



**State Commission of Inquiry into the
Handling of the Evacuees from Gush Katif and
Northern Samaria by the Authorized Authorities**

REPORT

Jerusalem, June 6, 2010 – 24 Sivan 5770

Members of the committee:

Justice emeritus Eliahu Mazza, Deputy President emeritus of the
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SUMMARY AND COMPILATION OF THE FINDINGS AND RECOMMENDATIONS

(Summary of the full report – translation of the last two chapters of the original report)

1. General

In August 2005, the State of Israel, in a painful and traumatic process, removed 1,940 families of Israeli citizens – about 9,000 people – from 22 settlements in the Gaza Strip and from four settlements in northern Samaria. The evacuees had lived in the evacuated settlements for many years, some of them for three decades. They were torn from their homes and from the center of their world. For many of them, the evacuation caused a profound emotional trauma. For some of them, that trauma was accompanied by a deep religious, family, economic and ideological crisis.

The evacuees are the salt of the earth. With hard work, enormous sacrifice, capability and innocent faith they built magnificent settlements in the evacuated areas. Precisely because settlement was a complete way of life for them, the evacuation was particularly traumatic. People lost not only their places of residence, their livelihoods and their communities – a tragedy in itself – but also part of their identity. The state's responsibility to these people is rooted in the basic social contract that ensures the human rights of every citizen of the state; all the more so when it involves citizens which the state itself has turned into refugees in their own homeland.

Almost five years have passed since the evacuation, but the rehabilitation of most of the evacuees has not yet concluded. At the end of February 2009, the state commission of inquiry was established and after implementing the basic administrative arrangements it began to operate about two months later. The commission, which was established by the Knesset's State Control

Committee, was asked to investigate, determine findings, reach conclusions and submit recommendations “on everything pertaining to assistance to the evacuees in connection with their settlement...and handling their needs in agriculture, business, employment and welfare.” The commission collected a great deal of information and, through its investigators, gathered testimony from close to 400 witnesses. The commission also heard 105 testimonies over the course of 38 public hearings that it held between May 2009 and February 2010.

The mode of operation of the commission of inquiry was different from that of other commissions of inquiry. First, the commission was asked to examine the state’s conduct in a very broad spectrum of fields: administrative, legal, economic, settlement-related, employment, social, etc., the handling of which is the responsibility of dozens of government and nongovernment entities. Second, the commission’s investigation focused on an “evolving” event, i.e., a dynamic event that had not yet ended – the authorities’ treatment of the evacuees – while many parties were awaiting its conclusions. For that reason, the commission made a special effort to compile and publish its conclusions within the shortest possible time, first with an interim report that it submitted in September 2009 and – now that it has completed the investigative work – in this report submitted in June 2010.

The job of state commissions of inquiry is to examine issues of public importance that pertain to the general public. The commission, which operated according to that concept, focused on examining problems common to many evacuees and problems with lateral ramifications. Many of the evacuees told the commission about problems relating to individuals – some of them serious and painful – which was making their personal rehabilitation more difficult. But problems of this type, which require individual clarification, could not be handled by the commission. Some of these problems will surely be resolved in the framework of the commission’s general recommendations. Others may find resolution in other suitable frameworks.

The commission decided to refrain from utilizing its authority to determine conclusions that place personal responsibility on any of those involved in the state's handling of the evacuees. This was decided for three reasons. **First**, even though there were those who acted negligently, recklessly or ineptly, the commission believes that leveling personal criticism at them will have no significant value in rectifying the current situation or in rectifying similar situations in the future. **Second**, the commission did not find that any of those involved acted with malicious intent. The main problem lay in the method in general, i.e., in the general governance problems from which the Israeli administration suffers and which are not specific to the issue of handling the disengagement evacuees. **Third**, and primarily, ascribing personal blame would have delayed submission of the report for a significant period of time, in view of the provisions of the binding law to the effect that those potentially injured by the conclusions of the commission of inquiry have the right to study the evidence, examine witnesses and mount a defense. The commission believes that it is more important to accelerate submission of the report in order to provide as speedy a response as possible to the evacuees' distress.

In the interim report, the commission, as mentioned, indicated issues that require particularly urgent treatment. The interim report set a time frame of three months for remedial action on these issues by the state, and for reporting thereon to the commission. At the end of the allotted time, the commission examined the processes that were implemented to advance the rehabilitation of the evacuees. It was found that the interim report did, indeed, have a dramatic impact on advancing the government's handling of the evacuees on the one hand, and on pushing many of the evacuees themselves to make decisions and take the actions needed for their rehabilitation on the other hand. However, more than a few problems remain, which were indicated by the commission in its interim report, and which have not yet been resolved. This report deals, *inter alia*, with those problems.

This section will summarize and condense the **main** findings and recommendations contained in the final report. However, we should

emphasize in advance that this summary is designed solely to provide a general idea of the commission's conclusions and recommendations, and the reading of this summary should not substitute for reading the detailed report in full.

The commission was not authorized to investigate the question of the justification for the disengagement in general. Therefore, the commission also refrained from delving into the question of whether there was any justification for setting a relatively short time frame for implementing the evacuation. It examined only the manner in which the disengagement plan was implemented, with regard to handling the evacuees, in the framework of the law and the decisions made by the authorities.

It is important to emphasize: in its conclusions, the commission also addresses the best manner of preparing for various possible scenarios with which the State of Israel may have to contend in the future, including the evacuation and resettlement of a large group of citizens due to the occurrence of an event that will require such a thing, for any reason whatsoever.

The second chapter below will describe the developments that occurred around the handling of the evacuees following publication of the commission's interim report. The third chapter, which is the main one, will describe the commission's findings and conclusions regarding the manner in which the state handled the Gaza Strip and northern Samaria evacuees. The fourth chapter will present the commission's recommendations regarding preparations for future events. The fifth chapter will deal with the implementation of this report.

2. Developments following the interim report

The commission's main recommendation in the interim report was that a conceptual change is required in all government ministries which would make the handling of the evacuees an **urgent national mission**. The commission determined that the modes of action that

characterized the process in recent years require a significant change and that the government must immediately make the handling of the evacuees the top national priority. It was further determined that the profound conceptual change is required not only of the government's authorities, but also of all the other parties involved, among which are many of the evacuees themselves.

With regard to transition to the permanent settlements, the commission dealt with community relocation agreements that have not yet been signed, and determined dates for completion of the negotiations regarding them; the commission defined the required criteria for developing the lots; it determined that the manner of calculating the budget for building public structures in the permanent settlements must be amended; and it recommended conducting urgent administrative work with the aim of accelerating construction of the permanent housing. At the end of this chapter, the commission deals with evacuation of the temporary sites.

With regard to **compensation**, the commission stated in the interim report that, in general, there was no need to change the individual compensation arrangements, *inter alia*, because of the "MKs' agreement" which exhausted the litigation between the parties in this matter. This is separate from the business compensation, regarding which the commission recommended conducting accelerated negotiations between the state and representatives of the evacuees. In the interim report, the commission also dealt with the matter of **employment** – the need to accelerate commencement of the budgeting for the Ta'asukatif Association, and the need to re-examine the conditions of entitlement for retirement benefits. Eventually, the commission was required to deal with the issue of the **closure of the SELA Administration for Assistance to Settlers from the Gaza Strip and Northern Samaria** (now called the **Tnufa** Administration) and determined that the state must continue to operate the administration in its present format, at least until the end of 2010.

The manner of implementing the interim recommendations: With regard to the required conceptual change, everyone agrees that

there has, indeed, been a significant change since publication of the interim report, and that the commission's recommendations had a considerable impact on the process, which was led from that time by the head of the administration, Bentzi Liberman, who was appointed to the position soon after publication of the interim report. Other contributing factors were the active involvement of the director general of the prime minister's office, Eyal Gabai, in advancing the matter and the backing that was given to his actions by Prime Minister Binyamin Netanyahu.

In view of the commission's interim recommendations, the director general of the prime minister's office conducted administrative work which included an intensive marathon of meetings with internal government entities, with representatives of the evacuees and with heads of the Knesset members' lobby on behalf of the evacuees. At the end of the administrative work, the director general reported to the commission on progress in the handling of the various issues. In general, it can be said that the commission's recommendations were accepted by the parties and a serious effort was made to implement them. Among other things, the criteria for developing the lots was amended; the formula for calculating the budget for public structures was changed; cabinet decisions were made regarding special tracks for accelerating the construction of permanent housing and ensuring the continued operation of the administration; and an agreement was signed between the government and the business owners committee, which addressed a series of business and employment issues.

However, some of the problems were not resolved, either due to the inability of the government and the evacuees to reach agreements or because of problems made by third parties. For example, as at the date of the writing of this report, final versions (as distinguished from agreements in principle) of the four relocation agreements, discussed in the interim report, have not yet been signed; and the negotiations conducted by the government with the farmers and representatives of the Erez industrial zone were not successful.

It also appears that despite the significant improvement in the government's functioning, the message that the prime minister

wished to assimilate with regard to restoring the handling of the evacuees to **top** national priority – as recommended by the commission – was not made sufficiently clear to all the government officials and in its attitude to some of the issues, the executive authority continues to operate routinely, which has not led to be the hoped-for rapid results. Up to the time of completion of the writing of this report, the commission has received no report on whether the prime minister's directive – to define reasonable schedules for completion of the handling by the government ministries – has been implemented.

3. The government's handling of the evacuees – findings and conclusions

A. Findings and conclusions on lateral issues

The commission found that the State of Israel failed in its handling of the evacuees. Five years after the evacuation, an examination of the results discloses an extremely dismal picture: most of the evacuees are still living in temporary caravan sites; the construction of most of the permanent housing has not yet commenced; the decisive majority of the public structures in the evacuees' new settlements have not yet been built; the rate of unemployment among the evacuees is double the rate of unemployment in the general population; the economic state of some of the evacuees is very bad and there are more than a few among them in need of assistance by the welfare entities; there are those who are still litigating in the various forums against the state with regard to the amount of the compensation. It was therefore found that the work of rehabilitating the evacuees is far from completed.

This grave result is a consequence of several factors:

The responsibility of the state: The state failed in fulfilling its obligation to make the handling of the evacuees from the Gaza Strip

and northern Samaria an urgent national mission, an obligation that was defined by all the prime ministers as being of the utmost importance. There were two relatively short periods – from April 2005 to April 2006 (several months before and after the evacuation) and from October 2009 to the present (after publication of the interim report by the commission of inquiry) in which a significant mobilization of government ministries was discernible, and even this occurred alongside exceptions to which the message had not trickled down. However, during the other relevant periods of time beginning at the start of 2004 – almost five years cumulatively – the executive authority did not meet the standards required of it. A substantial gap was created between the high rhetoric of all the prime ministers and the practical functioning of the state. Many of the ministries viewed the mission of rehabilitating the evacuees as just another routine matter laid upon their desks, and they set their own agenda for handling it.

Indeed, the commission got the impression – and this was also shown by the many testimonies given by the evacuees and their representatives – that many of the public servants who handled the evacuees' matters during those years acted with dedication and sensitivity, investing great effort to advance the matters as efficiently as possible. Unfortunately, however, there were also others – among them people in key positions – who, during some of that period, did not succeed in meeting the urgent challenge as the circumstances required.

The responsibility of the evacuees: The material gathered by the commission shows clearly that some of the evacuees themselves also made a significant contribution to creating the current dismal reality. There are those among the evacuees who chose to tarry where they could have hastened – in choosing a permanent settlement in which they wished to live; in accepting a building lot from the state; in submitting building plans; and in building their houses. Many of the evacuees could have stepped forward and taken their fate into their own hands – as some of them, indeed, did – and left the remaining disputes between them and the authorities for future adjudication,

acting concomitantly to build a permanent home without waiting until the last of their demands and the demands of their representatives were granted. It should be added that the commission was convinced that some of the evacuees (as well as some of the receiving settlements) sometimes made excessive demands in the lengthy negotiating processes which they conducted with the authorities. The absence of cooperation or partial cooperation of a large part of the evacuees during the period that preceded the disengagement – despite the fact that such conduct was understandable and anticipated, and despite the fact that such conduct in itself does not derogate from the state’s residual responsibility toward them – also hurt them and impeded their rehabilitation.

The defective manner in which the state’s responsibility was fulfilled: The commission found significant failures in the manner in which the state utilized the means at its disposal to fulfill its responsibility. **From the outset, the state was unreasonably tightfisted** in determining the compensation in the Disengagement Implementation Law. As a result, it was compelled afterwards to increase it in various ways. The commission found that **out of the overall cost of rehabilitating the evacuees** (without the value of the significant additional benefits they received in the allocation of lands) **which has been estimated to date by the Ministry of Finance at NIS 7 billion¹, only NIS 3.8 billion was given as prescribed by the law; while close to half the comprehensive amount – an additional NIS 3.2 billion – was spent by virtue of administrative decisions and agreements.** When the government decided to increase the evacuees’ compensation, it did so in ways that “circumvented the legislation,” such as in the form of the “MKs’ agreement,” in which the evacuees were given benefits amounting to hundreds of millions of shekels. These benefits – even

¹ It should be noted that this amount does not include the security expenses connected with the disengagement and the costs of operating the SELA administration. With the addition of these components, the comprehensive amount, as estimated by the Ministry of Finance, is about NIS 10 billion.

if justified in themselves – would have been better given in primary legislation by the Knesset.

Another failure – and this is a **legislative failure** – is reflected in the fact that the Disengagement Implementation Law imposed almost no restrictions on the discretion of the authorities with regard to the use of the contractual means at their disposal, at the heart of which are the community relocation agreements. This failure, along with the state's continuing capitulation to pressures, *inter alia*, in negotiations over the relocation agreements, led to the fact that **on the administrative and contractual level, the state acted with excessive wastefulness.**

The commission found that the concept which guided the state in formulating the provisions of the Disengagement Implementation Law was erroneous on a pivotal matter. From the outset, the state assessed that only a relatively small part of the evacuees would want to rehabilitate themselves in the framework of community relocation but, ultimately, it transpired that about 85% of them chose that path. However, even though the law takes the trouble to arrange other issues in detail (chiefly the financial compensation), it refrains from specifying any substantial arrangements for the relocation. It was found that the main component actually used by the state to rehabilitate the settlers was not handled properly in the law: the relevant section was formulated in laconic language which only encompasses a general framework; it does not impose any real restrictions on the content of the agreements and thereby enables relocation to any place, at any budget and for almost any group, even for 20 people who had no previous community ties.

This unrestricted framework, along with the state's powerful desire to reach agreements with all groups of the evacuees, encouraged a "race to obtain benefits." That is how they led to the creation of several relocation agreements that do not achieve their rehabilitational purpose due to the absence of real community ties among the various individuals who banded together in a group; whose consolidation took years; which cost the state a fortune; which granted the settlers excessive benefits that included the

allocation of valuable lands in high demand areas in the center of the country; and created unjustified gaps between different groups of evacuees². **On that backdrop, the commission reached the opinion that the community relocation mechanism, as legislated and as implemented, was tainted with failures and constituted one of the main factors in delaying the rehabilitation of the evacuees.**

The difficulty in communicating with the evacuees before the evacuation: the state's handling of the evacuees was impaired, *inter alia*, by the existence of substantial difficulties in communicating with them before the evacuation. The commission's examination shows that during the 18 months that preceded the evacuation, the government attempted, sincerely and honestly, to conduct a dialogue with the settlers. Therefore, the responsibility for the difficulties in communication lies with the evacuees and their leaders. However, the lack of cooperation on the part of the evacuees and their opposition to the plan, insofar as implemented within the framework of the law, were understandable and anticipated. Their opposition may even have had a healing value in assisting them to cope emotionally with the loss: to their way of thinking, they did what they could. **Therefore, the commission's determination that the evacuees are responsible for the difficulties in communication is not condemnation of the evacuees and does not relieve the government of the residual responsibility for the results of the evacuation.** The government should have anticipated and prepared for a lack of cooperation and acted accordingly. The commission cannot decide in the dispute between the evacuees and the government whether the lack of cooperation is a decisive factor in delaying the handling of the evacuees, but it is clear that it exacted a heavy price – both in prolonging the rehabilitation processes and in the fact that, due to lack of information about the evacuees' wishes, the Disengagement Implementation Law dealt primarily with financial compensation and not with providing a comprehensive and suitable solution to alternative settlement.

² However it should be noted that the commission determined that creating equivalence among the various arrangements now, in retrospect, is impossible.

Even though the evacuees' lack of cooperation is understandable, **we cannot accept with understanding the conduct of the Gaza Shore Regional Council**, which officially opposed any cooperation with the disengagement plan, thereby abandoning its role as a government arm that is supposed to act to uphold the law and for the benefit of its residents. **The mode of conduct of the Samaria Regional Council – empathetic to the settlers while preparing for the future – is the exemplar worthy of emulation.**

The defective planning of the executive entity: The commission believes that the decision to establish the SELA administration as one entity that centralizes the handling of all matters connected with the evacuees – was the right one. The decision that the administration would be a unit of the prime minister's office – was also reasonable in the circumstances. However, because of the SELA administration's lack of experience in settlement related matters, **the task of resettling the evacuees should have been implemented by the Settlement Division [of the World Zionist Organization]** – which is in charge of the establishment of rural settlements and possesses the professional knowledge and experience required for it. The commission determined that the Settlement Division should have undertaken the full and direct responsibility for establishing the settlements as decided by the government. Because of ideological opposition to the disengagement plan, the Settlement Division agreed to provide only indirect assistance before the evacuation (until enactment of the law), by performing planning work and providing data, but this did not fulfill its obligations. As an authority that constitutes part of the government's executive mechanism, which is fully funded by the government, the Settlement Division should have acted to the best of its ability to carry out the government's decisions and it was not entitled to take a time out. In the opinion of the commission, beyond the enormous specific damage, the precedent whereby executive entities are the ones to decide which tasks they will implement or refrain from implementing should be condemned. Hence, in such situations, the government is compelled to insist on enforcing its

authority over professional entities that do not follow its instructions.

The establishment of the SELA administration as the entity bearing the responsibility but without the authority required to execute its tasks was an erroneous course of action. An administration that operates without sufficient executive authority, among other things without broad budgetary authority, has trouble functioning and its failure is preordained. It becomes a “toothless tiger.” The government was careful to staff the administration with talented people who wanted to succeed in doing their jobs, with dedication and awareness of its importance, but because of that stated, the administration had trouble performing its main mission – advancing the evacuees’ rehabilitation.

General governance problems: Above all, the commission found that significant governance problems, which characterize the ordinary conduct of government authorities in the state of Israel, made the work of rehabilitating the evacuees a lot more difficult. **This involves, firstly, bureaucratic obstacles**, which, according to the testimony, were placed by the various government ministries and by the local authorities. According to the testimony of many witnesses, these obstacles were reflected, for example, in the need for cabinet decisions and approvals by the finance committee, even for the budgeting of small amounts of money, and the need for the tiresome process of re-budgeting each year for needs already known in advance; in the stubbornly meticulous and overly rigid adherence to the formalities of the tender laws; in difficulties involved in combined inter-ministry activities and in the unsatisfactory internal dialogue between the ministries; in the tendency of the ministries to act in sequence, one after the other, instead of simultaneously alongside one another; in the absence of an efficient mechanism for settling disputes between government ministries; in the difficulty of the government mechanism in showing flexibility and creativity in resolving problems; and in the tendency of government officials to refrain from making decisions that entailed risking public monies, even if their potential benefit is great, and preferring to refrain from

taking action out of concern that they will be held personally accountable. Naturally, the commission is aware of the importance of the bureaucracy in the proper running of a government, but it reached the conclusion that the balance was tipped in this case and the price was paid by the evacuees.

Second, problems in the functioning of senior government officials, considering the political structure and the structure of the public service in practice in Israel. For example, it was claimed that the prime minister, whoever he may be, has trouble promoting long-term ventures – such as the rehabilitation of the evacuees – in the unstable political environment in which he is acting. This is particularly true in circumstances in which these ventures are not clearly characterized as coping with a national emergency. In this context, we should remember that **during the period of time in which the evacuees were handled, the top echelon of Israeli government was replaced three times, including the director general of the prime minister’s office – who is directly in charge of handling the evacuees.**

Third, non-implementation of some of the government’s decisions. The commission learned that for long periods of time, the state refrain from implementing – or from implementing in timely fashion – various decisions made by the government. One example among several others is the government’s decision of 2004 to forgive the evacuees’ debts to the Settlement Division. This decision was frozen by the government only at the end of 2008, some four years after it was made, and, in the end, was only implemented recently.

Fourth, defects in the state’s mode of operation in the shadow of the budgetary problems. For example, it was claimed that the mode of operation of the Ministry of Finance prevents all the other government ministries from being “the masters of their own domains,” impeding their ability to make decisions on promoting matters that are ostensibly within their purview, because the Budget Division and the accountant general at the Ministry of Finance can

veto decisions made by the ministry that bears the responsibility. It was further claimed that the Ministry of Finance tends to act on the basis of short-term considerations only, without weighing the waste of the public's money which the focus on specific savings is liable to cause in the long run.

Other governance problems which were pointed out by many witnesses were the **lack of a guiding hand**, which was reflected in contradictory decisions and in the government saying different things; as well as the problem of the **quality of the administrative planning work**.

It should be noted that many of the state's representatives who testified before the commission, including people who were at the center of the national decision-making for considerable periods of time, acknowledged the existence of significant governance problems and the fact that they were typical of the functioning of the executive authority in many matters. The picture formed by the testimony is very worrisome and requires mobilization at the national level to change the situation. Some of the witnesses claimed that it was actually in the matter of handling the evacuees that the state was relatively successful in overcoming the problems, albeit with great effort. But the commission determined, as already noted, that this mobilization is characteristic of relatively short periods only.

With regard to the general governance problems that were found, the commission cannot propose— nor is it possible to propose — a comprehensive solution. Dealing with the overall ramifications is also not within the purview of the commission. Dealing with them seriously requires far-reaching cultural, organizational and political change. However, even before the desired changes are implemented, the commission indicated principles for action that are likely to help somewhat, at least in the context of rehabilitating a large population that must be resettled. These principles will be discussed below.

With regard to the mode of action required of the state at this time: In the opinion of the commission, just as the uniqueness and

national importance of the disengagement process once justified urgent, complex and exceptionally large-scale preparations by all the government ministries for the purpose of implementing the evacuation, now, too, urgent, complex and unusually large-scale preparations are required – and even more intensively than before – by all the government ministries for the purpose of handling the evacuees. The trend toward the change for the better in the gravity and efficiency of the handling of the evacuees, which began to show following the interim report, must continue.

However, past experience shows that declarations about the importance of handling the evacuees are not enough. **The commission recommends that the government resolve to adopt a comprehensive and binding frame of action** to accelerate construction of the permanent housing and public structures for the evacuees. This framework will also include a **detailed and rigid schedule for completion of the tasks of everyone involved in the matter**. The schedule should be determined by the government as soon as possible, after rapid and efficient administrative work to be coordinated by the director general of the prime minister's office, and will conclude within three months, at most, from the date of submission of this report. The administrative work will determine target dates that are as ambitious as possible for handing over the lots and building the public structures in each one of the settlements established in the framework of the relocation arrangements, and for every other stage in the process and for every public entity involved therein. The commission believes that the target date for completing the transition to permanent housing must be the end of 2011. Adhering to this schedule is an **essential expression of the government's commitment to the evacuees, and is contingent upon a concentrated, joint effort by the government, the Tnufa administration, the Gush Katif settlers committee, and the heads of the communities and the families themselves**.

In the aforementioned resolution, the government must also include **an explicit instruction to all its branches in a manner that leaves no room for misunderstanding or doubt**, to consider the

fulfillment of their responsibility to handle the evacuees – not only in accelerating the permanent construction but in all the issues – **as an urgent national mission that is a top government priority, which precedes their other ongoing work.**

Given the existing governance problems, a tool that may help in fulfilling the tasks and adhering to the schedule, and which has been utilized by all governments since the evacuation, is the “Committee for the Removal of Barriers,” headed by the director general of the prime minister’s office, which would meet regularly and frequently. The senior representatives of all relevant authorities would participate in the committee, which would clarify all the issues in dispute between them, and between them and outside entities. In this framework, the director general of the prime minister’s office would monitor the rate of the progress in resolving each one of the issues and adherence to the target dates set in the detailed schedules.

B. Findings and conclusions on individual issues

Settlement: In addition to criticism regarding the relocation agreements, the main points of which have been presented above, the commission also examined the handling of the **temporary sites**, which have suffered from a number of problems. The temporary sites were established without specific legal authorization, even though their cost amounted to hundreds of millions of shekels. Similarly, because the prior planning of the temporary sites was avoided before completion of the enactment of the Disengagement Implementation Law, only five months remained for their planning and construction, a period of time which, by all accounts, was not sufficient for a project of this magnitude. This affected both the cost of construction and the quality of the structures, as well as the conditions of the contracts that were hastily signed with the receiving settlements. Additionally, the temporary settlements were established on the assumption that they would be evacuated within two years, even though this forecast was fundamentally unrealistic. When they were constructed, the **exclusive designation of the temporary sites solely for the evacuees entitled to compensation**

for a residence unjustly impaired the rehabilitation of other evacuees who also belonged to the community, thereby impairing the purpose of the community relocation. Ultimately, the state was negligent in handling intruders into the temporary sites and the illegal construction within them.

The commission also criticized the prolonged stay in the transitory residences of hotels (even though the state is not responsible for all of it), which caused the evacuees great suffering and also cost the state treasury a great deal of money. The commission praised social organizations and volunteers that mobilized to help the evacuees during this difficult time and ease their suffering. In the commission's opinion, the state should have refrained, as far as possible, from housing the evacuees in transitory sites and prepared in a manner that would have enabled their transfer directly to the temporary sites.

Among the individual settlement issues, the commission dealt with **the four relocation agreements that have not yet been signed**, and recommended the appointment of a mediator, a settlement expert, who would quickly examine if it was feasible to complete the agreements within a reasonable period of time. With regard to **accelerating the construction of the permanent housing** – in addition to the commission's aforementioned detailed recommendation about a government resolution regarding a comprehensive frame of action and binding schedule for completing the handling, the commission relied – subject to minor reservations – on the plan of the director general of the prime minister's office, which was prepared in the wake of the interim report and was recently anchored in a government resolution. The commission also recommended dismantling the temporary site at Nitzan by the end of 2011. With regard to the **public structures**, in addition to its recommendation regarding the binding schedule for building them, the commission determined that the state must budget their construction at a realistic average rate of NIS 5,500 per sq. m. With regard to the price of lots in east Lachish, the commission recommended placing them at the development cost according to a

specific costing outline set forth in the body of the report, and which, according to state data, is around NIS 200,000, i.e., lower than the current prices of the lots. With regard to **the prices of the lots in Halutza**, the commission recommended placing them at the customary price in the area and, in any case, the price in the two areas will not exceed the actual cost of the development of the lots. With regard to the settlement of **Bustan Hagalil**, the commission recommended that the state bear the costs of erecting piles on the evacuees' lots.

The personal and business compensation network: The commission examined the gamut of complaints against the existing compensation arrangements and decided to reject most of them. It did so because most of the arrangements, as ultimately formulated over the years, were found by the commission to be fair and appropriate (and in certain cases, even beyond that); and because of the absence of any need to take a positive stand with regard to some of the arrangements, in view of agreements reached by the parties – which redounds to their credit – among them the MKs' agreement, which, in general, ended the discussion on the issue of personal compensation; and because of the rehabilitational and practical need for finality and stability in the compensation process (even if, in the opinion of the commission, some of the arrangements might have been formulated otherwise from the outset).

The cases in which the commission decided, nevertheless, to accept some of the claims will be specified below. In the matters for which the commission recommended a general increment in compensation to groups of evacuees (in contrast to an individual compensation increment which might be given by the special committee because of the circumstances of a given case, such as replacement value for the “continuing business owner”), the commission believes that it is appropriate to implement the recommendations by **amending the legislation**. This legislative process should be expedited as required by the urgent nature of the rehabilitation as a national mission.

Personal compensation: With regard to the compensation component for homeowners that was designed to enable them to

purchase alternate land in a “referenced area” (on the compensation track called “Track B” in the law), the commission recommended canceling the **seniority coefficient** which led to reduced compensation for those with little seniority in the evacuated area; and to determine that those with seniority of two or more years on the “date of record” would be entitled to full compensation. With regard to the **public lessees**, the commission determined that under the Disengagement Implementation Law, they are entitled to benefits in excess of that requested and that their status should have been identical or, at least almost identical, to the status of the private lessees. With regard to the **private lessees**, the commission believes that no compensation increment should be granted to them but they are entitled to continue residing with their community, as lessees, in the permanent settlement. Therefore, the commission recommended that the state itself, or the state through an intermediate entity, make available permanent housing or mobile homes in some of the permanent settlements, which would be rented out to private lessees who, on the date of record, had seniority of two or more years. With regard to **damage to the private equipment** of the evacuees, the commission recommended that the state compensate the evacuees for that damage, and, for that purpose, established a dedicated mechanism to handle the claims in a short period of time and according to set criteria to be based on considerations of equity. With regard to residents of the “**non-recognized settlements**” that were in the Gaza Strip, the commission recommended equating their situation to that of the other evacuees, since these settlements were established with the encouragement and support of some of the authorities, and with the government sending mixed messages.

Business and agricultural compensation: The commission’s general position was that it would be best if the distinction between a “continuing business owner,” i.e. one who re-establishes his business after the evacuation, and a business owner who does not continue his business, was clearer than the distinction set forth in the law. In the opinion of the commission, **in general, a continuing business owner is entitled to receive compensation (including other grants and other benefits) in the amount of the full**

replacement value of his business in the “referenced area,” i.e., in the amount of the comprehensive cost required to actually establish his business. However, in view of the consideration set forth above, with regard to cases in which the commission did not see fit to recommend a change in the existing arrangements, and due to the lack of sufficient evidence, **the commission did not take a general position** on the question of whether the existing arrangements – the law together with the administrative and judicial decisions in principle (including the agreement with the business owners committee) that were made in the five years since enactment of the legislation – meet the criteria in practice. The commission determined that a continuing business owner – both agricultural and nonagricultural – who believes he can prove that he did not receive the full replacement value, i.e., that he suffered financial losses due to deficient compensation when re-establishing his business in the “referenced area,” **can apply to the special committee** and present his evidence to that effect. The commission recommended that the special committee examine the application with the help of an **independent outside expert**, and, if necessary, award the business owner additional compensation in the amount of said financial loss, which he incurred.

The commission supported the director general of the prime minister’s office and his staff on the one hand, and the business owners and director of the Gush Katif Committee on the other hand, because after publication of the interim reports, they took responsibility and reached solutions for most of the issues in dispute between them, through direct talks. In the agreement signed between the parties, one qualification remained by the business owners, which pertains to the period of entitlement to adjustment fees for salaried employees and the self-employed. **The commission recommended partially accepting this qualification**, as specified in the body of the report. However, we should state that at the general level of the business and agricultural compensation, the commission ascribed less weight to this agreement than to the MKs’ agreement, since it involves an agreement with only a certain part of the relevant evacuee sectors, and, in any case, the other sectors –

primarily the farmers and the Erez industrial zone people – are not bound thereby.

With regard to the owners of the businesses and the structures in the **Erez industrial zone**, the commission did not see fit to intervene in the existing compensation arrangement. The commission believes that, in general, the existing compensation tracks are fair and appropriate, and allow for compensation to both a profitable and an unprofitable business, and there is no reason to establish a unique compensation track for this group. The commission also accepted, in general, the principle set forth in the Disengagement Implementation Law whereby compensation will not be given for expenses that were not duly reported to the tax authorities.

In line with its general approach as specified above, the commission believes that **with regard to the farmers, a distinction should also be made between a “continuing farmer” and a “non-continuing farmer,”** and that continuing farmers can, as stated, contact the special committee if they believe that they did not receive compensation at full replacement value. This recommendation relates, *inter alia*, to a matter that is termed “loss of agricultural seasons,” and to other matters in dispute.

In contrast, in the opinion of the commission, no distinction should be made between owners of land who were active farmers before the evacuation and those who were not active farmers. The commission determined that, in this matter as well, the overall picture of the state’s conduct is discomfiting and worrisome. The government’s decision that created said distinction was hastily prepared without legal advice, even if made under the pressure of objective circumstances. However, even after the attorney general determined that the decision (the relevant part) was not legal as long as the law was not amended, this determination was not brought to the attention of the legal department in the SELA administration, which was supposed to implement it. It appears that the SELA administration first heard of the determination from the commission of inquiry. As a result, agreements that were signed with continuing active farmers, which granted them extremely significant benefits in contrast with

the law, were based on a cabinet decision that had been declared illegal and invalid. The commission noted that in the framework of the legal amendments which will probably be implemented as a result of the aforementioned, it is advisable to update the legal situation so that it will no longer distinguish between active and inactive farmers, but rather between continuing and non-continuing farmers alone.

In essence, the commission accepted the position of the director general of the prime minister's office, whereby a farmer – active or inactive – who does not continue to engage in agriculture himself, will receive 15 dunams of agricultural land in the Negev, which he can cultivate together with others in addition to compensation that he received in place of the agricultural land from which he was evacuated, provided that this solution is implemented quickly.

The entitlement committees: Among the gamut of subjects connected with the entitlement committees, one will be mentioned. The commission found that sometimes a claimant was required to provide evidence for a fact that should not have been in dispute. In the opinion of the commission, this meticulousness created a superfluous burden and, in the special circumstances following the evacuation, it should have been possible – with regard to most of the ordinary claims – to rely more on the claimant's declaration and on the available information in the state's databases. The commission strongly disapproved of an article that was published, which permitted defrauding the state with compensation claims for the evacuation which were apparently based on Jewish law. It is possible that this article constitutes an appropriate background for understanding the cautious position of the entitlement committees in examining the claims that were submitted. However, in the opinion of the commission, even this article did not justify the foregone conclusion that the evacuees would try to defraud the entitlement committees, and it did not contain anything that would serve to cast suspicion on the decisive majority of the claimants.

The special committee: This committee was designed to provide a response to those who do not meet all the conditions for entitlement to compensation that were set forth in the Disengagement Implementation Law. Therefore, the special committee was empowered in suitable cases to approve payment *ex gratia*. The commission of inquiry noted that it does not have the tools to conduct comprehensive and valid research on the quality of the decisions made by the special committee as a whole, in contrast to studying examples one way or the other which were presented by the parties. It was evident to the commission that the members of the special committee worked day and night and devoted many hours of concerted effort and thought to providing the most satisfactory and fair responses to thousands of applications that were submitted to it. However, the commission believes that the decision of the special committee to gird itself – even if subject to exceptions – in a long series of *a priori* (and unwritten) principles narrowed its discretion unnecessarily. The role of the special committee is to cover the gap between what is legal and what is fair and appropriate. If any injustice was caused to any of the evacuees due to the conditions of the law, and on the basis of special circumstances, it is the duty of the special committee to rectify that. Since the legislator determined that the authority of the special committee would be almost boundless, and because the secondary legislator also chose to grant it broad discretion, the committee should have exercised that discretion in full. The commission believes that **the special committee cannot refrain from deliberating the essence of the matter in each case.** This is not a license for profligacy, and the special committee must not scatter the public's money indiscriminately. But it is incumbent on the special committee to provide a just response to the evacuees who are deserving of it, **without imposing preconditions that are not required by law.**

The commission of inquiry believes that the special committee's reliance on legal counsel (including from the Ministry of Justice) – which does not weigh considerations of justice any better than the members of the special committee themselves – was excessive and may have had a “chilling effect” that made it difficult for the

committee to undertake sufficient responsibility in its decisions. The commission also noted that the legal counsel must refrain from deciding issues that are not of a predominantly legal nature, even if requested to do so. In these matters, the legal counsel must restore the responsibility to the entity to which it was entrusted.

The commission further recommended amending the Disengagement Implementation Law so that the mechanism for objecting to decisions of the special committee will remain a mechanism of petitioning the administrative court, but the court should be explicitly authorized by the law to “step into the shoes” of the special committee and also weigh the considerations of substantive justice that it is entitled to weigh, and it will not be obligated – as in the existing practice – to limit its examination to the ordinary rules of examination for administrative action. The commission also recommended, as a balancing and supplementary element that will increase the willingness of the special committee members to bear their responsibility independently, that the state will also be granted the right to petition the administrative court about decisions of the special committee.

Employment: The commission found that the state failed in a multidimensional manner to handle the employment problems of the evacuees: The state refrained from preparing for the problem ahead of time in a sufficiently professional manner, despite the fact that it was anticipated; afterward, it changed the frameworks for handling the problem without justification and closed the special center that had been established for the purpose; it refrained from handling the problem as a whole for a long period of time; it made decisions that were not implemented (such as the decision on placing evacuees in government companies), etc. Even when a private entity was found (the Taasukatif organization), which undertook the responsibility abandoned by the state – and implemented the task well – the state failed for a long time to encourage and rapidly fund this entity.

With regard to the future, the commission reiterated its position, which it presented in the interim report, whereby, despite the budgeting (partial, according to the “matching” principle) which was

referred to said private entity, the government is not entitled to absolve itself of its obligation to act concomitantly, itself, to resolve the employment problems among the evacuees. The director general of the prime minister's office informed the commission that the government was, indeed, acting to find additional frameworks, including in the private sector, in order to broaden the supply of positions for the evacuees. The commission assumes and anticipates that this statement will be given practical and meaningful content in the immediate future.

Retirement benefits: In the framework of the agreement between the state and the business owners, the granting of a special payment was agreed upon, instead of expanding the rights to the retirement benefit granted by the law. The special payment, at a variable rate (NIS 2,000 or NIS 3,000 a month) will be given to anyone who, on the date of record, was age 50 or older, less imputed interest for the compensation received. In this matter, the commission determined that placing the rate of imputed interest at 5% was not consistent with the real interest rates in the market in the years after the evacuation, from which the evacuees could have benefited, not even in a conceptual manner. The commission recommended that the owners of continuing businesses who reestablished their businesses after the evacuation, would not be subject to the deduction of the imputed interest at all, while the others, who did not reestablish their businesses, would be subject to the deduction of real imputed interest at the rate in practice in the economy in the last two years.

Concomitantly, and as in the interim report, the commission again recommended that the government create incentives to encourage the return to work by evacuees who were entitled to said payment, such as by means of tax reductions and credits. The commission sees great benefit in this, both at the personal level – in the improved sense of personal economic security and improved self-image of the evacuee as a person who can make an honest living, and at the national level – by decreasing the overall number of the unemployed.

Society, welfare and education: Out of the gamut of issues that were deliberated in this area, several will be discussed. In the opinion of the professional entities, it is important to maintain community continuity during the rehabilitation process. However, this relates to original, authentic communities. In actuality, due to the absence of restrictions in the law, in some cases and for the purpose of the community relocation, small groups and individuals created new community frameworks that had not existed before the evacuation, and therefore there were no real community ties. The commission determined that these had not fulfilled the rehabilitational purpose and sometimes even delayed the rehabilitation of their members.

The commission praised the “reaching out” approach employed by the social welfare people in the SELA administration, with regard to **families that chose an independent housing solution** rather than a community solution (the “dispersion” families). The commission also recommended that the Tnufa administration inform these families of the up-to-date options and rights available to them.

The commission found that the transfer of social funding by the government ministries to the local authorities and the latter’s utilization of that funding were subject to substantive problems that impaired the quality of the social handling of the evacuees. The commission recommended a combined mode of contending with these problems in several ways, among them allocating a **multiyear budget** and creating **flexible budgetary criteria**.

The commission noted that the establishment of the Ma’anim hot line by the SELA administration in cooperation with the psychological service of the Sha’ar Hanegev Regional Council was a creative and important action taken outside the usual framework, and extremely praiseworthy. The commission also welcomed the assistance received by the administration that was provided by professional sociopsychological entities outside of the government.

The commission recommended that the competent authorities conduct a comprehensive physical, emotional and

sociopsychological **medical survey** among the evacuees, which could also provide vital information for future events.

The date for conclusion of the rehabilitational support: The commission recommended continuing the full social support for the evacuees – both individual and communal – up to the end of one year from the date on which the majority of families in the relevant community actually transition to permanent housing. Afterward, the support should be reduced gradually. The special community support should be continued in a convergence model for an additional period of time. The commission also recommended that as long as the need for social support continues to exist after the date on which the Tnufa administration is to close (which is currently unknown), the administration's social welfare headquarters should be transferred, in its entirety, with all its employees and budgets, to the Ministry of Social Affairs.

4. Recommendations for preparing for future events

A population may be evacuated from a region not only for political reasons, but also, for example, because of a natural disaster or a decision to implement a large-scale public venture. The resettlement of a population may also be required due to events of a different nature, such as hostile actions or a wave of immigration that may suddenly arrive in Israel. Such events and their circumstances differ from one another, and the rehabilitation concept must be adapted to each such event and its unique nature. However, from the point of view that examines the state's treatment of its citizens, whose world has been turned upside down by the event, requiring their resettlement and rehabilitation (hereinafter: the **Rehabilitees**), it seems that the problems with which the state must contend are similar. On this backdrop, the commission believed from the start of its work that it was also obligated to recommend guidelines by which the state would be well advised to act in the case of a future national event.

What is the minimum legal and public responsibility of the state in treating the Rehabilitees?

The commission's main conclusion, based on public considerations (and not just on formal legal obligations), was that the criterion that the state would be well advised to utilize in the future to define its legal responsibility is that of restoring "**the normative replacement value**" lost by the Rehabilittee, i.e., **an estimate of the effective benefit that he derived from the property that he lost**. The purpose is to preserve said benefit approximately, but this applies only to Rehabilittees who, after the evacuation, will actually reconstruct, or will prove that they intend to reconstruct, another property similar to the property they had. With regard to the other Rehabilittees, insofar as they wish to suffice solely with monetary compensation without reconstructing the property that they lost, they will be entitled only to the "offset replacement value" of the property that they lost

However, the commission determined that the normative replacement value may be split by the state and given in installments or in other ways, and not necessarily as an unconditional payment.

In the framework of outlining a reasonable rehabilitation policy, the commission believes that the state must offer the Rehabilittees **multidisciplinary assistance**, which is not necessarily monetary assistance; **that a distinction should be made between public and private property**; that no compensation should be given for property that is not the private property of the Rehabilittee; and that **there should be limited reliance on cooperation with the Rehabilittees** in determining the rehabilitation guidelines. Conducting negotiations with the Rehabilittees on condition of their rehabilitation is liable to lead to prolonged delays in their rehabilitation process. It would be advisable **to combine the rehabilitation with a general national objective**, such as strengthening settlement in areas of national priority, and it would be advisable to implement community relocation only if it is integrated with other national objectives that have been defined by the state.

What are the means for exercising the state's responsibility vis-à-vis the Rehabilitees?

Preparing in advance. The commission reached the overall opinion that the state of Israel must establish a **comprehensive legislative arrangement** that would formalize the modes of rehabilitating a large population following an event of national magnitude. The commission therefore recommends legislating the establishment of a designated authority to handle the Rehabilitees, which must operate all the time, in a permanent and extremely limited format. If a national event occurs, this entity will have to expand its ranks at once, and adapt its size and abilities to the task at hand. As long as no national event occurs, **the main purpose of the rehabilitation entity will be to prepare contingency plans for handling Rehabilitees and to see to the prior approval of those plans by the relevant entities.**

Responsibility and authority. To enable the rehabilitating entity to handle the Rehabilitees efficiently, if a national event occurs, it must be given four main powers: **Budgetary authority.** The rehabilitating entity must receive a comprehensive budget to fund the entire rehabilitation task, which it can use at its discretion, on the basis of the approved policy. **Implementational authority.** Insofar as possible, the rehabilitating entity should be authorized to implement the various rehabilitation tasks by itself (by means of implementing contractors, which it will choose) without being dependent on other government authorities. **Legal authority.** The rehabilitating entity must have its own legal adviser on staff, at a level equivalent to that of the attorney general, who will be authorized by the attorney general to make the required decisions himself, and will be required to consult the attorney general – and even that directly – only on exceptional matters of principle. **Organizational authority.** The rehabilitating entity must have the authority to select and recruit its workers, without being subordinate to the civil service commission and without the ordinary provisions of the civil service regulations being applicable to itself and its workers.

Implementation of the task by a government company. The commission reached the conclusion that an extra-governmental entity is the most suitable mechanism to handle the Rehabilitees, *inter alia*, because of its relatively improved multidisciplinary ability, primarily in emergencies; because of its ability to function as a professional entity disconnected from the political framework; because of its ability to focus all its resources on a single task – rehabilitation of the Rehabilitees; because of its ability to make independent decisions, mainly with regard to the manner of utilizing its budget; and because of its ability to act with greater flexibility in everything pertaining to its connections with outside entities. The commission determined that the most suitable extra-governmental entity for the purpose is a government company. This company can be structured so that on the one hand it can enjoy the declared advantages of an extra-governmental entity, and on the other hand it will be under the control of the state by means of a board of directors composed of representatives of the relevant government entities, which will have supervisory and guidance authority, but not ongoing implementational authority.

What would be the best preparation for individual issues?

The commission determined that sites at which a permanent settlement could be established for the Rehabilitees, if necessary, should be planned in advance and, accordingly, plans should also be made for **establishing the temporary camps in the areas designated for establishing the permanent settlements**. For that purpose, from now on, the state must promote the planning of permanent settlements designated for Rehabilitees, up to a level corresponding to district planning. On the subject of **employment**, the commission believes that the rehabilitating extra- governmental entity must coordinate the handling of the Rehabilitees' employment and prepare for it in advance. In a similar future event, **employers in the public sector must be legally obligated** to give preference to hiring Rehabilitees, whose livelihood was impaired because of the national events. **In the social context**, the extra-governmental entity that is coordinating the handling of the Rehabilitees must establish,

as soon as possible, a team of professionals at least some of whom have a connection to sociopsychological treatment in crisis and disaster situations, which can formulate a professional plan for sociopsychological rehabilitation and, later on, coordinate this rehabilitational activity.

5. Implementing this report

The prime minister is in charge of the state's executive authority – the government of Israel. The implementation of this report has therefore been laid on his desk. This is an urgent national task that cannot be removed from the personal purview of the prime minister. The executive arm of the prime minister for implementing the commission's recommendations is the director general of the prime minister's office. There are various tools available to the director general for this purpose and he may utilize them at his discretion. The prime minister and the director general of his office therefore bear the responsibility to do everything required to conclude the handling of the evacuees, as set forth in detail in this report. This entails the basic human rights of thousands of evacuees who were harmed in a multisystemic manner by the state's actions. The state is duty-bound to bring the handling of these evacuees to the finish line.

The prime minister also bears the responsibility for preparing, in timely fashion, today and not tomorrow, for future events that are liable to require the resettlement and rehabilitation of citizens. As stated, such events are liable to occur not only for reasons of state but also, for example, because of a natural disaster, an extensive public venture or hostile actions. The lessons learned from handling the disengagement evacuees have clarified beyond any doubt: only meticulous advance preparation can significantly reduce the severe future harm to these citizens. Such preparation includes specific legislation and the establishment of a multidisciplinary entity to be placed in charge of the matter. It requires professional administrative work, detailed planning and ongoing preparation of an infrastructure that will be ready for use, when needed, within a short time. It also

entails the allocation of resources. But as transpired in the disengagement affair, the resources now required for the purpose are as nothing compared with the resources that will be required in the future because of a lack of advance planning.

The commission anticipates that this report will be the last link in the chain of struggles between the evacuees and those seeking their benefit, and the government, with regard to the scope of the evacuees general rights. There will doubtlessly be more individual litigation in the compensation committees and in the courts. But it is advisable to bring the chapter on the public struggle to an end. The finality of the process, and the certitude that it brings to both the individual and the community has an independent rehabilitational value, which is inestimably greater than the limited material achievements which may yet be produced from the continued struggle. There is a reason why MK Zevulun Orlev, chairman of the Knesset State Control Subcommittee, stated at the opening of one of the meetings³:

The subcommittee has held a number of discussions with the understanding that the final report [of the commission of inquiry] will really be a final report. **In other words, after the final report, it will not be possible to bring claims and raise other issues for discussion,** and therefore it is advisable that the final report exhaust all the issues on the agenda.

Words in a similar vein were also spoken by other public figures, among them the director of the Gush Katif Committee.⁴ The commission supports all those who take this responsible route.

From here on in, therefore, the state and the evacuees must join hands in the endeavor and in implementing the commission's recommendations, with a view toward the goal that is common to all – to conclude the mission of rehabilitating the evacuees as soon as possible.

³ Minutes of the State Control Subcommittee (January 12, 2010).

⁴ See for example: the public testimony of Mr. Doron Ben Shlomi, director of the Gush Katif Committee (January 25, 2010), pp. 5115-5116.

EPILOGUE – THE STATE AND THE EVACUEES

In the month of Av 5765 (August 2005), about 2,000 families of Israeli citizens – pioneers and implementers – were exiled from their homes, from their community, from the environment of their lives. The settlers were ordered by the sovereign government to pick up stakes and leave a blossoming region and be torn away from their land. Contrary to their beliefs and their life plans, with a seething heart and melancholy soul, choked with tears of grief, humiliation and pain, the settlers evacuated bustling settlements in Gush Katif (including settlements in the northern Gaza Strip) and in northern Samaria.

The settlement began with a decision by the government of Israel, right and left, to establish a holding, a core of settlements, community and agricultural settlements in said territory. Like the pioneers of previous generations, so, too, were these settlers: envoys before the camp, fulfilling a dream and implementing a vision. Indeed, the settlement that was destroyed in the course of the disengagement was established almost completely with the authority and permission of the sovereign government and with its full encouragement. The lips that permitted are also the lips that prohibited.

The settlers are the salt of the earth. With hard work, enormous sacrifice, capability and innocent faith they built magnificent settlements. They overcame difficult physical conditions and the land responded to them and yielded a hundredfold. They contended with an unstable security situation and for years they bore the brunt of the shelling, attacks by terrorists, attacks on the roads and all kinds of calamities. The price was high – residents of Gush Katif sometimes paid with their bodies and even their lives – but their spirit never flagged. The scars of their bodies strengthened their

commitment, the bereavement crystallized their will and they clung with all their might to their land.

The testimony before us paints an impressive picture of the settlement achievements in Gush Katif. First, from the social standpoint, the residents excelled in mutual responsibility and community responsibility vis-à-vis the weak and needy. Gush Katif was a unique region in which people treated one another as brothers and sisters, members of one family, in times of happiness and in times of sorrow. That was one of the sources of their strength. Second, from the educational standpoint, this region was dotted with excellent educational institutions, which operated in an impressive Torah-oriented and faith-based ideological atmosphere. The settlers took upon themselves national missions – aside from making the region bloom, and their contribution to the security of the state – such as absorbing large numbers of immigrants (relative to the size of the region). Third, from the economic standpoint, the residents of Gush Katif made an honest living. Among other things, they developed excellent agriculture, garnering many customers throughout the world. More than a few of the settlers came to Gush Katif from development towns in southern Israel and by dint of their will and their abilities, they broke out of the cycle of poverty and attained personal comfort.

The evacuation hurt all of these. Precisely because settlement was a complete way of life for them, the evacuation was particularly traumatic. People lost not only their place of residence, their livelihoods and their communities – a tragedy in itself – they also lost part of their identity. The ideological tension that rent Gush Katif throughout all the years of its existence is also what fed the power of the calamity. People who perceived themselves as implementing Zionism ostensibly became a burden and a millstone. As large as the will to sacrifice, so was the size of the disappointment when it became apparent that their sacrifice would not be requited.

The sense of betrayal experienced by the evacuated settlers was shared by more than a few among the general population of Israel. Religious Zionism, for the most part, felt that the state and its leaders had turned their backs on them. Leaders of the sector – politicians, rabbis and educators – positioned themselves for a frontal attack against the disengagement plan, backed by tens of thousands of citizens whose hearts were raging and whose souls were torn. The fact that the evacuation was carried out by the security forces, who are in charge of protecting the state against enemies from without, made matters far worse. This must be understood: the IDF is a kind of “holy vessel” for the overwhelming majority of religious Zionists. And now, through them, a deed was done which, from their standpoint, was sacrilege. All these, and the disputed manner in which the decision was made about the disengagement in the state’s democratic institutions, created an ideological shock wave among some of the sons and daughters of religious Zionism.

Notwithstanding all the above, the evacuation was conducted without any significant violence. As a rule, no one raised a hand against his brother. The evacuees opposed the evacuation and tried everything they could to prevent it. They planted and seeded their land up to the last minute in the hope that it would never happen, but when the moment of truth came, they conquered their instincts heroically. It was a shining page of civics in the annals of the state, when, on the brink of the abyss, the settlers behaved with responsibility and restraint, with the aim of avoiding a civil war. The heroes of the settlements became the heroes of the evacuation. The heart rending pictures of men and women, youths and children, being evacuated with tears and prayers, but almost without any show of force, were engraved on the hearts of the nation as the supreme expression of national responsibility. Tens of thousands of protesters on the fences of Kfar Maimon behaved in a similar fashion. They expressed an impressive civic protest, but they were not swept up in a whirlwind of violent struggle among brothers.

This factual sequence of events is not within the commission's purview, which focuses on the manner in which the state treated the settlers after their evacuation. Nevertheless, we have referred to it briefly because it provides the context and the background for a fuller understanding of the expectations and disappointments regarding the state's handling of the evacuees. From the standpoint of the settlers, the state's disassociation from their endeavors, the great price they paid, the altruism with which they evacuated – none of these led the state to make a similar, equivalent effort in the process of their rehabilitation. Indeed, notwithstanding all the good intentions of the state, and as indicated by the conclusions of the commission of inquiry, the manner in which the state handled the evacuees was unsatisfactory, to say the least. A series of operational failures, which the report enumerated extensively, led to the fact that to the results – which were bad enough in themselves due to the evacuation itself – were added the deep scars etched in the flesh of the evacuees during the (almost) five years that have elapsed. Above the layer of mourning caused by the evacuation, another layer of grief and pain has been created, the result of prolonged existential difficulties in temporary housing and provisional sites; of a lack of employment and the breakup of families; of a loss of human dignity and harm to health. The passing time whitens the hair and dims the eyes.

No position is taken in these words on the question of the justice of the disengagement plan; they do not contain any criticism or support for the manner in which the evacuation was implemented and no reference whatsoever – either positive or negative – should be read into them with regard to the complex aspects deriving from the political-ideological debate that accompanied the processes connected with the disengagement. The commission believed that a sensitive, respectful and “embracing” approach to the evacuees is a basic precept required vis-à-vis anyone whose human rights have been violated. Moreover, it is required of the Israeli brotherhood, to which all belong, even those who, in principle, opposed the establishment of the settlements in Gush Katif and northern Samaria, and supported the disengagement and evacuation of the settlements.

The evacuation shook up and shocked an important ideological camp in Israeli society. It created real cracks in Israeli unity and flooded the country with fundamental disputes. The handling of all these is not a matter to be given over to judicial decision and the remedy will not be found in an administrative procedure. However, the fair and effective rehabilitation of the evacuees is one of the devices that is likely to soften the blow and relieve the pain. The obligation imposed on the state vis-à-vis the evacuees is anchored in the basic social contract which ensures the human rights of every citizen of the state – all the more so for a citizen whom the state itself has turned into a refugee in his own homeland.