

Stop the Wall Campaign



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Briefing

The Norwegian Pension Fund and its involvement in violations of Human Rights and International Humanitarian Law in Palestine*

* For further legal analysis on the issue, please refer to Badil Refugee and Residency Rights Resource Center: www.badil.org / director@badil.org.

1. Introduction

This document is in regards to the current investments held by the Norwegian Petroleum Fund in Israeli companies. Three of these companies, the **Israeli Electric Corporation (IEC)**, **Nesher Israel Cement Enterprises Ltd**, and **Emblaze Ltd**. are actively contributing to and involved in violations of international law, including **grave breaches of international humanitarian law** (i.e. war crimes) and **gross and systematic violations of international human rights law**. This because these companies contribute to:

- Building and/or maintenance of Israel's **illegal Wall** in the occupied West Bank
- Establishment of new and maintenance of existing **illegal Jewish settlements** in the Occupied Palestinian Territory (West Bank and Gaza Strip)
- **Economic development of the illegal Jewish settlements** in the occupied West Bank

According to the official ethical guidelines, however, the Fund *“should not make investments which constitute an unacceptable risk that the Fund may contribute to unethical acts or omissions, such as violations of fundamental humanitarian principles, serious violations of human rights, gross corruption or severe environmental damages.”*

Similarly, article 4.4 of the ethical guidelines states that *“The Council shall issue recommendations on the exclusion of one or several companies from the investment universe because of acts or omissions that constitute an unacceptable risk of the Fund contributing to: serious or systematic human rights violations, such as murder, torture, deprivation of liberty, forced labour, the worst forms of child labour and other forms of child exploitation; serious violations of individuals’ rights in situations of war or conflict; severe environmental damages; gross corruption; other particularly serious violations of fundamental ethical norms.”*

We recommend that you:

- **Divest from the three listed companies on the grounds that they are in violation of the Fund’s ethical guidelines**
- **Investigate other investments in Israeli or international firms that are in violation of the ethical codes**
- **Work constructively in supporting the rights of the Palestinian people under international law through the adoption of the Palestinian civil society call for BDS against Israel until it complies with international law, the ICJ decision on the Wall and all relevant UN resolutions**

On this basis, we wish to draw your attention to the actions and institutions that the funds investments support.

2. Israel Electric Corporation (IEC)

The Israeli Electric Company is the sole electric utility in Israel, where it is 99% state-owned and responsible for the production and distribution of electricity. In addition, the IEC is the main supplier of electricity to the Occupied Palestinian Territory (West Bank and Gaza Strip). The West Bank receives nearly all of its electricity from the IEC, which supplies 30% directly and 70% indirectly through JDECO.¹ The IEC also has access to Gaza, which is connected to the Israeli power grid at 11 points surrounding Gaza.²

2.1. IEC violations of the ethical guidelines

The IEC has been in constant violation of the ethical guidelines in a number of ways. The most relevant is its historic and long-running **support for Jewish settlements in the Occupied Palestinian Territory:**

- Prior to the 2005 Israeli evacuation of Jewish settlements from the Gaza Strip, the IEC was providing and maintaining electrical power for the settlements of Gush Katif as well as the Kfar Darom.³
- The IEC is and has historically been the sole provider of electricity to the Jewish West Bank settlements.⁴
- The IEC actively assists in the expansion of and creation of new settlements, connecting so-called “outposts” to the power grid. Providing utilities to these nascent settlements solidifies their position on Palestinian land and facilitates the expansion of their populations. Migron (see illustration 1.1) is an example of a new settlement that has been hooked up to the IEC grid.⁵

Investment in the IEC runs counter to the Fund’s ethical guidelines in the following ways:

- Under international humanitarian law, Israel as the Occupying Power is not permitted to change the demographic composition of the occupied Palestinian territory and must not interfere, in an arbitrary manner, in the

¹ World Bank, West Bank and Gaza Energy Sector Review, May 2007, 14

² *Ibid.*, p.15

³ Gaza-Jericho Agreement, Annex II, 1994. <http://www.mfa.gov.il/MFA/Peace%20Process/Guide%20to%20the%20Peace%20Process/Gaza-Jericho%20Agreement%20Annex%20II>

⁴ The Israeli-Palestinian Interim Agreement on the West Bank and Gaza Strip, Annex III: Protocol Concerning Civil Affairs, Article 10: Electricity, 1995. <http://www.mfa.gov.il/MFA/Peace+Process/Guide+to+the+Peace+Process/THE+ISRAELI-PALESTINIAN+INTERIM+AGREEMENT+-+Annex+III.htm#app-10>

⁵ Cook, Jonathon, “Creating a fact on the ground” *Electronic Intifada* 2008. <http://electronicintifada.net/v2/article9779.shtml>

lives of the occupied Palestinian civilian population. **Construction and development of Jewish settlements in the Occupied Palestinian Territory constitute a 'grave breach' of international humanitarian law and are therefore a war crime.**⁶ Firms and institutions involved in the maintenance of Jewish settlements in the Occupied Palestinian Territory are thus culpable contributing to the violation of international law.

- **The Jewish settlements are a primary means for Israel's colonization of the Occupied Palestinian Territory and for the establishment of a regime of apartheid which oppresses the Palestinian people.** Palestinians are denied access to the land upon which the Jewish settlements are built, as well as to the wide rings of land around the settlements, which are reserved for settlement growth and expansion. Palestinians are constantly subjected to invasions, incursions, assassinations and harassment at the hands of the Israeli Defence Force (IDF), while settlers enjoy virtual impunity, regardless of the crimes that they commit against Palestinians. In Israeli law, discrimination among Palestinians and Jewish settlers on grounds of their nationality is institutionalized as different laws are applied to each group on grounds of their nationality. **Acquisition of territory by force, colonialism and apartheid are prohibited by the UN Charter and constitute war crimes and crimes against humanity under international law.**
- Israel's colonial settlement enterprise entails not only the settlement itself (built on stolen Palestinian land), but the creation of military zones, buffer zones, checkpoints and permit systems that, together, not only **seriously infringe on the human rights of the Palestinian population**, but also **contribute to the de-development of the Palestinian economy as a whole and outright humanitarian crises in certain cases.**
- **The IEC's enabling of settlement expansion is ongoing.** As previously mentioned, Migron is an example of a new settlement that is hooked up to the IEC grid. In June of 2008, a new settlement called Maskiyot (see illustration 1.2) was also approved for establishment.⁷ In the Hebron area, the establishment of a new settlement called Sansana was also approved in 2008.⁸ Overall, during 2008 1,518 new structures were constructed in settlements and outposts, as compared with 898 structures in 2007; this represents a 60% increase in settlement construction.⁹
- The IEC, in its support for nascent-settlements, plays a role in ensuring that settlement expansion will continue, in violation of international law and to the detriment of the Palestinian population.

⁶ Since the 1980s, the United Nations has affirmed that Israeli settlements in the Occupied Palestinian Territory constitute a war crime. See as well: 'The Israeli settlements from the perspective of international humanitarian law', al Haq Institute, Ramallah, 2000, <http://www.alhaq.org/pdfs/The%20Israeli%20Settlements%20from%20the%20Perspective%20of%20International%20Law.pdf>

⁷ <http://peacenow.org/policy.asp?rid=&cid=5214>

⁸ <http://www.peacenow.org/updates.asp?rid=0&cid=5887>

⁹ *Ibid.*

- **The fact that the IEC provides electricity to Palestinian communities in the Occupied Palestinian Territory is irrelevant in this context.** Israel, as the Occupying Power, is obliged by international humanitarian law to provide essential services to the occupied population. Such service does not authorize or justify participation in the violation of international law, including war crimes or crimes against humanity.

3. Neshar Israel Cement Enterprises Ltd.

Neshar Israel Cement Enterprises Ltd. is Israel's sole producer of cement, and supplies over 85% of the cement in Israel. Neshar is owned by Clal Industries and Cement Roadstone Holdings (CRH), an Irish company.

3.1. Neshar violations of the ethical guidelines

Neshar is in continuing violation of the ethical guidelines in that the firm is involved in the ongoing construction of Israel's illegal Wall and associated regime in the occupied West Bank:

- In 2004, after Amnesty International conducted an investigation on CRH's involvement in the construction of the Wall, executives from CRH admitted that "in all probability" **Neshar's cement is being used in the Wall.**¹⁰
- Given Neshar's total monopoly over the cement production industry in Israel, **it is safe to assume that its cement is used not only to construct the Wall (see illustration 2.1), but also its associated regime of checkpoints, military towers and bypass roads, as well as Jewish settlement infrastructure.**

Investment in Neshar runs counter to the Fund's ethical guidelines, **because Israel's illegal Wall and its associated regime in the occupied West Bank:**

- Was found to be in violation of international humanitarian and human rights law by the International Court of Justice (ICJ). In its 2004 advisory opinion, the **ICJ had ruled that Israel was to dismantle the illegal Wall and provide reparation for damages to the Palestinian victims.**¹¹
- Is a primary means of **land theft**, as it snakes through Palestinian land, and cuts deep into the heart of the occupied West Bank to annex land and vital water resources, including the West Bank's largest aquifer. Together with the settlements, military zones, ditches and bypass roads, it will de facto annex nearly 50% of West Bank land, and divide the territory into six

¹⁰ http://www.evb.ch/cm_data/public/CementRoadeng1.pdf

¹¹ <http://www.icj-cij.org/docket/index.php?pr=71&code=mwp&p1=3&p2=4&p3=6&case=131&k=5a>

ghettos.

- **Destroys land and trees** while isolating thousands of dunums for the use of settlements. In 2007 alone, 3,143 dunums of land were confiscated, and over 2,480 olive trees were uprooted.¹²
- Serves as a pretext for **home demolitions**. Demolition orders can be issued to any family whose home is in the path of the Wall or is deemed to be too close to the Wall, regardless of the fact that most of these homes were built long before the Wall was constructed. Since 2002, some 3,270 military demolitions, have been carried out, meaning Palestinian homes were arbitrarily destroyed by Israeli forces for purposes such as clearing a piece of land for the Wall or its associated regime.¹³
- Is used as a tool to **facilitate Israel's restrictions of the freedom of movement** of the Palestinian people. In addition to the 538 permanent checkpoints and other military obstructions that exist inside the West Bank, there are 34 fortified terminals along the path of the Wall, where Palestinians are regularly beaten, detained and humiliated.
- Works with the checkpoints and terminals to **seal off East Jerusalem from the rest of the West Bank**. For thousands of years, East Jerusalem has been the economic, social, and cultural heart of the West Bank. With the construction of the Wall, however, it has become virtually impossible for Palestinians living in the West Bank to obtain permits to enter Jerusalem, while those living in Jerusalem are strangled into ever-shrinking ghettos.
- Due to the above impacts, the Wall functions as a **tool for inducing forced displacement of Palestinians**. Currently 257,265 people living in 60 localities across the West Bank face eventual displacement if the Wall is not immediately dismantled.¹⁴
- **Israel has ignored the 2004 ICJ opinion and related UN resolutions: construction of the Wall is ongoing**, with some 500km of the total length of 790km having been completed so far. The gross violations are thus steadily continuing, as dozens more villages and hundreds of thousands more people will have their lands and livelihoods destroyed.

¹² <http://www.stopthewall.org/downloads/pdf/FS07.pdf>

¹³ ICAHD Statistics on House Demolitions (1967-2007)

¹⁴ <http://stopthewall.org/activistresources/1583.shtml>

4. Emblaze Ltd.

Emblaze Group is an Israeli investment group that holds investments in a variety of companies dealing with telecommunications, software and IT.

4.1. Emblaze violations of the ethical guidelines

Emblaze runs contrary to the ethical guidelines for the actions of its subsidiary companies, Matrix and Visual Defence:

- **Emblaze holds controlling stake in Matrix, a company that operates an offshoring software services center in the illegal settlement of Modi'in Illit in the occupied West Bank.**¹⁵
- **Emblaze owns controlling stake in Visual Defence Ltd., a firm offering communication technologies for various sectors including the military and homeland security markets.** Given their work with the Israeli military¹⁶ (including having former Chief of the General Staff of the Israeli Defense Force (IDF), Amnon Lipkin-Shahak serving on the board of directors), as well as their products, it is highly likely that Visual Defence technology is used in surveillance systems and military equipment in the West Bank.

Investment in Emblaze runs counter to the Fund's ethical guidelines on the basis of the company's involvement with Matrix and Visual Defence.

4.2 Matrix violations of the ethical guidelines

Matrix operates in the illegal Modi'in Illit settlement. [For legal analysis of Israel's settlement policy in the Occupied Palestinian Territory, see the case of IEC, 2.1 above].

Companies that operate in the illegal Jewish settlements in the Occupied Palestinian Territory **make profit from and contribute to the growth of Israel's illegal colonial apartheid regime. Such companies are therefore complicit in war crimes and gross and systematic violation of international human rights law.**

Modi'in Illit is built on Palestinian land and is expanding, expropriating more Palestinian land from six local villages: Bi'lin, Ni'lin (see illustration 3.1), Deir Qadis, Kharbata, al-Midya, and Saffa. **The village of Bi'lin (see illustration 3.2)**

¹⁵ <http://whoprofits.org/Company%20Info.php?id=623>

¹⁶ http://www.cbonline.com/news/visual_defence_aims_to_raise_37m

has already brought charges in the Quebec Superior Court against Canadian firms Green Park and Green Mount International for their role in the expansion of the Modi'in Illit settlement, in violation of international law and Canada's Crimes Against Humanity and War Crimes Act.¹⁷ The proceedings are currently pending.

Recently, **international companies have reacted to pressure and threats of lawsuits and have started pulling their operations out of settlements.**¹⁸

There is thus a strong precedent for divesting from settlement industries, as corporations and investors are recognizing the dangers of operating in these locations.

4.3 Visual Defence violations of the ethical guidelines

One of the key industries in which Visual Defence is involved is the homeland security and defence industry. It specializes in manufacturing products such as watchtowers (see illustration 3.3), motion sensors, military surveillance and communications systems (see illustration 3.4), public announcement systems and x-rays. All of these products are used in the illegal Wall, checkpoints, terminals, military bases, and settlements that Israel has established in the occupied West Bank. Furthermore, Visual Defence recently signed an agreement with Israeli company Taldor, to distribute, sell and support Visual Defence's product line in Israel.¹⁹

Given Visual Defence's focus on homeland security and defence, as well as its recent increased presence in the Israeli market, it is highly likely that **it helps to entrench Israel's illegal Wall and associated regime, as well as the illegal settlements, in the occupied West Bank.** Similarly to Neshet's case, the fact that they build this infrastructure means that they are actively contributing to Israel's military occupation, apartheid and colonialism and thereby implicated in war crimes and gross and systematic violations of international human rights law. These violations include land confiscations, home demolitions, forced displacement and severe restrictions on freedom of movement which are employed against the Palestinian population on prohibited grounds (e.g. as a means of collective punishment and/or discrimination on grounds of nationality.)

¹⁷ <http://www.canpalnet-ottawa.org/Bi%27in%20lawsuit.html>

¹⁸ In 2008, Swedish company Assa Abloy announced that it would pull its operation out of the Barkan industrial zone in the West Bank. This came a month after the Barkan winery announced that it was divesting from its branch in the Industrial Park <http://www.diakonia.se/sa/node.asp?node=2716>. In December 2008, Unilever also sold its 51% stake in a factory in the West Bank settlement of Ariel. <http://www.guardian.co.uk/world/2008/dec/01/israel-palestine-unilever>

¹⁹ http://www.visualdefence.com/042908_PR_Taldor.htm

5. Conclusions

The Council of Ethics has a responsibility to uphold the Pension Fund's ethical guidelines, which state several times that the Fund should not invest in companies that put it at risk of being complicit in serious human rights violations. The Fund's investments in the IEC, Nesher and Emblaze clearly breach the ethical guidelines, as all three companies are heavily involved in perpetrating and facilitating egregious violations of international human rights and humanitarian law. Thus, by investing in these companies, the Fund is contributing to the ongoing abuses of Palestinian human rights and fundamental humanitarian principles.

Given the evidence presented above, we recommend that you divest from the following companies on the following grounds:

- **IEC: Provides electricity to Israel's illegal Jewish settlements in the Occupied Palestinian West Bank - both existing settlements and new ones under construction - which are illegal and constitute a war crime under international law. IEC thereby contributes to the maintenance and development of the illegal and criminal situation.**
- **Nesher: Provides the cement for the Israel's illegal Wall and associated regime of fortified checkpoints, roads and military towers, as well as for the illegal Jewish settlements, which together form the infrastructure of colonization and apartheid in Palestine. Nesher thereby contributes to the maintenance and development of the illegal and criminal situation.**
- **Emblaze Ltd: Owns a controlling stake in both Matrix, which operates in the illegal settlement of Modin Illit and profits from and contributes to the illegal and criminal situation; and, Visual Defence Ltd., which manufactures homeland security and defence products for Israel's occupation army and profits from and contributes to the systematic oppression of the Palestinian people.**

We further recommend that you:

- **Investigate into other investments in Israeli or international firms that are in violation of the ethical codes**
- **Work constructively for respect of the rule of international law by supporting the rights of the Palestinian people through the adoption of the Palestinian civil society call for BDS against Israel until it complies with international law, the ICJ decision on the Wall and all relevant UN resolutions.**

Annex 1: Photos

1. IEC Images

Illustration 1.1: Migron settlement



Image courtesy of Israel Insider

Illustration 1.2: Construction of Maskiyot settlement



Image courtesy of Shirat Hyam-Gush Katif

Illustration 1.3: Ma'ale Adummim settlement

Background: Ma'ale Adummim settlement. Foreground: two youth from the Jahalin Bedouin community. These communities are being forcefully expelled to make for the expansion of settlements. The most recent expulsion attempt occurred on 3 February 2009, where 30 people, 15 of them children, were left homeless following the destruction of their homes by the Israeli army. This demolition was explicitly undertaken to remove the people from the area, which is designated for the expansion of Ma'ale Adummim.



Image courtesy of the Palestinian Grassroots Anti-Apartheid Wall Campaign

2. Neshar Images

Illustration 2.1: Cement section of the Wall at Qalandiya



3. Emblaze Images

Illustration 3.1: Mod'in Illit on Ni'lin Land

Image of the current construction of the Wall on the land of Ni'lin. The land that is set to be isolated will be used to expand Modin Illit further onto land belonging to the village.



Image courtesy of the Palestinian Grassroots Anti-Apartheid Wall Campaign

Illustration 3.2: Mod'in Illit on Bil'in Land

Background: Expansion of Mod'in Illit onto land belonging to the village of Bil'in. The village has brought a court case against firms assisting the construction.



Image courtesy of the Palestinian Grassroots Anti-Apartheid Wall Campaign

Illustration 3.3: Example of watchtower, Qalqilya district



Image courtesy of the Palestinian Grassroots Anti-Apartheid Wall Campaign

Illustration 3.4: Surveillance equipment at Bethlehem checkpoint



Image courtesy of the Palestinian Grassroots Anti-Apartheid Wall Campaign