

Top Israeli Human Rights Lawyer: Annexation Or No, Crime Of Apartheid Is Being Committed Against Palestinians In West Bank

Groundbreaking Legal Opinion Finds Crime Against Humanity Of Apartheid In Current Regime In West Bank; Calls On Israeli Government To End Apartheid Immediately

Tel Aviv: In a new legal opinion, leading Israeli human rights lawyer Michael Sfard, writing on behalf of Israeli human rights organization Yesh Din, finds that the crime against humanity of apartheid is being committed against Palestinians in the West Bank, even without any new steps toward annexation. The groundbreaking opinion finds that the Israeli military regime in the West Bank as it stands today is intended to preserve the supremacy of one population group over another, and that this constitutes a crime against humanity which, under international criminal law, is classified as apartheid.

Full text of the opinion in English can be found [here](#).

An executive summary can be found [here](#).

Yesh Din is calling on the State of Israel to end apartheid immediately. The organization is asking all people in Israel and around the world to demand that their elected leaders act swiftly to end apartheid and occupation in order to leave future generations of Palestinians and Israelis a future of freedom and equality.

"The conclusion to which I arrived is difficult for me personally as an Israeli and as a Jew," said Sfard, "but my obligation as a human rights activist, as a jurist, as a citizen of the State of Israel, and as a person of conscience is to speak the truth as I understand it, even when it is painful. To the people of Israel and the world there is no choice but to recognize reality: the crime against humanity of apartheid is being committed in the West Bank. Those committing the crime are Israelis and those victimized are Palestinians. Should the Israeli government move forward with its plans to annex land in the West Bank, it would further strengthen the argument that Israel in its entirety is an apartheid state."

Lior Amihai, executive director of Yesh Din, said: "Apartheid is a crime against humanity, and it is a reality today, but we have the power and the responsibility to end it. We call on all people who wish to leave a better future for the coming generations of Palestinians and Israelis to demand that our decision makers act now to end apartheid and occupation. All Israeli and Palestinian children deserve a future of freedom and equality, free from apartheid."

The crime of apartheid has a clear definition under international conventions and international law to which all countries, including the State of Israel, are obligated to abide. It does not require a direct analogue to the historic South African apartheid regime. Rather, it is defined as "inhuman acts committed in the context of a regime of systematic oppression and domination by one racial group over any other racial group or groups with the intention of maintaining that regime." According to international law, racial discrimination includes social and identity classifications of groups of people. The legal opinion examines the current situation in the West Bank according to this definition.

The analysis examines three elements of the crime of apartheid as defined by international law and finds that the current regime in the West Bank meets all three:

- **Systematic oppression of one group and privileging of the other** – this is evidenced by the dual legal system that is a core part of the occupation regime. An Israeli that lives in the West

Bank enjoys Israeli citizenship rights and is mostly subject to Israeli civil law, whereas a Palestinian in the exact same territory does not have civil rights and is subject to the Israeli military regime and military law.

- **Intent to maintain a regime of domination** – the legal opinion finds that the State of Israel's systematic application of policies in the West Bank over 53 years can no longer be considered "temporary" or intended to be temporary, but rather constitute an intention to maintain Israeli control over the territory, and thus its inhabitants, permanently. Further moves to illegally annex land in the West Bank would serve to highlight this point, deepening apartheid and strengthening the claim that Israel is an apartheid state.
- **Inhumane (or "inhuman") acts, including "persecution" and "denial of rights"** – the author determines several policies and practices applied to Palestinians and constitute inhumane acts, including: denial of civil rights; dual legal system; denial of development; separation policy between Israelis and Palestinians; land expropriation and dispossession; and persecution of regime opponents, including forcible population transfer from the West Bank to Gaza and within the West Bank.

Sfard and Yesh Din decided to limit the scope of the legal opinion to the West Bank because of the organization's expertise built over fifteen years of intensive legal work, research, and meticulous documentation of violations of human rights by the Israeli State and military in the occupied territories, and because of the distinct nature of the military regime in the West Bank. In the opinion, Sfard notes that this purposefully restrictive analysis and narrow scope represent one important element in a larger examination of the crime of apartheid by human rights experts, and that while other analyses may examine how apartheid applies to all of Israel, Sfard and Yesh Din did not conduct such an analysis. Continued creeping legal annexation, as well as annexation of any part of the West Bank through legislation that would apply Israeli law and administration there, would strengthen the argument that Israel in its entirety is an apartheid state.

Bios and About:

Yesh Din is a human rights organization that documents, collects and disseminates reliable and updated information regarding systematic human rights violations in the 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 to protect the Palestinians and their rights, and raise public awareness to 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 restricting Palestinians' access to their land.

Michael Sfard, author of the legal opinion, is a leading Israeli attorney specializing in international humanitarian law and international human rights law. He has served as the legal advisor for Yesh Din since the organization was founded in 2005. Sfard received his LLB from the Hebrew University of Jerusalem and his LLM in international human rights law from University College, London. He interned with Attorney Avigdor Feldman. Sfard has litigated scores of high court petitions on behalf of human rights organizations, peace groups Israeli and Palestinian activists. Among others he litigated the petition challenging the legality of the policy of targeted assassinations, several petitions against the separation barrier, and handled dozens of proceedings aimed at evacuating unauthorized Israeli outposts, including Migron, Amona, the Ulpana neighborhood in Beit El and Derech Ha'avot. Sfard has published

several books, the most recent of which is 'The Wall and the Gate: Israel, Palestine, and the Legal Battle for Human Rights' (Macmillan - Metropolitan Books 2018), which chronicles 50 years of human rights litigation in the context of the Israeli occupation since 1967.

Lior Amihai is the Executive Director of Yesh Din. Before joining Yesh Din, Lior jointly headed Peace Now's Settlement Watch project, responsible for exposing and analysing the expansion of Israeli settlements in the West Bank. Lior obtained his master's degree in human rights as a Chevening scholar from University College in London, and his B.Sc. from the City University of London, as a participant in the Olive Tree Scholarship Program for Palestinian and Israeli scholars

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