Council, are illegal and have no validity;</p> <p>GA Demands that Israel, the occupying Power, comply fully with the provisions of the Fourth Geneva Convention of 1949 and cease immediately all measures and actions taken in violation and in breach of the Convention, including all of its settlement activities and the construction of the wall in the Occupied A/RES/61/119 4 Palestinian Territory, including in and around East Jerusalem.</p> <p>Calls upon Israel, the occupying Power, in this regard, to comply strictly with its obligations under international law, including international humanitarian law, with respect to the alteration of the character and status of the Occupied Palestinian Territory, including East Jerusalem.</p>
	61/152 The right of the Palestinian people to self-determination	GA Reaffirms the right of the Palestinian people to self-determination, including the right to their independent State of Palestine.
	61/184 Permanent sovereignty of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem, and of the Arab population in the occupied Syrian Golan over their natural resources	<p>GA reaffirms the inalienable rights of the Palestinian people and the population of the occupied Syrian Golan over their natural resources, including land and water.</p> <p>Aware of the detrimental impact of the Israeli settlements on Palestinian and other Arab natural resources, especially as a result of the confiscation of land and the forced diversion of water resources, and of the dire economic and social consequences in this regard.</p>
2007	62/83 Peaceful settlement of the question of Palestine	<p>GA stresses the need for a speedy end to the reoccupation of Palestinian population centres, inter alia, by easing movement and access, including by the removal of checkpoints within the Occupied Palestinian Territory, and the need for respect and preservation of the territorial unity, contiguity and integrity of all of the Occupied Palestinian Territory, including East Jerusalem.</p> <p>Calls upon Israel, the occupying Power, to comply strictly with its obligations under international law, including international humanitarian law, and to cease all of its measures that are contrary to international law and unilateral actions in the Occupied Palestinian Territory, including East Jerusalem, that are aimed at altering the character and status of the Territory, including via the de facto annexation of land, and thus at prejudging the final outcome of peace negotiations.</p> <p>Reiterates its demand for the complete cessation of all Israeli settlement activities in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan, and calls for the full implementation of the relevant Security Council resolutions.</p> <p>Stresses the need for: (a) The withdrawal of Israel from the Palestinian territory occupied since 1967, including East Jerusalem; (b) The realization of the inalienable rights of the Palestinian people, primarily the right to self-determination and the right to their independent State.</p>

Year	Name	Decision
	62/84 Jerusalem	GA reiterates its determination that any actions taken by Israel, the occupying Power, to impose its laws, jurisdiction and administration on the Holy City of Jerusalem are illegal and therefore null and void and have no validity whatsoever, and calls upon Israel to cease all such illegal and unilateral measures.
	62/106 Work of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories	GA expresses grave concern about the critical situation in the Occupied Palestinian Territory, including East Jerusalem, since 28 September 2000, as a result of unlawful Israeli practices and measures, and especially condemns all illegal Israeli settlement activities and the construction of the wall,
	62/107 Applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to the Occupied Palestinian Territory, including East Jerusalem, and the other occupied Arab territories	GA reaffirms that the fourth Geneva Convention is applicable to the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967 and demands that Israel accept the de jure applicability of the Convention in the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967, and that it comply scrupulously with the provisions of the Convention
	62/108 Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan	<p>Israeli settlements in the Palestinian territory, including East Jerusalem, and in the occupied Syrian Golan are illegal and an obstacle to peace and economic and social development;</p> <p>GA calls upon Israel to accept the de jure applicability of the fourth Geneva Convention to the Occupied Palestinian Territory, including East Jerusalem, and to the occupied Syrian Golan and to abide scrupulously by the provisions of the Convention, in particular article 49.</p> <p>Calls upon Israel, the occupying Power, to comply strictly with its obligations under international law, including international humanitarian law, with respect to the alteration of the character and status of the Occupied Palestinian Territory, including East Jerusalem;</p> <p>Reiterates its demand for the immediate and complete cessation of all Israeli settlement activities in all of the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan, and calls for the full implementation of the relevant resolutions of the Security Council, including resolution 465 (1980);</p> <p>Demands that Israel, the occupying Power, comply with its legal obligations, as mentioned in the advisory opinion rendered on 9 July 2004 by the International Court of Justice.</p>
	62/109 Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem	All measures and actions taken by Israel, the occupying Power, in the Occupied Palestinian Territory, including East Jerusalem, in violation of the relevant provisions of the fourth Geneva Convention and contrary to the relevant resolutions of the Security Council, are illegal and have no validity and demands that Israel, the occupying Power, comply fully with the provisions of the Fourth Geneva Convention of 1949 and cease immediately all measures and actions taken in violation and in breach of the Convention, including all of its settlement activities and the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem;
	62/146 The right of the Palestinian people to self-determination	Reaffirms the right of the Palestinian people to self-determination, including the right to their independent State of Palestine.



Year	Name	Decision
	62/181 Permanent sovereignty of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem, and of the Arab population in the occupied Syrian Golan over their natural resources	GA reaffirms the inalienable rights of the Palestinian people and the population of the occupied Syrian Golan over their natural resources, including land and water.
2008	63/29 Peaceful settlement of the question of Palestine	GA calls upon Israel, the occupying Power, to comply strictly with its obligations under international law, including international humanitarian law, and to cease all of its measures that are contrary to international law and unilateral actions in the Occupied Palestinian Territory, including East Jerusalem, that are aimed at altering the character, status and demographic composition of the Territory, including via the de facto annexation of land, and thus at prejudging the final outcome of peace negotiations. Reiterates its demand for the complete cessation of all Israeli settlement activities in the Occupied Palestinian Territory, including East Jerusalem. Stresses the need for: (a) The withdrawal of Israel from the Palestinian territory occupied since 1967, including East Jerusalem; (b) The realization of the inalienable rights of the Palestinian people, primarily the right to self-determination and the right to their independent State.
	63/30 Jerusalem	Any actions taken by Israel, the occupying Power, to impose its laws, jurisdiction and administration on the Holy City of Jerusalem are illegal and therefore null and void and have no validity whatsoever, and calls upon Israel to cease all such illegal and unilateral measures;
	63/95 Work of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories	GA expresses grave concern about the critical situation in the Occupied Palestinian Territory, including East Jerusalem, since 28 September 2000, as a result of unlawful Israeli practices and measures, and especially condemns all illegal Israeli settlement activities and the construction of the wall.
	63/96 Applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to the Occupied Palestinian Territory, including East Jerusalem, and the other occupied Arab territories	GA reaffirms that the fourth Geneva Convention is applicable to the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967 and demands that Israel accept the de jure applicability of the Convention in the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967, and that it comply scrupulously with the provisions of the Convention.
	63/97 Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan	Israeli settlements in the Palestinian territory, including East Jerusalem, and in the occupied Syrian Golan are illegal and an obstacle to peace and economic and social development. GA Calls upon Israel to accept the de jure applicability of the fourth Geneva Convention to the Occupied Palestinian Territory, including East Jerusalem, and to the occupied Syrian Golan and to abide scrupulously by the provisions of the Convention, in particular article 49. Reiterates its demand for the immediate and complete cessation of all Israeli settlement activities in all of the Occupied Palestinian Territory, including East Jerusalem.

Year	Name	Decision
	63/98 Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem	<p>All measures and actions taken by Israel, the occupying Power, in the Occupied Palestinian Territory, including East Jerusalem, in violation of the relevant provisions of the fourth Geneva Convention and contrary to the relevant resolutions of the Security Council, are illegal and have no validity.</p> <p>GA demands that Israel, the occupying Power, comply fully with the provisions of the Fourth Geneva Convention of 1949 and cease immediately all measures and actions taken in violation and in breach of the Convention, including all of its settlement activities and the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem, which, inter alia, gravely and detrimentally impact the human rights of the Palestinian people.</p> <p>Calls upon Israel, the occupying Power, to comply strictly with its obligations under international law, including international humanitarian law, with respect to the alteration of the character, status and demographic composition of the Occupied Palestinian Territory, including East Jerusalem.</p>
	63/165 The right of the Palestinian people to self-determination	GA reaffirms the right of the Palestinian people to self-determination, including the right to their independent State of Palestine.
	63/201 Permanent sovereignty of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem, and of the Arab population in the occupied Syrian Golan over their natural resources	<p>GA reaffirms the inalienable rights of the Palestinian people and the population of the occupied Syrian Golan over their natural resources, including land and water.</p> <p>Calls upon Israel, the occupying Power, to comply strictly with its obligations under international law, including international humanitarian law, with respect to the alteration of the character and status of the Occupied Palestinian Territory, including East Jerusalem.</p>
2009	64/19 Peaceful settlement of the question of Palestine	<p>GA stresses the need for a speedy end to the reoccupation of Palestinian population centres, inter alia, by easing movement and access, including through the removal of checkpoints and other obstructions to movement, and the need for respect and preservation of the territorial unity, contiguity and integrity of all of the Occupied Palestinian Territory, including East Jerusalem.</p> <p>Calls upon Israel, the occupying Power, to comply strictly with its obligations under international law, including international humanitarian law, and to cease all of its measures that are contrary to international law and unilateral actions in the Occupied Palestinian Territory, including East Jerusalem, that are aimed at altering the character, status and demographic composition of the Territory, including via the de facto annexation of land, and thus at prejudging the final outcome of peace negotiations.</p> <p>Reiterates its demand for the complete cessation of all Israeli settlement activities in the Occupied Palestinian Territory, including East Jerusalem.</p> <p>Stresses the need for: (a) The withdrawal of Israel from the Palestinian territory occupied since 1967, including East Jerusalem; (b) The realization of the inalienable rights of the Palestinian people, primarily the right to self-determination and the right to their independent State.</p>



Year	Name	Decision
	64/20 Jerusalem	Any actions taken by Israel, the occupying Power, to impose its laws, jurisdiction and administration on the Holy City of Jerusalem are illegal and therefore null and void and have no validity whatsoever, and calls upon Israel to immediately cease all such illegal and unilateral measures.
	64/91 Work of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories	GA expresses grave concern about the critical situation in the Occupied Palestinian Territory, including East Jerusalem, particularly in the Gaza Strip, as a result of unlawful Israeli practices and measures, and especially condemns and calls for the immediate cessation of all illegal Israeli settlement activities and the construction of the wall.
	64/92 Applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to the Occupied Palestinian Territory, including East Jerusalem, and the other occupied Arab territories	GA reaffirms that the fourth Geneva Convention is applicable to the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967 and demands that Israel accept the de jure applicability of the Convention in the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967, and that it comply scrupulously with the provisions of the Convention.
	64/93 Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan	<p>Israeli settlements in the Palestinian territory, including East Jerusalem, and in the occupied Syrian Golan are illegal and an obstacle to peace and economic and social development.</p> <p>Israel to accept the de jure applicability of the fourth Geneva Convention to the Occupied Palestinian Territory, including East Jerusalem, and to the occupied Syrian Golan and to abide scrupulously by the provisions of the Convention, in particular article 49.</p> <p>Calls upon Israel, the occupying Power, to comply strictly with its obligations under international law, including international humanitarian law, with respect to the alteration of the character, status and demographic composition of the Occupied Palestinian Territory, including East Jerusalem</p> <p>Reiterates its demand for the immediate and complete cessation of all Israeli settlement activities in all of the Occupied Palestinian Territory, including East Jerusalem.</p> <p>Demands that Israel, the occupying Power, comply with its legal obligations, as mentioned in the advisory opinion rendered on 9 July 2004 by the International Court of Justice.</p>

Year	Name	Decision
	64/94 Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem	<p>All measures and actions taken by Israel, the occupying Power, in the Occupied Palestinian Territory, including East Jerusalem, in violation of the relevant provisions of the fourth Geneva Convention contrary to the relevant resolutions of the Security Council, are illegal and have no validity.</p> <p>GA demands that Israel, the occupying Power, comply fully with the provisions of the Fourth Geneva Convention of 1949 and cease immediately all measures and actions taken in violation and in breach of the Convention, including all of its settlement activities and the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem, which, inter alia, gravely and detrimentally impact the human rights of the Palestinian people.</p> <p>Calls upon Israel, the occupying Power, to comply strictly with its obligations under international law, including international humanitarian law, with respect to the alteration of the character, status and demographic composition of the Occupied Palestinian Territory, including East Jerusalem</p>
	64/150 The right of the Palestinian people to self-determination	GA reaffirms the right of the Palestinian people to self-determination, including the right to their independent State of Palestine.
	64/185 Permanent sovereignty of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem, and of the Arab population in the occupied Syrian Golan over their natural resources	<p>GA reaffirms the inalienable rights of the Palestinian people and the population of the occupied Syrian Golan over their natural resources, including land and water.</p> <p>Calls upon Israel, the occupying Power, to comply strictly with its obligations under international law, including international humanitarian law, with respect to the alteration of the character and status of the Occupied Palestinian Territory, including East Jerusalem.</p>
2010	65/16 Peaceful settlement of the question of Palestine	<p>GA calls upon Israel, the occupying Power, to comply strictly with its obligations under international law, including international humanitarian law, and to cease all of its measures that are contrary to international law and unilateral actions in the Occupied Palestinian Territory, including East Jerusalem, that are aimed at altering the character, status and demographic composition of the Territory, including via the de facto annexation of land, and thus at prejudging the final outcome of peace negotiations.</p> <p>Reiterates its demand for the complete cessation of all Israeli settlement activities in the Occupied Palestinian Territory, including East Jerusalem.</p> <p>Stresses the need for: (a) The withdrawal of Israel from the Palestinian territory occupied since 1967, including East Jerusalem; (b) The realization of the inalienable rights of the Palestinian people, primarily the right to self-determination and the right to their independent State.</p>
	65/17 Jerusalem	Any actions taken by Israel, the occupying Power, to impose its laws, jurisdiction and administration on the Holy City of Jerusalem are illegal and therefore null and void and have no validity whatsoever, and calls upon Israel to immediately cease all such illegal and unilateral measures.



Year	Name	Decision
	65/102 Work of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories	GA expresses grave concern about the critical situation in the Occupied Palestinian Territory, including East Jerusalem, particularly in the Gaza Strip, as a result of unlawful Israeli practices and measures, and especially condemns and calls for the immediate cessation of all illegal Israeli settlement activities and the construction of the wall.
	65/103 Applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to the Occupied Palestinian Territory, including East Jerusalem, and the other occupied Arab territories	GA reaffirms that the fourth Geneva Convention is applicable to the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967 and demands that Israel accept the de jure applicability of the Convention in the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967, and that it comply scrupulously with the provisions of the Convention.
	65/104 Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan	<p>Reaffirming the applicability of the fourth Geneva Convention to the Occupied Palestinian Territory, including East Jerusalem, affirming that the transfer by the occupying Power of parts of its own civilian population into the territory it occupies constitutes a breach of the Fourth Geneva Convention and relevant provisions of customary law, including those codified in Additional Protocol I to the four Geneva Conventions, noting that the International Court of Justice concluded that "the Israeli settlements in the Occupied Palestinian Territory (including East Jerusalem) have been established in breach of international law</p> <ol style="list-style-type: none"> 1. Reaffirms that the Israeli settlements in the Palestinian territory, including East Jerusalem, and in the occupied Syrian Golan are illegal and an obstacle to peace and economic and social development; 2. Calls upon Israel to accept the de jure applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to the Occupied Palestinian Territory, including East Jerusalem, and to the occupied Syrian Golan and to abide scrupulously by the provisions of the Convention, in particular article 49; 3. Also calls upon Israel, the occupying Power, to comply strictly with its obligations under international law, including international humanitarian law, with respect to the alteration of the character, status and demographic composition of the Occupied Palestinian Territory, including East Jerusalem; 4. Reiterates its demand for the immediate and complete cessation of all Israeli settlement activities in all of the Occupied Palestinian Territory, including East Jerusalem,
	65/105 Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem	All measures and actions taken by Israel, the occupying Power, in the Occupied Palestinian Territory, including East Jerusalem, in violation of the relevant provisions of the fourth Geneva Convention and contrary to the relevant resolutions of the Security Council, are illegal and have no validity.

Year	Name	Decision
	65/202 The right of the Palestinian people to self-determination	GA demands that Israel, the occupying Power, comply fully with the provisions of the Fourth Geneva Convention of 1949 and cease immediately all measures and actions taken in violation and in breach of the Convention. Further demands that Israel, the occupying Power, cease all of its settlement activities, the construction of the wall and any other measures aimed at altering the character, status and demographic composition of the Occupied Palestinian Territory, including in and around East Jerusalem, all of which, inter alia, gravely and detrimentally impact the human rights of the Palestinian people and the prospects for a peaceful settlement.
	65/179 Permanent sovereignty of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem, and of the Arab population in the occupied Syrian Golan over their natural resources	GA reaffirms the inalienable rights of the Palestinian people and of the population of the occupied Syrian Golan over their natural resources, including land and water. Stresses that the wall and settlements being constructed by Israel in the Occupied Palestinian Territory, including in and around East Jerusalem, are contrary to international law and are seriously depriving the Palestinian people of their natural resources, and calls in this regard for full compliance with the legal obligations affirmed in the 9 July 2004 advisory opinion of the International Court of Justice and in relevant United Nations resolutions, including General Assembly resolution ES-10/15. Calls upon Israel, the occupying Power, to comply strictly with its obligations under international law, including international humanitarian law, with respect to the alteration of the character and status of the Occupied Palestinian Territory, including East Jerusalem.
2011	66/17 Peaceful settlement of the question of Palestine	GA calls upon Israel, the occupying Power, to comply strictly with its obligations under international law, including international humanitarian law, and to cease all of its measures that are contrary to international law and unilateral actions in the Occupied Palestinian Territory, including East Jerusalem, that are aimed at altering the character, status and demographic composition of the Territory, including via the confiscation and de facto annexation of land, and thus at prejudging the final outcome of peace negotiations; 16. Reiterates its demand for the complete cessation of all Israeli settlement activities in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan, and calls for the full implementation of the relevant Security Council resolutions; Stresses, in this regard, the need for Israel forthwith to abide by its roadmap obligation to freeze all settlement activity, including so-called "natural growth", and to dismantle settlement outposts erected since March 2001. Stresses the need for: (a) The withdrawal of Israel from the Palestinian territory occupied since 1967, including East Jerusalem; (b) The realization of the inalienable rights of the Palestinian people, primarily the right to self-determination and the right to their independent State.
	66/18 Jerusalem	Any actions taken by Israel, the occupying Power, to impose its laws, jurisdiction and administration on the Holy City of Jerusalem are illegal and therefore null and void and have no validity whatsoever, and calls upon Israel to immediately cease all such illegal and unilateral measure.



Year	Name	Decision
	66/76 Work of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories	GA expresses grave concern about the critical situation in the Occupied Palestinian Territory, including East Jerusalem, particularly in the Gaza Strip, as a result of unlawful Israeli practices and measures, and especially condemns and calls for the immediate cessation of all illegal Israeli settlement activities and the construction of the wall.
	66/77 Applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to the Occupied Palestinian Territory, including East Jerusalem, and the other occupied Arab territories	GA Reaffirms that the fourth Geneva Convention is applicable to the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967 and demands that Israel accept the de jure applicability of the Convention in the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967, and that it comply scrupulously with the provisions of the Convention.
	66/78 Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan	<p>Israeli settlements in the Palestinian territory, including East Jerusalem, and in the occupied Syrian Golan are illegal and an obstacle to peace and economic and social development</p> <p>GA calls upon Israel to accept the de jure applicability of the fourth Geneva Convention to the Occupied Palestinian Territory, including East Jerusalem, and to the occupied Syrian Golan and to abide scrupulously by the provisions of the Convention, in particular article 49</p> <p>Also calls upon Israel, the occupying Power, to comply strictly with its obligations under international law, including international humanitarian law, with respect to the alteration of the character, status and demographic composition of the Occupied Palestinian Territory, including East Jerusalem.</p> <p>Reiterates its demand for the immediate and complete cessation of all Israeli settlement activities in all of the Occupied Palestinian Territory, including East Jerusalem.</p>
	66/79 Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem	<p>All measures and actions taken by Israel, the occupying Power, in the Occupied Palestinian Territory, including East Jerusalem, in violation of the relevant provisions of the fourth Geneva Convention and contrary to the relevant resolutions of the Security Council, are illegal and have no validity.</p> <p>GA demands that Israel, the occupying Power, cease all of its settlement activities, the construction of the wall and any other measures aimed at altering the character, status and demographic composition of the Occupied Palestinian Territory, including in and around East Jerusalem, all of which, inter alia, gravely and detrimentally impact the human rights of the Palestinian people and the prospects for a peaceful settlement</p>
	66/146 The right of the Palestinian people to self-determination	GA reaffirms the right of the Palestinian people to self-determination, including the right to their independent State of Palestine.

Year	Name	Decision
	66/225 Permanent sovereignty of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem, and of the Arab population in the occupied Syrian Golan over their natural resources	<p>Aware of the detrimental impact of the Israeli settlements on Palestinian and other Arab natural resources, especially as a result of the confiscation of land and the forced diversion of water resources, and of the dire socioeconomic consequences in this regard.</p> <p>GA reaffirms the inalienable rights of the Palestinian people and of the population of the occupied Syrian Golan over their natural resources, including land, water and energy resources.</p> <p>Stresses that the wall and settlements being constructed by Israel in the Occupied Palestinian Territory, including in and around East Jerusalem, are contrary to international law and are seriously depriving the Palestinian people of their natural resources, and calls in this regard for full compliance with the legal obligations affirmed in the 9 July 2004 advisory opinion of the International Court of Justice and in relevant United Nations resolutions.</p> <p>Calls upon Israel, the occupying Power, to comply strictly with its obligations under international law, including international humanitarian law, with respect to the alteration of the character and status of the Occupied Palestinian Territory, including East Jerusalem.</p>
2012	67/19 Status of Palestine in the United Nations	<ol style="list-style-type: none"> GA reaffirms the right of the Palestinian people to self-determination and to independence in their State of Palestine on the Palestinian territory occupied since 1967. Decides to accord to Palestine non-member observer State status in the United Nations, without prejudice to the acquired rights, privileges and role of the Palestine Liberation Organization in the United Nations as the representative of the Palestinian people, in accordance with the relevant resolutions and practice.
	67/23 Peaceful settlement of the question of Palestine	<p>GA calls upon Israel, the occupying Power, to comply strictly with its obligations under international law, including international humanitarian law, and to cease all of its measures that are contrary to international law and unilateral actions in the Occupied Palestinian Territory, including East Jerusalem, that are aimed at altering the character, status and demographic composition of the Territory, including via the confiscation and de facto annexation of land, and thus at prejudging the final outcome of peace negotiations.</p> <p>Reiterates its demand for the complete cessation of all Israeli settlement activities in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan, and calls for the full implementation of the relevant Security Council resolutions.</p> <p>Stresses the need for: (a) The withdrawal of Israel from the Palestinian territory occupied since 1967, including East Jerusalem; (b) The realization of the inalienable rights of the Palestinian people, primarily the right to self-determination and the right to their independent State.</p>
	67/24 Jerusalem	GA reiterates its determination that any actions taken by Israel, the occupying Power, to impose its laws, jurisdiction and administration on the Holy City of Jerusalem are illegal and therefore null and void and have no validity whatsoever, and calls upon Israel to immediately cease all such illegal and unilateral measures



Year	Name	Decision
	67/118 Work of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories	GA expresses grave concern about the critical situation in the Occupied Palestinian Territory, including East Jerusalem, particularly in the Gaza Strip, as a result of unlawful Israeli practices and measures, and especially condemns and calls for the immediate cessation of all illegal Israeli settlement activities and the construction of the wall.
	67/119 Applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to the Occupied Palestinian Territory, including East Jerusalem, and the other occupied Arab territories	GA reaffirms that the fourth Geneva Convention is applicable to the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967 and demands that Israel accept the de jure applicability of the Convention in the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967, and that it comply scrupulously with the provisions of the Convention.
	67/120 Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan	<ol style="list-style-type: none"> 1. Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan are illegal and an obstacle to peace and economic and social development; 2. Calls upon Israel to accept the de jure applicability of the fourth Geneva Convention to the Occupied Palestinian Territory, including East Jerusalem, and to the occupied Syrian Golan and to abide scrupulously by the provisions of the Convention, in particular article 49, and to comply with all of its obligations under international law and cease immediately all actions causing the alteration of the character, status and demographic composition of the Occupied Palestinian Territory, including East Jerusalem, and of the occupied Syrian Golan; 3. Reiterates its demand for the immediate and complete cessation of all Israeli settlement activities in all of the Occupied Palestinian Territory, including East Jerusalem
	67/121 Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem	<p>GA reiterates that all measures and actions taken by Israel, the occupying Power, in the Occupied Palestinian Territory, including East Jerusalem, in violation of the relevant provisions of the fourth Geneva Convention and contrary to the relevant resolutions of the Security Council, are illegal and have no validity.</p> <p>Demands that Israel, the occupying Power, cease all of its settlement activities, the construction of the wall and any other measures aimed at altering the character, status and demographic composition of the Occupied Palestinian Territory, including in and around East Jerusalem, all of which, inter alia, gravely and detrimentally impact the human rights of the Palestinian people and the prospects for a peaceful settlement.</p>
	67/158 The right of the Palestinian people to self-determination	GA reaffirms the right of the Palestinian people to self-determination, including the right to their independent State of Palestine.
	67/229 Permanent sovereignty of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem, and of the Arab population in the occupied Syrian Golan over their natural resources	<p>GA reaffirms the inalienable rights of the Palestinian people and of the population of the occupied Syrian Golan over their natural resources, including land, water and energy resources.</p> <p>Stresses that the wall and settlements being constructed by Israel in the Occupied Palestinian Territory, including in and around East Jerusalem, are contrary to international law and are seriously depriving the Palestinian people of their natural resources, and calls in this regard for full compliance with the legal obligations affirmed in the 9 July 2004 advisory opinion of the International Court of Justice.</p>

Appendix C: Letter from Yesh Din, replying to an invitation to appear before the Levy Committee



April 3, 2013

To:

Members of the Committee to Examine the Status of Building in Judea and Samaria

Honorable Justice (emeritus) Edmond Levy
Honorable Justice (emeritus) Tchia Shapira
Amb. Alan Baker

By e-mail: vaadalevi@pmo.gov.il

The Public Council

Dan Bavly

Orna Ben-Naftali

Michael Ben-Yair

Naomi Chazan

Ruth Cheshin

Akiva Eldar

Dani Karavan

Yehudit Karp

Paul Kedar

Yair Rotlevy - Chairman

Uzy Smilansky

Joshua Sobol

Zeev Sternhell

Re: Yesh Din's Position on the Matters before the Committee

Dear Members,

Yesh Din, is a volunteer human rights organization, established six years ago. Our main focus is defending human rights through the empowerment of law enforcement on Israeli civilians and security forces in the West Bank. Yesh Din provides assistance to Palestinians whose lands have been invaded by Israelis, or whose access to their lands has been blocked by Israelis, primarily through legal representation in Israel's justice system, headed by the Supreme Court.

Over the years of working in this field, Yesh Din has gained a great deal of knowledge and expertise in the matters that, in accordance with the letter of appointment, have been brought for the consideration of the Committee to Examine the Status of Building in Judea and Samaria (hereinafter: the Committee).

However, for reasons I shall specify below, the Yesh Din Steering Committee, under the recommendation of the Yesh Din Public Council, has decided that the Committee of which you are members, is not the right forum for expressing Yesh Din's position on the issues listed in the Committee's letter of appointment and that our commitment to bolstering the rule of law requires that we present our position to the only body that should advise the Government of Israel on legal matters - the Attorney General.



As is known, the Attorney General is the “competent, and highest level of authority on the interpretation of the law with respect to any government agency and, in the absence of a court ruling, his interpretation is the authoritative interpretation on the matter under discussion” (Report of The Public Committee to Examine the Method of Appointment of the Attorney General and Matters Concerning his Office (hereinafter: the Shamgar Committee), p. 80). The Shamgar Committee therefore established that a governmental authority cannot obtain outside counsel, unless the Attorney General consents thereto (Shamgar Committee Report, para. 64 and recommendation no. 30. The statement refers to legal representation but is equally relevant to advisory functions).

The background for the appointment of the Committee of which you are members is public knowledge. Given legal proceedings (in most of which Yesh Din represented the petitioners) wherein the Government of Israel was instructed to enforce the law on unlawful Israeli construction in the West Bank, the latter sought the Attorney General’s counsel on what measures to take regarding this unlawful construction. The leadership was displeased with the recommendations it received and began searching for an outside opinion. And so, the search for a way around the Attorney General led to the establishment of Committee.

Moreover, to the best of our knowledge, and according to media reports which have not been denied, the Committee was appointed against the advice of the Attorney General, who, in a strong letter to the Prime Minister, clarified that neither he nor his office are bound by the Committee’s recommendations.

In the circumstances, Yesh Din’s position is that the establishment of the Committee has improper origins and is a slap in the face to the rule of law and to the status of the head of law enforcement in Israel – the Attorney General. Accordingly, Yesh Din, which has devoted itself to the struggle to defend human rights by strengthening the rule of law, cannot lend its hand to a process that is essentially an act of defiance against the functionary responsible for law enforcement - particularly in the circumstances described above.

Therefore, I hereby inform you that Yesh Din has decided to present its position on the matters before the Committee to the Attorney General in the hope that he considers it before making a decision on whether to adopt any of the Committee’s recommendations.

We wish to underscore that the above statements do not express any reservations regarding the competency of the Committee members, or any doubt in the members’ good faith.

Respectfully,

Yair Rotlevy

Chair, Yesh Din Public Council

On February 13, 2012, Prime Minister Benjamin Netanyahu and then-Justice Minister Professor Yaacov Neeman decided to establish a committee headed by retired Supreme Court Justice Edmund Levy to examine the legal status of Israeli construction in the West.

The background for the establishment of the Committee was political pressure from elements inside Israel who were interested in finding ways to legalize unauthorized outposts that had been built throughout the West Bank and had been targeted in petitions filed to the Israeli High Court of Justice by Palestinian landowners and Israeli movements and organizations, including Yesh Din.

The report published by the Committee in June 2012 went far beyond its mandate, and included an extensive discussion of the status of the West Bank under international law. The Committee reached the unprecedented conclusion that the international law of occupation does not apply to the West Bank and that there are viable ways to legalize outposts built without permission, even if they were built on privately-owned Palestinian land.

The Levy Committee report raises a host of moral and political questions. This document however, looks at its findings from the legal perspective only.

An examination of the report reveals that the Levy Committee, without explaining why, chose to ignore dozens of decisions by international bodies, thousands of articles and books by jurists and academics, and hundreds of rulings by the Israeli Supreme Court, reflecting a rare legal consensus that the West Bank is, in fact, occupied territory. The legal methodology the Committee used to determine the status of the territories occupied by Israel in 1967 and the legality of the outposts fails to engage with the opposing legal position. It is baseless and incongruent with the law.

Yesh Din - Volunteers for Human Rights was founded in March 2005 and since then its volunteers have been working to achieve long-term structural improvement to the human rights situation in the Occupied Palestinian Territories (OPT). The organization works through collecting and disseminating credible and current information about systematic violations of human right in the OPT; exerting public and legal pressure on state authorities to stop such violations and raising public awareness of human rights violations in the OPT. In order to achieve its goals effectively, Yesh Din operates according to a unique model in the field of human rights in Israel: the organization is operated and administered by volunteers and assisted on a daily basis by a professional team of lawyers, human rights experts and strategic and communications consultants.

The Emile Zola Chair for Interdisciplinary Human Rights Dialogue was established in order to strengthen and expand human rights discourse in Israel and advance the recognition, protection and implementation of human rights. The Chair initiates activities in the field of human rights research, education, legal practice and culture, and encourages existing activities in cooperation with academic and cultural institutions, civil society organizations and individuals.