

The impact of Israeli settlements in the West Bank on the human rights of Palestinians

Report to the UN Special Rapporteur on the situation of human rights in the Palestinian Territory occupied since 1967



Yesh Din, April 2021

Yesh Din – Volunteers for Human Rights is an Israeli organization registered as a non-profit in Israel. Yesh Din is subject to Israeli law and is served by a volunteer corps and by a professional staff, lawyers and human rights experts. Yesh Din was established in 2005 and has since worked to protect the human rights of Palestinians living under Israeli armed forces' occupation. We view the occupation as a main source of the violation of Palestinians' human rights and therefore seek to end it.

Yesh Din documents, collects and disseminates reliable and updated information regarding systematic human rights violations in the occupied Palestinian territory (oPt). We have a two-tiered approach: On the individual level, we work on individual cases to assist those whose rights have been violated. On the systemic level, we use the accumulation of individual incidents to identify structural violations of human rights and advocate for change. Yesh Din conducts public and legal advocacy in order to pressure Israel's authorities to implement their duty according to international humanitarian law (IHL), to protect the Palestinians and their rights, and to raise public awareness of human rights violations in the oPt.

Yesh Din's work focuses on law enforcement on settlers and other Israeli civilians; criminal accountability of Israeli security forces personnel in the West Bank suspected of offenses against Palestinians; and human rights violations related to takeover of Palestinian land and restrictions on Palestinians' access to their land.

Legally required declaration: Yesh Din is mostly funded by foreign governmental entities. A list of our donors is available on the Israeli Associations Register's website and on our website. Yesh Din is proud to be funded by states that believe, as we do, that the occupation is not an internal Israeli matter and that support the advancement of human rights.

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Introduction

The landscape of the West Bank is dotted with 132 official settlements and about 135 unofficial ones, known as unauthorized outposts (settlements that were not approved by the Government of Israel).¹ Israel's settlement enterprise has transformed the West Bank and its destructive, disastrous impact is felt in every aspect of life and at every level of the fundamental rights of the area's Palestinian residents.

Hundreds of thousands of dunams of land have been stolen from Palestinians to build settlements, industrial zones, roads, farms, tourist attractions and more. In order to protect Israeli settlements, the Israeli military sets up checkpoints, imposes travel restrictions on Palestinians, reduces or denies their access to their own lands and maintains a large presence of forces on the ground. In addition, each settlement is a nucleus of a large field of influence over its vicinity, and many are a hub of violence and crime against Palestinians and their property.



Yitzhar – A Case Study: Settler violence as a vehicle for taking over Palestinian land with state and military backing, August 2018.

All Israeli settlements in the West Bank are illegal, and their establishment constitutes a grave violation of IHL, which explicitly prohibits the transfer of the population of the occupying power to the occupied territory.² Yesh Din also asserts that, in the case of the Israeli settlements in the West Bank, the dangers that the above-mentioned prohibition seeks to prevent are evident on the ground every moment of every day.

On the basis of our profound and protracted familiarity with the reality in the West Bank, **Yesh Din unequivocally asserts that the presence of Israeli settlements is a key source of the grave violation of the human rights of the area's Palestinian residents. This violation is multi-dimensional, relating to almost every basic human right and liberty recognized in international human rights law.**

1 According to [Peace Now](#) figures.

2 **Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War**, 1949. Art. 49, paragraph 6. [In the advisory opinion on the separation fence](#), the International Court of Justice in The Hague ruled that the settlements were established in contravention of Art. 49(6), and [Resolution No. 446 of the UN Security Council](#) from 1979. The [Rome Statute](#), the constitution of the International Criminal Court, frames the prohibition in a manner that criminalizes both direct and indirect population transfers into an occupied territory. There is broad legal consensus that Israel's policy of enabling, encouraging and funding settlement activity is a violation of the prohibition on both direct and indirect population transfers into the occupied territory.

In this document, however, we will confine our review to the ramifications of the Israeli settlements in the West Bank on those human rights of Palestinian civilians that are relevant to Yesh Din's activities and which we have investigated over the years. Yesh Din's experience and research clearly indicate that actions by settlers, and the support they enjoy from the authorities by way of omission, and sometimes even by act, as well as the policies practiced by the government, the military and the Civil Administration with respect to settlement protection and persistent expansion, severely impair Palestinians' right to life, liberty and security of person. Other rights violated include the right to property, freedom of movement, and equality, as well as the Palestinians' collective right to their natural resources.

This document presents a concise review of the issues Yesh Din covers in-depth with references, for further reading, to our relevant reports, position papers, datasheets, databases and opinions that provide full information and analysis. All documents have been published and are accessible on the Yesh Din website.

We note that Yesh Din is not active in East Jerusalem (with rare exceptions), and, therefore, this document refers to the remainder of the West Bank only. We further note that while this is not addressed in a specific section in this document, we would like to draw the Special Rapporteur's attention to the fact that the harm to property, freedom of movement and the collective right to sovereignty over natural resources, together produce a violation of an additional basic right - the right to a livelihood.

A. The right to life, security and bodily integrity

1. Offenses committed by Israeli civilians against Palestinians and their property (settler violence) and the response of the Israeli authorities

Settler violence against Palestinians dates back to the inception of the settlements and occurs throughout the West Bank.³ The methods and forms of violence settlers and other Israeli civilians use against Palestinian residents of the West Bank are varied and intended to cause both physical harm and property damage. They include physical violence, arson, including of homes, harm to livestock and the uprooting and cutting down of olive trees and other crops. The common thread between these offenses is that they are ideologically motivated. The perpetrators set out to intimidate their victims in an effort to drive them off their land in the service of expanding the settlement enterprise and further entrenching Israel's control over land in the West Bank while pushing Palestinians out. While the offenses are not committed under the direct instruction of authorities from above, the resulting land takeover is welcomed by the government, which frequently retroactively legalizes outposts on the land that was illegally taken following years of violence and harassment.

Yesh Din runs a long-term project devoted to monitoring the outcomes of investigations conducted by the Samaria and Judea (SJ) District Police (the Israel Police district in charge of the West Bank) into alleged criminal offenses committed by Israeli civilians against Palestinian residents of the West Bank and their property (settler violence). After 16 years of monitoring law enforcement authorities, Yesh Din can unequivocally assert that:

Ideologically motivated crime by settlers against Palestinians and their property in the West Bank is serious, widespread and dangerous, with attacks occurring daily.

The State of Israel flouts its obligation to protect Palestinian civilians. There is an ongoing failure to provide protection during attacks by settlers, prevent these attacks and investigate and prosecute those responsible after the fact. **The State of Israel fails to meet the standards set forth in international human rights law and required in occupied territory under international humanitarian law. Investigations are unprofessional and ineffective and often fail to meet other requirements.**

3 E.g.: Ministry of Justice, **Investigation of Suspicions against Israelis in Judea and Samaria – Report of the Monitoring Team** (Karp Report), May 1982.



A five year old Palestinian child that was injured in his face from stones thrown at his family car while driving next to Givaat Assaf outpost, 21.1.2021. Photo: The Palestine Red Crescent

Yesh Din does not monitor all incidents involving suspected offenses by Israelis against Palestinians that are handled by Israeli investigation and prosecution authorities. Nevertheless, the figures are based on a very wide sample of investigation files, which grows every year and enables a representative examination of investigation outcomes with respect to the aforesaid offenses. The results of Yesh Din monitoring of the response of Israeli authorities to complaints made by Palestinians regarding bodily harm or property damage at the hands of Israeli civilians are periodically published on the Yesh Din website.



[Information Sheet - Law Enforcement on Israeli Civilians in the West Bank](#), Yesh Din Figures 2005-2019, December 2019.

Below is a summary of data that emerges from Yesh Din's monitoring of police investigation outcomes in 1,291 investigation files opened between 2005 and 2019 into offenses committed by Israelis against Palestinians in the West Bank:

- 91% of all investigation files were closed without an indictment;
- 82% of the files that concluded without an indictment were closed in circumstances attesting to police failure to investigate and solve the crime. The vast majority of the cases were closed on the official grounds of "offender-unknown" and "insufficient evidence," which indicate that although the police determined an offense had been

committed, they failed to identify suspects or failed to collect sufficient evidence for indictment and prosecution;

- The consistently high rate of failure points to a longstanding systemic failure by law enforcement agencies in law enforcement responses to ideologically motivated crime against Palestinians in the West Bank.



For a full analysis of investigative failures, see [Mock Enforcement: Law enforcement on Israeli civilians in the West Bank](#), May 2015.



Malicious graffiti in the Palestinian village of Al-Mughayyir, as part of Price Tag event that also included damage to cars; 25.11.2021. The writing reads: "death to Arabs". Photo: Yesh Din

In addition to its failure to investigate offenses, Israel fails to meet its obligation to ensure Palestinians' safety and protect them from settler attacks in real time. Under international law, and according to the jurisprudence of Israel's Supreme Court, the military has an obligation to maintain public order and protect Palestinians and their property.⁴ Despite this, very often, **soldiers refrain from exercising their powers to detain and arrest**

⁴ **Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land. The Hague, 1907; Article 43.**

the individuals involved in the incident as it unfolds, secure the scene after the fact in order to enable the police to investigate and collect evidence and, at a later stage, provide testimony about the incident to the police. This practice of standing idly by is extremely prevalent, despite the fact that the military's own directives require its soldiers to actively protect Palestinians and prevent offenses. Yesh Din has documented many cases in which settlers attacked Palestinians as soldiers stood by and did nothing to stop the attack or detain the assailants. In many of these cases, the soldiers used their powers, authority and even their weapons against the Palestinian victims.

The soldiers' abdication of their duties and the failure of the military authorities to bring them to justice is another facet of the policy of tacit support shown for criminality by Israeli civilians and settlements in the West Bank.



For more see: [Standing Idly By: IDF soldiers' inaction in the face of offenses perpetrated by Israelis against Palestinians in the West Bank](#), June 2015.



Israeli soldiers standing idly by while Israeli Settlers attack Palestinians, Burin, January 2021.
Photo: Yesh-Din

The picture that emerges after 16 years of monitoring how complaints by Palestinians harmed by Israelis are processed points to a deep and long-lasting systemic failure within the law enforcement mechanisms in the West Bank and Israel's failure to meet its obligation to protect the Palestinian population in the territories under Israeli military occupation, as required by both Israeli and international law.

Yesh Din has come to the conclusion that the State of Israel is unable or unwilling to take resolute action in keeping with its legal duties to eradicate violence and harm to Palestinians and their property.



See also: [In First Person A Body of Testimonies](#) - Testimonies collected from Palestinians beginning in 2005, in which victims and witnesses describe, in their own words, the ongoing violence and harm to their person, property and land by Israeli settlers in the West Bank.

2. Yesh Din Figures regarding law enforcement on Israeli soldiers suspected of harming Palestinians and their property

The presence of settlements and settlers in the West Bank greatly increases the presence of the Israeli military in the area, creating more interactions between the military and the Palestinian civilian population. Every settlement or unauthorized outpost receives military protection, and thus, one of the by-products of settlements is an increase in incidents of soldiers harming Palestinians and their property. Yesh Din periodically publishes figures on the outcomes of military law enforcement responses to complaints made by Palestinians with respect to harm caused by soldiers.⁵



[Data Sheet November 2019: Law Enforcement on Israeli Soldiers Suspected of Harming Palestinians and their Property](#), summary of figures for 2017-2018, November 2019.

Below is a summary of figures on military law enforcement action with respect to complaints about soldiers suspected of harming Palestinians and their property:

- The odds that a Palestinian would see his or her complaint lead to the prosecution of the soldier who harmed them - 0.7%;
- Of the total number of complaints filed in 2017-2018 regarding suspected offenses by soldiers against Palestinians in which a decision was reached, some 80% were closed with no criminal investigation;

⁵ These figures are based on information provided to Yesh Din by the IDF Spokesperson under the Freedom of Information Act with respect to all complaints received by the military, investigations opened and their outcomes.

- In 2017-2018, the number of criminal investigations the military opened into suspected soldier offenses against Palestinians plummeted by about 75% compared to previous years. Yesh Din estimates this is the result of a deliberate policy to raise the threshold for opening criminal investigations;
- Criminal investigations are opened almost exclusively in extreme, or particularly grievous cases. About a third of the investigations opened in 2017-2018 concerned Palestinian deaths. Injuries are rarely investigated;
- Only three (3.2%) of the investigation files opened in 2017-2018 resulted in indictments, all related to violence against Palestinians. Two of the indictments concerned the beating of blindfolded, handcuffed detainees.

Despite the changes introduced by the military law enforcement system in recent years in an effort to implement the Turkel-Ciechanover recommendations, the response to criminal acts by soldiers against Palestinians has not materially changed. The military law enforcement system endeavors to avoid investigating and prosecuting soldiers who harm Palestinians and in so doing fails to protect Palestinians against offenses committed by Israeli soldiers and commanders.



For an analysis of examples of investigative failure, see: [“Wewere unable to locate the perpetrator”: The failure of Israel’s law enforcement system to investigate and prosecute military and police personnel who committed criminal offenses against Palestinians in the West Bank](#), Information Sheet, December 2018.

In addition, military protection for settlements and settlers’ safety gives rise to a plethora of military activities ostensibly designed for ‘security needs’ in the broader sense - meaning protecting settlers and settlements as well. While some of these activities can be attributed to security needs, they harm Palestinians and sometimes violate their rights. One example can be found in a comprehensive report recently published by Yesh Din in collaboration with other organizations addressing the military practice of invading Palestinian homes in the West Bank.



[A Life Exposed: Military invasions of Palestinian homes in the West Bank](#), November 2020 (joint report by Yesh Din, Breaking the Silence and Physicians for Human Rights Israel).

B. The right to property

Land is one of the most important resources in the West Bank. Aside from its obvious physical uses - travel, housing, livelihoods, natural resources and the like, land is significant for governance and security and plays a role in the identity of individuals and communities.

All settlements and unauthorized outposts in the West Bank were built in contravention of international law.⁶ Israel began building settlements in the West Bank almost immediately after occupying it. Kfar Etzion, the first settlement built by government resolution, was established in 1967. Until 1979, Israel seized private land and allocated it to settlement building, claiming it was required for military needs. The Elon Moreh High Court case was the turning point that forced Israel to stop using military seizure orders in order to build new settlements.⁷ Following this judgment, a policy of building new settlements on public (state) land took root.⁸ To this end, ever since the 1980s, Israel has been in constant pursuit of increasing the reservoirs of land that can be used to expand the settlement enterprise, which it does by declaring more and more land as state land.

Over the years of occupation, successive Israeli governments have initiated, approved, planned and funded settlements in the West Bank, and have instituted a system of benefits and financial incentives to encourage Israeli citizens to relocate to these settlements. The Supreme Court avoided deliberating on the legality of the settlements, saying the issue was political in essence and, therefore, non-justiciable.⁹ Given this position, Israeli governments consider the settlements they built on public (state) land with government approval legal. In contrast, unauthorized outposts are built without government-level approval (even if the large majority had help from ministries that provided funding and several other forms of assistance).¹⁰ Israel acknowledges these communities were built illegally, though it has been working tirelessly to retroactively approve them over the past decade (more on this follows).

Currently, 24 local governments - municipalities, local councils and regional councils - operate in the West Bank (excluding East Jerusalem). They govern 132 authorized settlements and 135 unauthorized outposts and have a total population of about 441,600 Israeli citizens.¹¹ The official jurisdictions of settlements cover about 40% of the total area

6 See supra, note 2.

7 HCJ 390/79 **Dweikat et al. v. Government of Israel et al.**, judgment dated October 22, 1979.

8 It is noted that settlements built prior to 1979 on land that was not state land were never evacuated.

9 HCJ 4481/91 **Bargil et al. v. Government of Israel et al.** (judgment dated August 25, 1993).

10 **Opinion Concerning Unauthorized Outposts (Sasson Report)**, Jerusalem, February 2005.

11 Central Bureau of Statistics, Localities and Population, by District, Sub-District and Type of Locality, December 31, 2019, Statistical Abstract of Israel 2020 - No. 71.

of the West Bank, and 63% of Area C.¹² Some of the settlements were built on privately-owned Palestinian land.

Given the fact that the establishment of settlements and outposts is a violation of the international laws of occupation, the allocation of large swaths of land for illegal use, as pursued by Israel, is a clear violation of the collective right of the area's Palestinian residents to enjoy a limited resource such as land.

Beyond the violation of the collective right to property, settlements directly violate the private property rights of many Palestinians - those on whose lands settlements, unauthorized outposts and neighborhoods have been built; those whose lands were invaded by settlers in some form (for example, agricultural invasions or the establishment of recreational sites); and those who have been barred access to their lands due to their proximity to settlements. **Settlements and outposts have been built through massive landgrab - covering hundreds of thousands of dunams of Palestinian land.**

Yesh Din represents Palestinian landowners whose property rights have been violated as a result of Israel's settlement policy, providing legal assistance in dozens of actions.



For a summary of legal proceedings in which Yesh Din assisted between 2006 and 2016, see: [Land Takeover Practices Employed by Israel in the West Bank - Summary of legal proceedings with which Yesh Din assisted, 2006-2016](#), September 2016.

Yesh Din also periodically releases reports and position papers on key, cross-cutting issues, based on the knowledge gained from these actions and its ongoing work on the persistent violation of Palestinian property rights in the West Bank, particularly access to farmlands.

Below we present notable trends in Israel's settlement policy over the past years, all of which could fall under the title - transition from occupation to annexation:

¹² B'Tselem website, settlements. Last updated , January 6, 2019.

1. Transitioning from *de facto* annexation to *de jure* annexation and cementing the settlement project

The Israeli occupation of the West Bank has throughout the years been characterized by a policy of incremental or creeping annexation, achieved by implementing long-term changes to West Bank territory (de-facto annexation). The most prominent example of this de-facto annexation policy is the establishment and cultivation of Israel's settlement enterprise in the occupied territory, usurping land and natural resources far and wide. In recent years, alongside the dramatic changes the settlement enterprise has created on the ground, Israel has stepped up its push towards annexation. The main shift can be seen in de-jure annexation measures intended to alter the legal reality in the West Bank.

This process peaked with official statements made by the Israeli government in the spring of 2020 about plans to apply sovereignty to Area C in the West Bank within several months. Though the government has not been presented with a concrete plan for approval and implementation has been put off indefinitely with the signing of the Abraham Accords,¹³ Israeli discourse appears to have undergone a significant change, as have Israel's political plans for the future of the West Bank as a whole and Area C in particular.

The switch to an explicit push towards annexation and application of Israeli sovereignty in the West Bank was preceded by a gradual shift in Israel's official stance on the West Bank's legal status and the status of the settlements and outposts built in it. This process, led by Israeli governments over the past decade, focused mainly on a retreat from Israel's position that the West Bank was under Israeli military occupation.

In line with this direction, in the summer of 2012, the **Levy Committee**,¹⁴ appointed by the Prime Minister and the Minister of Justice to examine the status of Israeli construction in the West Bank, released its report. The appointment of the Levy Committee was motivated by the Israeli government's desire to evade executing demarcation and demolition orders (issued by the government itself) and find a way to legalize illegal construction in unauthorized outposts. The Levy Report formulated a legal doctrine, according to which international law allocated the West Bank to the Jewish state and the laws of occupation do not apply in the West Bank. As a result - Israeli settlement in the West Bank is permitted under international law. This position is not only controversial, but it contradicts the consistent, uniform position of the international community and all its institutions. This is apparently why the Israeli government stopped short of officially adopting the report. Nevertheless, in practical terms, the legal doctrine it presents has gradually been adopted, and alongside the official, known track of government-approved and promoted building

13 Noa Landau and Reuters, "Israel Suspends West Bank Annexation in Deal to Normalize Relations With the UAE," **Haaretz English website**, August 13, 2020.

14 **The Levy Commission Report on the Legal Status of Building in Judea and Samaria (The Levy Report)**, June 2012 (translation by Regavim).

plans, the retroactive approval of scores of unauthorized outposts has functioned as an additional, silent track for building new settlements and expanding areas under the control of existing ones.



On the Levy Committee legal doctrine, see: [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.

About the unofficial adoption of the Levy Report's key points and its effective implementation, as well as changes in Israel's position, see:



[Under the Radar - Israel's silent policy of transforming unauthorized outposts into official settlements](#), March 2015.



[From Occupation to Annexation: The silent adoption of the Levy report on retroactive authorization of illegal construction in the West Bank](#), February 2016.

The next phase in Israel's policy was a switch to open "regularization" of the status of unauthorized outposts and illegal construction in the West Bank. The term "regularization" is a euphemism for violating Palestinians' property rights and condoning landgrab and dispossession of landowners. The outposts and neighborhoods whose legal status Israel seeks to "regularize" were built through illegal takeover of privately-owned Palestinian lands and land designated for the future development of Palestinian communities and through violation of the property rights of Palestinian landowners. In the past, Israel had maintained the semblance of a legal reality in which Israeli communities built without approval, in violation of the law and through landgrab were considered illegal, and the Palestinian landowners' *de jure* rights in the land were preserved, even if their *de facto* rights were severely violated or entirely denied. The state now seeks to institutionalize and normalize landgrab and give it legal status. In 'regularization,' state authorities are rewarding those who stole land from others in brazen breach of the law.

The drive to retroactively approve unauthorized outposts came across legal and planning obstacles that made retroactive approval difficult in many cases. In February 2016, the Prime Minister appointed the Zandberg Committee (the Regularization Committee) to find regularization solutions. The **Zandberg Report**¹⁵ was submitted in February 2018, but its

15 **Expert Committee for the Regularization of Construction in the Judea and Samaria Area, Concluding Report, (Zandberg Report)**, February 2018 (Hebrew).

recommendations began being implemented before that date. In May 2017, the Security Cabinet appointed a “Task Force for the Regularization of Structures and Neighborhoods in Judea and Samaria.” It was given three years to complete the task.¹⁶

The Zandberg Report provided the government with legal tools for retroactively approving illegal neighborhoods and about 99% of unauthorized Israeli outposts in the West Bank. The report classified the localities whose status is difficult to ‘regularize’ according to three “archetypes” and proposed ways to overcome these difficulties for each type.



On the Zandberg Report, see: [The Age of Regularization - The Zandberg Committee Expropriation Report for Retroactive Authorization of Israeli Outposts and Illegal Construction in the Settlements: Analysis, Ramifications and Implementation](#), April 2018.

In addition to the work of the Zandberg Committee and actions taken towards implementing its recommendations, in February 2018, the Knesset passed the Regulation of Settlement in Judea and Samaria Law, known as “**the Regularization Law**.”¹⁷ The law permitted sweeping expropriation of Palestinian lands and their transfer to the hands of Israelis who had illegally invaded them either by putting up structures or engaging in agricultural cultivation. The law made no distinction among the different circumstances surrounding the illegal construction or invasion, effectively permitting sweeping expropriation in all cases of invasion (with very few exceptions), while offering compensation to landowners. The law’s brazenness earned it the nickname, “the Expropriation Law.”

In June 2020, an extended panel of the High Court of Justice disqualified the “Regularization Law.”¹⁸ In their reasoning, the justices held that the law was unconstitutional as it violated West Bank Palestinians’ rights to property and to equality. With this judgment, the High Court accepted a petition filed by 23 Palestinian village council heads and 13 human rights organizations, including Yesh Din, which demanded repealing the law.¹⁹

The Zandberg Committee and its report were effectively designed to serve as a backup plan for the possible rejection of the Regularization Law by the High Court, as did eventually happen. In other words, this work reflected a clear desire on the part of the Israeli government to ensure the law’s quashing by the High Court would not stand in the way of implementing its policy of retroactive outpost approval.

16 [Security Cabinet Resolution No. 206/B](#), May 21, 2017 (Hebrew).

17 Regulation of Settlement in Judea and Samaria Law 5777-2017.

18 [HCJ 2055/17 Head of Ein Yabrud Council et al. v. the Knesset et al.](#), judgment dated June 9, 2020 (Hebrew).

19 [HCJ 2055/17 Head of Ein Yabrud Council et al. v. the Knesset et al.](#), Petition for Order Nisi and Interim Injunction, March 5, 2017 (Hebrew).

All efforts to “regularize” unauthorized outposts, neighborhoods and settlements center around how to give a semblance of legality to the settlement landgrab, to the widespread dispossession of Palestinians of their lands and to the obvious violation of their property rights and protected status.



Adei-Ad outpost. Photo: Activestills

Along with these, the Knesset has promoted dozens of bills and laws that feature a characteristic or element pertaining to the annexation of the West Bank. The 20th Knesset (from March 31, 2015, to April 28, 2019) marked a shift in Israel’s incremental annexation of the West Bank and a transition from *de facto* annexation to *de jure* annexation. In addition to the brazen Regularization Law, **sixty bills pertaining to annexation were proposed during the 20th Knesset**. Eight of them were approved and became law in Israel. The significance of this data is that the Israel Knesset regards itself as the legislative authority in the West Bank and the sovereign there.

Members of Knesset are the Israeli public’s elected representatives in the Knesset - the Israeli legislature. Millions of Palestinian residents of the West Bank, in contrast, are not Israeli citizens and do not have the right to vote; therefore, their interests are not represented in the Knesset, and they lack the ability to influence Israel’s policy. The Military Commander is authorized by international law to consider only the interests of the occupied civilian

population and military needs; the Knesset weighs a much wider range of issues and interests and is not obligated to consider the interests of the Palestinians, who do not have representation in the Knesset.



To view bills and laws, see: [Annexation Legislation Database on Yesh Din's website](#)

Movement towards *de jure* annexation is not limited to bills. It is also reflected in expert legal opinions and a change in the state's position (for instance, in court cases and in Ministry of Foreign Affairs publications). The most prominent element in this trend is decreased reliance on international law as the main normative source.

Over the past two years, Israel's plans to apply sovereignty in the West Bank and annex it to Israel seem to have ramped up further. Statements about plans to annex the West Bank or parts thereof took center stage in political campaigns during the run-up to the March 2020 elections for the 23rd Knesset²⁰ and continued subsequently. The push towards annexation was stopped (or suspended) upon the signing of the Abraham Accords with the United Arab Emirates, but the official position is that it was merely postponed, not abandoned.

Though no official, concrete plan for annexation has even been published, whatever form it takes, annexation would have a far-reaching impact on the human rights of individual Palestinians and Palestinian communities, as well as Palestinians' collective rights.

Israel already fails to discharge its obligations under international law and extensively violates Palestinians' human rights. Still, the legal framework of the laws of occupation does provide a set of rules and restrictions that limit what it can do. Additionally, the regime of occupation is founded on the principle of temporariness, following from the presumption that occupation is a temporary state. While there is reason to doubt the extent to which Israel's occupation is temporary given that it is nearing its 54th year, there is, however, no doubt that the settlement enterprise and the push for annexation evinces Israel's desire to unilaterally create a permanent situation, which would perpetuate and entrench the violation of Palestinians' rights.

In terms of property rights, there is grave concern that annexation measures would include mass expropriation of privately owned Palestinian land and nationalization of other private property in the annexed area. Some of the tools Israel might use are the Absentees' Property Law and the loss of access to farmland. Aside from that,

20 See, e.g.: Tal Shalev, "Netanyahu to call vote on sovereignty application in the Territories on Sunday," **Walla**, January 28, 2020 (Hebrew).

annexation would undoubtedly solidify and perpetuate the settlement enterprise and instigate massive construction and expansion.

Turning settlements into a permanent feature not only constitutes a continued violation of international law, but also the perpetuation and expansion of focal points for systemic, continuous abuse of Palestinians' human rights, from land grab to violence.



[The Potential Impact of West Bank Annexation by Israel on the Human Rights of Palestinian Residents](#), April 2020.

2. The fight for Area C – Long-term changes to the West Bank land registry and increasing state land reserves

2.1 - Land allocation policy in Area C

In 1928, the British Mandate government began to systematically register title to land for the first time in Palestine, which was subject to its control. Settlement of title in the West Bank continued under Jordanian rule; by 1967, settlement of title was concluded for approximately one-third of all West Bank land. After Israel occupied the West Bank, the Israeli Military Commander issued an order suspending all settlement of title procedures.²¹

Although settlement of title was never renewed, during the early 1980s, the Israeli army began applying the Ottoman Land Code (using a controversial interpretation of these laws), declaring hundreds of thousands of dunam of West Bank land “state land.” This land, which is administered by the Israeli army, is meant for the use of the local Palestinian population living under occupation, such as for building towns and villages or for necessary infrastructure. In spite of this, Israel allocated the vast majority of this land for expanding Israeli settlements, which were built in the oPt in violation of international law. Over the past decade, this method has also been used to retroactively authorize illegal Israeli construction on Palestinian land.

Figures provided by the state reveal that between 1967 and 2011, the Supervisor of Governmental and Abandoned Property at the Civil Administration allocated about 400,000 dunams of land (roughly 31% of all public land in Area C) to the World Zionist Organization, which engages in settlement development. An additional 270,000 dunams (about 20% of public land in Area C) had been allocated to other Israeli entities - settlement local authorities, government ministries, Israeli infrastructure companies that provide communication services, electricity, water and cell phone service. In contrast, over the

21 Order Concerning Land and Water Settlement (Judea and Samaria) (No. 291), 1968.

same time period, the Civil Administration allocated only 8,600 dunams, or 0.7% of public land in Area C, to Palestinian entities.²² In terms of public land allocations by the Civil Administration, 99.76% were designated for settlements, while only 0.24% were earmarked for Palestinian use,²³ including the forcible resettlement of Palestinian communities.

The land allocation policy pursued by the Supervisor of Governmental and Abandoned Property at the Civil Administration - as dictated by Israel - is indicative of the deliberate exclusion of Palestinians from public land in Area C, with everything this entails, and Israeli efforts toward *de facto* annexation in contravention of international law.

Israeli policy, based in part on the jurisprudence of the High Court of Justice, which effectively permitted building settlements on state land (see p. 11), constantly strives to increase the reservoir of state land, which it considers land where it can cement settlement control.

2.2 - New trend: Efforts to renew settlement of title suspended in 1967

Settlement of title to land is a complex, systematic and centralized procedure initiated by the sovereign. It is undertaken in order to identify and then settle and register all title to land in the territory subject to the sovereign's control. As noted, upon the occupation of the West Bank in 1967, Israel suspended settlement of title. At the time, about two-thirds of West Bank land remained with unsettled status.

In November 2020, the Knesset Foreign Affairs and Defense Committee discussed the possibility of renewing settlement of title in the West Bank.²⁴ The discussion was held in part due to the Civil Administration's position that settlement of title should be renewed and that there is no legal impediment to pursuing it. Although the discussion was held in a Knesset committee, whether or not settlement of title is renewed does not hinge on approval from the Knesset or the government, but rather, solely on a decision made by

22 Figures provided in response to an administrative petition filed by The Association for Civil Rights in Israel and Bimkom - Planners for Planning Rights under the Freedom of Information Act (AP 40223-03-10), see [Association for Civil Rights in Israel website](#). Notably, settlement interests guided even the rare allocation of land to Palestinians, at least in part. For instance, land was allocated to build a neighborhood for the Jahalin Bedouin tribe, some of whose members were forcibly relocated to the site to make way for settlement expansion in the Mishor Adumim area.

23 Figures originate from response given by the Civil Administration to a Freedom of Information Application filed by Peace Now and the Movement for Freedom of Information, June 18, 2018.

24 Transcripts No. 1 of the Foreign Affairs and Defense Committee Subcommittee for Civilian Affairs in Judea and Samaria, quick discussion on, "Renewing settlement of title in Judea and Samaria - adoption and implementation of Civil Administration recommendation," November 23, 2020. [To view the session](#) (Hebrew).

Military Commanders on the instructions of the relevant government officials (the Prime Minister's Office or the Minister of Defense).

Renewing settlement of title subverts the principle that occupation is temporary since it constitutes an irreversible act of sovereignty by a permanent regime. Such an act can determine and entrench absolute rights in perpetuity, since its pronouncement on who has title and what type of title they have is conclusive and final.

During a meeting of the Knesset Foreign Affairs and Defense Committee, settlement of title was presented - both by MKs and the Head of the Civil Administration himself - as one of the tools for achieving the overarching goal of prevailing in the "battle for Area C" against the Palestinian Authority. Renewing settlement of title is designed to advance three goals: (1) Creating a biased, manipulative and erroneous database that will minimize options for registering land in the name of Palestinian title holders. The idea behind this is that reducing the overall area of land under Palestinian ownership in Area C will smooth the path towards annexation and the dismissal of any claims by Palestinians to lands in areas designated for annexation. (2) Cementing a distinctly sovereign act by the power purporting to be the permanent sovereign in the area. (3) Continuing the policy practiced by Israeli authorities for decades - allocating land to Israelis almost exclusively.



[Renewing settlement of title in Area C in the West Bank: A breach of international law and violation of Palestinians' rights](#), Yesh Din, April 2021.



Palestinian farmers working in the agricultural land of Qaryut Village. New housing units of the Israeli settlement of Shilo are seen in the background. 6.6.2015. Photo: Ahmad Al-Bazz, Activestills

2.3 - State land declarations where settlement of title had not been completed prior to 1967

As noted, Israel uses declarations of public land ("state land") in the West Bank as a significant means to reinforce its settlement enterprise in the oPt. While as far as we are aware, no official decision has been made as of yet to renew settlement of title in the West Bank, one type of declaration Israel has used in recent years is state land declarations in locations where settlement of title came to a halt when the West Bank was occupied.

Settlement of title procedures were underway and reached an advanced stage in at least 16 Palestinian villages and towns prior to 1967, but these procedures were never concluded because Israel suspended settlement of title. Given the fact that no counterclaims were filed against title claimants in these villages, it is highly likely that if Israel had not suspended settlement of title, much of these villages' land would have been registered as private land belonging to Palestinian individuals and not as land belonging to the sovereign. Despite this, Israel has declared at least 41,000 dunam of land where settlement of title was underway as "state land." This policy annuls settlement of title proceedings in places where *prima facie* rights of Palestinians were recognized, and it effectively prevents settlement of title

from being concluded – preventing the Palestinian landowners' rights to title from ever being registered.

Israel's policy of declaring "state land" in areas where settlement of title was halted is based on selective application of the legal mechanisms that regulate the land regime in the West Bank. Israel does so in violation of the principles of international law that apply to it as the occupying power in the West Bank. Such declarations also violate the local law in force in the West Bank and the military order issued by the Israeli Military Commander (Order Concerning Government Property). Above all, Israel's policy infringes upon the right to property of Palestinians who took part in settlement of title and allows it to dispossess Palestinian individuals and communities of their land.

In practice, Israel, which is and has been responsible for the land registry in the West Bank for nearly 54 years, benefits from this policy. Israel does not permit Palestinians who participated in settlement of title to complete the process and register title to their land, but it does declare these very same lands "state land" and transfers them to the exclusive use of the Israeli settlement enterprise in the West Bank.



[Ill-Gotten Gains - Theft of Palestinian land - declaring "state land" where settlement of title was halted when Israel occupied the West Bank](#), March 2021.

C. Freedom of movement

Israel has been controlling the West Bank with a military occupation for almost 54 years. The Israeli military violates Palestinians' right to freedom of movement on a daily basis and as an inherent part of the mechanism of control and occupation. It does so in part using staffed checkpoints, permanent roadblocks and roads effectively permitted exclusively for Jewish use.

The settlements in the West Bank are the source of countless movement restrictions imposed on Palestinians living nearby. As listed below, some of these restrictions are “private initiatives” by local settlers, while others are officially imposed by the authorities on the basis of military orders.

The restrictions, some of which are designed to protect the settlements, while others are meant to aid in the dispossession of Palestinians (or a combination of both), produce a Palestinian travel ban in much of the West Bank.

Below we list the types of restrictions on Palestinian movement in the West Bank. This list contains only the restrictions Yesh Din has studied and investigated as part of its work. We do not refer to measures that severely restrict Palestinian movement but lie outside Yesh Din's expertise, such as staffed and unstaffed checkpoints, roadblocks and barriers the military installed in many places in the West Bank.²⁵

“Private” restrictions on movement

Settlements in the West Bank have produced conditions in which Palestinians are denied access to their lands. This is achieved through the erection of physical barriers and the use of violence against Palestinians, all with the help of the authorities, who do nothing to prevent these illegal acts and even help cement and maintain them.

In Yesh Din's extensive experience, this type of access denial exists to some degree **in areas adjacent to most villages in the West Bank**. Few villages are spared the loss of access to lands located close to nearby settlements.

Official restrictions on movement

Alongside the “private” restrictions on movement imposed through illegal acts by settlers, official, legally backed restrictions on movement are used to prevent or restrict access by Palestinians into vast areas, to the point of creating enclaves within which movement is permitted.

25 For a list of military checkpoints in the West Bank, see [B'Tselem website](#).

The vast majority of these travel restrictions are officially touted as necessary for protecting the safety of Israeli civilians living in settlements or the roads leading to them. Residents of settlements, have, in fact, often been the target of violent, even murderous attacks by Palestinians. Nevertheless, given the fact that the settlements are unlawful and their establishment is prohibited under international law, and given the tremendous, disastrous, impact travel restrictions have on the lives, livelihoods and liberty of millions of Palestinians, the restrictions appear to constitute illegitimate collective punishment that often far exceeds what might be necessary for the protection of settlements.

Below is a non-exhaustive list of official travel restrictions **resulting from the presence of settlements**:

1. Ban on entry into settlement jurisdictions: In 1997, the Military Commander of the West Bank issued a declaration stating that settlement jurisdictions are a closed military zone to Palestinians.²⁶ According to the declaration, which was renewed in 2002, a Palestinian wishing to enter a settlement or transit through one must obtain a personal permit.²⁷ Officially, the declaration applies to the full jurisdiction of each settlement, which, in most cases, includes a much wider area than the built-up part of the settlement.
2. Special Security Area (SSA): The Military Commander declared special security areas around the municipal borders of many settlements. These SSAs run 400 to 1,000 meters across (sometimes more). As a result of these declarations, Palestinians wishing to access this strip of land (which often contains privately owned and cultivated Palestinian farmlands) must obtain a special permit from the military. Such permits are given sparingly, often only during the olive and other harvests. The SSAs are often fenced in, and keys to their gates are kept by the civilian security coordinator of the settlement around which the SSA was declared. SSAs have significantly increased the space affected by settlements, and they severely violate Palestinians' freedom of movement.
3. Closed military zone declarations in flashpoint areas: The military makes extensive use of its power to declare closed military zones in order to prevent conflict between Israeli settlers and Palestinians. While the military is ostensibly seeking to ensure the conflict does not devolve into severe violence, in reality, this practice incentivizes the settlers, as it gives them what they are after - denying Palestinians access to the land. Yesh Din estimates that the total area from which Palestinians are barred access due to military zone declarations amounts to thousands, perhaps tens of thousands of dunams. Importantly, much of this land is privately owned and cultivated by Palestinians, meaning that access denial also has severe financial repercussions.

26 Declaration of Closed Military Zone (Israeli Communities) (Judea and Samaria) 1997.

27 Declaration of Closed Military Zone (Israeli Communities) (Judea and Samaria) 2002.

For more on restricted or denied access to Palestinian farmlands near settlements, see:



[The Road to Dispossession - A Case Study - The Outpost of Adei Ad](#), February 2013.



[Yitzhar – A Case Study: Settler violence as a vehicle for taking over Palestinian land with state and military backing](#), August 2018.

4. The “Seam Zone”: More than 8% of the West Bank is locked in between the separation fence and the Green Line - the 1949 Israel-Jordanian armistice line agreed upon in 1949 (the Rhodes Agreement). The space between the fence and the Green Line, referred to as the Seam Zone, was created as a result of settlement blocs inside it, and the entire area was declared a closed military zone by the Military Commander. The area contains lands belonging to about 100 Palestinian villages. The ban on entry into the area by Palestinians (Palestinians only!) is sweeping, and the military has built an entire bureaucratic apparatus devoted to entry permit applications by Palestinians who have an “interest” in entering the area, such as farmers.
5. Restrictions on movement imposed disproportionately and as collective punishment: Palestinians’ freedom of movement is sometimes violated by way of blocking roads under the pretext of security. Such closures are often disproportionate and serve as a means of collective punishment.



For more information and examples of travel restrictions as a means of collective punishment, see: [Arbitrary Collective Punishment: Infringement of Palestinians’ freedom of movement in the West Bank under the pretext of security](#), January 2020.

D. The right to equality

The disparities in Palestinians' and settlers' living conditions and in the treatment they receive from the authorities in the West Bank preclude any talk of equality with respect to the two groups. One belongs to the dominant population. It enjoys civil rights that give it the opportunity to participate in all processes pertaining to the formulation of norms and policy and the ability to influence these and any other governmental decision. The other is deprived of rights and perceived as an enemy.

In 2020, Yesh Din released a legal analysis of the military regime in the West Bank in light of the above, which concluded the crime against humanity of apartheid is being committed in the West Bank. The perpetrators are Israelis, and the victims are Palestinians.²⁸

Military occupation is, by definition, a belligerent, coercive regime imposed on the occupied population. In the case of the West Bank, the element of domination and oppression inherent in any military occupation is compounded by a concrete group context - the presence of the Israeli settler population. The Israeli citizens of the occupying power enjoy the full range of civil rights and political influence available to citizens of a civilian-parliamentary system, while the Palestinian population has no influence on the design of the substantive norms that apply to them. This civic reality inevitably leads to systemic, institutionalized discrimination between the two groups through practice, policy and even legislation. This has occurred in the case of the West Bank.

Settlements were brought under Israel's modern legislation, using various techniques, and Israeli government ministries were given powers to operate within them as well. In contrast, Palestinians live under a military regime, ruled by oppressive military law, in much lower economic conditions and governance standards. **The settlers' built-in advantage was enshrined in law, policy and practice. Alongside the system that institutionalizes the discrimination of one rightless group by another privileged group, and as a result of it, resources in the area have been consistently and dramatically diverted towards the Israeli population at the expense of the occupied Palestinian population.** This trend can be seen in every area and with respect to every resource, most notably - land. In addition to discrimination in rights and resources, the occupation regime also uses a variety of measures, some of them draconian, to suppress any form of resistance, including when it is non-violent. Military orders limit non-violent protest and prohibit demonstrations, rallies and marches. The military regime relies heavily on administrative detention and criminalization of political associations in order to prevent dissent.

²⁸ Yesh Din chose to focus the legal opinion on the Israeli regime in the West Bank, which fits with our expertise and mandate. A detailed explanation of this decision appears in the opening of Part 2 of the opinion.

The singularity of the crime of apartheid lies, as noted, in the fact that it is designed to preserve a regime of domination and oppression of one group over another. Israel has used the definition of occupation as mere temporary suspension of (Palestinians') sovereignty and civil rights as an alibi when confronted with accusations of apartheid. The international community took the "peace process" as evidence that Israel did, in fact accept that its rule over this territory was temporary, that its final status would be determined in an agreement and that it had no intention of cementing its control over the Palestinians.

Yesh Din's legal analysis concludes that the policies and practices implemented by successive Israeli governments in the West Bank, their acts which have effected far-reaching and long-term changes in the area (some meant to be irreversible) in relation to every aspect of life - land, infrastructure, legislation and demographics - all evince **intent to cement and perpetuate control over the area** and, consequently, over the occupied population. One policy that has had an unparalleled long-term, profound impact is Israel's **settlement project**, which has altered the demographic makeup of the occupied territory. It is a breach of an absolute prohibition in the laws of occupation, and the most telling sign of Israel's intent to perpetuate its control. **The conclusion is that the crime against humanity of apartheid is being committed in the West Bank.**

Continued creeping legal annexation, let alone planned annexation of a particular part of the West Bank through legislation that would apply Israeli law and administration there, is an amalgamation of the regimes. This could strengthen the argument, already made, that the crime of apartheid is not confined to the West Bank; that the Israeli regime, in its entirety, is an apartheid regime.



[The Occupation of the West Bank and the Crime of Apartheid](#) Legal Opinion, June 2020.

The **Civil Administration**, which is the military institution in charge of running civilian life in the oPt on behalf of the Military Commander, is a concrete example of Israel's institutionalized, systemic discrimination. The Civil Administration's vast powers are tangible in most areas of life in the oPt: travel and work permits; infrastructure – water, electricity, transportation and communication; health, education and welfare; land, planning and building; the population registry; agriculture, trade and industry; environmental protection; and archaeology and nature reserves.

Under international law, the Civil Administration is obligated to respect and promote the welfare of the Palestinian residents, subject to Israel's security needs. Despite the obligation to protect the interests of the occupied population, the Civil Administration is effectively

used as a means of oppression and domination over the Palestinians in the West Bank and works to initiate and advance processes that would shape the West Bank according to the interests of the Government of Israel, which far exceed security needs.

Israeli interests in the administration of the West Bank are different, and frequently contrary, to the interests of the Palestinian residents, and the Civil Administration is the agency that translates these interests into everyday life. As the agency that makes and executes decisions, it has control over Palestinians' travel and work opportunities, over construction and development of infrastructure, health, education and welfare, to name a few. The Civil Administration uses this control arbitrarily, relying on bureaucratic justifications, or wielding it in a "carrot and stick" fashion - as a means of oppression and domination over the Palestinians.

The Civil Administration also functions as an executive arm and a political tool serving Israel's ambitions in the oPt - pushing the settlement project forward and dispossessing Palestinians of their land. One of the practices that serves this goal is the institutionalization of ethno-national segregation, privileging the settlers and discriminating against and exploiting the Palestinians. **The Civil Administration and Israeli settlers share an affinity on many issues** and work closely together, exchanging ideas and collaborating on planning and implementation. In practical terms, the military simply coordinates the work of the civilian delegates and, only in rare cases, if at all, does it question government-level decisions.

The Civil Administration, established to serve "the welfare and benefit of the population" and "for the purpose of operating and providing public services,"²⁹ betrays its professed role. Instead of ensuring public order and safety in a temporary trusteeship, as required by international law, the Civil Administration uses administrative tools to effect long-term, irreversible changes in the oPt and to impose restrictions and bans on the protected persons, in a severe, systemic and widespread abuse of the human rights of Palestinians in the West Bank.



For more information and examples, see: ["Through the Lens of Israel's Interests": The Civil Administration in the West Bank](#), January 2018.

29 Order regarding the Establishment of the Civil Administration (Judea and Samaria Area) (No. 947) 1981.

E. The collective right to control over natural resources

According to international human rights law, a people has sovereignty over natural resources in its territory – in other words – a people's right to shape its future, economy and employment prospects is an enshrined fundamental right. International law requires a foreign power holding a territory as a trustee to respect this right and help fulfill it.

Yesh Din holds the position that the Palestinian people has a collective right over natural resources in the West Bank. This position, largely undisputed among experts on international law,³⁰ was presented in a petition Yesh Din brought before Israel's Supreme Court in 2009. The petition challenged the legality of granting quarrying licenses to Israeli companies and settlements, which then transport quarrying products out of the occupied territory and into Israel.³¹ The petition was filed after Yesh Din found out ten Israeli-owned quarries, two of them owned by settlements, operate in the West Bank and that close to 76% of the quarrying materials are transported out of the West Bank and into Israel (mostly gravel and other minerals used in construction). The petition demanded the court order Israel to stop mining and quarrying activity by Israeli-owned quarries in the West Bank. Yesh Din argued that Israel's policy constitutes cruel exploitation of occupied land for the exclusive use of the occupying power, in a brazen breach of international legal principles.

In December 2011, the Court rejected the petition,³² thereby legitimizing a colonial exploitation of natural resources on occupied land. As a result, Israeli quarrying in the West Bank has grown exponentially. According to data acquired by Yesh Din, in 2008 (one year before submitting the petition) 12 million tons of gravel were mined in Area C of the West Bank; within seven years, this amount rose by 40%, and in 2015 reached 17 million tons of stolen gravel a year. Over 20% of the State of Israel's general consumption comes from the quarries owned by Israel in the occupied territories.

Israel has an explicit and direct economic interest in increasing the number of quarries in the West Bank, as it makes a profit off royalties and licensing fees. Between 2009 and 2015, the Civil Administration received royalties worth over 285 million ILS from quarries in Area C of the West Bank.

30 See also a detailed report about the issue by the UN Secretary-General: "Implications, under international law, of the United Nations resolutions on permanent sovereignty over natural resources, on the occupied Palestinian and other Arab territories and on the obligations of Israel concerning its conduct in these territories," paragraph 51, A/38/265, E/1983/85, June 1983. Available [here](#).

31 HCJ 2164/09 **Yesh Din - Volunteers for Human Rights v. Commander of IDF Forces in the West Bank et al.**, Petition for Order Nisi and Interim Order, March 2009.

32 HCJ 2164/09 **Yesh Din - Volunteers for Human Rights v. Commander of IDF Forces in the West Bank et al.**, judgment, December 26, 2011.

Official state documents indicate that the Israeli authorities have a long-term plan to rely on the mining potential in the West Bank for at least the next 30 years. This strategic planning reveals the state's intentions to continue to exploit the military occupation for its economic interests, while depleting the natural resources in the occupied territories and irreversibly damaging the Palestinians' ability to utilize these natural resources.



[The Great Drain - Israeli quarries in the West Bank: High Court sanctioned institutionalized theft](#), September 2019.



An Israeli quarry in the West Bank. Photo: Yesh Din

In addition to natural resources, the West Bank is rich in antiquities – a reminder of the long and varied history of the region. International law requires the occupying power to protect and preserve archaeological sites and findings, yet to a limited extent and only inasmuch as this is needed to rescue endangered antiquities. The work must be carried

out in coordination with, and for the benefit of, the protected population in the occupied territory and making lasting changes is forbidden.

An analysis of Israel's archaeological policy in the West Bank reveals that it interprets these responsibilities in a broad manner, in breach of international law. Since 1967, Israel has endeavored to appropriate the archaeological assets of the West Bank, based on the view that the Jewish heritage of places and antiquities testifies to a bond between the antiquities and the state of Israel, and constitutes a justification for deepening its control over ancient sites. This perception underlies every aspect of Israel's archaeological practices in the West Bank.

Israel uses archaeology as a way of proving its historical, religious and cultural affinity to the West Bank, which it then uses to justify its continued policy of landgrab, occupation and control.

Israel's control of archaeological sites enables the physical exclusion of Palestinians from sites and antiquities through various means, ultimately weakening their connection to their heritage. This control also allows Israel to shape the historical narrative of the sites by highlighting and glorifying their significance for the Jewish people while downplaying the role of other peoples and cultures who also had a part in the history of the region.

Israel is violating its role as a trustee of cultural assets assigned to it for temporary safekeeping. Its policies and actions are antagonistic to the interests of the Palestinians living in the West Bank, violating their cultural and political rights and breaching international law.



[Appropriating the Past Israel's Archaeological Practices in the West Bank](#),
December 2017 (joint report by Yesh Din and Emek Shaveh).

Conclusion

As noted in the introduction, Israeli settlements in the West Bank are a source of **multi-dimensional** abuse of Palestinians' fundamental rights.

As demonstrated, Yesh Din's experience and research clearly indicate that the policies of the Government of Israel (by act or omission), as well as the policies practiced by the authorities and agencies operating in the West Bank, primarily the military, the police and the Civil Administration, severely violate Palestinians' rights to life, liberty, security of person, property, freedom of movement, and equality, as well as the Palestinians' collective right to their natural resources. These are only a small share of the rights violated as a result of the settlements.

The decision to allow residents of the oPt to bring cases before Israel's Supreme Court was made very shortly after the occupation of the West Bank and Gaza Strip in 1967. While the Supreme Court has had some restraining effect on the actions of the Israeli authorities, as a rule, its jurisprudence over the years has helped further entrench and cement Israel's occupation of the West Bank as a whole, and the settlement enterprise in particular.

The outcomes of the varied legal proceedings in which Yesh Din has represented West Bank residents before the High Court of Justice indicate that although Palestinian petitioners are sometimes granted remedies and protection from specific harm caused by Israeli authorities, in the vast majority of cases, the High Court chooses not to intervene and disqualify a practice or policy in a manner that ensures the decision creates material change or that the remedy is in fact sustainable. The most prominent example of this is the many petitions in which Yesh Din represented Palestinian landowners on whose lands illegal structures, neighborhoods and outposts have been built. In many of these cases, the structures were removed from Palestinians' private property. However, the justices stopped short of ordering the evacuation of an outpost built illegally (with a handful of exceptions in which all of the structures in the outpost or neighborhood had been built on privately owned land). Justices have accepted arrangements proposed by the state to remove structures from privately-owned Palestinian land to state land located a very short distance away. These judicial decisions not only fail to protect the rule of law in the broader sense and to eradicate the policy that enables the construction of outposts, but they also ignore the reality on the ground, which is that Palestinian access to privately owned land located in an area overtaken by an unauthorized outpost is practically non-existent. In other words, such decisions do not truly protect Palestinians' property rights in its substantive sense - meaning their ability to exercise their rights in their property in reality rather than just on paper.

Not only has the High Court of Justice avoided ruling on the legality of Israel's settlement policy, it has enabled this enterprise to take root and expand, lending legitimacy to a

practice whose essence is landgrab and dispossession of Palestinian residents of the West Bank. Given the Supreme Court's reluctance to rule on the fundamental question of the settlements' legality, judicial intervention in settlement matters has given Israeli policies and practices a veneer of legality and lack of arbitrariness, even when they clearly defy and sometimes subvert the norms of international law.

In practice - Israeli settlements in the West Bank produce all the severe violations of protected persons' rights meant to be averted by the prohibition on transferring the population of the occupying power into occupied territory that is written into international law. These include the massive, systemic and continual abuse of the fundamental rights of the occupied; the creation of a system of laws, policies and practices that cements the supremacy of settlers and subjugation of Palestinians; the exclusion of the occupied from nearly all natural resources in the territory, and, as a result, the denial of the right to self-determination - a cornerstone of modern, post-colonial international law.

The Military Commander, charged under international law, with ensuring the interest of the occupied population, approves almost every Israeli practice regarding control of the West Bank, including the settlements.³³

Experts on international law agree that the settlements are unlawful and that international humanitarian law and the laws of occupation prohibit their establishment. There is no justification, nor can there be a justification for the all-encompassing violation of fundamental rights described above.

33 Order regarding Administration of Local Councils (Judea and Samaria) (Order No. 783) - 1979; Order regarding Administration of Local Councils (Judea and Samaria) (Order No. 892) - 1981.