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SETTLEMENT MONITOR

EDITED BY GEOFFREY ARONSON

This section covers items—reprinted articles, statistics, and maps—pertaining to Israeli settlement activities in the Gaza Strip and the West Bank, including East Jerusalem, and the Golan Heights. Unless otherwise stated, the items have been written by Geoffrey Aronson for this section or drawn from material written by him for Report on Israeli Settlement in the Occupied Territories (hereinafter Settlement Report), a Washington-based bimonthly newsletter published by the Foundation for Middle East Peace. JPS is grateful to the foundation for permission to draw on its material. Major documents relating to settlements appear in the Documents and Source Material section.

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MANAGING PERMANENT OCCUPATION

SHARON'S SUCCESSOR MUST CONFRONT HIS LEGACY

From Settlement Report, January-February 2005.

Israel has been searching for a sustainable framework for managing permanent occupation since Menachem Begin's 1978 embrace of Palestinian "autonomy."

Prime Minister Ariel Sharon's removal of all Israeli troops and settlements from the Gaza Strip in September 2005 signaled the emergence of a new Israeli consensus. Sharon, like Israel's first prime minister, David Ben-Gurion, was determined to shape the permanent borders of the state.

"Not everything will remain in our hands," noted Sharon, harkening back to Israel's first leader, in a September 2005 speech. "We have a rightful and just dream, but there is a reality, and it is tough and demanding. It's impossible to hold a

Jewish, democratic state and also rule all of Palestine."

Before he was incapacitated by a stroke, Sharon had begun to implement a "long-term interim agreement" that rejected negotiations with the PLO, opposed a final status resolution of all outstanding issues, and cemented a new rationale for consolidating Israel's still considerable appetite for territory in the West Bank and East Jerusalem.

Sharon believed the "facts" that he was creating would establish a twenty-first century foundation for Israel's claim to contested territory: "hard" borders governing passage between Israel and Palestine along the separation barrier; settlement "blocs" claiming space and sovereignty over lands that Palestinians consider an inseparable part of their patrimony, with contiguity via bridges and tunnels as a substitute for the territorial coherence lost by Palestine to Israeli settlements; and "security zones" in places like the Jordan Valley. Sharon championed a new paradigm that features Israel's

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imposition of an ersatz sovereignty in the West Bank (as he already did in Gaza) upon unwilling Palestinians in those territories Israel does not desire either for security or settlement. There are doubts whether whoever succeeds Sharon in national elections in March 2006 will have the desire or power to realize this outcome. Sharon's successors may not champion it with his vigor or effectiveness, but they will find his program difficult to replace with an alternative of their own.

The Bulldozer's Agenda

Israelis will not be alone in seeking to chart a course without Sharon. An international community that has deferred to "the Bulldozer's" diplomatic agenda may be compelled to provide firmer leadership in this new, uncertain era. The road map has remained an excuse for inaction, relevant only to the extent that its ritual invocation assured that no plan of consequence challenged Sharon's vision. All major Israeli parties agree, if not for the same reasons, that the diplomatic framework championed by the Bush administration is *passé*.

Sharon intended that Palestinians remain objects of his intentions, as they had been during Israel's retreat from Gaza, rather than partners in the conception and execution of plans concerning them. With his departure, Palestinians now have increased ability to influence the program that his undoubtedly less powerful and less effective successor will unfold in the West Bank and East Jerusalem.

While the principles Sharon wanted to implement are clear, the borders of the map that he wanted to create are not. No one knows exactly how much of the territory conquered in June 1967 Israel will claim for itself in the coming months and years. A range of possibilities exists, downward from 60 percent of the West Bank (excluding East Jerusalem)—Oslo's Area C—to the 9.4 percent west of the separation barrier. Areas of "United Jerusalem" have already been placed on the Israeli side of the separation barrier. Additional parts of the city could well follow. But if Palestinians and the international community are to successfully demand a maximal Israeli retreat, including areas west of the separation barrier whose annexation is ostensibly supported by an Israeli consensus, they will have to demonstrate greater capacity for diplomatic innovation and leadership.

IT'S THE OCCUPATION, STUPID!

From Settlement Report, January-February 2005.

Israel's reoccupation of the entire West Bank in Spring 2002 (Operation Defensive Shield) ended many of the limited powers exercised by the Palestinian Authority (PA). Palestinian institutions created during the Oslo years have long ceased to exercise significant security functions anywhere. Effective Palestinian administrative and civil control has, in the West Bank at least, been circumscribed and limited, at best, to a few cities. International assistance has stepped into the breach created by the Palestinian Authority's collapse, transforming key institutions of Palestinian self-rule into wards of the international community.

Subsequent measures by the Israel Defense Forces (IDF) to construct a physical infrastructure are meant to control and separate Palestinians from each other, from settlers, and from contact with Israel proper. This draconian system, known as "closure," undermined the administrative control and territorial coherence extant in the Palestinian areas on the eve of the second intifada. Subsequent Israeli practices have deconstructed nominally Palestinian territories into an ever more complex, almost indecipherable maze of administrative, territorial, legal, and security spaces lacking territorial coherence and administrative transparency. The points at which these spaces meet—checkpoints, crossing points, and the separation barrier winding its way through the West Bank and East Jerusalem—highlight the conflicts, inefficiencies, and suffering produced by Israeli policy. These hardships are not the unintended byproduct of policies carelessly planned or implemented. Rather, they are the inevitable consequence of an arbitrary and lawless regime of occupation.

Even under optimal conditions, the cardinal feature of Israeli rule—the maintenance and expansion of civilian Israeli settlements and associated infrastructure—could not but fatally undermine Palestinian efforts to establish and run national security and administrative institutions. Settlements aim to "claim space" in a zero-sum contest with Palestinians over political and territorial control of the West Bank. Since the mid-1970s, settlements and the lands they control have been established for all practical intents and purposes as extraterritorial extensions of the State of Israel and thus placed beyond the administrative and practical reach

of Palestinians. These areas now comprise roughly 60 percent of the West Bank (Area C) and represent a fundamental obstacle to the effective, efficient, and sovereign management of Palestinian affairs over territories they claim as their own. This rump of isolated, disjointed Palestinian territories is principally designed to preserve Israel's settlement infrastructure and the transportation network constructed to support it. This setup poses a much more severe administrative and security challenge to both Israelis and Palestinians than did the Oslo division of the area into Areas A, B, and C, and it represents a radical change from the open system that prevailed in the 1967-1987 period.

Prime Minister Ariel Sharon intended to solidify the physical separation of Palestinians from settler communities within the West Bank and also between the Palestinian areas of the West Bank and Israel in security, territorial, and economic dimensions. The creation of the physical infrastructure to support this policy is well advanced. Even should he so choose, Sharon's successor will not easily be able to reverse it.

The physical separation of settlers from their Palestinian environment relies on the creation of territorially contiguous settlement blocs linked territorially to Israel. The settlers' territorial continuity is contrasted by a patchwork of Palestinian areas whose territorial and administrative coherence has been sacrificed to Israeli settlement requirements, and whose linkages to other Palestinian areas, when available, are often limited to narrow corridors of "transportation continuity." Palestinian access from the West Bank to Israel is soon to be subject to strict, "hard" border-like controls of the Gaza Strip's Erez model at a limited number of crossing points, some of which are located within the West Bank itself. Access from the Gaza Strip to Israel, for labor and goods, will continue to decline, and the creation of a regular and efficient transit route between Gaza and the West Bank, despite Israeli promises to the contrary, will not be realized.

The physical divisions throughout the West Bank are caused by settlements, their infrastructure, and transportation links. Palestinians and the international community have not effectively challenged Israeli demands to assure the security of settlements and their inhabitants, expansively defined by Israel, even though these demands make the effective exercise and expansion of Palestinian authority all but impossible.

"Win-win" solutions of the kind promoted by the international community have been all but impossible to implement. No one today is claiming, as Israel did in the early decades of occupation, that the system Israel is now imposing will revitalize the Palestinian economy, enhance the quality of Palestinian life, or enable Israelis and Palestinians "to live together forever" under benevolent Israeli rule. Israel long ago abandoned its claim that settlers and settlements do not harm their Palestinian "neighbors." Indeed, well-intentioned efforts are being made by Palestinians, Israelis, and the international community to reduce the catastrophic economic and social dislocations that the system is producing in a quixotic effort to approximate the re-creation of a benign economic and territorial space comprising Israel and the West Bank and Gaza Strip, divided into separate and territorially coherent Israeli and Palestinian political entities. No Palestinian administration could administer the evolving scheme effectively and transparently in a way that enhances its capability to operate in a sovereign manner and that assures administrative coherence, economic well-being, and effective security.

Internationally led efforts to encourage a regime of law are a misconceived and ultimately unrealizable substitute for a principled demand to dismantle settlements and to end occupation. The conceptual framework adopted by the international community—whether in its policy toward settlements, security, or border management—reflects the misplaced notion that a hostile occupation dedicated to the large-scale theft of land for civilian settlement and thus lawless by nature, can be run according to standards that are above all fair. For example, a recent World Bank report, "The Palestinian Economy and the Prospects for its Recovery," is guardedly hopeful that the 15 November 2005 agreement on the operation of crossing points from Gaza "has the potential to transform border management—from a unilateral, security-based model to one which is cooperatively managed and seeks a sustainable balance between security and economics." Such a system, if it could be created, would not be an occupation of the kind that Israel operates in the occupied territories. But occupation—brutal, arbitrary, and opaque—with settlement at its heart, continues to define relations between Israel and Palestinians today.

Contrary to the claims of Israeli officials, completion of the separation barrier later

this year will not materially affect the draconian closure regime that now defines life for Palestinians in the West Bank, as long as the requirement to protect settlers and the maintenance of their "normal lives" remains paramount, and as long as Palestinians resist this state of affairs. As the World Bank report gingerly acknowledges, "as the separation barrier is completed, it can be assumed that threats to Israel will no longer constitute the core rationale for internal closure (any more than it does in fenced-off Gaza), leaving the protection of Israeli movement in the West Bank [i.e., the protection of settlers] as the key factor. Given this, and the continued expansion of settlements in the West Bank, an early return to the September 28, 2000 status quo in the West Bank would seem unlikely."

The international community hopes that the efficient, transparent operation of crossing points will take the harsh edge off continuing occupation. But settlements, as the World Bank report notes, are at the core of the closure regime and the associated restrictions on Palestinian movement that have impoverished the country. "Current GOI [Government of Israel] policy," the report notes, "protects settlements and settler access by restricting Palestinian traffic on key highways, and this conflicts with the need to restore movement between towns, villages and the borders. . . . The system of closures detailed in the Bank's December 2004 report is still largely in place, and remains the key risk to rapid, sustained Palestinian economic recovery."

The World Bank report also acknowledges that the Palestinian Authority is justifiably concerned that to the extent that international efforts are aimed at tinkering with this system, "a dialogue of this kind between donors and GOI could be construed as acceptance of the legality of settlements." That indeed is Israel's objective, to compel Palestinians and the international community to recognize the legitimacy of its settlement enterprise.

CONFISCATING BIL'IN

TURNING PALESTINIAN PROPERTY INTO ISRAEL'S STATE LAND

This article by Akiva Eldar appeared in Ha'Aretz on 27 December 2005.

Ehud Barak likes to compare the State of Israel to a villa in a jungle. It would be interesting to know whether he means that the areas of the settlements in the territories are a legal veranda of the villa or part of the jungle.

Right under the noses, in the best case, of prime ministers, chiefs of staff, and GOCs of the Central Command, who are responsible for "Judea and Samaria" (the West Bank), among them Barak himself, the State of Israel has imposed the law of the jungle on those territories. The civil administration, with the blessing of the state prosecutor's office, has been a key partner in a system of real estate deals, of which the description "dubious" would be complimentary.

Building companies owned and managed by settler leaders and land dealers acquire lands from Palestinian crooks and transfer them to the custodian of government property in the Israel Lands Administration. The custodian "converts" the lands to "state lands," leases them back to settler associations that then sell them to building companies. In this way it has been ensured that the Palestinians (under the law in the territories, the onus of proof is on them) will never demand their lands back.

A year and a half ago, when this became known to him, Brigadier General Ilan Paz, then the commander of the Judea and Samaria district, issued a written order to shut down the lands laundry. He reasoned that even if this was legally correct, it smelled bad. These lands have already served for the establishment of dozens of Jewish settlements and others are awaiting purchasers. Some of these lands, for example the lands of the village of Bil'in—now known thanks to the determined struggle against the separation fence—are adjacent to the 1967 border. The defense ministry has seen to it that the route of the fence will "annex" them to the "Israeli" side and the entrepreneurs are hastening to establish facts in concrete.

Two weeks ago it was first published here that adjacent to Bil'in, in the Jewish settlement of Matityahu East, a new neighborhood of Upper Mod'in, hundreds of apartments are going up without a permit. The lawyer for the inhabitants of Bil'in, attorney Michael Sfar, sent the state prosecutor's office a copy of a letter that Gilad Rogel, the lawyer for the Upper Mod'in local council, wrote to the council's engineer. Rogel warned that entrepreneurs are building "entire buildings without a permit, and all this with your full knowledge and with planning and legal irresponsibility that I cannot find words to describe."

In a report that he sent to the interior ministry, the council's internal comptroller, Shmuel Heisler, wrote that the construction in the new project was being carried out

contrary to the approved urban construction plan and deviates from it “extensively.”

The justice ministry has confirmed that “apparently illegal construction is underway in the jurisdiction of the locale Upper Mod’in, and that the civil administration in the area of Judea and Samaria has been asked to send its statement on the matter.”

The civil administration spokesman has said that “in light of the fact that at this stage, too, construction work is being carried out there, it is the intention of the head of the civil administration to examine as soon as possible the legal means of enforcement at his disposal, in order to bring about the stoppage of the building that is being carried out in this area.”

On the ground, the work is proceeding as usual. Documents in the possession of *Ha’Aretz* show that building violations are just the very tip of an affair that is many times more serious. The first document is a sworn statement by attorney Moshe Glick, the lawyer for a settlers’ association called the “Society of the Foundation of the Land of Israel Midrasha, Ltd.” On 16 June 2002, Glick declared to attorney Doron Nir Zvi: “I hereby submit this sworn statement in the place of the mukhtar [headman] of Bil’in. To the best of my knowledge, Mr. Muhammad ‘Ali Abed al-Rahman Bournat is the owner of the plot known as Bloc 2 Plot 134 in the village of Bil’in.”

Never Set Foot

On 16 November 2003, Glick signed another sworn statement. The new statement was aimed at explaining the strange phenomenon of an Israeli attorney swearing under oath, a procedure that is parallel to sworn testimony in a court, in the place of the *mukhtar* of an Arab village. From the new statement it emerges that Glick has never set foot on the lands to which his statement relates. “This sworn statement comes in place of a statement by the mukhtar of the village of Bil’in, as because of the security situation there is a real danger to the life of any Jew who tries to enter the village of Bil’in (and needless to say when it is a matter of the issue of the purchase of land). Moreover, there is a prohibition by the authorities that forbids citizens of Israel to enter Areas A and B.”

The spokesman of the Civil Administration confirmed yesterday that the village of Bil’in is located in Area B, which is under Israel’s full security control, and that Israeli citizens are allowed to visit there.

On the same day that Glick signed the sworn statement, the well-known land dealer Shmuel Anav appeared before him and also signed a sworn statement pertaining to that same plot. Anav, too, explained that the reasons it was impossible to bring an authorization by the *mukhtar* are the “security situation” and the prohibition on entering areas A and B.

In the section for “detailing the evidence” on which the Land of Israel Midrasha Foundation is basing its demand to register the plot in its name, Anav declared that “the owner sold it to his son and the son sold it to the Society of the Foundation.” The owner died several years ago. His son, Sami, who according to inhabitants of Bil’in forged their signatures, was murdered in Ramallah at the beginning of 2005. Had the police taken the claim of the Bil’in inhabitants seriously and examined the propriety of the sworn statements given in their *mukhtar*’s name, with a dubious security excuse, the police would have found that the name of Anav has been linked to land deals that have turned out to be land theft.

He starred in the affair of Nebi Samuel, the neighborhood that hit the headlines 10 years ago during former minister Aryeh Deri’s trial. Plia Albeck, for years the director of the civil department at the justice ministry, testified that a building company owned by settlers called Moreshet Binyamin had purchased from Anav 200 dunams of the land in the area of northern Jerusalem, and that he had purchased them from an Arab named Shehada Barakat, who testified that he owned the lands—but it turned out that he had sold lands that belonged to his relatives. Three years earlier Anav was convicted of soliciting donations from land dealers for the Likud’s election campaign, “with the condition and expectation that in return the donors would receive benefits.”

The justice ministry has responded that “property will be considered government property as long as the opposite has not been proven. Hence, it is possible to declare that privately owned land is government property, only if the owners of the land have asked the custodian of government property to manage the property.”

Michael Ben Yair, who was the attorney general in Yitzhak Rabin’s government, has told *Ha’Aretz* that he never approved turning private lands into government lands, and that this is the first time he has heard of this procedure.

Attorney Talia Sasson was also surprised to hear that the civil administration has served as the settlers' land laundry. This is not to say that the author of the report on the illegal outposts does not know that the civil administration serves the settlement project in the territories. In a lecture at University of Haifa, which dealt with the nonimplementation of the recommendations of the outposts report (the chairman of the committee for implementing the recommendations, Justice Minister Tzipi Livni, has not yet found time to submit its recommendations to the government), Sasson related yesterday to the contribution of the Israel Defense Forces and the civil administration in particular to the establishment of the settlements in the territories.

"The civil administration was established because under the international law that applies in the territories, the commander of the area is obligated to take care of the 'protected' population in the area, that is to say the Palestinians who were there when the IDF entered the territory," the attorney explained. "Over the years the civil administration became the main body that dealt with all the matters of the Israeli settlement in the territories, not mainly the Palestinians, but in fact the Israelis," she said. It allocates lands to settlers, declares lands to be state lands, approves the connecting of water and electricity to the settlements, and more.

Sasson said: "In effect, it is the civil administration that enables in practice the acts of the Israeli settlement in the territories."

Sasson emphasized that the civil administration is subordinate to the IDF—on the one hand to the GOC and on the other to the coordinator of activities in the territories, who wears a uniform. "It emerges that the body by means of which the governments have been acting over the years concerning the implementation of settlements is a body that is subordinate to and run by the IDF (and at its head is a brigadier general). This mingling of the IDF and the settlement project is a bad and damaging mingling."

All According to a Master Plan

In the process of preparing a new report that deals with the expansion of settlements under cover of the separation fence, researchers from B'Tselem, the Israeli Information Center for Human Rights in the Occupied Territories, and from Bimkom, Planners for Planning Rights were able to lay their hands on the map of "The Master Plan of the Upper Mod'in Area" for the

year 2020. The map confirms that it is not only security issues that interested the planners of the route of the fence in the area of the battles for Bil'in. They were so hungry they "forgot" that security needs make it essential to keep a suitable distance between the fence and the nearest Jewish locale. It turns out that in addition to the usual master plans, at the initiative of the construction and housing ministry and in cooperation with the planning bureau of the civil administration, in 1998 the Upper Mod'in local council and the Matteh Binyamin regional council drew up a master plan for the whole bloc. The plan does not have statutory validity, but it is a guiding document in the framework of which the planning policy is determined for a given area, and in the light of which the master plans are formulated. The report points out that under the master plan about 600 dunam adjacent to the plan for Matityahu East, which are owned by families from the village of Bil'in, are slated for the construction of 1,200 new housing units. Less than two months ago inhabitants of Bil'in discovered that a new road had been cut through from the Matityahu East settlement to a large grove of olive trees that is located in the area. The village council filed a complaint with the Shai (Samaria-Judea) police about the uprooting of about 100 trees and their theft. The cutting through of the road reinforces the suspicion that under cover of the fence, there is a plan for a takeover of the land adjacent to the East Matityahu neighborhood, which is already in the process of construction.

Similarly, cultivated lands owned by the villagers of Dayr Qadis and Ni'alin on an area of about 1,000 dunams, adjacent to the plan for Matityahu North C, have been added in the framework of the master plan to the plan for the neighborhood.

The authors of the report note that the master plan for Upper Mod'in arouses a strong suspicion that one of the covert aims of the fence is to cause Palestinian inhabitants to stop cultivating lands that are intended for the expansion of the Jewish settlements, to enable the declaration of them as state lands. Hence, as described above, the way to the building companies is very short.

DOCUMENTS REVEAL W. BANK SETTLEMENT MOD'IN ILIT BUILT ILLEGALLY

The article by Akiva Eldar, excerpted here, originally appeared in Ha'Aretz on 3 January 2006.

Illegal permits were issued for a new West Bank project while buildings were being constructed or even completed, according to documents *Ha'Aretz* has obtained.

The project is the Mod'in Ilit settlement neighborhood of Matityahu East, which is being built on land belonging to the Palestinian village of Bil'in. An eyewitness reported that the illicit construction is proceeding, despite recent instructions from the settlement's planning and construction committee to stop the work.

The military government's civil administration chief planner, Shlomo Moskovitch, admitted the building permits for the new neighborhood Matityahu East in Mod'in Ilit were issued illegally. In another document the project's entrepreneur claims Mod'in Ilit council head Yaakov Guterman promised he would issue building permits before the planning and construction committee dealt with the requests, as required.

The new neighborhood is being built on the private land of the Palestinian village Bil'in. The land was purchased by land dealers through dubious powers of attorney, then rezoned as state land and leased or sold to settlers' building companies. The construction of the separation fence prompted the purchasers to implement their "rights" by hastily fixing facts on the ground.

Justice Ministry sources said yesterday that a "preliminary examination" conducted by the Civil Administration indicated the illegal construction in the neighborhood was stopped at the instruction of the local planning and construction committee of Mod'in Ilit. However, a Peace Now representative who visited the site that day reported the construction was proceeding as usual.

Earlier, the state advised the High Court of Justice that 750 housing units had already been built, and 520 out of them had been marketed. The state admitted the project consisted of "partially illegal building." The 1998 master plan for the Mod'in Ilit area shows the private land of Bil'in village included within the development plans for the year 2020. . . .

About a month ago, after *Ha'Aretz* published the first part of the research, the civil administration demanded Mod'in Ilit council issue orders to stop the construction work. On Sunday the civil administration advised attorney Michael Sfar, who represents the residents of Bil'in, that the local planning committee had ordered the construction to stop. Sfar wrote to the civil administration that Dror Etkes, the head of Peace Now's

Settlement Watch Project, visited the construction site and saw the construction work was proceeding at an even greater pace. In addition, Etkes noticed the houses were filling with inhabitants.

Sfar said he intended to petition to the High Court of Justice against the civil administration for inaction—in addition to the petition about the fence and the neighborhood separating Bil'in's residents from their land.

WEST BANK OUTPOSTS IN 2006—SAME SONG, DIFFERENT TUNE?

The "issue brief" excerpted here, produced by Dror Etkes of Peace Now (Israel) and Lara Friedman of Americans for Peace Now, was published in Americans for Peace Now's Settlements in Focus 2, no. 2 (27 January 2006), and is available in full at www.peacenow.org.

The purpose of the settlements has always been the same: to prevent contiguity between Palestinians towns and villages in the West Bank, while establishing a permanent Jewish presence on and claim to the land. Outposts are simply another tactic for achieving this goal. If permitted to remain in place and expand, the outposts will succeed in creating additional new settlement "blocs" deep inside the West Bank. In this way, settlers and their supporters hope to create a critical population mass to enhance the demand that these blocs—like the Etzion Bloc, the Mod'in Ilit Bloc, and the Ariel bloc—be kept under Israeli sovereignty forever, thereby further complicating (if not rendering impossible) a negotiated agreement with the Palestinians and the establishment of a viable Palestinian state. . . .

Today there are over 100 outposts scattered throughout the West Bank, most of which are located east of the route of Israel's West Bank security barrier. The majority of these are dispersed around and among the religious and ideological settlements located in the heart of the central West Bank ridge. . . .

Over 50 outposts were established since Ariel Sharon became Prime Minister in March 2001. The remaining 40-plus outposts were established earlier, mostly under the government of Prime Minister Ehud Barak. . . . In addition, at various times the settlers have mounted organized campaigns to create many new outposts, including in June 2003 and December 2005. In these cases, the

purpose of the campaign has apparently been to mobilize settlers and their supporters, draw the maximum amount of attention from the media, and make a political statement that outposts will not be dismantled easily. In general the outposts established during these campaigns have been “dummy” outposts that have lasted only the duration of the campaigns themselves. . . .

Every outpost that is not being dismantled is growing and become more entrenched. In some cases this can mean nothing as little as a new dirt access road, water tower, or a couple of new families living in caravans (mobile homes); in others it can be the construction of permanent infrastructure and houses (as in the case of Amona). The outposts that are “thriving”—in the sense of attracting relatively large numbers of residents and financial investment—are the ones that are linked to the mainstream settlement leadership, known as the YESHA Council. In general, these outposts are located around veteran settlements like Ofra, Eli, Shilo, Ariel, or settlements in the Etzion Bloc. Of the remaining outposts, many have been established by second generation settlers who reject the middle class lifestyle of the veteran settlements and want to regain the “pioneer” lifestyle and spirit of the original settlers. Those living in such outposts are thus not seeking to build permanent, middle class houses, apparently preferring to “rough it.” While such outposts may thus appear less rooted than outposts like Amona, or less supported by the mainstream settler leadership, this appearance is probably more reflective of the preferences of the outpost’s inhabitants, rather than some failure to attract residents or funds. . . .

The recent High Court willingness to hear cases related to outposts has forced the issue into the spotlight and increased pressure on the Government of Israel to take action against the clear infringements of Israeli law that these outposts represents. It has also deepened the crisis between the State and the settlers, making it clear that this is a significant difference between state policy and national interests, as defined by the Government, and the actions of the settlers. This crisis will likely deepen as Israel is forced to deal with the issue of illegal settlements.

In the context of this crisis, which has been driven both the focus on outposts and the August 2005 disengagement, settler zealots have begun to push the envelope in terms of publicly defying the Government

of Israel and hooliganism, including the mistreatment of Israeli soldiers in the West Bank. The most recent example of this is the January 2006 events in Hebron, when some Hebron settlers and their supporters ran amok, attacking soldiers and Palestinians, destroying private property, and refusing to accept legal, written orders from the Israeli Government to vacate illegally-occupied buildings. Taken together, pressure from the Court and egregious misbehavior by the settlers could move Acting Prime Minister Olmert or his successor to finally act against the settlements.

At the same time, the settler leadership appears to be trying to wear the High Court down with a strategy of seemingly endless delaying tactics: redundant appeals and seeking to make every interaction with the military authorities appear to be a major story of massive political importance. Their goal in doing this seems clear: to convince the High Court that the question of outposts is a political issue, rather than a legal one, and thus the Court should refuse to hear outpost-related cases on principle, leaving the issue to be decided by the political echelons. For more details of this original decision, see *Settlements in Focus* 1, no. 10.

This distinction between “legal” and “political” issues is key, since it is this distinction—established by the court in the early years of the settlement movement, in response to petitions filed by Peace Now—that has been the basis of the court’s long-standing position that it will not deal with questions related to settlements and settlement policy. Ironically, the actions of the settlers are breaking through the reluctance of the court to deal with settlement-related issues. This is because the court’s position is based on the premise that settlement activities do not involve the confiscation of privately owned land. In the case of the outpost of Amona, however, it has been clearly established that the settlers are operating on Palestinian privately owned land. Thus, the court recognized this case as different and agreed to hear the Peace Now petition. It is for this reason that Peace Now—and the settlers—view Amona as a key test case, and it is for this reason that the settlers can be expected to continue to draw out the fight over the evacuation and demolition of Amona for as long as possible. While the Peace Now petition regarding Amona is based on the clear-cut illegality of the actions of the settlers, it is also clear that there is a political dimension to the issue. Amona and the other

outposts are unquestionably the result of actions by elements of the Israeli Government to aid and abet the settlers, and the apparent unwillingness of successive Israeli Governments to enforce the law and dismantle the outposts is linked to both Israeli domestic politics and the broader questions of land and borders in the context of the Israeli-Palestinian conflict. It remains to be seen if the court will continue to deal with issues like Amona—where the settlers have crossed the line established by the court with regards to settlement activities—as strictly legal issues, or if they will eventually be worn down by the settlers and decide that even these cases should be dealt with as political issues, rather than legal ones.

WHO WILL DEAL WITH THE TREE DESTROYERS?

This editorial appeared in the 30 November 2005 issue of Ha'Aretz.

The illegal outposts, which the government has refrained from dismantling, are home to lawbreakers who, in addition to seizing lands that do not belong to them, are in the habit of assaulting their Palestinian neighbors, and the Palestinians' property and plantings, on the assumption that the arm of the law is too short to reach them.

In recent years, the olive harvest season has become a time of delight for some outpost residents, and the amount of destruction that they manage to wreak—with no interference—on Palestinian olive groves is mind-boggling. In the village of Salem alone, some 180 olive trees were torched in May, while 250 trees were chopped down in July and another 200 in October. On Monday, village residents discovered a group of Israelis, whom they recognized as residents of an outpost near Elon Moreh, using an electric saw to cut down dozens more olive trees. In total, some 900 olive trees have been destroyed in Salem alone over the last half year.

The destruction of olive trees is not just a mortal blow to the livelihood of rural Palestinians; it is primarily an evil act that reflects a desire to assail one of the most prominent symbols of the Palestinians' hold on the land and an attempt to prove that the settlers indeed intend to inherit these lands and expel their inhabitants. But the destruction of these trees also symbolizes the apathy, not to say cruelty, of the Israeli occupation and the law enforcement agencies' criminal disregard for the settlers' actions. The harm done

to the trees is just the tip of the iceberg of the ongoing abuse that the outpost residents inflict on their neighbors. Since April, the nonprofit organization Yesh Din has submitted 84 complaints to the Samaria and Judea Police, covering incidents of murder, physical assault, and other forms of abuse against Palestinians. Five cases have already been closed. Not one is being heard in court, and nobody has been arrested.

A spokesman for the Samaria and Judea Police claims that 672 files have been opened about disturbances of the peace by Israelis against Palestinians, but this sizable number says nothing about the results. Most cases are eventually closed. Investigations are not conducted seriously; the police do not invest resources in this district; the police stations are located in the settlements, so Palestinians fear going to them; and most of the policemen are settlers themselves. Needless to say, no government agency is making any effort to change this situation.

If the government were interested in bringing the guilty parties to trial, if the prime minister spoke out publicly against the criminal violence being committed by citizens of Israel, it is doubtful that the outpost residents would be able to continue their assaults for even another week. The Shin Bet security service, which is capable of capturing a wanted man hiding in the heart of a populous Palestinian city, would surely have no difficulty locating a few dozen Israelis who chop down 200 olive trees in broad daylight, with no interference, and then pack up their tools and go back to their illegal houses in an illegal outpost. Evidently, no one is interested in putting a stop to these acts—just as no one gets upset over the establishment of illegal outposts in the first place. One crime leads to another, and violence leads to more violence. And disregard for all this is what makes the outpost residents omnipotent in the territories.

CONSTRUCTION IN SETTLEMENTS—DECEMBER 2005

The report excerpted here, compiled by Dror Etkes of Peace Now, is available in full on the Peace Now Web site, www.peacenow.org.il.

Number of Settlements

Today, since the evacuation of 4 settlements in the northern West Bank (Homesh, Sanur, Ganim, and Kadim), the official number of settlements stands at 121.

It should be pointed out that there are a number of settlements which have not been accorded official status. These can be seen in the list of independent settlements on the Peace Now Web site. This is because these settlements, *de facto*, operate on a completely independent basis. These settlements are Rachelim, Shvut Rachel, Hemdat, Rotem, Negohot, Nofei Prat, and Alon.

Number of Settlers

According to the Central Bureau of Statistics, the number of settlers as of December 2004 stood at 244,000. Keeping in mind that the annual growth rate of the settler population in the past few years has remained at a steady 5.5 percent, we can estimate that the number of settlers as of December 2005 is likely to be approximately 250,000 persons. (Note that this calculation has taken into account the settlers evacuated in the disengagement of 2005, and we have removed them from this sum under the assumption that they did not resettle in homes over the Green Line.)

Despite the fact that we do not have official numbers in our possession (these will only be available in over six months from now), it is very probable that, based upon the data we collated during the past few years, natural growth continues to be the main element in the growth within the population of the settlers. During 2004, this contributed to two thirds of the total annual growth, while the "immigration" movement from Israel and from abroad constitutes the last third. . . .

It is easy to see that since the eruption of the second intifada at the end of 2000, the element of natural increase has been the dominant factor in the total growth. The reason for this is, of course, a significant decrease in the number of Israelis moving to the occupied territories, while the element of natural increase has remained the same and continues to stand at approx. 3.5 percent per annum. . . .

In summarizing this section, it should be pointed out that even if one only considers the growth rates that we know today, population growth in the region specified by the Central Bureau of Statistics as the "Judea and Samaria District" was much higher than the total growth rate of the whole of the Israeli population, which, during 2004, stood at 1.8 percent. . . .

New Roads

The paving of a number of new bypass roads continues. The Za'atra bypass road is

apparently the largest infrastructure project being carried out by the State of Israel in the West Bank today.

This is a road that will connect the Nokdim and Tekoa settlement with Har Homa, which is located on the southeastern corner of Jerusalem's municipal area. In addition to Nokdim and Tekoa, an additional two settlements, Ma'ale Amos and Asfar (also known as Meitzad), might also be able to make use of this road. According to figures received from the Central Bureau of Statistics, a little more than 2,500 settlers reside in those four settlements.

However, there is work on the eastern section of the ring road, which part of it joins the old bypass road that leads to Ma'ale Adumim from French Hill Junction, passing through the east Jerusalem village of al-Issawiya. This new bypass road is also intended to include a new bypass road, which is currently under construction and which is supposed to connect the settlement Almon (Anatot) directly with Ma'ale Adumim's old bypass road.

Work on two smaller roads has been noted in two other locations. In both cases, these are roads on which work began during the past year, while at this point in time, there too work seems to have been suspended. In both cases, we do not know why work has halted.

The first road connects the Ofarim and Beit Arye settlements (which were united during the past year into a single municipal authority). The aim is to create a road that will bypass the existing road connecting these two settlements today. Ofarim and Beit Arye are supposed to be included within the fence, where work in the region began over the past month.

The second road on which roadwork has been noted (which has been suspended at this time) is a new road created to reach the Asfar settlement and the adjacent illegal outpost, Pnei Kedem. This road is intended to bypass an existing road used only by settlers and which does not go through any built-up Palestinian area.

Upgrading Existing Roads

Work has almost been completed on the portion of road no. 5, which reaches from where it crosses road no. 506 (to Immanuel) to the turn-off to Ariel. This refers to a few kilometers of road where two lanes have been paved, turning this section of the road, which until then had only two lanes, into a four-lane "highway." Recently work began

to widen the Hizma-Adam road, seemingly to turn the road from two lanes into three or four lanes. Work to upgrade parts of road no. 1 between Jerusalem and Jericho has also been suspended for over a year, the reason for which is not known.

Roads Being Planned

Today we have confirmation regarding a plan to build a new bypass road to join the settlements of Karnei Shomron and Ma'ale Shomron with the settlements of Gush Horashim-Nirit. The intention being to construct a road parallel to the existing road 55, which currently runs close by the Azun village and through the village of Harvat Nebi Alias, east of Qalqilya.

In effect, this road will separate the Palestinian flow of traffic from Qalqilya and the settlers' traffic to the center of the country from the areas of Kedumim, Emmanuel, Karnei Shomron, and the like.

This road construction will enable the state to easily annex the area of Karnei Shomron and Kedumim, through the completion of a surrounding fence of the entire area. For the time being the government had issued already land confiscation orders for lands near the Israeli communities of Nirit and Matan where the new road should be starting on the Israeli side of the Green Line.

Fencing along Bypass Roads

Fencing work along roads has been observed in a number of spots over the past weeks: (1) Along road no. 5 in the section leading from the Tapuach-Ariel intersection. (2) Along road no. 60, near the Palestinian village of al-Hadr, west of Bethlehem. (3) At a number of places along road no. 443. (4) Along road no. 5088 (Revava-Emmanuel), in the area that is west of Haras.

Special Security Areas

Over the last few years, the IDF has begun declaring areas surrounding a number of settlements located east of the path of the separation fence to be "special security areas." This was done by seizing large areas around the settlements, fencing them in and instituting a policy requiring special entry permits, making it necessary for the owners of the land to coordinate in advance with the security forces when they wanted to enter their own land. It is well known that in many cases, owners of the land were completely prevented access to their lands. We know of a number of cases where the army or the settlers created a special security area without bothering to announce it officially

at all. The Association for Civil Rights in Israel (ACRI) is planning to submit an appeal on this matter in the near future.

To date, special security areas have been completed around the following settlements: Hermesh, Mevo Dotan, Adura, Psagot, and Itamar. At least in the case of Itamar, the special security area is unofficial and since it has not been declared, it is therefore, of course, illegal. Partial special security areas (that is, those which do not surround the settlement on all sides) are located around Karne Tzur and Ofra. In the case of Ofra as well, we know that the fence was erected without all of the permits of the relevant authorities, and, in fact, preventing the inhabitants of the 'Ayn Yabrud village from accessing their fields.

Additional special security areas are in the process of being established around a number of additional settlements. We do not have information (with the exception of the one around Kiryat Arba, which has been declared as such) as to whether these have been officially announced: Nachliel; Avnei Hefetz; Enav; Pnei Hever; Kiryat Arba; Otniel; Har Gilo; Ateret; Ma'on; Ofarim (a small part of which is to join the security fence); Ma'ale Shomron (a small part of which is to join the security fence); Emmanuel (a small part of which is to join the security fence); and Ariel (a small part of which is to join the security fence).

In addition, work has been observed recently on the start of a new road on the southern slopes of Elon Moreh. At this stage, it is not clear to us if this is a road that will develop into a special security area, or the road has a different purpose. The location of the road that was begun and the way it was constructed point to a good chance that it will be a special security area. . . .

Conclusions

While most of the construction carried out in the larger settlements continues, construction on a smaller scale also continues in the settlements and outposts located east of the built up line, or the planned line of the separation fence. This, of course, is not by chance. The line of the separation fence has been planned so that it will include those settlements in which extensive construction has been taking place for years. In that sense, the line of the fence demonstrates what has been known to all who have been following the construction in the settlements for the last years, and that is that there is extensive construction going on in the large

settlements and that in the smaller settlements, the scope of construction is much smaller. The data provided by the Ministry of Housing regarding the residential units which the ministry itself initiates in the settlements demonstrates this very well. The decisive majority of the residential units being constructed today in the Territories are construction at the instigation of the Ministry of Housing.

Since the beginning of 2005, tenders have been published for the construction of 1,184 residential units in the settlements . . . This compares with the year 2004, which during tenders were published for 962 residential units.

It should be pointed out that the increase in the number of tenders published is not an indication of the number of residential units that have actually been constructed to date when compared to the number that were built last year over the same period.

An examination of the dates of the publication of the tenders in relation to the political situation teaches us a lesson in regard of how the Government of Israel acts in relation to construction in the territories. Out of the 1,184 tenders published to date, 235 of them (almost 20 percent of all tenders) had already been published by August 2005. The rest, 949 tenders (over 80 percent), have been published since 9 November 2005. The Labor party primaries took place a day later, on 10 November 2005. The degree of public awareness now focused upon the political and internal party arenas as a result of Sharon's withdrawal from the Likud party

and the passage of the law to disband the 16th Knesset has made it possible for those persons responsible for the publication of the tenders to take advantage of the situation and "fly low" beneath the "media radar."

As a result, it is difficult not to bring to mind Sharon's words, uttered a few years ago on the issue of construction in the settlements: "talk less and do more."

The State of Israel continues, therefore, to initiate the construction of new homes in the settlements as well as to encourage other means for Israeli citizens to move to the settlements. In fact, the benefits given to those who move to the settlements east of the fence are even more exaggerated than those given to settlers who decide to live west of the fence. The main difference is in the cost of housing, which, in the case of the settlements that are further out, is lower. This is derived from the fact that the settlers who move to the isolated settlements mostly located east of the fence practically receive the land for free.

This factual compilation is, of course, in direct contradiction with the Israeli undertakings specified in the road map. The manner in which the Government of Israel has chosen to deal with this difficulty is by submitting fourteen exceptions to the road map, which in fact neutralize the possibility of its being implemented in the near future. Taking into consideration the rate of present construction, it is doubtful that there will be much land available for negotiations if and when the Government of Israel recognizes, one day, its obligation to "freeze" construction in the settlements.