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Settlement Monitor

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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.

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OLMERT AND SETTLEMENTS: LOFTY GOALS BETRAYED BY ACTIONS ON THE GROUND

From Settlement Report, March–April 2008.

Since his election as prime minister, Ehud Olmert, long a stalwart supporter of Greater Israel, has made unprecedented statements declaring an interest in ending Israel’s rule over Palestinians. In stark contrast to Olmert’s rhetoric, however, the settlement machine grinds on. Many Israelis and others are now asking whether Olmert means what he says when he voices a need to end occupation, evacuate settlements, and agree to the creation of a Palestinian state. Or are his comments merely a new twist to Israel’s oft declared interest in “stretching out its hand in peace” to its Arab adversaries even as this objective is betrayed by Israeli actions on the ground?

Some History

Menachem Begin’s election as prime minister in May 1977 opened a new chapter in Israel and the national enterprise of settling

the West Bank. No longer would the policy of “creeping annexation,” adopted by Israeli leaders during 1967–77, be obscured by the official policy of “deciding not to decide” the future of the West Bank and Gaza Strip. Begin was not one to shrink from declaring without ambiguity his dedication to settlement throughout the “Land of Israel.”

Begin himself soon traveled to the wild-cat West Bank settlement of Elon Moreh—an “outpost” in today’s parlance—which elements in the just-defeated Rabin government patronized even as the prime minister condemned its consolidation.

“There will be many more Elon Morehs,” Begin declared. “Since May of this year, the name of these areas has been changed from occupied to liberated territories. This is liberated Israeli land, and we call on young volunteers in the country and the diaspora to come and settle here.”

Sharon Settles

There was no mistaking Begin’s intent, or the parallel intentions of his principal settlement architect, Ariel Sharon, who served Begin, and then Yitzhak Shamir, in a

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number of key settlement-related posts. As a minister in Benjamin Netanyahu's cabinet, Sharon returned to Israel from discussions with Pres. Bill Clinton at the Wye Plantation in October 1996 admonishing "young volunteers" (many of whom were the children of Begin's settlement cadre) to "grab and settle" land throughout the West Bank, unleashing the most recent phase of new settlement creation. These so-called illegal outposts—the successors to the veteran settlements of Ofra, Elon Moreh (renamed Keddumim), Ma'ale Adumim, and numerous others—now number close to 100.

Sharon worked in the service of Likud governments, but his origins were in the bosom of Israel's Labor establishment—the party of David Ben Gurion, Golda Meir, and more recently, Yitzhak Rabin and Ehud Barak. If Begin is considered the settlement movement's cheerleader and most unabashed advocate, Sharon—and by extension Israel's Labor establishment, from Levi Eshkol to Barak—was its most effective contractor. It is not for nothing that one of the truisms of Israel's occupation is "Labor announces one settlement and builds ten, while the Likud announces ten and builds one."

Cry and Build

While Sharon was a child of Israel's Labor establishment, Olmert was born and bred in Begin's Likud. Indeed, for most of his political career, Olmert, anointed as one of the Likud "princes" who would someday inherit Begin's mantle, placed himself on Begin's right wing, voting, most notably, against Begin's pathbreaking peace treaty with Egypt.

As premier, however, Olmert has adopted the "cry and build" persona preferred by his predecessors in the Labor Party. Indeed, in important respects he has outflanked his predecessors in Labor from the left. Rabin, for example, never would have dreamed of declaring, as has Olmert, the creation of a Palestinian state to be a vital Israeli interest. Yet despite such sentiments, like his Labor predecessors, Olmert presides over settlement policies that, contrary to the spirit of his public pronouncements, continue to advance creeping annexation on the ground.

For example, settlers decry any suggestion of a reduced commitment to their welfare as a "freeze" on settlements. They need not worry, explained Eitan Broshi, assistant minister of defense for settlement affairs.

"There is no policy of 'drying out' the settlements. There is a policy of caution with regard to the use of broader discretion regarding construction permits. Over the past three months, the minister of defense approved several construction matters in the territories, and these will also be implemented in coming months. Priority," he explained, "is being given to Jerusalem, the Etzion bloc, and settlements located in settlements blocs"—the latter defined by Israel as those areas about which Pres. George W. Bush, in a 2004 letter to then Prime Minister Ariel Sharon, acknowledged Israel's intent to annex.

These are not empty words. Olmert has specifically excluded the settlement neighborhoods in East Jerusalem from any freeze. The newspaper *Qol Ha'Zeman* reports that "in the framework of efforts to expand construction, the Jerusalem municipality is undertaking intensive discussions with the Israel Land Authority to 'liberate' public land for the immediate construction of new housing. In coming months, tenders for construction of 750 apartments in Pisgat Ze'ev . . . can be expected." Since the November 2007 Annapolis conference, tenders for the construction of 400 units in East Talpit, 300 in Har Homa, and 50 in Gilo have already been announced. Uri Lupiansky, mayor of Jerusalem, recently said that the city is moving forward with plans for the construction of 10,000 housing units in East Jerusalem settlements.

Minister without Portfolio Haim Ramon, who has established himself as Olmert's stalking horse on settlement policy and who heads a committee charged with solving the outposts issue, explained that his committee sees its mandate not so much as removing unauthorized settlements but rather facilitating settlement construction wherever "it is not politically significant." Indeed, draft recommendations by Israel's Justice Ministry will enable continuing construction not only in recognized settlements but also in unauthorized ones as well. Most problematic are new settlements sited on what Israel acknowledges to be private Palestinian land. These number at least one third of 100 existing outposts.

Linking Elon Moreh to Migron

Begin's decision to legalize Elon Moreh was challenged by a 1979 High Court decision voiding the creation of civilian Jewish settlement on private Palestinian West Bank land in the absence of a security justification.

The settlers of Elon Moreh simply moved to a new location nearby—Keddumim, today a settlement of 3,400. Elon Moreh itself was reincarnated as a settlement of 1,300 on a hilltop overlooking Nablus.

The Israeli court's prohibition of this type of land theft, however, did not stop the practice of taking what even Israel recognizes as private Palestinian land for Israeli settlement, as today's outpost phenomenon demonstrates. Peace Now reports that almost 75 percent of the wildcat settlements established since 1996 are built in part on private, Palestinian-owned land that was taken by settlers without any confiscation order.

The Legacy of Elon Moreh

A recent report by Israel's civil administration acknowledges that more than one third of well-established West Bank settlements, where tens of thousands of Israelis reside, are built on private Palestinian land that was "temporarily" seized by military order for security purposes. According to a report in *Ha'Aretz*, "a security source termed this a 'difficult statistic' that is liable to cause trouble for Israel both in Washington and its own courts." The article notes that most of this land was privately owned by Palestinians. In addition to Ariel, Efrat, and Kiryat Arba—three of the largest West Bank settlements—the list also includes settlements in the West Bank heartland favored by Sharon: Beit El, Elon Moreh, Karnei Shomron, Keddumim, Ofra, Psagot, and Shilo, and the Jordan Valley settlements of Gitit and Mechora. At least 19 of the 44 settlements on the civil administration's list were established after 1979, violating at least the spirit of the Elon Moreh decision and a government policy that based settlement expansion exclusively on "state land."

Ha'Aretz noted that "the Israel Defense Forces explained that its land seizure orders are in force until they are canceled. In some of these settlements, part or all of [the land] was declared 'state land' at the same time, but the seizure orders have not been canceled, either partially or totally." It added that "in general, seizure orders have not been used to build settlements since 1979," but "in the early 1980s, Nahal [an army unit] outposts were still built on the basis of seizure orders, and some later became settlements. There were also isolated cases during those years in which land was seized for roads or buildings for existing settlements."

A deal in the works between settlers and Defense Minister Ehud Barak will trade the evacuation of some outposts for increased settlement construction elsewhere. Prominent among these is Migron, a wildcat settlement of sixty families that Olmert has promised to evacuate by August.

Ha'Aretz has reported that "a new neighborhood comprising 27 trailers is currently under construction at the settlement of Eli, north of Ramallah, even though Olmert vowed publicly after the Annapolis conference that any such building would cease."

These facts prompted a *Ha'Aretz* editorial on 9 January 2008, declaring that "there is no meaning to the Bush visit or to Olmert's talks with Mahmud Abbas as long as the facts on the ground . . . clearly demonstrate the lack of credibility of the government's declarations, and the cooperation that it receives from the American government with this policy."

Olmert's lofty sentiments highlighting the need for a change in the status quo pale against the continuing commitment of Israel's central security, legal, administrative, and political institutions to the policy, now almost four decades old, of creeping annexation. The prime minister's comments are as yet little more than a public relations sedative to mask Israel's continuing commitment to Greater Israel.

ISOLATING JERUSALEM

THE DEATH OF THE SETTLEMENT FREEZE—FOUR MONTHS SINCE ANNAPOLIS (EXCERPTS)

The full text of this Peace Now report, published in March 2008, is available at www.peacenow.org.

Since [Israeli PM Ehud] Olmert's announcement at the Annapolis summit regarding the freeze on the settlements, dozens of declarations have been published by ministers in his government who have tried to prevent the construction freeze and therefore reduce it to the point of ineffectiveness, until almost nothing is left of the promise that Israel would freeze construction in the settlements.

The First Erosion

The freeze does not include projects where construction has already begun. Olmert's announcement was not accompanied by a halt on any project which already existed, and the message was clear: There is no true intention to freeze construction;

wherever construction had already begun prior to the Annapolis summit, it would continue. In contrast to Olmert, when Prime Minister Yitzhak Rabin led the negotiations with the Palestinians, he froze the settlements and even stopped projects in the middle. This meant allocating money to compensate contractors who had already begun construction on the basis of previous approvals and agreements—but Israel's interest to promote the permanent arrangement and the chances of a lasting peace took precedence over business commitments—the contractors were compensated and the buildings stood unfinished for many years. The Olmert-style freeze did not include projects which had already been started, a fact that easily led to the further erosion of the freeze.

The Second Erosion: Taking East Jerusalem out of the Freeze Formula

Less than one month after the Annapolis Summit, the Ministry of Housing issued a tender for the construction of 307 new housing units in Har Homa in East Jerusalem. Following harsh international criticism, government elements tried to claim that the “freeze” did not include construction in East Jerusalem. Immediately thereafter, additional tenders were issued for construction in East Jerusalem and new plans were sponsored and approved at a very rapid rate.

The Third Erosion: Taking “Settlement Blocs” out of the Freeze Formula

When there was criticism regarding continued construction in the settlements outside of Jerusalem, such as Ma'ale Adumim, Beitar Illit, and Givat Ze'ev, voices within the government began to say that for construction purposes, the settlements surrounding Jerusalem are an essential part of Jerusalem and in addition, that “the settlement blocs” are not considered part of the freeze. A plan for establishing an ultra-orthodox quarter in Givat Ze'ev, northeast of Jerusalem, was held up for several months, but ultimately, as a result of pressure from political as well as non-political elements, particularly the Shas party—the prime minister also approved new construction in Givat Ze'ev. One of the ministers took this one step further when, during a radio interview, he announced that Giv'at Ze'ev is “the heart of Jerusalem” (despite the fact that the planned quarter is located 5 km away, as the crow flies, from the municipal city limits of “unified Jerusalem”).

A building surge in the settlements and in East Jerusalem: The facts show that despite Olmert and his government's declarations and commitments, construction continues everywhere it had already begun; new plans and projects have been approved (particularly in East Jerusalem and in “the settlement blocs”); and finally, remote settlements, beyond the separation fence, were also given permits for construction and development.

CONTAINING PALESTINIAN NEIGHBORHOODS IN AND AROUND JERUSALEM'S OLD CITY

From Settlement Report, March–April 2008.

This map illustrates the broader territorial context of Israel's settlement program in the heart of East Jerusalem where land and land use are the central instruments of containment, control, and marginalization of the Palestinian community. Large-scale residential settlement, a key feature employed by Israel elsewhere in East Jerusalem in its effort to divide and contain the Palestinian community, anchors both the targeted small-scale settlement and the creation of open areas around and within areas of Palestinian habitation that are the key features of Israeli policy in this critical and sensitive area.

In the north, the structural cohesion of Palestinian neighborhoods like Shaykh Jarrah and Wadi al-Juz is eroded by a variety of means: the construction of Ma'alot Dafna in what was formerly no-man's land; the placement of government offices and institutions; the creation of open or “green” spaces; the establishment of small civilian settlement areas.

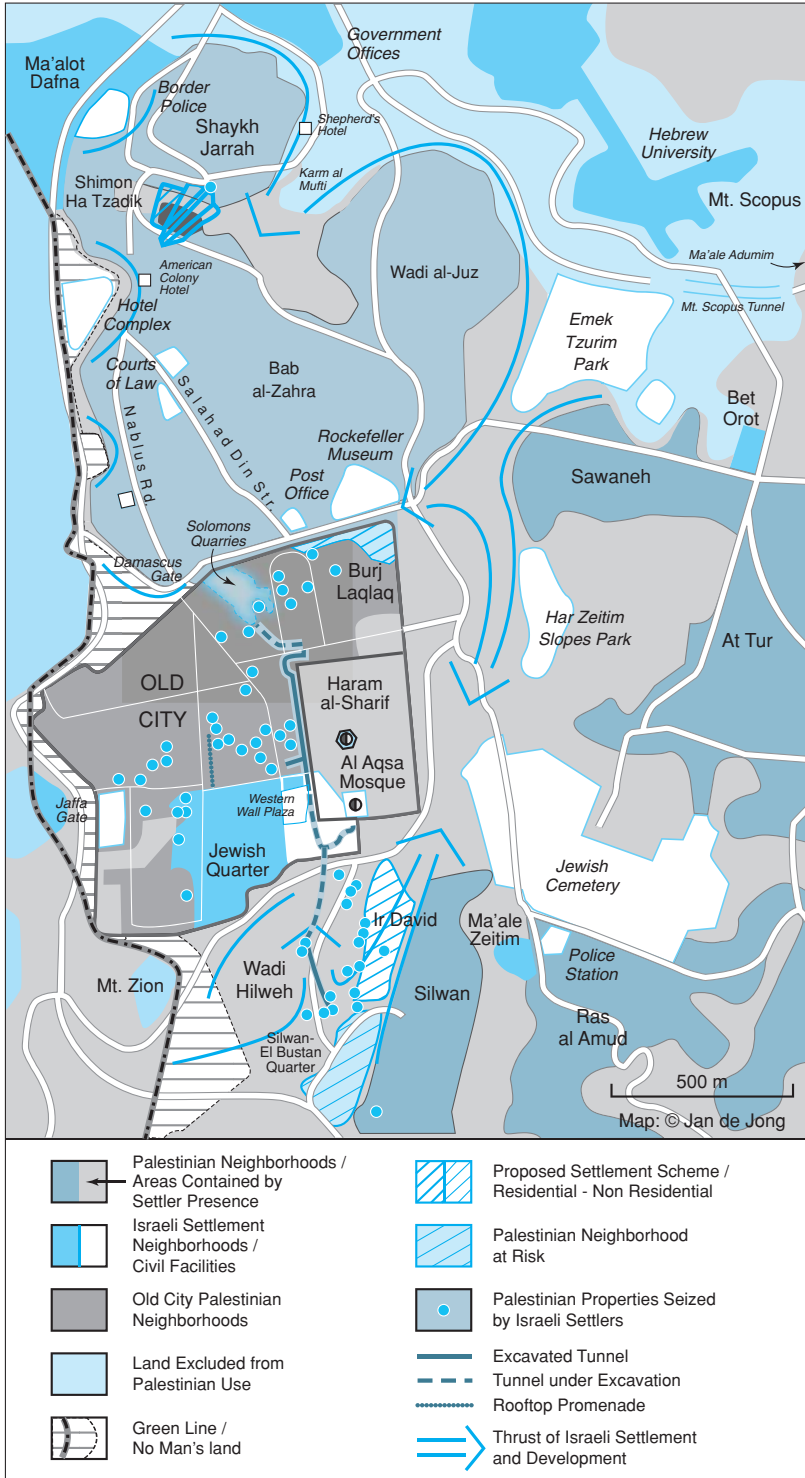
Isolation of this area from the Old City is visible in efforts to employ similar instruments along and within the northern perimeter of the Old City.

East of the Old City, the creation of parks and other civilian land uses effectively interrupts the linkage to both Sawaneh and At Tur, which are forced to look eastward for potential growth.

Within the Old City itself, the relatively large-scale re-creation of an enlarged Jewish Quarter anchors the effort to establish small but significant Jewish residential and institutional centers whose isolation from one another is in part answered by the creation of passageways both under and above ground.

To the south, the expanding settlement of Ma'ale HaZeitim, soon to include the site of the nearby police station (which itself is set to move to a new facility in the E-1

Containing Palestinian Neighborhoods
in and around Jerusalem's Old City—2008



area), creates a key settlement anchor next to the Jewish cemetery on the Mount of Olives. In Silwan, residential settlement and archeological/touristic institutions create a territorial bridge to the Western Wall, the Temple Mount, complete with underground access.

PERMISSION DENIED: BUILDING AND TRAVELING IN THE WEST BANK

AREA C: PALESTINIAN CONSTRUCTION AND DEMOLITION STATISTICS (EXCERPTS)

This Peace Now report, detailing the disparity in construction permits and demolition orders granted to and against West Bank Palestinians and settlers from 2000 to 2007, was published in February 2008 and is available in full at www.peacenow.org.

[. . .] Recent data provided to Meretz MK Chaim Oron by the Ministry of Defense in response to a query he placed reflected that within the territories under full Israeli control, it is almost impossible for Palestinians to receive permission to [build]; details show that over 94 percent of building requests are denied.

Those Palestinians that do build without any permission face a rate of demolition (on structures that demolition orders have been issued) of 33 percent, as opposed to the percentage of demolition orders that are carried out against Israeli settlements, which stands at 7 percent. [. . .]

Main Findings

From 2000 until September 2007:

- For every construction permit granted to a Palestinian by the Civil Administration, 18 other buildings are destroyed and 55 demolition orders are issued.
- More than 94 percent of requests submitted by Palestinians were denied by the Civil Administration.
- 33 percent of all demolition orders issued against Palestinian structures were carried out as opposed to just 7 percent against the settlements.
- Only 91 construction permits were granted to Palestinians, while in the same time period 18,472 housing units were constructed in the settlements. (According to the Israeli Central Bureau of Statistics, completed construction in the settlements from 2000 till September 2007.)

- 4,993 demolition orders were issued against Palestinian construction, while 2,900 [were issued] against illegal construction in the settlements.
- 1,663 Palestinian buildings were demolished in this time period, as opposed to 199 in the settlements.
- Between the years 2000–4 only 3 to 6 building permits were issued per year to Palestinians.

	Palestinians	Settlers
No. of Construction Permits	91	18,472*
No. of Demolition Orders	4,993	900
No. of Demolitions	1,663	199

*Number of housing units built

Permits, No—Demolition, Yes [. . .]

In the last seven years, a third of demolition orders issued were carried out for Palestinian construction; in the same time period, only 7 percent were carried out against the settlements. [T]he system has consistently denied issuing Palestinians permission to build in area C. This area, which falls under complete Israeli control and is home to 70,000 Palestinians, includes around 3.3 million dunams of land, equal to 60 percent of the West Bank. Palestinian residents are unable to receive permission for even the most basic construction purposes, such as extensions to their own houses on their own land.

Palestinians are therefore faced with two choices: either to build with no permission and face the possibility of demolition, or to leave their home to live elsewhere where they can receive permission to construct (usually in such areas under Palestinian control).

In addition to private housing construction, major infrastructure plans and development projects are also refused permission. Palestinian villages that need to repair their road system, renew electricity grids, connect to water supplies, and [so on] may be able to raise the funds to do so but are ultimately refused permission by the Civil Administration to go ahead with the projects.

The result of such [a] policy ensures that many of the Palestinian localities suffer from poor infrastructure. In addition, many Palestinian villages may be in area B, but their infrastructure grids are in area C, and thus the Civil Administration also stunts their development.

The denial of permits for Palestinians on such a large scale raises the fear that there is a specific policy by the authorities to encourage a "silent transfer" of the Palestinian population from area C. [. . .]

HIGH COURT CLOSES OFF USE OF MAJOR HIGHWAY TO PALESTINIANS

In March 2008, the Israeli High Court issued an interim decision to close Route 443, a portion of which runs through the West Bank, to Palestinian traffic. Although it was initially built expressly for the Palestinian population, the road has been closed to Palestinian traffic since 2000; the court's decision to legitimize the closure is the first of its kind. This article by Akiva Eldar appeared in Ha'Aretz on 19 March 2008.

The interim decision issued ten days ago by the High Court of Justice on the use of Route 443 marks the first time the justices have issued a ruling to close a road traversing occupied territory to Palestinian use for the convenience of Israeli travelers.

The interim ruling on a petition by six Palestinian villages adjacent to the highway, which links the coastal plain to Jerusalem, gave the state six months to report progress on the construction of an alternative road for Palestinian use.

The Association for Civil Rights in Israel [ACRI], which submitted the petition on behalf of Palestinians who have been injured by the travel ban, noted that had the justices sincerely sought to consider opening the road to all, without regard to race or nationality, they would not have requested details on the building of an alternate route, which entails the destruction of additional land and costs tens of millions of shekels.

The decision was issued after both parties argued their positions. According to ACRI, the ruling marks a High Court precedent in upholding a policy of separation and discrimination with regard to movement that has already earned the name "road apartheid." It violates international law, ACRI holds, permitting the expropriation of land from the local population for the protection of the occupying power.

About 10 km of Route 443 was paved on private Palestinian land in the early 1980s on the grounds it was needed for the West Bank Palestinian population (and not for "security purposes"). A large part of the expropriated land had been earmarked for a housing development for local teachers. In response to a petition from a Palestinian whose land was expropriated for the road, the High

Court ruled that the military government cannot plan and build a road system in an area held by its soldiers if the purpose is solely for the creation of a "service road" for the state. As a result, the state promised that the road was to be open to all.

Shortly after the start of the second intifada, after attacks on Israeli vehicles, the army closed the road to Palestinians. MK Ephraim Sneh, deputy defense minister at the time, admitted in an interview that the closure was not approved by the political leadership. The closure cut off the villages on either side of the road from their main city, Ramallah, and the rest of the West Bank. In court, the Civil Administration offered to issue travel permits for 80 vehicles, for a population of about 30,000 villagers. The villagers refused to cooperate with Israeli authorities and continued their legal battle for right to use the road on their lands. ACRI claimed in court that the Israel Defense Forces had recently begun frequent raids on the six villages that included the use of illumination bombs, pressure grenades, rubber-tipped bullets and live rounds. The IDF Spokesman's Office said at the time that these were routine operations in response to the throwing of rocks on vehicles traveling on Route 443.

ACRI officials say they fear the High Court stamp of approval for the illegal and immoral policy regarding Route 443 could be cited as a precedent for additional human rights violations. The petitioners protest what they call a lack of judicial process, noting that even though the decision was on an important principle, it was issued without any accompany explanation and with absolutely no reference to the points raised by the petitioners. In addition, they note, the alternative road will not provide for the needs of hundreds of thousands of Palestinians in areas bordering Route 443.

TYRANNY IN TAR

Israeli international law professor David Kretzmer commented on the High Court ruling regarding Route 443 in Ha'Aretz on 24 January 2008.

How did a road which, according to official declarations, was paved for the benefit of the Palestinian population in the West Bank become a road along which that same population is forbidden to travel? The case of Route 443 demonstrates the "logic" of a judicial hypocrisy that has for years characterized Israel's reign over the territories.

From the day the Israel Defense Forces first entered the territories, Israeli officials there have invoked the authority of a military commander over occupied territory as the basis for many acts, such as seizing real estate, declaring local territory to be state-owned land, and imposing severe restrictions on the movement of the population. On dozens of occasions, the [High Court] has ruled that the legal framework which applies in the territories is one of belligerent occupation. Within this framework, the military leader is supposed to base his decisions on two considerations—and on them alone: military needs and the welfare of the local population.

As the [High Court] ruled in its instructive precedent: “The considerations of the military commander are to secure his own security interests on the one hand, and to secure the interests of the civilian population on the other . . . The military commander may not consider the national, economic or social interests of his own country, unless they have implications for his security interest or the interests of the local population. Even the needs of the military are its military needs and not the needs of national security in its broad sense . . . An area held under belligerent occupation is not an open field for exploitation for economic or other purposes.”

As any clear-minded person can see, these words have nothing in common with the manner in which Israel’s authorities actually conduct themselves. Due to the limitations of the legal framework of the High Court of Justice (which relies on affidavits from both sides and does not allow the questioning of witnesses), and perhaps also out of a certain willful blindness—only in rare cases is the gap between the declared framework and the reality on the ground exposed in court.

In the Elon Moreh case,^{*} the discrepancy was revealed when the court learned that, contrary to the claims presented in the IDF chief-of-staff’s original affidavit, the private land on which the settlement was to be built was seized for political, not military, reasons. The same occurred in a case relating to the separation fence, when it was proved that, contrary to the affidavit submitted in a previous petition, the route of the fence in a

certain area was determined not by security considerations, but according to an as-yet-not-approved plan for the enlargement of a nearby Jewish settlement.

There is no better example of the way in which arguments are adapted to fit the formal legal framework that might be called “judicial hypocrisy” than the case of Route 443. In order to build part of the road, which connects Jerusalem to the Ben Shemen interchange, privately owned Palestinian land was appropriated. The authorities knew that they would not be able to defend this move if they admitted that the road was being built as part of the country’s highway plan. Therefore, when the landowners petitioned the High Court, the authorities submitted an affidavit claiming that the existing system of roads was outdated. The Palestinian population in the area of Ramallah, Bir Naballah, Judayra, Nabi Samuel, Bayt Iksa, Bayt Hanina, Biddu, Rafat, and Bethlehem, the affidavit claimed, was in need of new roads; the plan was meant to address that need. The court “bought” the argument and ruled that “we have no doubt or hesitation that Israel’s considerations and its civil needs were not at the basis of the road plan it is carrying out.”

Years pass, and the security situation changes. IDF officials come to the conclusion that Palestinians and Israelis cannot both be allowed to travel along this same road. In light of the affidavit submitted earlier to the High Court, and in light of the court’s own ruling, the unavoidable conclusion is that, as unfortunate as this may be, Israelis should not be allowed to travel on the road that was built, let’s not forget, for the benefit of the local population. But the military government has, of course, decided otherwise: Israelis will be allowed to travel on the road, while Palestinians—for whom, the court’s ruling says, the road was paved—cannot use it, and access to the road from local Palestinian villages will be blocked.

But there is a problem. Once again, there is a petition to the High Court, and the “judicial hypocrisy” maneuver needs to be repeated. Not that the officials, God forbid, will claim that they lied back then when they declared that the road was built for the benefit of the local population; instead, they will rely on a comment saying that the road plan “will serve not only the local population, but also the inhabitants of Israel and vehicles traveling between Judea and Samaria and Israel.” Note that it said “also,” not “only.”

^{*}In 1979 the High Court ruled that a civilian Jewish settlement (Elon Moreh) could not be established on private Palestinian land in the West Bank without a clear security justification—*Ed. note.*

Someday, when the history of the occupation is written, Route 443 will be a symbol and an example. It will represent not only the tyranny of the Israeli occupation over the simple Palestinian citizen

who wishes to enjoy freedom of movement and other rights that we consider to be self-evident, but also the hypocrisy that has accompanied that regime since its very first day.



Palestinian workers construct new housing units in the Givat Ze'ev settlement near Jerusalem, 10 March 2008. (Yehuda Raizner/AFP/Getty Images)