

## THE BUSINESS OF COLONIZATION

### BACKGROUND BRIEF

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*Settlements are usually thought of as residential communities that Israel has established within the Occupied Palestinian Territory (OPT) to accommodate parts of its civilian population.*

*What is often overlooked, however, is the business side of Israel's settlement enterprise, that is, the factories, farms, service providers and other commercial enterprises operating in the settlements, as well as the developers involved in their construction. These business entities are an integral part of the Israeli settlement enterprise, benefiting from land and other resources illegally confiscated from Palestinians, and sustaining the expansion of the settlements and settlement-related infrastructure and the growth of the settler population.*

*Regrettably, Israelis are not the only ones who are involved in the business of colonization. Foreign businesses also operate in the settlements or are involved in their construction. Foreign entities also import, distribute and sell goods and services produced by settlement businesses.*

*Foreign companies should not be allowed to continue with these kinds of business activities, as they profit from, and allow Israel's economy to benefit from, Israel's settlement project and the exploitation of Palestinian resources. They also contribute to Israel's illegal settlement project itself. For their part, third states can take measures to ensure that neither they nor their nationals contribute to Israel's settlement activity.*

#### I. NATURE OF THE BUSINESS

Like the rest of the Israeli economy, settlement businesses span many sectors, including construction, manufacturing, agriculture and tourism. Regrettably, many foreign companies and/or their Israeli subsidiaries operate within the settlements, from telecommunications, to building material suppliers, to food and video retailers.<sup>1</sup>

Many are even involved in the development and construction of settlements, settlement-related infrastructure and the Wall. The most well-known example is that of two French companies that are involved in the construction of a light rail that will connect settlements in Palestinian East Jerusalem with West Jerusalem.

Moreover, goods and services that are manufactured, grown or provided by settlement businesses often make their way to foreign markets. While there are no publicly known figures for the total annual value of settlement exports, estimates put the annual value of settlement goods imported by the European Union at around US \$200 million<sup>2</sup> or €100 million<sup>3</sup>. Exports to the EU have accounted for roughly 30 to 40 per cent of total Israeli exports in recent years, and for 75 per cent of total Israeli agricultural exports.<sup>4</sup>

*Construction.* Israeli colonization of the OPT has meant good business for the Israeli construction industry. Over the past ten years, the population growth rate of Israeli settlements in the OPT has been three times greater than that of population centres in Israel.<sup>5</sup> Still, land development and settlement construction in the OPT has outpaced settler population growth. For example, and despite Israel's renewed Road Map commitment to freeze settlement construction, construction is currently ongoing in at least 101 settlements (not including those in East Jerusalem).<sup>6</sup> Construction of 1,390 housing units in the OPT (not including East Jerusalem) began in 2007, while 1,539 units were completed in that time. Some 2,521 units were under active construction by the end of the year.<sup>7</sup> In the same period, Israeli authorities published 885 tenders, in addition to hundreds of units initiated by the private sector.

*Manufacturing.* While most land in the settlements is dedicated to residential use, a significant amount is allocated for commercial and industrial purposes. By way of example, 6.6 per cent of the land in 16 large settlements<sup>8</sup> is allocated for commercial purposes.<sup>9</sup> There are three major industrial settlements – Atarot, Barqan and Ariel – as well as several smaller industrial zones.<sup>10</sup> Settlement businesses produce a wide variety of goods: chemicals, plastics, wine, nylon bags, furniture, carpets, camping equipment, door locks, health products, cosmetics, paper goods, leather, aluminium, electronics, cement, computers and more.<sup>11</sup>

*Agriculture.* Agriculture also thrives in the settlements. Some 34 per cent of the land in 16 large settlements is allocated for agriculture.<sup>12</sup> In particular, settlements in the Jordan Valley depend mainly on agriculture.<sup>13</sup> The outline plans of many of them define most of their areas as agricultural land, and large areas of land farmed by the settlers often extend beyond the municipal boundaries of any settlement.<sup>14</sup> Consequently, the water consumption of the population of the Jordan Valley (approximately 9,600) settlements is roughly equivalent to 75 per cent of the water consumption of the entire Palestinian population of the West Bank (approximately 2.3 million) for domestic and urban uses.<sup>15</sup>

*Tourism.* In recent years, the Israeli government has invested millions of dollars in developing archaeological heritage sites, which form a part of Palestinians' national patrimony, and other tourist projects in the settlements and throughout the West Bank. Examples include the Herodian near Bethlehem, the Al-Ibrahimi Mosque in Hebron, and of course, the Old City of Jerusalem. In many cases, only Israeli, and not Palestinian, tour operators, can access these sites. Furthermore, the Israeli government and Israeli tour operators market Israel and the OPT as a single tourist destination.

## **II. IMPACTS OF THE BUSINESS**

Businesses contribute to Israel's settlement project in numerous ways.

Settlement businesses profit from the exploitation of Palestinian resources. Factories, farms and service providers all require a physical space for their operations and, therefore, sit atop and/or use land that has been illegally confiscated from Palestinians and that otherwise could have been productively utilized for Palestinian agriculture, industry, urban development or other economic activities. Agricultural entities, in particular, demand relatively large tracts of land and are a drain on Palestinian water resources. At the same time, many settlement industrial entities, which are not held to the same environmental standards as those in Israel, directly pollute Palestinian land, water and air.

Settlement businesses also help promote Israeli settlement expansion. Settlement businesses both depend upon and encourage the development of basic infrastructure, such as roads for distribution and water, electricity, telecommunications and sewage infrastructure for production. In addition, they encourage Israeli migration into settlements by providing employment opportunities and services to settlers and by otherwise contributing to the economic sustainability of the settlements.

Of course, some businesses contribute even more directly to settlement expansion. Land developers and construction companies are intimately and organically involved in Israeli settlement activity, actualizing Israeli government settlement plans and tenders into concrete realities that permanently alter the character of Palestinian land and deny Palestinians control, use and access to that land, and that change the demographics of the OPT.

Companies in other countries also import, distribute and sell settlement goods, enriching the settlement businesses that produce and grow the products, which encourages these businesses' growth, as well as benefiting Israel's economy as a whole. In some cases, settlement exports get

preferential tax treatment under trade agreements between Israel and the importing country, which means that public funds from those countries benefit settlement products.

### III. LEGAL IMPLICATIONS OF THE BUSINESS

Regrettably, settlement businesses operating in the OPT act in a manner that is contrary to international law.<sup>16</sup>

*A part of settlement activity.* Settlements are outlawed by Article 49(6) of the *Fourth Geneva Convention*, which prohibits Israel, an occupying power, from transferring its civilian population to the OPT.<sup>17</sup> To similar effect, Article 8(b)(viii) of the *Rome Statute of the International Criminal Court of 1998* defines “the transfer directly or indirectly by the Occupying Power of parts of its own civilian population into the territory it occupies” as a War Crime.<sup>18</sup>

Part of the reason for prohibiting the transfer of settlers is to safeguard the occupied population’s right of self-determination. Settlements interfere with an occupied people’s ability to freely pursue its political, economic and social development. According to Pictet’s commentary on the *Fourth Geneva Convention*, the prohibition on the establishment of settlements is “intended to prevent a practice adopted during the Second World War by certain Powers, which transferred portions of their own population to occupied territory for political and racial reasons or in order, as they claimed, to colonize those territories.”<sup>19</sup>

*Exploiting Palestinian resources.* An occupying power does not gain sovereignty or title over occupied territory. Article 55 of the *Hague Regulations* only permits an occupying power to administer and use state land in a manner that preserves the capital.<sup>20</sup> Article 46 requires an occupying power to respect private land and to not confiscate it. Article 49 of the *Hague Regulations* further provides that the occupying power can only use the resources in the occupied territory “for the needs of the army or for the administration of the territory in question.” Seizures or uses of property meant to serve the broader interests of the occupying power or its inhabitants are not permitted.<sup>21</sup>

This is consistent with principles of international law that all states and peoples, including those under occupation, enjoy permanent sovereignty over their natural resources.<sup>22</sup> Indeed, part of the rationale for prohibiting the transfer of an occupant’s civilian population is that “such transfers worsened the economic situation of the native population.”<sup>23</sup> In fact, the United Nations General Assembly (UNGA) has reaffirmed in a number of resolutions the application of this rule to Israeli-occupied territories.<sup>24</sup>

### IV. LEGAL AND POLICY IMPLICATIONS FOR THIRD STATES

Some of the international obligations that Israel has violated during its occupation of Palestinian territory fall within a special category of obligations called *peremptory norms of international law*. They include the obligation to respect the Palestinian people’s right of self-determination<sup>25</sup> and certain obligations under international humanitarian law.<sup>26</sup> As “[a]ll States [are] held to have a legal interest in their protection” in light of the importance of the rights protected by those obligations,<sup>27</sup> such obligations impose separate obligations on third states:

- *a duty of non-recognition* – Third states must not recognize as lawful a situation created by a gross or systematic failure of another state to fulfill one of these obligations.<sup>28</sup> The duty extends not only to the formal recognition of these situations, but also to acts which would imply such recognition.<sup>29</sup>
- *a duty of non-assistance* – Third states must not render aid or assistance in maintaining a situation created by a gross or systematic failure of another state to fulfill one of these obligations.<sup>30</sup>

- *a duty to respect and promote the right of self-determination* – Third states must “see to it that any impediment, resulting from the construction of the wall, to the exercise by the Palestinian people of its right to self-determination is brought to an end.”<sup>31</sup> It follows that this obligation extends to other impediments to the exercise of the right, including settlements, settler bypass roads and movement restrictions.

In addition, all the state parties to the *Fourth Geneva Convention*, whether or not they are a party to a specific conflict, are under an obligation to “ensure respect” for the Convention.<sup>32</sup>

All of these duties were said by the International Court of Justice (ICJ) to apply to third states in the context of the Wall that Israel is constructing on Palestinian territory.<sup>33</sup> State practice provides guidance as to what these obligations may entail.

*Occupied Palestinian Territory.* A number of UNGA resolutions that relate specifically to Palestinians’ and Arab states’ sovereignty over their natural resources, reference these duties.<sup>34</sup> For example, UNGA Res. 32/161 (19 December 1977),<sup>35</sup>

calls upon all States, international institutions, investment corporations and all other institutions not to recognize, or co-operate with or assist in any manner in, any measures undertaken by Israel to exploit the resources of the occupied territories or to effect any changes in the demographic composition or geographic character or institutional structure of those territories.

*Namibia.* In its Advisory Opinion on the *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276 (1970)*, the ICJ held that states are under an obligation, *inter alia*, to abstain from: entering into treaty relations with South Africa in all cases in which its government purports to act on behalf of or concerning Namibia; invoking or applying existing bilateral treaties concluded by South Africa on behalf of or concerning Namibia which involve active intergovernmental co-operation; and entering into economic and other forms of relationships or dealings with South Africa on behalf of or concerning Namibia which may entrench its authority over the Territory.<sup>36</sup>

Following this decision, the UN Security Council reaffirmed<sup>37</sup> the provisions of Res. 283,<sup>38</sup> calling upon all states to ensure that companies and other commercial and industrial enterprises owned by, or under direct control of, the state cease all dealings with respect to commercial or industrial enterprises or concessions in Namibia, and cease all further investment activities, including concessions in Namibia. As well, the Security Council called upon all states to withhold from their nationals or companies registered in their jurisdictions, not under direct governmental control, government loans, credit guarantees and other forms of financial support that would be used to facilitate trade or commerce with Namibia; and to discourage their nationals and companies from investing or obtaining concessions in Namibia, and to this end to withhold protection of such investment against claims of a future lawful government of Namibia.

To similar effect, the UNGA called upon governments to take legislative, administrative or other measures with respect to their nationals and the bodies corporate under their jurisdiction that own and operate enterprises in colonial territories that are detrimental to the interests of the inhabitants of those territories in order to put an end to such enterprises and to prevent new investments that run counter to the interests of the inhabitants of those territories.<sup>39</sup>

*Cyprus.* In response to the Turkish invasion of Cyprus which purported to establish the Turkish Republic of Northern Cyprus (TRNC), the UN Security Council called upon states not to recognize this government. Subsequently, the European Court of Justice held that the member states were precluded from accepting certificates of origin for agricultural products issued by the TRNC, as the cooperation which is necessary under the agreement cannot be established with authorities not recognized by the European Community or the member states.<sup>40</sup>

Many states have also issued advisories to their nationals about the legal and financial risks of purchasing and leasing properties in occupied northern Cyprus, many of which have been illegally confiscated from their lawful Greek owners.

### III. CONCLUSION

For Israel to respect its obligations under international law, third states must respect theirs. To act in a manner consistent with their obligations under international law, third states are urged to take concrete measures to ensure that neither they nor their nationals contribute to the business of colonization in the OPT.

It is incumbent upon third states to ensure that companies and other commercial and industrial enterprises owned by, or under the control of, the state cease all dealings and investments with respect to commercial or industrial enterprises in Israeli settlements.

Third states should also adopt legislative, administrative or other measures to prevent (or at least create disincentives for) their nationals and companies from constructing, operating or investing in settlements, or from otherwise contributing to Israeli settlement activity. For example, states should divest from such companies if they have holdings in them. Another such measure might be to withhold government loans, credit guarantees and other forms of financial support that would be used to facilitate trade or commerce in settlements or with settlement enterprises. Another would be to withhold protection of any such dealings or investments against claims of a future lawful government of Palestine. Another possible measure would be for states to issue an advisory to their nationals about the legal and financial risks associated with purchasing or leasing property from Israeli entities or settlements located within the OPT, including East Jerusalem.

States should also consider altogether prohibiting the import of settlement products. At a minimum, settlement products should be explicitly and specifically excluded from the application of any trade agreements between Israel and third states. Furthermore, states should require settlement products to be clearly labeled as such so that consumers can make informed decisions about their purchases.

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<sup>1</sup> For examples, see online: Who Profits? Exposing the Israeli Occupation Industry <<http://www.whoprofits.org/index.php>>; War on Want, *Profiting from the Occupation*, online: War on Want <<http://www.waronwant.org/Latest20Research20for20Download+8247.twl>>; and Interfaith Peace Initiative, *Companies that Profit from the Israeli Occupation of Palestinian Land*, online: Interfaith Peace Initiative <<http://www.interfaithpeaceinitiative.com/ProfitingFromOccupation.htm>>. See also fn 11.

<sup>2</sup> "EU Holds Fire on 'Made in Israel' row" *BBC News* (21 October 2002), online: BBC News <<http://news.bbc.co.uk/2/hi/business/2340695.stm>>.

<sup>3</sup> Guy Harpaz, "The Dispute over the Treatment of Products Exported to the European Union from the Golan Heights, East Jerusalem, the West Bank and the Gaza Strip - The Limits of Power and the Limits of the Law", online: <<http://www.moit.gov.il/NR/rdonlyres/5AAB9FA5-E9D0-4552-B2F4-074BFE71EA97/0/harpazherem.pdf>>.

<sup>4</sup> Online: Israeli Central Bureau of Statistics

<[http://www1.cbs.gov.il/reader/newhodaot/hodaa\\_template.html?hodaa=200716192](http://www1.cbs.gov.il/reader/newhodaot/hodaa_template.html?hodaa=200716192)>.

<sup>5</sup> Based on population figures from the Israeli Central Bureau of Statistics, online: <<http://www.cbs.gov.il>>.

<sup>6</sup> Peace Now, "Death of the Settlement Freeze – 4 Months After Annapolis" (March 2008), online: Peace Now <<http://www.peacenow.org.il/site/en/peace.asp?pi=61&docid=3186&pos=1>>.

<sup>7</sup> Online: Israeli Central Bureau of Statistics <[http://www.cbs.gov.il/yarhon/o4\\_e.htm](http://www.cbs.gov.il/yarhon/o4_e.htm)>.

<sup>8</sup> They are: Alfe Menashe, Ariel, Bet El, Bet Arye, Betar Illit, Efrata, Elqana, Givat Ze'ev, Har Adar, Immanu'el, Ma'ale Adumim, Ma'ale Efrayim, Oranit, Qarne Shomron, Qedumim and Kiryat Arba (Internal legal study (on file with author) [*Legal study*]).

<sup>9</sup> *Ibid.*

<sup>10</sup> They include: Shahak near Rehan, Baron near Qedumim; Ma'ale Efrayim Industrial Park; Immanu'el Industrial Park; Emek Shilo near Shilo; Sha'ar Binyamin between Pesagot and Ofra; Mishor Adumim Industrial Park; Gush

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Ezyon Industrial Park near Efrat; Qiryat Arba Industrial Park; and Shim'a Industrial Park in the south of the Hebron Mountains (Yehezkel Lein, *Land Grab: Israel's Settlement Policy in the West Bank* (Jerusalem: B'Tselem, May 2002) at 75).

<sup>11</sup> See, for example, Gush Shalom, online: Gush Shalom <<http://www.gush-shalom.org/Boycott/boyceng.htm>>; and Foundation for Middle East Peace, online: Foundation for Middle East Peace <[http://asp.fmep.org/app/indl\\_zones/ShowIndl\\_zonesTablePage.aspx](http://asp.fmep.org/app/indl_zones/ShowIndl_zonesTablePage.aspx)>.

<sup>12</sup> *Legal study*, *supra* note 8.

<sup>13</sup> Lein, *supra* note 10 at 94.

<sup>14</sup> *Ibid.* at 94.

<sup>15</sup> *Ibid.* at 95.

<sup>16</sup> Since 1967, Gaza and the West Bank have been occupied by Israel. Consequently, Israel's relationship with the territory it occupies and with the inhabitants thereof are governed by international humanitarian law embodied, in the main, in the *Hague Convention on the Laws and Customs of War on Land* and its attached Regulations of 1907, 18 October 1907, U.K.T.S. 9 (1910), Cd. 5030 [*Hague Regulations*], and in the *Fourth Geneva Convention Relative to Civilian Persons in Time of War of 1949*, 12 August 1949, 75 U.N.T.S. (1950) 287 [*Fourth Geneva Convention*]. Other species of international law are also applicable.

<sup>17</sup> *Ibid.*

<sup>18</sup> 17 July 1998, 2187 U.N.T.S. 3, online: Rome Statute of the International Criminal Court <<http://untreaty.un.org/cod/icc/statute/rome.htm>>.

<sup>19</sup> Jean Pictet, ed., *Commentary IV Geneva Convention Relative to the Protection of Civilian Persons in Time of War* (Geneva: International Committee of the Red Cross, 1958) at 283.

<sup>20</sup> *Supra*, note 16; David Kretzmer, *Occupation of Justice* (Albany: State University of New York Press, 2002) at 77 (“Establishment of a settlement, which changes the nature of the land use, is inconsistent with the notion of usufruct.”); Georg Schwarzenberger, *International Law as Applied by International Courts and Tribunals, Volume II: The Law of Armed Conflict* (London: Stevens and Sons, 1968) at 248 (“the occupant may not sell or destroy such property or alter its character, but must administer it in accordance with the rules of usufruct, that is, act like a *bonus paterfamilias* and limit its exploitation to the enjoyment of its natural and legal fruits”), citing W.W. Buckland and Lord McNair (ed. by Lawson, 1965), *Roman Law and Common Law* at 129; and Robert Jennings & Arthur Watts, eds., *Oppenheim's International Law*, 9<sup>th</sup> ed., Vol. 1 (London: Longman, 1996) at 397-8.

<sup>21</sup> The principle that the occupant's use of what is produced from state-owned immoveable property is limited to meeting the expenses of the occupation has been confirmed by several court decisions after World War I and the decisions of the International Military Tribunal at Nuremberg. See, e.g., *Ralli Brothers v. German Government* (1923), [1923-24] 4 Tribunaux Arbitraux Mixtes 41 at 44, Ann Dig. (1923); *CIE des chemins des fer du Nord v. German State* (1929), [1929-30] 4 Tribunaux Arbitraux Mixtes 67, Ann Dig. (1929) 498; and *In re Flick*, 14 Ann. Dig. 266. See also *N.V. DeBataafsche Petroleum Maatschappij v. The War Damage Commission* (1957), 23 I.L.R. 810 at 821-22.

<sup>22</sup> *International Covenant on Economic, Social, and Cultural Rights*, 16 December 1966, 993 U.N.T.S. 3, common Art. 1(2); *International Covenant on Civil and Political Rights*, 16 December 1966, 999 U.N.T.S. 171, common Art. 1(2); UNGA Res. 1803 (XVII) (adopted 14 December 1962); UNGA Res. 3201 (S-VI) (adopted 1 May 1974) (“Declaration on the Establishment of a New International Economic Order”); UNGA Res. 3281 (XXIX) (adopted 12 December 1974) (“Charter of Economic Rights and Duties of States”); and Antonio Cassese, “Powers and Duties of an Occupant in Relation to Land and Natural Resources” in Emma Playfair, ed., *International Law and the Administration of Occupied Territories* (Oxford: Clarendon Press, 1992) 419 at 426.

<sup>23</sup> Pictet, *supra* note 19 at 283.

<sup>24</sup> UNGA Res. 3005 (XXVII) (adopted 15 December 1972); UNGA Res. 3175 (XXVIII) (adopted 17 December 1973); UNGA Res. 3336 (XXIX) (adopted 17 December 1974); UNGA Res. 31/186 (adopted 21 December 1976); UNGA Res. 32/161 (adopted 19 December 1977); UNGA Res. 34/136 (adopted 14 December 1979); UNGA Res. 35/110 (adopted 5 December 1980); UNGA Res. 36/173 (adopted 17 December 1981); UNGA Res. 37/135 (adopted 17 December 1982); and UNGA Res. 38/144 (adopted 19 December 1983). The voting records on the resolutions in the years 1979-83 remained virtually the same, with at least 80 per cent of member states voting in favour, Israel and the United States persistently voting against and nearly all other Western states abstaining (Nico Schrijver, *Sovereignty over Natural Resources: Balancing Rights and Duties* (Cambridge: Cambridge University Press, 1997) at 154).

<sup>25</sup> International Law Commission, *Draft Articles on Responsibility of States for Internationally Wrongful Acts with commentaries* (2001) at 284 [*ILC Draft Articles*]; and *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion (9 July 2004), para. 156 (I.C.J.) [*Wall Advisory Opinion*].

<sup>26</sup> *ILC Draft Articles*, *ibid.* at 284; and *Wall Advisory Opinion*, *ibid.*, para. 157.

<sup>27</sup> *Barcelona Traction, Light and Power Company, Limited*, Second Phase, Judgment, I.C.J. Reports 1970 at 32, para. 33, cited in *Wall Advisory Opinion*, *supra* note 25, para. 155. See also James Crawford, *The Creation of States in International Law*, 2<sup>nd</sup> ed. (Oxford: Clarendon Press, 2006) at 168.

<sup>28</sup> *Wall Advisory Opinion*, *ibid.*, para. 159.

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<sup>29</sup> *ILC Draft Articles*, *supra* note 25, Art. 41, page 286, para. 5.

<sup>30</sup> *Ibid.*, Art. 41(2); and *Wall Advisory Opinion*, *supra* note 25, para. 159.

<sup>31</sup> *Wall Advisory Opinion*, *ibid.*, para. 159.

<sup>32</sup> *Ibid.*, para. 158. In UNSC Res. 681 (adopted 20 December 1990), the Security Council called upon “the high contracting parties to the said Fourth Geneva Convention to ensure respect by Israel, the occupying Power, for its obligations under the Convention in accordance with article 1 thereof”.

<sup>33</sup> *Ibid.*

<sup>34</sup> UNGA Res. 3005 (XXVII) (adopted 15 December 1972); UNGA Res. 34/136 (adopted 14 December 1979); UNGA Res. 35/110 (adopted 5 December 1980); UNGA Res. 36/173 (adopted 17 December 1981); UNGA Res. 37/135 (adopted 17 December 1982); and UNGA Res. 38/144 (adopted 19 December 1983).

<sup>35</sup> Op. cl. 7 (109 in favour, 3 against (Australia, Israel and the USA), 26 abstentions).

<sup>36</sup> Advisory Opinion, [1971] I.C.J. Rep. 16, paras. 122-24. However, “the non-recognition of South Africa’s administration of the Territory should not result in depriving the people of Namibia of any advantages derived from international co-operation. In particular, while official acts performed by the Government of South Africa on behalf of or concerning Namibia after the termination of the Mandate are illegal and invalid, this invalidity cannot be extended to those acts, such as, for instance, the registration of births, deaths and marriages, the effects of which can be ignored only to the detriment of the inhabitants of the Territory.” (para. 125.)

<sup>37</sup> UNSC Res. 301 (adopted 20 October 1971).

<sup>38</sup> UNSC Res. 283 (adopted 29 July 1970), Op. cls. 4-7.

<sup>39</sup> UNGA Res. 35/227/I (adopted 6 March 1981), Op. cl. 5; UNGA Res. 43/29 (adopted 22 November 1988) (133 in favour, 9 against, 14 absentions), Op. cl. 9.

<sup>40</sup> Case C.-432/92 *R v. Minister of Agriculture, Fisheries and Food, ex parte S.P. Anastasious (Pissouri) Ltd and Others*; *Anastasious II* Case-C-219/98 *Anastasious and Others*, [2000] E.C.R. I-5241; and *Anastasious III* C-C-140/02 *Anastasious and Others*, [2003] E.C.R. I-10635.