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Israeli Settlement Policy in the West Bank

July 2010

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Written and researched by Eyal Hareuveni

Edited by Yael Stein

Translated by Zvi Shulman

English editing by Michelle Bubis

Processing geographical data by Shai Efrati

Cover photo: The Carmel settlement in the southern Hebron hills, with the Beduin village of Khirbet Umm al-Khir in the foreground, July 2010 (Silan Dalal)

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Summary

Some half a million Israelis are now living over the Green Line: more than 300,000 in 121 settlements and about one hundred outposts, which control 42 percent of the land area of the West Bank, and the rest in twelve neighborhoods that Israel established on land it annexed to the Jerusalem Municipality. The report analyzes the means employed by Israel to gain control of land for building the settlements. In preparing the report, B'Tselem relied on official state data and documents, among them Attorney Talia Sasson's report on the outposts, the database produced by Brigadier General Baruch Spiegel, reports of the state comptroller, and maps of the Civil Administration.

The settlement enterprise has been characterized, since its inception, by an instrumental, cynical, and even criminal approach to international law, local legislation, Israeli military orders, and Israeli law, which has enabled the continuous pilfering of land from Palestinians in the West Bank.

The principal means Israel used for this purpose was declaration of "state land," a mechanism that resulted in the seizure of more than 900,000 dunams of land (sixteen percent of the West Bank), with most of the declarations being made in 1979-1992. The interpretation that the State Attorney's Office gave to the concept "state land" in the Ottoman Land Law contradicted explicit statutory provisions and judgments of the Mandatory Supreme Court. Without this distorted interpretation, Israel would not have been able to allocate such extensive areas of land for the settlements.

In addition, the settlements seized control of private Palestinian land. By cross-checking data of the Civil Administration, the settlements' jurisdictional area, and aerial photos of the settlements taken in 2009, B'Tselem found that 21 percent of the built-up area of the settlements is land that Israel recognizes as private property, owned by Palestinians.

To encourage Israelis to move to the settlements, Israel created a mechanism for providing benefits and incentives to settlements and settlers, regardless of their economic condition, which often was financially secure. Most of the settlements in the West Bank hold the status of National Priority Area A, which entitles them to a number of benefits: in housing, by enabling settlers to purchase quality, inexpensive apartments, with an automatic grant of a subsidized mortgage; wide-ranging benefits in education, such as free education from age three, extended school days, free transportation to schools, and higher teachers' salaries; for industry and agriculture, by grants and subsidies, and indemnification for the taxes imposed on their produce by the European Union; in taxation, by imposing taxes significantly lower than in communities inside the Green Line, and by providing larger balancing grants to the settlements, to aid in covering deficits.

Establishment of the settlements violates international humanitarian law. Israel has ignored the relevant rules of law, adopting its own interpretation, which is not accepted by almost all leading jurists around the world and by the international community.

The settlement enterprise has caused continuing, cumulative infringement of the Palestinians' human rights, as follows:

- the right of property, by seizing control of extensive stretches of West Bank land in favor of the settlements;
- the right to equality and due process, by establishing separate legal systems, in which the person's rights are based on his national origin, the settlers being subject to Israel's legal system, which is based on human rights and democratic values, while the Palestinians are subject to the military legal system, which systematically deprives them of their rights;

- the right to an adequate standard of living, since the settlements were intentionally established in a way that prevents urban development of Palestinian communities, and Israel's control of the water sources prevents the development of Palestinian agriculture;
- the right to freedom of movement, by means of the checkpoints and other obstructions on Palestinian movement in the West Bank, which are intended to protect the settlements and the settler's traffic arteries;
- the right to self-determination, by severing Palestinian territorial contiguity and creating dozens of enclaves that prevent the establishment of an independent and viable Palestinian state.

The cloak of legality that Israel has sought to give to the settlement enterprise is aimed at covering the ongoing theft of West Bank land, thereby removing the basic values of legality and justice from Israel's system of law enforcement in the West Bank. The report exposes the system Israel has adopted as a tool to advance political objectives, enabling the systematic infringement of the Palestinians' human rights.

The extensive geographic-spatial changes that Israel has made in the landscape of the West Bank undermine the negotiations that Israel has conducted for eighteen years with the Palestinians and breach its international obligations. The settlement enterprise, being based on discrimination against the Palestinians living in the West Bank, also weakens the pillars of the State of Israel as a democratic country and diminishes its status among the nations of the world.

Introduction

This report examines the establishment of settlements in the West Bank, which has been one of Israel's main national enterprises for the past 43 years. As of May 2010, there are over 200 settlements – some official, some unauthorized, and some neighborhoods on land annexed to the Jerusalem Municipality's area of jurisdiction. The settlements, constructed in blatant breach of international humanitarian law, lead to the ongoing violation of many human rights of the Palestinian residents of the area, including the right to property, the right to equality, the right to an adequate standard of living, the right to freedom of movement, and the right to self-determination.

This report updates B'Tselem's report of May 2002, *Land Grab: Israel's Settlement Policy in the West Bank*, demonstrating again that Israel's arguments intended to justify the building of these settlements are misleading and baseless.

Chapter One of this report presents statistical data regarding the settlements. Chapter Two surveys Israel's settlement policy in recent years, reviewing the commitments made by Israeli governments. Chapter Three examines the mechanisms used by Israeli bodies, both governmental and unofficial, to gain control of West Bank land. This information is based on Israeli governmental sources such as the Report on Unauthorized Outposts, by Attorney Talia Sasson (hereafter the "Sasson Report"), the database on settlements compiled by Brig. Gen. (res.) Baruch Spiegel, and reports of the state comptroller. Chapter Four describes the sophisticated governmental apparatus that encourages Israelis to live in settlements by offering benefits and economic incentives not available to other citizens. Finally, Chapter Five discusses the illegality of the settlements and the violation of the human rights of Palestinians resulting from their establishment, continuing existence, and expansion.

A draft of this report was sent to the Ministry of Justice for its response. Attorney Hila Tene-Gilad, who is responsible for human rights and liaison with international organizations in the Department for International Agreements and International Litigation and the Human Rights and Foreign Relations Division in the Ministry of Justice, informed B'Tselem that the state will not respond to the report "in light of its political nature."[1]

1. E-mail correspondence of 17 May 2010 from Attorney Hila Tene-Gilad to B'Tselem.

Chapter One

Data on the settlements

Between 1967 and May 2010, 121 official Israeli settlements were built in the West Bank. Another approximately 100 outposts were built – settlements established without official authorization, but with the support and assistance of government ministries. These figures do not include four settlements in the northern West Bank that Israel evacuated as part of the "Disengagement Plan" in 2005.

In addition, Israel established 12 neighborhoods on land annexed to the Jerusalem Municipality after 1967; under international law, these are considered settlements. The government also supported and assisted the establishment of several enclaves of settlers in the heart of Palestinian neighborhoods in the eastern part of Jerusalem – among them the Muslim Quarter of the Old City, Silwan, Sheikh Jarrah, Mount of Olives, Ras al-'Amud, Abu Dis, and Jabel Mukabber.

According to the latest figures, half a million persons live in the West Bank settlements and in the Israeli neighborhoods established in East Jerusalem.

A. Population of the settlements

Table 1: Settlements and settlers in the West Bank (not including East Jerusalem)[2]

Year	Number of settlements	Population	Annual population growth (by percentage)
1967	1	No figures available	-
1968	3	NFA	-
1969	8	NFA	-
1970	10	NFA	-
1971	12	NFA	-
1972	14	NFA	-
1973	14	NFA	-
1974	14	NFA	-
1975	19	NFA	-
1976	20	3,200	-
1977	31	4,400	37.5
1978	39	7,400	68.1
1979	43	10,000	35.1
1980	53	12,500	25.0
1981	68	16,200	29.6
1982	73	21,000	8.6
1983	76	22,800	8.6
1984	102	35,300	25.2
1985	105	44,200	15.6
1986	110	51,100	13.3
1987	110	57,900	13.3
1988	110	63,600	9.8

2. These figures relate to settlements recognized by the Ministry of the Interior and do not include outposts.

Year	Number of settlements	Population	Annual population growth (by percentage)
1989	115	69,800	9.7
1990	118	78,600	12.6
1991	119	90,300	14.9
1992	120	100,500	11.3
1993	120	110,900	10.3
1994	120	122,700	10.6
1995	120	127,900	9.4
1996	121	139,974	8.8
1997	122	152,277	8.2
1998	123	164,800	7.6
1999	123	177,327	7.3
2000	123	190,206	7.2
2001	123	200,297	5.3
2002	123	211,416	5.5
2003	123	223,954	5.9
2004	123	235,263	5.0
2005	121	247,514	5.2
2006	121	261,879	5.8
2007	121	276,462	5.5
2008	121	290,400	5.0
2009[3]	121	301,200	3.7

Source: Central Bureau of Statistics, *Israel Statistical Yearbook* (various years). For the years 1967-1981, see Meron Benvenisti and Shlomo Khayat, *The West Bank and Gaza Atlas* (Jerusalem: West Bank Data Project, *The Jerusalem Post*, 1987), pp. 138-40.

Table 2: Settlers in East Jerusalem[4]

Year	Number of residents	Annual growth (by percentage)
1989	118,100	No figures available
1990	127,500	7.9
1991	132,200	3.6
1992	141,000	6.6
1993	146,800	4.1
1994	152,700	4.0
1995	157,300	3.0
1996	160,400	1.9
1997	156,412	-2.5

Year	Number of residents	Annual growth (by percentage)
1998	160,862	2.8
1999	165,076	2.6
2000	167,230	1.3
2001	NFA[5]	–
2002	171,859	–
2003	173,034	0.7
2004	176,566	2.0
2005	178,973	1.4
2006	181,823	1.6
2007	184,707	1.6

3. Provisional figures of the CBS, as of 30 September 2009. See http://www.cbs.gov.il/population/new_2010/table1.pdf (accessed 16 June 2010) and Haim Levinson, "Civil Administration Report: Rate of Population Growth in 66% of Settlements Higher than in Israel," *Ha'aretz,* 2 February 2010.

4. Jerusalem Institute for Israel Studies, Statistical Yearbooks.

5. Regarding 2001, the Jerusalem Institute for Israel Studies does not have population data based on a division into statistical areas; accordingly, it is not possible to provide a precise calculation of the population of settlers in East Jerusalem for this year.

B. Land area of the settlements

In this report, the calculation of the total land area of the settlements is based on official state maps prepared by the Civil Administration, dating December 2006. According to these maps, the total area of the West Bank, including the areas annexed to the jurisdictional area of the Jerusalem Municipality, is 5,602,951 dunam (one dunam is equivalent to 1,000 square meters, 0.1 hectares, or 0.247 acres).[6] The total built-up area of settlements was calculated using one of two measurements: the boundaries of the built-up areas in each settlement, including parts within these areas that have not been built up, or a sum total of the built-up areas in settlements where these areas are separate from each other. The boundaries of the built-up areas were calculated by superimposing aerial photos of settlements and outposts, taken in 2009, on the Civil Administration maps.[7]

Table 3: Area of the settlements as a proportion of the area of the West Bank

	Total built-up areas in settlements	Total municipal jurisdictional areas in settlements[8]	Total areas of regional councils[9]	Total area controlled by the settlements[10]
Percentage of West Bank area (2009)	0.99	9.28	33.5	42.8
Area in dunams (2009)	55,479	520,050	1,879,774	2,399,824

To illustrate the expansion of the settlements, we examined the three largest settlements in the West Bank (excluding East Jerusalem) – Modi'in Illit, Betar Illit, and Ma'ale Adummim. The built-up areas of all three settlements expanded significantly from 2001 to 2009, and their population rose substantially. The built-up area of Modi'in Illit expanded by 78 percent, from 1,287 to 2,290 dunam; the built-up area of Betar Illit rose by 55 percent, from 1,270 to 1,975 dunam; and in Ma'ale Adummim, the built-up area increased by 34 percent, from 2,500 to 3,342 dunam (see appended maps).

The population growth in these three settlements was greater than the annual growth of the settler population as a whole. From 2004, when Israel undertook to freeze settlement construction in the framework of the Road Map, to the end of September 2009, the population of Modi'in Illit rose by

6. Among the maps, which were provided to Peace Now by order of the District Court in Jerusalem, is a digital map showing the private Palestinian land in Area C. Peace Now has also obtained maps that the Civil Administration made in 2004, marking "state land" and survey land. See the decision of the Jerusalem District Court in session as an Administrative Law Court, Admin Pet 00135/6, *Peace Now and The Movement for Freedom of Information v. Civil Administration in Judea and Samaria,* 9 January 2007. See also Dror Etkes, "Petition for Freedom of Information," on Peace Now's website, available at http://www.peacenow.org.il/site/en/peace.asp?pi=370&docid=1662 (accessed 16 June 2010). These maps are more precise than the ones B'Tselem previously had and are drawn to a relatively large scale (1:10,000).

7. A different method was used in the 2002 report *Land Grab*, in which calculations were based on a map drawn by the US State Department in medium scale (1:150,000), making the area of the West Bank and East Jerusalem slightly larger – 5,608,000 dunam. The boundaries of the built-up areas were calculated according to the developed area in each settlement, and included land that was used for any development, other than open agricultural areas, and approved building plans that had not yet been implemented, to the extent that B'Tselem was aware of such plans. Since the publication of *Land Grab*, B'Tselem found that the construction plans in the settlements – whether approved or in preparation – will double the number of structures in the settlements. Thus, the inclusion of areas where nothing had actually been built artificially raised the figures for the total built-up area in the settlements. In addition, in *Land Grab*, the boundaries of the municipal jurisdictional areas in some settlements were based on the settlements' outline plans, which might not have defined the entire municipal area available to each settlement. The calculation methods used in the current report are more accurate and based on GIS (a geographical information system).

8. According to the OC Command's orders, the municipal jurisdictional areas of the settlements in the West Bank do not include lands within the jurisdictional areas of the regional councils. Source: Civil Administration geographical information layer.

9. Areas not under the jurisdiction of the settlements, but included in the jurisdictional areas of the regional councils.

10. Many settlements exceed their jurisdictional area as set in the OC Command's orders, so the actual area under control of the settlements is even greater than these figures.

64 percent, from 27,386 to 44,900 residents; of Betar Illit, by 46 percent, from 24,895 to 36,400 residents; and in Ma'ale Adummim, by 20 percent, from 28,923 to 34,600 residents.[11]

C. Spatial layout of the settlements

In the West Bank, there are now more than 200 settlements that are connected to one another, and to Israel, by an elaborate network of roads. This network cuts across the areas that were handed

over to Palestinian control, creating territorial islands of Areas A, which are under full Palestinian control, and Areas B, whose civil affairs are under Palestinian control.

The settlements were established along three strips running north to south, and around the Jerusalem metropolitan area.

The *Eastern Strip* includes the Jordan Valley, the shores of the Dead Sea up to the Green Line, and the eastern slopes of the mountain ridge that splits the West Bank lengthwise. The first settlements, built in the late 1960s, were established in this strip, which includes the largest land reserves in the West Bank. The jurisdictional areas of the regional councils Arvot Hayarden, Biq'at Hayarden, and Megilot in the northern Dead Sea area, are contiguous; together, their boundaries match the boundaries of the strip. The water resources in this strip have enabled the settlements there to develop agriculture that requires intensive irrigation.

The *Mountain Strip,* which is also called the watershed line, spans the peaks of the ridge that cuts the West Bank lengthwise and adjacent areas. Situated along the strip are the six largest and most populated Palestinian towns in the West Bank – Jenin, Nablus, Ramallah, East Jerusalem, Bethlehem, and Hebron. One chain of settlements in the strip is spread out along Route 60, which is the main north-south traffic artery in the West Bank. These were built to ensure Israeli control of this traffic artery and to prevent Palestinian construction that would create contiguous Palestinian built-up areas on both sides of the road. Most of the road is in Area C, which is under complete Israeli control. A second chain of settlements was built east of Route 60, along Route 458 (the "Allon Road").

The *Western Hills Strip* includes the area west of the mountain ridge through to the Green Line. The width of this strip varies from 10 to 20 kilometers, and the settlements in it run east to west alongside the latitudinal roads that connect to Route 60. The boundaries of these settlements lie close to one another, creating contiguous, or almost contiguous, urban expanses. Many of these settlements lie west of the Separation Barrier route.

Metropolitan Jerusalem forms part of the Mountain Strip in geographical terms, but the settlements there are linked to Jerusalem. They include the neighborhoods established in the areas annexed to the Jerusalem Municipality, which are considered settlements under international law, as well as the settlement blocs in the "Greater Jerusalem" area – Giv'at Ze'ev, Givon, Givon Hahadasha, and Bet Horon in the northwest; Kochav Ya'akov, Tel Zion, Geva Binyamin, and the Sha'ar Binyamin industrial area in the northeast; Ma'ale Adummim in the east; and Betar Illit and the Gush Etzion settlements in the south.[12]

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11. In 2009, the estimated annual population growth of Modi'in Illit was 9.5 percent, of Betar Illit 6.2 percent, and of Ma'ale Adumim 3.1 percent. Table 3, "Population of communities with more than 2,000 residents and other rural populations on 30 September 2009", Central Bureau of Statistics, available at http://www.cbs.gov.il/population/new_2010/table3.pdf (accessed 16 June 2010).

12. For a more extensive discussion, see *Land Grab,* Chapter Seven.

D. Outposts

Outposts are settlements built without government approval but with the support of various government ministries, the army, and the Civil Administration.[13] The establishment of outposts began in 1996, following the government decision that the establishment of new settlements requires the approval of the entire government. This decision also empowered the minister of defense to approve or freeze any stage of procedures to allocate land to a settlement and any stage of procedures to approve building plans in settlements.[14] The outposts were established on land that the government had not allocated for them, and some were also built on private Palestinian land. They were built without approved building plans and without the regional military commander having set their jurisdictional borders.[15] Despite these continuing violations of the law and repeated promises to evacuate them, as yet, the government has refrained from evacuating almost all the outposts, and has dismantled none of the large ones.

According to Peace Now, as of June 2009, approximately 100 outposts exist in the West Bank. Half of these were built after February 2001, when Ariel Sharon took office as prime minister. The outposts control some 16,000 dunams of land, of which 7,000 are private, Palestinian-owned land. Peace Now estimates that the population of the outposts in 2009 was 3,371.[16]

13. State Comptroller, *Report 54B*, pp. 362-7 (5 May 2004).

14. Government Resolution No. 150, 2 August 1996. See Talia Sasson, *Interim Report on the Subject of Unauthorized Outposts* (hereafter "Sasson Report,") pp. 64-6. The report, which was submitted to the Sharon government in March 2005, is available in Hebrew, at http://www.pmo.gov.il/NR/rdonlyres/0A0FBE3C-C741-46A6-8CB5-F6CDC042465D/0/sason2.pdf (accessed 16 June 2010).

15. Sasson Report, pp. 19-23. See footnote 14.

16. Hagit Ofran, "Outposts – Some Order in the Mess," June 2009. Available on Peace Now's website, in Hebrew, at http://peacenow.org.il/site/he/peace.asp?pi=62&docid=3682 (accessed 16 June 2010).

Chapter Two

Israeli policy

"Israel will meet all its obligations with regard to construction in the settlements. There will be no construction beyond the existing construction line, no expropriation of land for construction, no special economic incentives, and no construction of new settlements."

Prime Minister Ariel Sharon, 18 December 2003[17]

In September 1967, just three months after Israel occupied the West Bank, the government established the first settlement there – Kfar Etzion. In the following decade, the Labor Alignment governments promoted the Allon Plan, which recommended annexation to Israel of areas in the West Bank that were not densely populated with Palestinians, such as the Jordan Valley, areas around Jerusalem, Gush Etzion, most of the Judean Desert, and a strip of land in the southern Hebron hills. In this framework, almost 30 settlements were established throughout the West Bank. The Likud, voted into office in 1977, established dozens more settlements in crowded Palestinian areas, such as the Mountain Strip and the Western Hills Strip close to the Green Line. The Rabin government, which took power in 1992, undertook not to establish new settlements, except in the Jordan Valley and the "greater Jerusalem area."[18] It did, however, expand existing settlements in the framework of what was termed "the natural growth of the settler population," a term that has never been precisely defined.[19] Since 1993, when the Oslo process began, the settler population in the West Bank, not counting those living in East Jerusalem, has almost tripled, rising from 110,900 to 301,200. The entire settler population, including those in East Jerusalem, has grown from 241,000 to more than half a million persons.

Since 2003, Israeli governments have several times undertaken to freeze construction in the settlements and not expand them. All the governments, including the present one, have breached these undertakings.

The Road Map

On 25 May 2003, the government endorsed Prime Minister Sharon's announcement that Israel accepted US President George W. Bush's plan, defined as "a performance-based roadmap to a permanent two-state solution to the Israeli-Palestinian conflict" (hereafter "the Road Map"). The plan proposed a gradual process to take place over the course of several years, monitored and aided by the Quartet – the United States, the European Union, Russia, and the United Nations.[20] The Road Map was also adopted later that year by the UN Security Council.[21]

For the first time, the Road Map included an Israeli commitment to freeze settlement activity. In the words of this document, "Consistent with the Mitchell Report, GOI [Government of Israel] freezes

17. From the prime minister's speech at the Herzliya Conference, available at http://www.pmo.gov.il/PMOEng/Archive/Speeches/2003/12/Speeches7635.htm (accessed 16 June 2010).

18. Section B of Government Resolution No. 360, dated 22 November 1992, which states: "To approve cessation of construction in Israeli communities in Judea and Samaria and the Gaza Strip, carried out pursuant to previous government decisions found in the government's secretariat." Cf. Sasson Report, pp. 62-3, see footnote 14.

19. *Land Grab,* pp. 11-17.

20. The text of the Road Map is available at http://www.knesset.gov.il/process/docs/roadmap_eng.htm (accessed 16 June 2010).

21. UN Security Council Resolution 1515 (2003), 19 November 2003.

all settlement activity (including natural growth of settlements)."[22] In addition, Israel undertook to dismantle all the outposts built after March 2001, a month after Sharon became prime minister. The government attached 14 reservations to its approval, none of which objected to the obligation to freeze the construction of settlements. The ninth reservation, which deals with the question of the permanent agreement, expressly states that "there will be no involvement with issues pertaining to the final settlement. Among issues not to be discussed: settlement in Judea, Samaria, and Gaza (excluding a settlement freeze and illegal outposts)…"[23]

The government reiterated its commitment to the Road Map on several occasions. For example, its decision regarding the Sasson Report states that Israel "will meet its commitment" under the Road Map to dismantle the outposts established since March 2001.[24] Also, at the Annapolis conference held in November 2007 in which Israel, the Palestinian Authority, the Quartet, and representatives of Arab League countries took part, Israeli prime minister Ehud Olmert repeated Israel's commitment to the plan.[25]

The understandings between Israel and the Bush Administration

Despite the government's explicit commitments to freeze all settlement activity and evacuate the post-March 2001 outposts, the Sharon government reached four unofficial understandings with the US Administration, as follows: no new settlements will be built; construction will not be allowed outside "existing construction lines" in the settlements; new land will not be allocated or expropriated for settlement construction; and economic incentives will not be provided to settlers. These understandings were subsequently restated by Elliott Abrams, deputy national security advisor in the Bush Administration, and Prime Minister Ehud Olmert.[26]

These understandings were not formally published or publicly approved by the Bush Administration while it was in office. According to a letter from President Bush to Prime Minister Sharon, they were based on the Administration's belief that, since Israel's complete withdrawal to the Green Line would be "unrealistic" in light of the great number of settlers in the West Bank, it should be allowed to discuss retaining "Israeli population centers" there within the framework of a "realistic" peace agreement.[27] Dan Kurtzer, former US ambassador to Israel, published several articles describing how Israel breached these understandings and construed them broadly to enable continued building in the settlements. For example, Israel avoided a clear definition of "existing construction lines" in the settlements, despite promises made by Dov Weisglass, Director General of the Prime Minister's Office, to Condoleezza Rice, U.S. Secretary of State. Kurtzer added that one of the key provisions of Bush's letter was that U.S. support for Israel's retaining some settlements was predicated on there being an "agreed outcome" of negotiations with the Palestinians, and that the Bush Administration did not recognize Israel's interpretation that it was allowed to continue building in the settlement blocs of Ariel,

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22. The Mitchell Report, submitted on 4 May 2001, concluded the work of the international investigation committee headed by former US senator George Mitchell to investigate the factors that led to the outbreak of the second intifada. The committee held, inter alia, that "It will be difficult to prevent a recurrence of Israeli-Palestinian violence unless the Government of Israel halts all construction in the settlements." The report is available at http://www.mfa.gov.il/MFA/MFAArchive/2000_2009/2001/4/Report%20of%20the%20Sharm%20el-Sheikh%20Fact-Finding%20Committ (accessed 16 June 2010).

23. The full text of Israel's reservations to the Road Map is available at http://www.knesset.gov.il/process/docs/roadmap_response_eng.htm (accessed 16 June 2010).

24. Section 7 of Government Resolution No. 3376, dated 13 March 2005, regarding the Sasson Report, available in Hebrew at http://www.pmo.gov.il/PMO/Archive/Decisions/2005/03/des3376.htm (accessed 16 June 2010).

25. The text of the announcement is available on the White House website at http://georgewbush-whitehouse.archives.gov/news/releases/2007/11/20071127.html (accessed 16 June 2010).

26. See Prime Minister Olmert's speech at the Herzliya Conference, 19 December 2003, available at http://www.pmo.gov.il/PMO/Archive/Speeches/2003/12/Speeches8996.htm. See also Ehud Olmert, "How to Achieve a Lasting Peace: Stop Focusing on the Settlements," *The Washington Post,* 17 July 2009; Elliott Abrams, "Hillary Is Wrong about the Settlements: The U.S. and Israel Reached a Clear Understanding about Natural Growth," *The Wall Street Journal*, 26 June 2009.

27. Letter of 14 April 2004 from President Bush to Prime Minister Sharon, as it appears on the Knesset's website, available at http://www.knesset.gov.il/process/docs/DisengageSharon_letters_eng.htm (accessed 16 June 2010). See also Abrams, ibid.

Ma'ale Adummim, and Gush Etzion. Israel also did not provide the U.S. Administration with a list of outposts or a timetable for their evacuation, despite its commitment to do so. Kurtzer concluded one of his articles by repeating the position of every U.S. Administration since 1967: "…that settlements jeopardize the possibility of achieving peace and thus settlement activity should stop."[28]

The Netanyahu government's freeze policy

In a speech given in June 2009 at Bar-Ilan University, Prime Minister Binyamin Netanyahu announced, "we have no intention of building new settlements or of expropriating additional land for existing settlements." He also declared that "Jerusalem must remain the united capital of Israel." He did not address the outpost issue.[29] Six months later, on 25 November 2009, the political-security cabinet decided to temporarily freeze all public and private construction in the settlements for ten months. Following this decision, OC Central Command issued an order freezing construction in all the settlements, except for buildings for which permits had already been issued and whose foundations had been laid.[30] Although the wording of the decision was sweeping, *Ha'aretz* reported that it was not intended to apply to East Jerusalem, to 2,500 apartments already under construction, and to 455 other apartments whose marketing had been approved by the defense minister prior to the decision of 25 November.[31]

Breach of Israel's commitments

Despite the commitments cited above, Israel has continued over the years to build in existing settlements, to plan and establish new ones, to expropriate land for settlements, and to grant exceptional incentives to Israeli citizens to move to settlements. Moreover, Israel has evacuated almost none of the outposts it promised to dismantle as part of the Road Map.

Israel was supposed to begin implementing its Road Map obligations in May 2003. However, extensive construction in settlements continued, as did the generous incentives Israel offers settlers. As a result, from 2004 to the end of 2009, the settler population (not including those in East Jerusalem) grew by 28 percent, from 235,263 to 301,200 persons. In 2008, the annual growth of the settler population was three times greater than that of the population inside Israel – 5 percent as opposed to 1.8 percent, respectively. In the ultra-Orthodox settlements of Betar Illit and Modi'in Illit, the figures for 2009 were even higher.[32] The net migration rate to settlements in the West Bank is higher than the migration rate to every district inside Israel. In 2006, the figure stood at 20.1 percent, more than twice the rate in the Central District communities, while other districts in Israel had a negative migration rate.[33]

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28. Daniel Kurtzer, 'The Settlements Facts," *The Washington Post*, 14 June 2009, available at http://www.washingtonpost.com/wp-dyn/content/article/2009/06/12/AR2009061203498.html; Daniel Kurtzer, "Behind The Settlements," *The American Interest Online,* March-April 2010, available at http://www.the-american-interest.com/article.cfm?piece=781 (both accessed on 16 June 2010).

29. The speech, given at the Begin-Sadat Center at Bar-Ilan University on 14 June 2009, is available at http://www.mfa.gov.il/MFA/Government/Speeches+by+Israeli+leaders/2009/Address_PM_Netanyahu_Bar-Ilan_University_14-Jun-2009.htm (accessed 16 June 2010).

30. Announcement of the spokesperson of the Prime Minister's Office, "Temporary Suspension of Residential Construction and Building Starts in Judea and Samaria," 25 November 2009.

31. Ministerial Committee on National *Security* Affairs (the Political-Security Cabinet), Decision No. B/22, of 25 November 2009, on suspending building permits in Judea and Samaria, available in Hebrew at http://www.pmo.gov.il/PMO/vadot/bitahon/des22.htm (accessed 16 June 2010). See also Amos Harel, "The Settlement Freeze: Pleasing Nobody," *Ha'aretz,* 8 September 2009, available at http://www.haaretz.com/print-edition/news/the-settlement-freeze-pleasing-nobody-1.8307 (accessed 1 July 2010).

32. Prof. Dan Suan and Dr. Vered Ne'eman-Haviv (eds.), *Judea and Samaria Statistical Yearbook for 2007* (Ariel: Ariel University Center of Samaria and the Samaria & Jordan Valley Regional R&D Center, 2008), p. 1; Central Bureau of Statistics, CBS press release of 18 September 2009. See also Haim Levinson, "Civil Administration Report: Population Growth Rate in 66% of Settlements Higher than in Israel," *Ha'aretz,* 2 February 2010.

33. Suan and Ne'eman-Haviv, "Table 1.13 – Internal Migration between Communities by District, 2006," p. 24.

In addition to expanding existing settlements, Israel has continued to build new ones. In late 2003, for example, extensive infrastructure was built and land was prepared for the construction of residential neighborhoods in E-1, an area located north of Ma'ale Adummim and separate from it. This was carried out as part of the road works undertaken to create access to the Judea and Samaria Police headquarters in the area, despite the fact that no permits were issued for the construction.[34] In addition, Defense Minister Ehud Barak approved turning the Maskiyot pre-military religious preparatory program in the Jordan Valley into a new settlement, and construction of a new neighborhood there has begun. Barak also approved proceeding with plans to change Sensena, which is currently considered part of the Eshkolot settlement in the southern Hebron hills, into an independent settlement.[35]

Israel also continues to plan settlement expansion. According to an analysis by Bimkom based on the database compiled by Brig. Gen. (res.) Baruch Spiegel,[36] the potential for construction in settlements under existing plans amounts to more than 50,000 apartments – twice the current number of apartments there.[37] One plan is to expand the Geva'ot settlement, in the Etzion Bloc, ostensibly a neighborhood of the Alon Shvut settlement even though it is physically separated from it, where 12 families currently live. The intention is to turn it into an independent settlement, containing 500 apartments in the first stage and subsequently 5,000 apartments.[38]

The Civil Administration continues to declare land in the West Bank as "state land" (see Chapter Three). Between 2003 and 2009, it declared 5,114 dunam in Area C to be government property.[39] In 2009, in notices published in the Palestinian newspaper *Al-Quds*, the state announced its intention to declare some 138,000 dunam as "state land", including stretches of land exposed due to the evaporation of the Dead Sea. This land comprises almost 2.5 percent of the West Bank.[40] The same year, the state informed Israel's High Court of Justice that it intended to expropriate private Palestinian land in order to enable the completion of a wastewater treatment plant for the Ofra settlement. Previous stages of construction of the plant had been carried out without the requisite permits.[41]

The government has seldom enforced its decisions regarding settlements. In April 2010, the State Attorney's Office informed the High Court of Justice that, since the freeze had started five months

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34. HCJ 2705/06, *Al-Eizariya Local Council et al. v. Civil Administration Supreme Planning Committee*, Petition from 20 March 2006; Amos Harel, "Israel Plans to Build Up West Bank Corridor on Contested Land", *Ha'aretz*, 1 January 2009, available at http://www.haaretz.com/news/israel-plans-to-build-up-west-bank-corridor-on-contested-land-1.266848 (accessed 7 July 2010). See also the presentation by Shaul Arieli, available at http://www.shaularieli.com/image/users/77951/ftp/my_files/Power-Point%20Show/The_story_of%20the_Ma%E2%80%99ale_Adumim_area_comp.pps (accessed 16 June 2010).

35. "Defense Ministry Unfreezes Construction in Maskiyot," *Ha'aretz*, 24 July 2008; Nir Shalev and Alon Cohen-Lifshitz, "Detailed Objection to Detailed Outline Plan 505/1 – Sensena," Bimkom, 17 March 2009. See also Akiva Eldar, "Border Control – Nothing Natural About It," *Ha'aretz*, 2 June 2009 available at http://www.haaretz.com/print-edition/features/border-control-nothing-natural-about-it-1.277137 (accessed 1 July 2010).

36. Brigadier General (res.) Baruch Spiegel was appointed by the Defense Ministry to create a database regarding the settlements. This database, compiled over a period of two and a half years, is updated to 2006 and was published on the *Ha'aretz* website. See Uri Blau, "Secret Israeli Database Reveals Full Extent of Illegal Settlement," *Ha'aretz,* 31 January 2009.

37. E-mail from Architect Alon Cohen-Lifshitz of Bimkom, 23 June 2009. According to the Center for Political Economics, there are 32,711 apartments and 22,997 private houses in the settlements. See, *A Comparative Analysis of the Israeli Construction in the West Bank Settlements between 2004 and 2008*, Final Report (Tel Aviv: The Center for Political Economics), January 2010.

38. Minutes of meeting no. 1/08 of the Supreme Planning Committee's Subcommittee for Environmental Issues, 18 June 2008. See also "Settlement Expansion Plans" on B'Tselem's website, available at http://www.btselem.org/english/settlements/20090227_settlement_expansion.asp.

39. Letter of 27 July 2009 from the public requests monitoring officer in the Civil Administration, Second Lt. Inbal Lidan, to Nir Shalev, of Bimkom.

40. Twelve notices of the Land Registration Office in Ma'ale Adumim, *Al-Quds,* 26 July 2009. See also Hagit Ofran, "Registration of 138,600 Dunam near the Dead Sea as State Land – July 2009," Peace Now website, July 2009, available at http://www.peacenow.org.il/site/en/peace.asp?pi=61&fld=495&pos=1&docid=4497.

41. HCJ 4457/09, *Muhammad Ahmad Yassin Mana' et al. v. Minister of Defense et al.* See also Akiva Eldar, "The State: We May Expropriate Palestinian Land for the Ofra Settlement," *Ha'aretz*, 28 December 2009.

earlier, 423 files had been opened on illegal construction in settlements.[42] The current government has also refrained from staffing the ministerial committee that was supposed to implement the conclusions of the 2005 Sasson Report, and is even seeking to authorize some of the outposts discussed in the report.[43] For example, in the case of the Migron outpost, which was established in 2002 on private Palestinian land, the state proposed building a new neighborhood in the Geva Binyamin settlement for the lawbreaking settlers, if they agreed to leave their present location.[44] Recently, the state informed the High Court of its intention to conduct a land survey (see Chapter Three) to legalize construction in the outposts Derekh Ha'avot, Haresha, and Hayovel, and to enable the expropriation of additional land, some of which is recognized by Israel as private Palestinian land.[45]

42. Response of Deputy Defense Minister Matan Vilnai to a parliamentary query by Knesset member Haim Oron, 26 January 2010. According to Peace Now, freeze orders were breached in at least 33 settlements. See, "Ministry of Defense Admits: One Quarter of all Settlements Breached the Settlement Freeze," February 2010, available on Peace Now's website at http://www.peacenow.org.il/site/en/peace.asp?pi=61&docid=4564 (accessed 16 June 2010). See also the supplementary statement of the defendants in HCJ 8255/08, *'Ali Muhammad 'Issa Musa et al. v. Minister of Defense et al.,* 25 April 2010. According to this statement, enforcement action led to the seizure of 39 tools "suspected of having been used to commit offenses."

43. Akiva Eldar, "Netanyahu Did Not Staff Ministerial Committee to Implement Sasson Report," *Ha'aretz,* 12 June 2009. See also Government Resolution No. 3376, 13 March 2005, about the Sasson Report.

44. See the supplemental response affidavit of the state in HCJ 8887/06, *Yusef Musa 'Abd a-Razeq al-Nabut et al. v. Minister of Defense et al.,* 28 June 2009.

45. Supplemental statement of the defendants in HCJ 8255/08, see footnote 42; updating affidavit of the defendants in HCJ 9053/05, *Peace Now et al. v. Minister of Defense et al.,* 7 May 2010. See also Talia Sasson, "Making a Mockery of the Law," *Ha'aretz,* 5 May 2010.

Chapter Three

Mechanisms for taking control of West Bank land and illegal construction in settlements

Israeli settlements have been established only after an exhaustive investigation process, under the supervision of the Supreme Court of Israel, designed to ensure that no communities are established on private Arab land.

From the Israeli Foreign Ministry's website, May 2001[46]

Israel operates a complex legal and bureaucratic apparatus in the West Bank for seizing control of hundreds of thousands of dunams of Palestinian land, some privately owned. These are allocated for establishing new settlements or expanding existing ones. The main methods Israel uses are requisitioning land for "military needs," declaring or registering land as "state land," and expropriating land for "public needs." Using these methods, Israel has gained control of approximately half the West Bank.[47] In addition, settlers have often seized private Palestinian land independently, with the relevant authorities doing almost nothing to enforce the law and return the land to its rightful owner.

According to Spiegel's database, the status of land in at least 67 settlements is not uniform and is made up of various combinations: land requisitioned by military orders, areas declared "state land", survey land, and private Palestinian land.[48] Some private Palestinian lands have become enclaves within settlements. Some land was taken as a result of negligent implementation of military requisition orders and demarcation of "state land", and some was unlawfully seized by settlements or individual settlers. Since *Land Grab* was published in 2002, several official reports have addressed this issue. One is the Sasson Report, which deals with outposts and the political, legal, municipal, and planning aspects of establishing a settlement.[49] Another is Spiegel's database, which classifies the kinds of ownership of land in the settlements and in some of the outposts. The database documents the approved and completed construction plans in settlements and records the scope of construction carried out without a permit, including construction that entailed taking over private Palestinian land and systematic deviation from the boundaries of the construction plans and the areas allotted to the settlements.[50] Also, several of the state comptroller's annual reports have dealt with the issue of taking control of West Bank land.

In all the official publications, the authors noted that information on the scope of land involved and the measures used to take control of it is only partially available. In some cases, ministries and government agencies concealed data from the researchers. In others, no official took the trouble to gather vital information on these subjects. Often, the information provided by different government officials was contradictory. Sasson points out, for example, that some of the information she required "is not out in the open. I cannot say, even after examination and demands, that I had access to all

46. Available at http://www.mfa.gov.il/MFA/Peace+Process/Guide+to+the+Peace+Process/Israeli+Settlements+and+International+Law.htm.

47. For a more extensive discussion on this issue, see *Land Grab*, Ch. 3.

48. The database relates only to land allotted to the settlements in which building plans were prepared or approved, and not to the municipal or demarcated area of the settlements. Spiegel was appointed by Prime Minister Sharon to create the database, which took two and a half years to complete. The database was published on *Ha'aretz*'s website. See Uri Blau, "Secret Israeli Database".

49. See footnote 14.

50. See footnote 36.

the necessary information."[51] The state comptroller concluded that the Civil Administration's land registry does not properly reflect land rights in the West Bank.[52] Spiegel was unable to verify the status of the land in a number of settlements and noted that it was "unclear." With respect to other settlements, he stated that there had "apparently" been incursions onto private Palestinian land. Bimkom and the Association for Civil Rights in Israel had to petition the District Court to obtain information about "state land" that, for over a year, the Civil Administration refused to provide, even though it was required to do so by law.[53] Similarly, the Civil Administration provided Peace Now with a map of private Palestinian land in the West Bank only after the District Court in Jerusalem compelled it to do so.[54]

This chapter relates only to land that Israel took control of and allocated to settlements. The report does not deal with additional swathes of West Bank land over which Israel gained control by similar means and used for army bases, firing zones, nature reserves, roads, or construction of the Separation Barrier, unless these lands were designated for the direct use of settlements.[55]

A. Requisition of land for "military needs"

In the first decade of settlement activity, Israel used military requisition orders to take possession of private Palestinian land, claiming that the settlements served security-military functions. This contention was made because international humanitarian law permits the occupying country to appropriate property under private ownership for military purposes, albeit on a temporary basis only. Appropriation of this kind does not grant property rights, and the occupying country is not permitted to sell the assets it has appropriated.[56] Settlements, some of which began as Nahal army bases that were subsequently declared civilian sites, were built on the requisitioned land.

The High Court of Justice supported this policy until the case of the Elon Moreh settlement, in 1979. In the case, both the settlers and former Chief-of-Staff Haim Bar-Lev presented positions to the court – each with their own arguments – that challenged the state's position that establishment of the settlement was necessary for security purposes.[57] The High Court ordered the seized property to be returned to its owners. Following the case, the use of military requisition orders increase dropped sharply, but did not end entirely.[58]

Other than the case of Elon Moreh, and despite the explicit ruling of the High Court of Justice, Israel has not returned land appropriated by military order to its Palestinian owners. According to Spiegel's database and a map of land appropriated by the army that the Civil Administration provided to Yesh Din, military requisition orders were used to seize at least 31,000 dunam for 42 settlements since 1967. In 11 of these settlements, the land was appropriated after the High Court rendered its judgment in *Elon Moreh,* and in 7 settlements, the requisition orders were replaced by declarations

51. Sasson Report, p. 8. See footnote 14.

52. State Comptroller, *Report 56A* (hereafter State Comptroller Report), 31 August 2005, p. 214.

53. Administrative Petition 40223-03-10, District Court in Jerusalem sitting as the Court for Administrative Matters, *Bimkom – Planners for Planning Rights and the Association for Civil Rights in Israel v. Civil Administration et al.,* 23 March 2010.

54. See footnote 6.

55. According to the state comptroller, until November 2003, the custodian of government land and abandoned property allocated 3,480 dunam to the army for bases, checkpoints, and firing zones. State Comptroller Report, p. 193, footnote 52. According to Peace Now, there are some 890,000 dunam of nature reserves in the West Bank, while national parks encompass some 14,000 dunam. See Dror Etkes and Hagit Ofran, "Settlements and Outposts on Nature Reserve Land in West Bank – February 2007," available at http://www.peacenow.org.il/site/en/peace.asp?pi=61&fld=187&docid=2241 (accessed 16 June 2010).

56. See, inter alia, Article 46 of the Hague Regulations Attached to the Hague Convention on the Laws and Customs of War on Land of 1907, and article 53 of the Fourth Geneva Convention Relative to the Protection of Civilians in Time of War, of 1949.

57. For an in-depth discussion of this issue, see Idith Zertal and Akiva Eldar, *Lords of the Land: The War for Israel's Settlements in the Occupied Territories, 1967-2007* (Nation Books, 2007).

58. For an extensive discussion of this issue, see *Land Grab*, pp. 48-50. See footnote 12.

of "state land". One settlement was evacuated as part of the 2005 "Disengagement Plan".[59] Spiegel's database notes at least three settlements in which the land seized deviated from the area specified in the military order, "apparently due to an imprecise interpretation of the requisition order."[60] In none of these cases is there mention that the land was removed from the settlement's jurisdiction after the deviation was discovered.

In settlements where military requisition orders were not replaced by declarations of "state land" (see below), the orders remain in effect. The state comptroller found in one particular area of the West Bank, whose name he withheld, that the military orders issued in 1980 to appropriate 4,000 dunams of land were not issued for "critical military needs," but rather served to replace a legal investigation prior to declaring most of the property "state land." Even after this declaration, however, the military orders were not cancelled. The state comptroller notes that, as a result, Palestinians were prevented for more than 20 years from working their land in the appropriated areas, enabling the residents of two settlements to seize the land for their own needs. The state comptroller concluded that the use of military orders in this case "cannot be reconciled with the law and proper administrative procedure."[61]

In 2002, Israel again made extensive use of military requisition orders to build the Separation Barrier, appropriating tens of thousands of dunams of private Palestinian land. Some 85 percent of the Barrier runs inside the West Bank, leaving 60 settlements between the Barrier and the Green Line.[62] Substantial portions of the Barrier were routed so that land intended for the expansion of settlements would be located west of it; in some cases, the expansion plans were not discussed or approved by the planning authorities.[63] The High Court of Justice accepted the state's position that military requisition orders may be used to build the Separation Barrier even though most of the route runs through the Occupied Territories.[64] In some cases, the Court even agreed with the state's position that the route may include land intended for settlement expansion, as in the case of Giv'at Ze'ev.[65]

Israel also used military requisition orders to close off "special security areas" around settlements. So far, 12 settlements have been encircled by a new fence, one that is distant from the settlement's houses and old fence, which in effect annexes land to the settlements. Using this method, Israel enlarged the area of these settlements by 4,559 dunam, an increase of 240 percent, between 2002 and 2008.[66]

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59. Spiegel's database reflected the situation in 2006, and the Civil Administration map was updated to 2007.

60. The settlements are Elazar, Kochav Hashahar, and Mechora.

61. State Comptroller Report, p. 212. See footnote 52.

62. OCHA, Occupied Palestinian Territory, *Five Years after the International Court of Justice Advisory Opinion: A Summary of the Humanitarian Impact of the Barrier*, August 2009. See also B'Tselem, *Under the Guise of Security: Routing the Separation Barrier to Enable the Expansion of Israeli Settlements in the West Bank* (December 2005).

63. B'Tselem, *Under the Guise of Security*, pp. 19-81.

64. Section 32 of the court's decision, of 30 June 2004, in HCJ 2056/04, *Beit Surik Village Council et al. v. Government of Israel et al.*

65. Ibid. In section 80 of this ruling, Supreme Court Chief Justice Aharon Barak wrote, "We also accept that 'The Gazelles' Basin' is a part of Giv'at Ze'ev and requires defense just like it."

66. For detailed discussion of this issue, see B'Tselem, *Access Denied: Israeli measures to deny Palestinians access to land around settlements* (September 2008), pp. 34-7.

B. Declaration of "state land"

In November 1979, following the ruling given in *Elon Moreh,* the Israeli government decided "to expand settlement in Judea, Samaria, the Jordan Valley, the Gaza Strip, and the Golan Heights by adding population to the existing communities and establishing additional communities on state-owned land."[67] This decision meant that Israel would no longer seize private Palestinian land to build settlements.

The declaration of "state land", which is based on the Ottoman Land Law of 1858, became Israel's primary mechanism for gaining control of land, both in terms of the frequency of its use and the amount of land taken. This procedure ensured huge land reserves for the continuing development of the settlements.

Israel has declared more than 913,000 dunams to be "state land", which amounts to 16 percent of the West Bank; most of the declarations were made between 1979 and 1992.[68] This is in addition to some 600,000 dunams that were considered "state land" during the British Mandate and the period of the Jordanian government, primarily in the Jordan Valley and Judean Desert. "State land" now constitutes some 1.5 million dunams, or 26.7 percent of the West Bank.

Most settlements in the heart of built-up Palestinian areas, in the Mountain Strip and in the Western Hills Strip adjacent to the Green Line, were constructed on this land.[69] B'Tselem's analysis, which is based on the Civil Administration's maps of state land, updated to 2004, and on aerial photos of the built-up areas of settlements from 2009, indicates that "state land" comprises 75 percent of the settlements' municipal area and 66 percent of their built-up area.

On this subject, too, precise and comprehensive data are lacking. According to Spiegel's database, "state land" comprises a major component of the land mass of 111 settlements and some 50 outposts. The head of the State Attorney's Office's Civil Division, Attorney Plia Albeck, whose opinion formed the basis for adopting this procedure to gain control of West Bank land, said, "More than one hundred communities were built on the basis of my opinion."[70] The Sasson Report states that at least 26 outposts were built on "state land", and another 39 on land in which "state land" is a major component. However, Sasson notes that she did not have a final list of the outposts, in part because the lists kept by the Defense Ministry and the Civil Administration are imprecise, due to the Civil Administration's faulty supervision of illegal construction in the settlements.[71]

In 1992, following the Rabin government's decision to freeze construction in the settlements, the frequency of declarations of "state land" fell.[72] In 1997, when the first government under Prime Minister Binyamin Netanyahu took office, Israel renewed the process using the "survey land procedure" (see below). However, the frequency of declaring "state land" and the amount of land so declared were low in comparison with the past. From 2003 to 2009, 5,114 dunams of West Bank land were declared "state land".[73]

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67. Government Decision No. 145, 11 November 1979; Sasson Report, pp. 59-61, see footnote 14. This chapter is based on Nir Shalev*, Report on State Lands* (in preparation), B'Tselem, 2010.

68. State Comptroller Report, 190. See also the letter of Second Lieutenant Inbal Lidan.

69. *Land Grab,* pp. 51-8. See footnote 12.

70. Aluf Benn, "Settlements Have Element of Temporariness, Settlers Have No Property Rights in Their Homes," *Ha'aretz,* 4 April 2005.

71. Sasson Report, pp. 95-6, 105-10, see footnote 14. Spiegel used data from Peace Now and the US Embassy's comments on the list.

72. Government Decision 13, dated 19 July 1992, notes "the implementation of government decisions on establishment of communities that have not yet been executed shall require re-approval by the government;" and Government Decision 360, dated 22 November 92, Article B, states, "to approve the halting of construction in Israeli communities in Judea, Samaria and the Gaza Strip, which was carried out based on resolutions of previous governments..." See Sasson Report, pp. 62-4, footnote 14.

73. State Comptroller Report, p. 206, see footnote 52. The state comptroller notes that, "beginning in 1993, the land registration of declared state land in Judea and Samaria came to a halt." Letter from Second Lt. Inbal Lidan, see footnote 39.

The legal foundation

After the judgment in *Elon Moreh* and the government's decision to expand settlements in the early 1980s, the Civil Division in the State Attorney's Office, headed by Plia Albeck, began to examine the possibility of declaring West Bank properties "state land". To this end, land-ownership records in the Jordanian regional land-registration offices were inspected. At the same time, the Civil Administration took aerial photos to map uncultivated farmland. The photos were necessary as, according to the State Attorney's Office's interpretation of the Ottoman Land Law, the IDF commander, as sovereign in the territory, is allowed to take possession of uncultivated land that falls into one of the following categories:

- *Miri* land (land that surrounds a built-up community at a distance of up to 2.5 kilometers), which has not been cultivated for at least three consecutive years;
- *Miri* land that has been cultivated for less than ten years, meaning that the farmer working the plot has not acquired ownership of it. Such land was classified by Ottoman Land Law as *Miri* with no owner;
- *Mawat* land (land located more than half an hour's walk – about 2.5 kilometers – from a built-up community, or at a distance at which "the loudest human voice sounded from the most settled location would not be heard there"), which is abandoned, uncultivated, and has not been allotted to any person or authority.

The West Bank has almost no *Mawat* ("dead") land, except in the Eastern Strip areas, the Judean Desert, and parts of the Jordan Valley. Most of the populated land in the West Bank was classified during the British Mandate as *Miri* because of the relatively short distances between the boundaries of the built-up, cultivated areas of the villages.[74] According to Albeck's interpretation, "what is not registered [in the Land Registration Office] and is not cultivated *Miri* land is state land."[75]

The state took several steps in order to enable the declaration of hundreds of thousands of dunams as "state land." The first was taken as early as 1968, when Israel froze the process of registering West Bank property at the Land Registration Office.[76] Through this process, which began during the British Mandate and continued under Jordanian rule, about one-third of West Bank land, primarily in the north, was registered at the Land Registration Office. Israel justified its action on the grounds that it did not want to harm the property rights of the many absentees and Jordanian citizens who owned land in the West Bank, and "on the temporary nature of the belligerent occupation [of the West Bank], which is not consistent with determining absolute rights."[77] This order later enabled Israel to claim ownership of land whose legal status had not been determined and that had not been recorded at the Land Registration Office.

The second step was applying the State Attorney's Office's strict interpretation of "cultivation," whereby cultivation had to be continuous and cover at least 50 percent of the area of the plot of land in order to be defined as such.[78] This interpretation was based on judgments given by Israeli courts in the context of arranging land registration in the Galilee, within Israel. It contradicts judgments of the British Mandate Supreme Court, which held that the cultivation required by the statute to grant

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74. Plia Albeck and Ran Fleischer, *Israeli Land Law* (Jerusalem: self-published, 2005), p. 54.

75. Plia Albeck, *Land in Judea and Samaria,* lecture given on 28 May 1985 at Lawyers' House in Tel Aviv, p. 7.

76. Section 3 of the Order Regarding Arrangement of Land and Water (Judea and Samaria) (Number 291), 1968, which suspended arrangement procedures that were in the process of implementation, but had not been completed by 1 January 1969.

77. Order Regarding Arrangement of Land and Water (Judea and Samaria) (Number 291), 1968. See also Eyal Zamir, *State Land in Judea and Samaria – Legal Review* (Jerusalem: Jerusalem Center for Israel Studies, 1985) p. 27, and HCJ 9296A/08, *Commander of IDF Forces in Judea and Samaria et al. v. Military Appeals Committee,* section 10 of the petition.

78. Avraham Sochovolsky, Eliyahu Cohen, and Avi Ehrlich, *Judea and Samaria: Land Rights and the Law in Israel* (Tel Aviv: self-published, 1986), pp. 29-35.

ownership of the land was "reasonable cultivation" that conformed to the nature of the land and the crops suitable for the land, and could be carried out in different parts of the plot. Thus, under the British Mandate, less than 50 percent of a plot of land in the West Bank could be cultivated and still be considered private land that could be registered in the Land Registration Office. According to the State Attorney's Office, however, such property would be considered "state land" in which an individual has no rights.[79]

The interpretation by the Israeli authorities also ignored other provisions of the Ottoman Land Law. The British Mandate Supreme Court held that anyone who held *Miri* land and worked it for ten consecutive years, without anyone objecting, acquired possession of the land even if, at the end of the ten-year period, he ceased working the land and even if he did not record it at the Land Registration Office. [80] According to Israel's contrary interpretation, when cultivation of non-registered land ceases, it may be declared "state land."

In 1984, when declaration of "state land" was particularly frequent, the military commander amended the Order Regarding Government Property to retroactively broaden the definition of "government property," enabling the declaration of "state land" even if the property had been cultivated for 10 consecutive years prior to 1967.[81] The amendment was intended to allow for the declaration of "state land" on private Palestinian property that had not been cultivated after 1967, even though it was known that the land had previously been cultivated for more than 10 years. This step contradicted the Ottoman Land Law and decisions of the British Mandate Supreme Court.[82]

The use of military requisition orders also enabled Israel to declare "state land," as the appropriated land was used for settlements and fenced off, preventing Palestinian farmers from working it. In this way, Israel was able to convert the requisition order into a declaration of "state land."

The Israeli declarations of "state land" were not made as part of an organized process of recording landowners' rights, as took place during the periods of the British Mandate and Jordanian rule over the West Bank. Israel refrained from conducting the costly and complicated process of arranging land registration, opting instead to seize as much land as possible for settlements by declaring it "state land." The sweeping use of the declaration of "state land" in the West Bank contravened key provisions of Ottoman legislation and British Mandate case law, which are binding on Israel. Without the State Attorney's Office's manipulative interpretation of the law, Israel would not have succeeded in gaining control of so much land for building dozens of settlements.

Taking control of private Palestinian land adjacent to "state land"

Taking control of "state land" often involved taking land that Israel recognized as privately owned by Palestinians. Spiegel's database notes at least 27 settlements with "building deviations" that extend beyond "state land" onto private Palestinian land.[83] Sasson points out that "in many cases" there were "serious inaccuracies," and that "in an extremely large percentage of mistakes," there was no connection between the boundaries of the declared "state land" and the land later allotted for establishing and expanding settlements. Senior Civil Administration officials informed Sasson that this had occurred because the technical tools that ere used were outdated, including a "faulty method

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79. Civ App 65/1940, *Habib and Rashid Yusef Habiby v. Government of Palestine* and Civ App 23/1939, *Joseph Weinberg v. Palestine Jewish Colonisation Association.*

80. Section 78 of the Ottoman Land Law.

81. Order Regarding Government Property (Judea and Samaria) (Number 59), 1967, which states that the competent authority for handling government property in the region, including state-owned land, is the custodian.

82. Civ App 230/1945, *Mahmud Nayef v. Government of Palestine.*

83. The settlements are Efrata, Bet Hagai, Bet Horon, Bat Ayin, Geva Binyamin, Dolev, Halamish, Talmon, Yitzhar, Kochav Ya'akov, Kfar Adumim, Kfar Tapuah, Carmei Tzur, Migdal Oz, Metzadot Yehuda, Ateret, Eli, Emmanuel, Ofra, Otni'el, Pene Hever, Psagot, Kedumim, Kiryat Netafim, Revavim, Shavey Shomeron, Shilo, and Sha'are Tikva. According to Spiegel's database, there may also have been a deviation from state land in Modi'in Illit and Karne Shomeron.

for marking" maps and aerial photos taken "in an outdated way." As a result, the settlements were allocated private Palestinian land or survey land whose ownership had not been determined. The land was either used for construction or was included in the jurisdictional area of the settlements.[84] The Sasson Report does not estimate the amount of this land.

In 1999, the Civil Administration appointed the "blue line" team to re-examine the boundaries of declared "state land" in the settlements, and the boundaries of other land allotted to them, prior to approving new building plans. Although deviations were discovered, no settlement was required to return private Palestinian land to its owners as a result of the incorrect takeover of "state land."[85]

The Military Appeals Committee

The Military Appeals Committee, an organ of the Civil Administration, hears appeals of decisions made by the custodian for government property (the Custodian) regarding declarations of "state land" in the West Bank, among other cases. The committee operates on the principle that the burden of proof always lies with the person claiming ownership of the land, i.e., Palestinians.[86]

The committee's mode of operation severely undermines the right to due process. For example, since Palestinians whose land has been declared "state land" are not always informed of the fact, they are not able to appeal within the 45 days specified in the Order, thereby losing their right of appeal. Moreover, the committee is allowed to reject Palestinian claims of ownership if the land has already been allotted by the Custodian to a settler body and work on the settlement has already begun, so long as the land was allotted "in good faith," even if "proof exists that the property was not at that time government owned."[87] In addition, the committee has a built-in conflict of interest, since it is appointed by, and dependent on, the body whose decisions it is supposed to review – the military administration or the commander of IDF forces in the region.[88]

Two cases in recent years illustrate the problematic nature of the committee's work, and were so grave that the State Attorney's Office had to intervene. In the first case, the committee decided in August 2007 to refrain from removing settlers who had invaded four shops in the Hisbe market of Hebron's H-2 area, which is under full Israeli control. The shops, built on a lot under Jewish ownership, were rented by Palestinians as protected tenants. The committee accepted the claim of the Association for the Renewal of the Jewish Community in Hebron that its members are entitled to invade these properties as they were owned by Jews in the past. The committee ignored the Custodian's arguments that the Association did not have "even a speck of right to the property," and that its action was "unlawful, deliberate, planned, and carried out in defiance of the rule of law in Hebron." It was not until Peace Now and the Palestinian tenants appealed to the High Court of Justice, and after the State Attorney's Office agreed that the committee's decision was "unreasonable in the extreme" and undermined the rule of law, that the committee retracted its decision enabling the settlers to continue their use of the properties.[89]

A year later, the committee accepted the request of the Land of Israel Heritage Fund, a settler organization, to register it as owner of thousands of dunams of land adjacent to the village of Thulth, beside the Alfe Menashe settlement, and of a-Nabi Samwil land, beside the Giv'at Ze'ev settlement.

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84. Sasson Report, p. 81 and 179. See footnote 14.

85. Telephone conversation of 11 March 2010 with Brigadier General (res.) Ilan Paz, former head of the Civil Administration.

86. Section 2C of the Order Regarding Government Property. See footnote 81.

87. Section 5 of the Order Regarding Government Property. See footnote 81.

88. For a detailed discussion of this issue, see *Land Grab,* pp. 55-8. See footnote 12.

89. HCJ 7754/07, '*Abd al-Jawwad Muhammad Yusef al-'Awiwi et al. v. Appeals Committee under the Order Regarding Appeals Committees*, and the preliminary response to the petition on behalf of the Custodian for Government and Abandoned Property in Judea and Samaria, 26 September 2007. See also Hagit Ofran, "Military Appeals Committee Petition," September 2007, available on Peace Now's website at http://peacenow.org.il/site/en/peace.asp?pi=370&docid=2509 (accessed 16 June 2010).

This decision was based on the organization's claim that it had held and cultivated the land for ten years and there fore should be deemed its owner. The committee noted that, "under international law, in areas subject to armed conflict, the policy has always been to refrain as much as possible from disturbing the flow of civilian life of the local residents." The committee wondered why the Ottoman Land Law should not apply in the West Bank, "the substantive law applicable in the area, only because of the situation of armed conflict, which has existed, unfortunately, for (more) than 40 years??"

In a rare step, the commander of IDF forces in the West Bank petitioned the High Court of Justice against the committee's decision, arguing that the committee's interpretation of the Ottoman Land Law sanctioned the settlers' unlawful takeover of land in the West Bank and that this "provided an incentive to lawbreakers." The petition reflected the State Attorney's Office's interpretation of the Ottoman Land Law, whereby proof of working and possessing land for 10 years is not sufficient to be deemed owner of the land.[90] Rather, additional evidence is necessary, such as a purchase agreement, inheritance documents, or a confirmation of purchase tax. This is based on the Ottoman Land Registration Law, which conditioned acquisition of rights in *Miri* land on the person having obtained possession of it honestly.[91] In November 2008, Justice Edna Arbel issued an interim order freezing the land-registration procedures that the settlers' organization had initiated, so as to prevent "an irreversible situation from arising." In March 2010, the High Court issued an Order Nisi instructing the committee to explain why its decision should not be cancelled. The court has not yet rendered a judgment in the matter.[92]

These two cases are unusual in that the state objected to the committee's decisions. In most cases, which are less extreme, the state accepts the committee's decisions and refrains from intervening in them. The very existence of the committee enables Israel to claim that the procedure for declaring "state land" in the West Bank is subject to judicial review. Furthermore, even in these two unusual cases, the state did not address the committee's mode of operation and did not announce a re-examination of this mode of operation or of the rules that guide it.

C. Survey land

Survey land is land whose ownership has not yet been determined by the Custodian. On Civil Administration maps and on the Israel Land Administration website, it is already marked as land over which the Custodian "claims ownership," which is the first stage in declaring property to be "state land." According to Civil Administration maps, in 2004 there were 667,000 dunams of survey land in the West Bank, comprising 12 percent of the West Bank's total land area.[93]

B'Tselem's analysis, based on Civil Administration maps of survey land and on aerial photos of the settlements taken in 2009, shows that survey land comprises 5.9 percent of the settlements' total municipal land, and 3 percent of the their total built-up area. According to Spiegel's database, survey land is a component in three settlements – Efrata, Carmei Tzur, and Ma'ale Adummim. According to the Sasson Report, at least seven outposts were built on survey land, and 39 other outposts were built on land that was partially survey land.[94]

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90. In an initial registration procedure, which is not executed as part of a land arrangement, but based on the Jordanian Registration of Immovable Property Not Yet Registered (No. 6) Law of 1964. The Israeli defense legislation transferred requests for initial registration to an Initial Registration Committee, whose decisions can be appealed to the Military Appeals Committee.

91. Section 8 of the Ottoman Land Registration Law of 1860.

92. HCJ 9296A/08, *Commander of IDF Forces in Judea and Samaria et al. v. Military Appeals Committee*, 5 November 2008, decision on interim order dated 27 November 2008, High Court decision dated 24 March 2010. See also Akiva Eldar, "Left Hand Versus Right Hand: The State Attacks the IDF on Policy of Land Expropriation in the West Bank," *Ha'aretz,* 13 November 2008.

93. According to the website of the Israel Land Administration, there are about two million dunam of survey land, but the website does not distinguish between state land and survey land. See http://www.mmi.gov.il/static/agapim.asp (accessed 16 June 2010).

94. Sasson Report, pp. 101-4. See footnote 14.

Declarations of survey land began in 1997, after the first Netanyahu government took office, when the attorney general approved the "Procedure on Supervision and Preservation of Survey Land, Management of Survey Land and Removal of Squatters," which was aimed at seizing possession of these lands.[95] The procedure requires a comprehensive examination before the land can be seized. Among other requirements, the defense minister must approve initiation of the procedure, a legal opinion on the status of the land must be submitted, data must be collected – including aerial photos of the land (and photos taken before 1967), the property tax records must be checked, and approval of the judge advocate general or the attorney general must be obtained.[96] After these steps are complete, notice of declaration of the land as government property may be published, noting that an appeal can be filed within 45 days. If no appeal is filed, the property is declared "state land." The procedure also allows the defense minister to authorize inclusion of survey land in the jurisdictional area of settlements, at the request of the IDF commander, the coordinator of government activities in the Occupied Territories, the assistant to the defense minister for settlement matters, or the head of the Civil Administration.

After the procedure was approved, in 1997, the Civil Administration began to examine survey land. According to the state comptroller, "most" of the survey land declared after 1997 as "state land" now serves settlements. The Sasson Report found that until 1998, survey land was routinely allotted for the establishment of settlements, even before ownership of the land was declared.[97] Sasson recommended that the government decide not to promote survey procedures for the outposts, but the government is yet to implement the recommendation.

The state comptroller stated that "hundreds of dunams" had been allotted to settlements in breach of the procedure. For example, in these cases, no investigation was made to determine if the land was under absentee ownership or owned by known persons who were not informed of the procedure to seize their land.[98]

After Israel again committed to freezing construction in the settlements, under the Road Map, the Defense Ministry – then headed by Minister Shaul Mofaz and his assistant for settlement matters, Ron Shechner – allocated NIS 3.8 million to locating additional "state land" for expanding settlements using the survey-land procedure. According to Shechner, implementation of the procedure "is the obligation of every sovereign."[99]

D. Expropriation "for public needs"

The Jordanian Land Law explicitly notes that the state is allowed to expropriate land only for public needs. As the public in the West Bank is the Palestinians, Israel does not make broad use of this measure.[100] An exception is the Ma'ale Adummim settlement, which was established in 1975 on 35,334 dunams of Palestinian land expropriated in 1975 and 1977. This land now constitutes 74 percent of the settlement's municipal area.[101]

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95. State Comptroller Report, p. 207, see footnote 52. The procedure was enshrined in Command No. 507 of the Headquarters of the Coordinator of Government Activities in the Territories.

96. The procedure stipulates that, in addition to the defense minister, the assistant defense minister for settlement matters, or OC Central Command, or the coordinator of government activities in the territories, may issue the approval. See Sasson Report, p. 82, footnote 14.

97. Sasson Report, p. 81, see footnote 14. State Comptroller Report, p. 191, see footnote 52. The state comptroller added that survey land was also allotted to firing zones and public areas.

98. State Comptroller Report, pp. 206-9, see footnote 52. See also Sasson Report, p. 34, see footnote 14.

99. State Comptroller Report, p. 207-8, see footnote 52.

100. Land Law: Acquisition for Public Purpose, Law No. 2, 1953.

101. See B'Tselem and Bimkom, *The Hidden Agenda: The Establishment and Expansion Plans of Ma'ale Adummim and their Human Rights Ramifications* (December 2009), pp. 7-10.

Israel has also used this measure to build infrastructure, primarily roads to connect settlements to one another and to Israel. The High Court of Justice approved the step after accepting the state's position that the roads will also serve the needs of the Palestinian public. Recently, Israel sought to expropriate private Palestinian land from the village of 'Ein Yabrud, in order to complete a wastewater treatment plant for the Ofra settlement. The initial stages of the plant's construction were carried out by governmental initiative and funding, but without building permits. The High Court issued a temporary injunction and the case is pending.[102]

Expropriation of land to build infrastructure is carried out under a military order issued in 1969, which transferred expropriation powers to the competent authority – the head of the Civil Administration or someone delegated by him.[103] The order limited the provisions of the Jordanian Land Law, holding that it was not necessary to publish decisions to expropriate land in the press or to provide them to the landowners. The Civil Administration now has merely to post maps of the intended expropriation in its offices in the Beit El settlement and in the regional District Coordination and Liaison offices.

In East Jerusalem, Israel expropriated some 24,500 dunams, most of them privately-owned Palestinian land, which amounts to one-third of the land annexed to the Jerusalem Municipality's jurisdictional area after 1967. The land was expropriated pursuant to a British Mandate ordinance of 1943 that was integrated into Israel legislation, and which resembles the Jordanian Land Law with respect to acquisition "for public needs."[104] 12 neighborhoods, considered settlements under international law, were built on this land. None of it was used by Israel for the benefit of the Palestinians of East Jerusalem.

E. Annexation of privately-owned Palestinian land

In the second half of the 1990s, after the Oslo Accords, the municipal areas of most settlements were defined and expanded "for political reasons" and "without any connection to the urban needs of the existing communities," according to the Sasson Report.[105] According to data provided by the Civil Administration to Peace Now, the municipal areas of 92 settlements were defined and expanded in 1994-2006, although the Oslo Accords stated that "[n]either side shall initiate or take any step that will change the status of the West Bank and the Gaza Strip pending the outcome of the permanent status negotiations."[106]

The expansion included large areas that Israel recognized as private Palestinian land. This land was not expropriated or declared "state land." However, its inclusion within the municipal borders of settlements, all of which are defined as a closed military area that can be entered only with a special permit, effectively denied Palestinian landowners access to it.

B'Tselem's calculation, based on superimposing aerial photos of the settlements' built-up areas, taken in 2009, on Civil Administration maps, reveals that private Palestinian land in Area C, which is under full Israeli control, amounts to some 53,484 dunams, comprising approximately 10.3 percent of the settlements' total municipal area. Of these, 11,388 dunams are within the built-up areas and comprise 21 percent of them.

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102. HCJ 4457/09, *Musa Musa Mu'araq Dar Farhat et al. v. Minister of Defense et al*., interim injunction of 7 June 2009. Akiva Eldar, "The State: We May Expropriate Palestinian Land for the Ofra Settlement," *Ha'aretz,* 28 December 2009.

103. Order Regarding Land (Acquisition for Public Purpose) (Judea and Samaria) (No. 321) Law, 1969.

104. For a detailed discussion of this issue, see *Land Grab,* pp. 61-2, see footnote 12.

105. Sasson Report, pp. 84, 121-2, see footnote 14.

106. The jurisdictional areas of 80 settlements were defined between 1995 and 1999. See Hagit Ofran and Dror Etkes, "Construction and Development of Settlements outside the Official Jurisdictional Areas" (July 2007), p. 5-6, available in Hebrew at http://www.peacenow.org.il/data/SIP_STORAGE/files/0/3190.pdf (accessed 16 June 2010). Also see Article XXXI (7), the Final Clauses of the Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip, of 28 September 1995, available at http://www.mfa.gov.il/MFA/Peace+Process/Guide+to+the+Peace+Process/THE+ISRAELI-PALESTINIAN+INTERIM+AGREEMENT.htm (accessed 16 June 2010).

The amount of private Palestinian land within the municipal areas of the settlements is almost equivalent to the settlements' built-up areas, which totaled 55,479 dunams in 2009. According to Peace Now's figures, which relate to all the Israel civilian entities in the West Bank – settlements, outposts, and industrial areas – private Palestinian land constitutes 32.4 percent of the land controlled by these entities.[107]

According to Spiegel's database, in at least 51 settlements, whose municipal areas also include nearby outposts, construction was carried out on private Palestinian land outside the settlements' jurisdictional areas. According to the Sasson Report, 15 outposts were built on private Palestinian land, and another 39, at least, were built on a combination of private Palestinian land, "state land," and survey land. A sample survey made by the state comptroller in 2000-2003 found 14 cases of illegal construction in settlements on private Palestinian land, or on land outside the settlements' municipal area, or on survey land. In all cases, the Construction and Housing Ministry financed the illegal construction.[108]

Reports and publications by Israeli officials and state entities do not address this issue, and make no attempt to quantify the amount of private Palestinian land that was plundered by the settlements as a result of this construction practice. These include Brig. Gen. Spiegel's database, the Sasson Report, and the state comptroller reports. Entire neighborhoods in the settlements Elon Moreh, Beit El, Shavey Shomron, and Ofra, were built on such land, as were access roads to settlements, a synagogue in Efrata, and a wastewater treatment plant in Carmei Tzur.[109]

Illegal construction in settlements

Although Israeli law-enforcement authorities are aware of, and have documented, the massive illegal construction in settlements, they have made no real, persistent effort to prevent it or to enforce the law on the lawbreakers. The director-general of the Settlement Division in the World Zionist Organization, one of the bodies that the government empowered to allocate land to settlements and initiate building projects in them, even told Sasson that the Division intentionally violates the planning and building laws applying in the West Bank. He stated that the practice is to build Israeli communities, entrench them, and only several years later, legalize the construction by approved plans. "This is the mode of operation. Are we supposed to first plan for five years and then establish the community?!"[110]

Official publications and data on various periods, some of which overlap, indicate the enormous scope of illegal construction in the settlements. Spiegel's database, which relies on aerial photos of the settlements, documents illegal construction in at least 87 settlements. By 2006, the illegal construction amounted to more than 4,300 structures, not including illegal road digging and lot preparations, and structures whose construction was approved retroactively. According to data the Civil Administration provided to Peace Now, the Administration opened some 3,449 files on illegal construction in settlements in 1996-2006. In only 107 of these building violations, approximately three percent, were enforcement measures taken, among them execution of demolition orders.[111] The state comptroller examined the enforcement of building laws in settlements in 2000-2004

107. Dror Etkes and Hagit Ofran, "Construction of Settlements on Private Land – Report based on Official Data," Peace Now, March 2007, available at http://www.peacenow.org.il/site/en/peace.asp?pi=61&fld=495&docid=2258 (accessed 16 June 2010).

108. State Comptroller, *Report 54B*, pp. 370-4. See footnote 13.

109. For a detailed examination of Ofra, see B'Tselem, *The Ofra Settlement: An Unauthorized Outpost* (December 2008).

110. Sasson Report, p. 124, see footnote 14.

111. Peace Now Settlement Monitoring Team, *Paper Pile: Illegal-construction Files and Demolition Orders in Settlements* (December 2007), available in Hebrew at http://www.peacenow.org.il/data/SIP_STORAGE/files/4/3484.pdf (accessed 16 June 2010).

and found that 2,104 illegal construction sites and 77-92 percent of the cases were not handled at all.[112] The Sasson Report cites "thousands" of demolition orders against illegal structures in settlements that were not carried out, as their execution must be approved by the defense minister, whose approval "is generally not given."[113]

A building violation is a criminal offense in Israel, but was not defined so in the West Bank until early 2007. As a result, individuals guilty of such offenses in settlements were not prosecuted, nor were officials in government ministries, in the army, or in the Civil Administration, nor those linked to funding the illegal construction. No measures were taken to prevent stepped-up illegal construction.[114] Since 2007, to this day, no settler has been criminally prosecuted for building violations, to B'Tselem's knowledge.

Both Jordanian legislation, on which the building laws in the West Bank are based, and Israeli legislation with respect to East Jerusalem, require proof of land ownership as a prerequisite to approving any building plan. The approval is needed in order to issue a building permit.[115] Illegal construction, which is sometimes carried out hastily, with the structures occupied immediately upon completion, makes the question of ownership and possession of the land superfluous.[116]

A case in point is the "enormous scope", as the High Court of Justice termed it, of illegal construction in the Matityahu-East neighborhood of the Modi'in Illit settlement. In this neighborhood, the construction of hundreds of apartments began on land that was to be annexed to Modi'in Illit by means of the Separation Barrier, and several apartments were supposed to be built on private land of the adjacent Palestinian village, Bil'in. This private land had remained an enclave inside an area declared "state land." The neighborhood was built without legal building permits, yet with the approval of the local council and the knowledge of the Civil Administration, both of which did nothing to stop the construction.[117]

Even after the Bil'in village council and Peace Now petitioned the High Court, which issued temporary injunctions stopping the construction, the work continued. In September 2007, more than two and a half years later, and only after the Supreme Planning Council in the Civil Administration had approved the illegal construction on the site in an expedited procedure, the High Court rejected the petition and held that enforcement of the planning and building laws and demolition of the buildings that had been illegally built would create a "disproportionate sanction" against the purchasers. The Court did not discuss the Bil'in residents' claims regarding construction on their private land.[118]

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112. State Comptroller Report, pp. 240-2, see footnote 52.

113. Sasson Report, pp. 89, 221, see footnote 14.

114. See Sasson Report, pp. 42-3, footnote 14; Amendment No. 19 to Order No. 1585 Regarding Town, Village and Buildings Planning, signed by OC Central Command Ya'ir Naveh on 25 January 2007. See also Akiva Eldar, "Implementation of Sasson Report has Begun: Orders for Combating Outposts in the West Bank," *Ha'aretz,* 31 January 2007.

115. See also Nir Shalev and Alon Cohen-Lifshitz, *The Prohibited Zone: Israeli Planning Policy in the Palestinian Villages in Area C,* Bimkom (June 2008). The definition of land ownership in the Jordanian legislation is extremely broad, and includes a person who built or leased the structure. Under the Civil Administration's interpretation of the Jordanian legislation, proof of ownership is a preliminary condition for obtaining a building permit, though the permits that the Civil Administration issues notes that the permit alone does not constitute proof of ownership of the land. See also State Comptroller Report 54B, p. 364, footnote 13; Ir Amim and Bimkom, *Making Bricks Without Straw: The Jerusalem Municipality's New Planning Policy for East Jerusalem"* (January 2010), available at http://www.ir-amim.org.il/Eng/_Uploads/dbsAttachedFiles/NewPlanningPolicyFinalEnglish(1).pdf (accessed 16 June 2010).

116. See, for example, HCJ 5023/08, *Sa'id Zahdi Muhammad Shehadeh et al. v. Minister of Defense Ehud Barak*, which involved the construction and occupancy of nine buildings in the Ofra settlement. See also in Hebrew, Shaul Arieli and Michael Sfard, *The Wall of Folly* (Aliyat Hagag Books, Yediot Books, and Hemed Books, 2008), pp. 321-64 (the chapter "This is not a fence, it's a neighborhood: The struggle of Bil'in Village").

117. The building permits were illegal because the local council issued them based on plans that had not been approved.

118. HCJ 143/06, 1526/07, *Peace Now, SHAAL – for Israel Educational Enterprises, and Head of the Bil'in Village Council et al. v. Minister of Defense,* judgment, 5 September 2007. See also Arieli and Sfard, *The Wall of Folly,* see footnote 116.

Illegal construction in settlements encompasses enormous swaths of land. It spans, for example, almost all the built-up area in each of the settlements Itamar, Beit El, Hemdat, Yitav, Ofra, and all the southern neighborhoods of Modi'in Illit.[119] Illegal construction has also been carried out for entities that are supposed to enforce the law in the West Bank, such as the army (a caravan barracks neighborhood in Einav) and the police (the access road to the Judea and Samaria Police Headquarters in E-1, near Ma'ale Adummim). The vast majority of the construction was funded by the Construction and Housing Ministry, the Defense Ministry, the Civil Administration, and the Settlement Division of the World Zionist Organization.[120]

A long line of petitions to the High Court of Justice demanding enforcement of the planning and building laws in the West Bank, most of them filed by Peace Now, have failed. In its decisions, the High Court chose to presume that the Israeli authorities "acted as the law required them to act regarding anyone who built unlawfully," despite accumulated experience proving the opposite.[121] Peace Now's first petitions against the outposts, filed in 1998, were denied on the grounds that they were too general.[122] Since then, only nine illegal structures, in the Amona outpost in February 2006, have been demolished, and one structure has been sealed in the Derekh Ha'avot outpost. All these were built on private Palestinian land.[123]

The state comptroller declared that the Construction and Housing Ministry had invested state resources "in illegal construction, in projects without building permits, in places where outline plans were not approved, or in places where the political echelon had not given its approval to settle."[124] Sasson concluded: "From my longstanding acquaintance with the issue of law enforcement in the Territories, it can be said that most of those engaged in this work, in all the law enforcement agencies, believe that with respect to enforcing the law on ideologically motivated offenders, primarily regarding unauthorized outposts, law enforcement in the Territories is fundamentally flawed."[125]

F. "Jewish-owned land" and purchase of land on the open market

B'Tselem does not have authorized figures on the amount of West Bank land purchased by official Israeli entities since 1967. The Civil Administration maps, updated to 2004, mark only "Jewish-owned land" purchased prior to 1948. These maps denote 10,515 dunams, 0.19 percent of the West Bank, as "Jewish-owned land", meaning land that was purchased and registered by Jews. Older publications note 32,000 dunams, which constitute 0.57 percent of the West Bank.[126] In Spiegel's database, there are 26 settlements in which land was purchased, in most cases only a few plots. In four of the settlements, that land was acquired prior to 1948. The database notes that in 10 of them, transactions were made by private persons, and in 5, by Hemanuta, a subsidiary of the Jewish

119. Regarding Modi'in Illit, see State Comptroller Report 51A of 2000, pp. 214-6. Since then, illegal construction in the settlement has been retroactively approved.

120. For details, see Sasson Report, pp. 118-217, see footnote 14; State Comptroller Report 54B, pp. 359-74, see footnote 13.

121. See the ruling from 29 April 2008 of Justices Edmond Levy, Miriam Naor, and Elyakim Rubinstein in HCJ 2817/08, *Munir Hussein Hassan Musa et al. v. Minister of Defense et al.,* regarding illegal construction in the Derekh Ha'avot outpost. See also Tomer Zarchin and Nadav Shragai, "Supreme Court President Dorit Beinisch, Criticizing the State: Why Aren't Outposts Evacuated?" *Ha'aretz,* 10 June 2009.

122. The first petitions against the outposts are available on Peace Now's website, in Hebrew, at http://peacenow.org.il/site/en/peace.asp?pi=370&docid=1653&pos=21 (accessed 16 June 2010).

123. Ibid.

124. State Comptroller Report 54B, p. 369, see footnote 13.

125. Sasson Report, p. 253, see footnote 14.

126. Judea and Samaria Military Headquarters, *Report of the Eighth Year of the Military Administration* (1975), 122. See also *The Prohibited Zone*, see footnote 117.

National Fund.[127] The settlement of Menora, which is adjacent to the Green Line, was built entirely on land purchased by Israelis.

According to a 1979 decision of the Ministerial Committee for Security Matters, land in the West Bank can be purchased only following investigation and approval of the regional commander and a staff officer for legal matters. If the land is situated inside a populated Palestinian area, the transaction is allowed only with the approval of the defense minister.[128]

Since the Israeli purchasers claimed that registration of the transactions would expose the identity of the Palestinian sellers and endanger their lives, as selling land to Jews is considered by many Palestinians an act punishable by death, Israel acted in three ways to facilitate purchases by Israelis. First, a military order was issued that transferred power for registering land transactions from the local judicial committees to an official on behalf of the military commander. Later, an order was issued extending the validity of irrevocable powers of attorney from five years, as prescribed in the Jordanian law, to 15 years. These grant the person given the power-of-attorney, or a third person, irrevocable power to execute transactions for the transfer of land rights. This was done to conceal the identity of those involved in the land transactions. Spiegel's database notes four transactions carried out in 1981-1983, which still had not been registered at the Land Registration Office in 2006, almost 20 years after they were supposed to be registered and more than 25 years after they were executed.

The third and most clandestine method was used by Plia Albeck, head of the Civil Division in the State Attorney's Office, which sanctioned revolving land transactions that enabled purchasers not to perform the initial land registration. The initial registration, which is required under Jordanian law, includes publishing a notice of the request to register a land transaction at the Land Registration Office, inviting objections, touring the site, and holding a discussion before the Committee on First Registration, whose decision may be challenged in the Appeals Committee. Following completion of the initial registration, it is almost impossible to question the validity of the registration. Under this procedure, failure to register a land transaction is a criminal offense.[129]

To bypass this procedure, the state declared purchased lands to be government property, concealing the fact that they had been purchased privately, and then allotted them to persons and entities who claimed they had purchased them in order to build settlements. This practice aided in concealing the identity of the Palestinian sellers and saved the purchasers the need to deal with the initial-registration procedure, which is relatively lengthy and expensive.[130]

This procedure is documented in the responses of the developers of the Matityahu-East neighborhood in Modi'in Illit to petitions filed by the Bil'in village council and Peace Now, objecting to the construction. The developers argued that they had rights to the land and presented documents indicating that the settlers' organization Land of Israel Heritage Fund Ltd. had asked Plia Albeck not to register the land "so that the sale does not have to be revealed." Albeck complied and ordered the coordinator of government activities in the Territories to declare the land to be "state land," without checking whether it had indeed been purchased. Albeck then ordered the army to allot the land to the Land of

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127. Jewish lands from before 1948 exist in the three settlements in the Etzion Bloc – Kfar Etzion, Neve Daniel, and Rosh Zurim – and in Giv'at Ze'ev. The other settlements in which land was purchased are Adora, Oranit, Alfe Menashe, Elkana, Bet El, Bet Horon, Bekaot, Barqan, Giv'on Hahadasha, Giv'at Ze'ev, Hashmonaim, Kfar Etzion, Modi'in Illit, Menora, Emmanuel, Ofra, Etz Efraim, Otni'el, Zufin, Kiryat Arba, Kiryat Netafim, Karne Shomeron, Revava, and Sha'are Tikva. Transactions by private individuals were in the settlements Oranit, Alfe Menashe, Hashmonaim, Menora, Emmanuel, Etz Efraim, Zufin, Karne Shomeron, Revava, and Sha'are Tikva. Hemanuta's transactions were in Oranit, Bet El, Bet Horon, Hashmonaim, and Kiryat Arba.

128. Decision No. B/9, of 6 November 1979. See Sasson Report, p. 188, see footnote 14.

129. The procedure is based on the Jordanian Registration of Immovable Property that Has Not been Registered Law, No. 6, of 1964. A detailed explanation of this procedure can be found in the State Attorney's Office's response in HCJ 9296A/08, supra. See also B'Tselem, *The Ofra Settlement*, pp. 26-8.

130. *The Prohibited Zone,* see footnote 117.

Israel Heritage Fund.[131] Spiegel's database states that Albeck used this method also for the purchase of land in the Hashmona'im settlement.

Using these three methods, the state blocked Palestinian landowners from claiming that they had not sold the land or that the transaction was forged, rendering meaningless the Jordanian apparatus for examining the authenticity of land transactions. In 1985, Albeck said that 90 percent of the transactions in which Israelis had purchased land in the West Bank were forged, and were in effect "sham purchases."[132]

Table 4: Area of the settlements by ownership (in dunams, with the percentage in parentheses)

"State land" within the built-up area	**"State land" within the municipal area** (not including regional council areas)	**Survey land within the built-up area**	**Survey land within the municipal area** (not including regional council areas)	**Private Palestinian land within the built-up area**	**Private Palestinian land within the municipal area** (not including regional council areas)
36,717	391,173	1,682	31,047	11,388	53,484
(66)	(75.2)	(3)	(5.9)	(21)	(10.3)

The calculations are based on Civil Administration maps of 2004, which include layers of "state land" and survey land, and a Civil Administration map of 2006 with a layer of private Palestinian land, on which aerial photos of the settlements from 2009 were superimposed.

131. Arieli and Sfard, pp. 346-52, see footnote 116. See also Akiva Eldar, "The Land Laundry," *Ha'aretz,* 7 February 2006; *The Prohibited Zone,* see footnote 117; Akiva Eldar, "How Israel Launders Questionable Land Transactions of Settlers in the Occupied Territories," *Ha'aretz,* 27 November 2005.

132. Plia Albeck, *Land in Judea and Samaria,* p. 12, see footnote 75. For a more detailed discussion of these issues, see *Land Grab,* pp. 62-3, see footnote 12; *The Ofra Settlement,* see footnote 109; Uri Blau, "Forgeries in the Homeland," *Ha'aretz,* 30 July 2009.

Chapter Four

Benefits and economic incentives to settlers and settlements

It should be emphasized that the movement of individuals to the territory is entirely voluntary.

Israeli Ministry of Foreign Affairs website, May 2001[133]

International law prohibits the occupying country from moving its citizens to the occupied territory. To cope with this prohibition, Israel argues that its citizens choose to live in the settlements willingly and, therefore, establishing settlements does not violate the law.

This argument is baseless. The declared policy of every Israeli government has been, and remains, to encourage civilians to live in settlements and to develop economic ventures in the settlements and their environs. The governments do this by providing immediate, significant financial benefits and incentives to many classes of Israelis – financially weak, financially secure, secular, national-religious, and ultra-Orthodox – in the form of cheap, quality housing, and benefits in education and welfare that they would not receive in communities inside Israel.

This chapter describes the variety of benefits and incentives given to settlers and settlements, but does not present their annual or cumulative costs as reflected in the state's budget, as these data are impossible to obtain. Even state officials, such as the state comptroller, have not been able to quantify the variety of benefits, primarily as regards construction and housing. The benefits and incentives described below do not include the extensive investment in infrastructure in the West Bank, such as transportation, water, and electricity networks, which also contribute to the settlers' quality of life.

A. Benefits given to National Priority Areas

Communities defined as National Priority Areas in Israel are entitled to certain benefits. The entire West Bank is also defined as such an area, and settlements are therefore entitled to similar benefits. The benefits and incentives are given to the settlers themselves, in the fields of housing, education, industry, agriculture, and tourism, and also as supplementary support given to Israeli local authorities and economic projects in the West Bank.

The benefits are provided despite the fact that most settlers are on a secure financial footing:

- The average monthly salary in the settlements in 2005 was NIS 6,127, slightly lower than the national average at the time, which was NIS 6,296, but higher than the salary in the Jerusalem, northern, and southern districts.
- The gross monthly income of a household in the settlements was 10 percent higher than the national average in 2006 – NIS 13,566 compared to NIS 12,345, respectively. Monthly household expenses in the settlements in 2006 were higher than in Israel – NIS 11,502 compared to an average of NIS 11,133.[134]

133. Ministry of Foreign Affairs website, "Israeli Settlements and International Law," May 2001, available at http://www.mfa.gov.il/MFA/Peace+Process/Guide+to+the+Peace+Process/Israeli+Settlements+and+International+Law.htm (accessed 16 June 2010).

134. Suan and Ne'eman-Haviv, *Judea and Samaria Statistical Yearbook,* pp. 112, 119, 123.

- Unemployment in the settlements is lower than inside Israel – the unemployment rate among the entire civilian workforce in the settlements was 3.2 percent in 2006, compared to 5.6 percent in Israel.[135]
- In all the settlements in the West Bank, the percentage receiving old-age and survivors benefit is significantly lower than the national average.[136]
- The socioeconomic status of most settlements is relatively high. Only the ultra-Orthodox settlements Betar Illit and Modi'in Illit are in the cluster of the lowest socioeconomic communities, and the settlements in the Hebron Hills regional council are in the low Cluster 2.[137] Most are classified in the medium-peripheral clusters.[138]

The benefits are provided without any periodic examination of their effect on the condition of the settlements or settlers. A comprehensive study conducted by the Construction and Housing Ministry in 2006 on the effect of these benefits did not address the settlements, but only communities inside the Green Line.[139]

In 1998, the government decided on a map of Israel's National Priority Areas that included all the settlements. The objectives were to encourage "the next generation" to remain in the priority areas, to encourage new immigrants to settle there, and to encourage "migration of veteran Israelis to the priority areas."[140] The scope of incentives and benefits was determined two months later by a director-generals' committee headed by then- director-general of the Prime Minister's Office, Avigdor Lieberman.[141] In July 2002, the government decided to raise the number of communities designated as National Priority Areas and drew a separate Priority Areas map for every ministry. The new map included most of the settlements.[142]

The Adalah Center and the High Follow-Up Committee for Arab Citizens of Israel petitioned the High Court of Justice against the discrimination of Arab communities inside Israel in allocation of benefits in education. In February 2006, then-Supreme Court President Aharon Barak accepted the petition, holding that the allocation of benefits and incentives in education in the National Priority Areas is biased and unjustifiable discrimination, and ordered its cancellation within one year from the date of the judgment. Barak added that the government had exceeded its authority and that it should have utilized primary legislation in deciding the allocation to the priority areas.[143] Although the judgment dealt only with benefits in education, the Supreme Court recommended that the government make an "overall correction" of all the benefits and incentives granted to priority areas. The government

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135. Ibid., pp. 44, 48.

136. Ibid., pp. 112, 124.

137. The clusters are based on indexes such as per capita income, percentage of families with four or more children and car ownership. The Etzion Bloc and Shomeron regional councils are in Cluster 4, the Arvot Hayarden Regional Council is in Cluster 6, and the Megillot Dead Sea Regional Council is in Cluster 7. See Dr. Natalya Tsibel, "Characteristics of Local Authorities and their Classification based on the Population's Socioeconomic Level in 2006, Selected Data," press release of the Central Bureau of Statistics, 3 November 2009.

138. The peripheries index is calculated by the Central Bureau of Statistics based on the potential access of a local authority to large local authorities and on the proximity of a local authority to the Tel Aviv District. According to this index, the settlements in the Dead Sea region belong to the lowest peripheries cluster, with most located in the medium-peripheries clusters. See Dr. Natalya Tsibel, "Peripheries Index of Local Authorities for 2004 – New Development," press release, Central Bureau of Statistics, 17 August 2008.

139. Department of Information and Economic Analysis, Ministry of Construction and Housing, *Tools for Encouraging Settlement in National Priority Areas, Examination of Existing Tools and Suggestions of New Tools* (December 2006). Tznobar Consultants conducted the research for the ministry.

140. Prime Minister's Office, Coordination and Control Department, National Priority Areas, Jerusalem, 26 April 1998.

141. Government Decision No. 3292, 15 February 1998. See also *Land Grab,* 73, see footnote 12.

142. Government Decision No. 2288, 14 July 2002.

143. HCJ 11163/03, *High Follow-Up Committee for Arab Citizens of Israel v. The Prime Minister of Israel*, judgment, 27 February 2006.

requested that implementation of the judgment be postponed for a year. It then returned to Court and requested a five-year extension. The Court ruled that the state must implement the decision by September 2009.[144]

The government did not meet its obligation within the second extension either. In June 2009, the National Priority Areas Law was enacted in the framework of the Economic Efficiency Law for 2009-2010 ("the Arrangements Law"). The wording of the law was brief and vague, granting the government broad discretion in classifying communities and National Priority Areas. For example, it did not explain what constitutes such an area and did not specify the spheres of activity or the periods of time for which benefits may be granted. The law also established that the benefits and incentives granted until then to National Priority Areas would remain in force for two years from the date the statute was to take effect, until January 2012.[145]

It was not until December 2009, more than three and a half years after the High Court judgment, that the government decided to change the aforesaid map. The new map included 90 settlements, which the government explained were "communities under threat in Judea and Samaria" where security risks are highest, and communities located up to seven or nine kilometers from an international border. This was done "in light of the level of threat resulting from proximity to the border, the attendant security expenses, and safeguarding the national strength of the State of Israel." Also included was a new combined index that incorporated a peripheries index aimed at encouraging and strengthening "the geographically and socioeconomically marginal sub-districts."[146]

The decision will only be implemented after the list of benefits and incentives is determined by the relevant ministers. No deadline has been set for submission the new list, which is also supposed to be coordinated with the Finance Ministry and must receive the approval of the Socio-economic Cabinet. Until that time, the benefits and incentives set by governments in the past remain in effect.[147]

B. Analysis of the benefits and incentives for settlers – past and present

It is nearly impossible to quantify the value of the benefits given to the settlements and settlers as National Priority Areas, since government ministries obscure documentation of the moneys in their budgets that are directed to the settlements. In 2003, after examining the budgets of the Construction and Housing Ministry earmarked for building and support of the settlements, the state comptroller determined that they lacked transparent criteria, and hence "did not allow for identification of the portion of the budget directed to Judea and Samaria."[148] B'Tselem requested that the Construction and Housing Ministry and the Israel Land Administration, which are responsible for an appreciable share of the benefits and incentives, provide details of the annual monetary value of the total benefits. In violation of the Freedom of Information Law, the governmental bodies did not provide the information.[149] Some of the benefits are concealed and have been only partially revealed following an investigation by the state comptroller.

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144. HCJ 11163/03, decisions of 23 November 2008 and 15 February 2009.

145. National Priority Areas in the Economic Efficiency (Legislative Amendments to Implement the Economic Plan for 2009 and 2010) Law, 2009, part 5, pp. 17-9. For further discussion on this, see, Adalah, "On the Israeli Government's New Decision Classifying Communities as National Priority Areas" (Position Paper, February 2010).

146. Government Decision No. 1060, 12 December 2009, on classifying communities and areas as having national priority.

147. Ibid., articles 5 and 6.

148. State Comptroller, *Report 54B for 2003*, 306-309, see footnote 13. See also Moti Bassok and *Ha'aretz* staff, "The Exceptional Civil Cost of the Settlements: At Least NIS 2.5 Million a Year," *Ha'aretz,* 23 September 2003.

149. Letter of 8 September 2009 to Ami Galili, the official in charge of handling requests under the Freedom of Information Law in the Ministry of Construction and Housing; letter of 9 September 2009 to Eli Morad, the official in charge of handling requests under the Freedom of Information Law in the Israel Land Administration.

Housing benefits – Unlike the situation inside Israel, where the majority of construction is carried out privately, most construction in the settlements is initiated by the Construction and Housing Ministry and the Israel Land Administration.[150] These bodies are responsible for granting housing benefits and incentives, which greatly reduce the price of housing in the settlements and enable quick, easy purchases of apartments that are larger and of a better quality than those available inside Israel.

The Construction and Housing Ministry recognizes 104 settlements as being entitled to benefits as National Priority Areas. 91 of these, which constitute 75 percent of all the settlements, are entitled to the maximum benefits as National Priority Area A; 12 settlements are entitled to National Priority Area B benefits – which do not include the ministry's contribution to the construction of infrastructure for apartments; and only one settlement (Sal'it) is entitled to National Priority Area C benefits.[151] This division does not reflect the government's decision of December 2009 to the change the map of the National Priority Areas.

In urban centers in Israel, land costs and development expenses are estimated at one-fifth to one-quarter of the apartment's price.[152] In National Priority Area A, a discount is provided on these components. For example, a discount of 69 percent of the value of the land is given on payment of leasing fees on residential construction. In settlements, the payment is low anyway, since the government took control of the land with minimal investment, and the payment does not reflect the land's real value. In addition, the government pays up to 50 percent of the development costs, even for quality, expensive construction of private houses. The Construction and Housing Ministry's share in the infrastructure development costs for each apartment in a settlement ranges from NIS 60,000-100,000.[153]

Some of the benefits are given only to settlements, and not to all communities classified as National Priority Area A. For example, the Israel Land Administration grants benefits for residential construction on plots up to 500 square meters in settlements classified as agricultural community associations, while in National Priority Areas inside Israel, similar benefits are given only for construction on plots up to 350 square meters.[154]

Until the state Economic Recovery Plan of June 2003, benefits also included grants to apartment purchasers in National Priority Areas.[155] These grants were replaced by an increased mortgage subsidy for those approved by the Construction and Housing Ministry, which covers a substantial portion of the apartment's purchase price. The ministry now grants aid to apartment purchasers in National Priority Area A in amounts starting at NIS 97,000 and in National Priority Area B in amounts starting at NIS 67,200. In some settlements, specific "community supplements" are also provided.

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150. In 2000-2006, the state was responsible for 53 percent of the housing starts in the West Bank and Gaza Strip and 43 percent of overall investment in residential housing in these areas, compared to 20 percent of residential-housing starts and 10 percent of investment in residential housing inside Israel. Shlomo Swirski, Etty Konor-Attias, and Etty Dahan, *Governmental Priority in Funding Residential Housing: 2000-2006,* (Adva Center, November 2000), p. 6. In the 1990s, the state funded 65 percent of the housing starts in the Occupied Territories (including the Gaza Strip and the Golan Heights), double the amount inside Israel. Shlomo Swirski, Etty Konor-Attias, and Alon Etkin, *Governmental Funding of Israeli Settlement in Judea, Samaria, the Gaza Strip, and the Golan in the 1990s: Local Authorities, Residential Construction, and Building of Roads* (Adva Center, 27 January 2002), p.14.

151. Letter to B'Tselem dated 5 January 2010 from Ami Galili, the official in charge of handling requests under the Freedom of Information Law in the Ministry of Construction and Housing, regarding a request for information on benefits for National Priority Areas.

152. See, for example, Ariel Rosenberg, "What are the Elements of the Price of Your Apartment – How Much Money Goes for Electricity and Floor Tiles and How Much for the Treasury and the Contractor?", *Globes,* 26 August 2009; Ziv Maor and Moti Bassok, "Price of the Settlements: Construction and Housing – 11 Billion," *Ha'aretz,* 23 September 2003, where the benefit of the development expenses is calculated between 10,000-15,000 dollars.

153. See footnote 151. The development cost varies according to the topography of the plot.

154. Research of Tznobar Consultants, 73, see footnote 139.

155. Research of Tznobar Consultants, 70, see footnote 139. The grant was NIS 25,000. See also Maor and Bassok, "Price of the Settlements," see footnote 149.

Also, residents in settlements in National Priority Area A are entitled to an automatic subsidized mortgage, which includes a 1,500-point bonus in calculating the amount of assistance. The points increase the period of entitlement to assistance, extend the mortgage period, and offer preferred repayment terms.[156]

Another form of assistance for new construction provided by the Construction and Housing Ministry is "association mortgages" – a second, double mortgage that is state subsidized. In 1997-2002, the ministry invested NIS 419 million in these mortgages for 1,800 apartments in 68 communities, the vast majority settlements in the West Bank.[157] The state comptroller found that the payment arrangements and spread of the debts of the borrowers, each of whom received a second mortgage of NIS 240,000 to build an apartment as interim financing for a four-year period, were not based on economic analyses or calculation of the cost to the state treasury. The benefits lacked "any criteria for allocation," led to delay in repayment of the mortgage, and even violated provisions of the ministry's plan itself, which called for the mortgages not to be replaced by other ministry assistance plans for persons purchasing apartments in settlements. This assistance plan was also not included in the ministry's proposed budget, but was brought each time before the Finance Committee of the Knesset for approval, without informing the public.[158] The ministry asserted, in response, that this assistance plan was not intended for "the entire public" and that announcing it publicly would create "unnecessary confusion."[159]

These benefits dramatically affected the use of mortgages given by the Construction and Housing Ministry. According to the Adva Center's research, in the Betar Illit settlement, in 2000, government mortgages were issued in 37.5 percent of apartment purchases. In 2001 and 2002, the figures were 23.2 percent and 24.3 percent, respectively. In 2000-2002, settlers in the West Bank and the Gaza Strip were the top population in taking government mortgages, at a rate three times higher than residents of communities inside Israel – 5.6 percent of the apartments sold in 2000, 4.3 percent in 2001, and 3.6 percent in 2002 in the settlements, compared to 1.3 percent in 2000 and 2001 and 1.2 percent in 2002 inside Israel.[160]

A study conducted by economist Dror Tzaban for Peace Now found that, in 2001, the settler population, which at the time also included settlers in the Gaza Strip, received NIS 374 million in this framework, which amounted to 6.9 percent of the Construction and Housing Ministry's budget for apartment-purchase assistance – double the proportion of settlers in the population at large.[161]

Another examination, conducted by the state comptroller, showed that in 2000-2002, the Construction and Housing Ministry had provided assistance for building apartments in settlements in the West Bank, the Gaza Strip, and the Golan Heights that was more than 5.5 times higher than for apartments in National Priority Area A inside the Green Line. The settlements received 63 percent of

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156. Proposed 2009 and 2010 budget – Ministry of Construction and Housing, p. 93. Families without an apartment are eligible for the "veteran" plan, Ministry of Construction and Housing, January 2005. Procedure for Entitlement to Assistance for Persons without an Apartment, Directive No. 08/01, Ministry of Construction and Housing, 1 June 1999. Also see, for example, "How to Receive Entitlement Moneys from the State?" on the Bank Hapoalim website, available, in Hebrew, at https://www.bankhapoalim.co.il/wps/portal/mashkanta/article?WCM_GLOBAL_CONTEXT=/wps/wcm/connect/mlib/mashkanta/home/sa_getmsknt/teodatzacaot&WCM_PORTLET=PC_7_IO9ASI420GL3602J91DR8N0007_WCM&proceed=1 (accessed 16 June 2010).

157. State Comptroller Report 54B, p. 345, see footnote 13. Association mortgages are given to cooperative associations and to their affiliated economic entities.

158. Ibid., pp. 348-58.

159. Prime Minister's Office, Senior Department for State Control and Internal Auditing, *Comments of the Prime Minister to State Comptroller Report 54B* (May 2004), pp. 120-1.

160. Etty Konor-Atias and Fanny Pisakhov, *Realizing Government Mortgages by District, Community and Selected Groups, 2000-2002* (Adva Center, May 2004). The decrease in realizing the mortgages is attributed to the outbreak of the second intifada. See also Etty Konor, *Realizing Government Mortgages by District, Community and Selected Groups – 2000* (Adva Center, September 2001).

161. Dror Tzaban, *Government Budgets Directed to Settlements in the West Bank and Gaza Strip and Estimates of Surplus Investment in 2001-2002* (December 2002), 19, prepared for Peace Now. Available in Hebrew at http://www.peacenow.org.il/data/SIP_STORAGE/files/0/4020.pdf (accessed 16 June 2010).

the assistance provided to National Priority Area A, although the settlement population amounts to only 42 percent of the population living in that National Priority Area. The assistance, which was for funding infrastructure, public institutions, and planning, amounted to NIS 36,024 per apartment in the settlements, compared to NIS 10,166 per apartment inside the Green Line.[162]

Education benefits – Benefits in the sphere of education, which are given primarily by the Ministry of Education, increase the attractiveness of settlements, especially for young, homogenous populations with a relatively large number of children, such as the national-religious and ultra-Orthodox populations.[163] These benefits include implementation of the Free Compulsory Education Law from age three,[164] extension of the school day in kindergartens and schools until 3:30 P.M., extension of the school year for an additional month, payment of 90-100 percent of the transportation costs to the educational institution, and matriculation-examination-fee payments. Priority is also given for university scholarships.[165]

Benefits are given directly to teachers living in settlements, enhancing their salaries by 12-20 percent more than teachers inside the Green Line. This includes government payment of 75 percent of salary-related expenditures, all travel expenses (even during the sabbatical year), 80 percent of home rental costs, payment of the teachers' share to their continuing-education fund (*hishtalmut*), promoting seniority, and partial funding of tuition for academic studies. These benefits affect the number of settlers who choose to work in education: 25.1 percent of all employed persons in the settlements, which is twice as high as the national average of 12.9 percent.[166]

Because the settlements are defined as National Priority Areas, they enjoy additional benefits, including an increased balancing grant for local authorities to cover the outlay for education, 20 percent more school hours for elementary schools, additional allocation of school hours based on pedagogic needs, complete funding for computer systems in the schools, and a grant of NIS 100,000 for each community center, to encourage new populations.[167]

The budgeted amounts for public institutions in the settlements – such as day-care centers, libraries, and community centers – are higher than inside Israel, reaching NIS 6,500 per apartment in a settlement, compared to NIS 4,200 per apartment inside Israel.[168] The Adva Center found that more than half of the built-up area of public institutions in the settlements was intended for education and culture, compared to less than one-third in Israel.[169]

Industry benefits – Israel has established some 13 industrial areas near settlements, the major ones being Mishor Adummim, situated east of the Ma'ale Adummim settlement, and Barkan, adjacent

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162. State Comptroller Report 54B, 306-313, see footnote 13.

163. The under 17-years-old group comprises 45.5 percent of the settlement population, compared with 33.2 percent for Israel as a whole. In the settlement Betar Illit, the figure is 62.6 percent. Suan and Neeman-Haviv, *Judea and Samaria Statistical Yearbook for 2007,* 3. See footnote 32.

164. Compulsory Education (Amendment No. 16) Law, 1984, which applies the Compulsory Education Law to three- and four-year-old children, is partially implemented in National Priority Area A, in communities in the low socioeconomic cluster, and in areas along the line of conflict. See Ehud Spiegel and Ayelet Barak, "Monitoring Implementation of the Free Compulsory Education Law from Age Three, Background Paper for Discussion" (Research and Information Center of the Knesset, 25 February 2001). See section 2 of Government Decision No. 4039, dated 24 August 2008, which postpones implementation of the law to 2019. The Arrangements Law for 2009-2010 again postponed completion of the Amendment to the Compulsory Education Law until 2019.

165. For details on the benefits, see section 20 of the judgment in HCJ 11163/03, see footnote 143. See also Tznobar Consultants, see footnote 139. See also Rali Sa'ar, "The Price of Settlements: The Summer Vacation Starts in August – Education," *Ha'aretz*, 23 September 2003. According to *Ha'aretz*, the value of the benefits was NIS 77.4 million.

166. Suan and Neeman-Haviv, *Judea and Samaria Statistical Yearbook for 2007,* 44, see footnote 32.

167. See footnote 165.

168. Research of Tznobar Consultants, 72, see footnote 139.

169. Swirski et al., *Governmental Funding of Israeli Settlement,* see footnote 150.

to the Ariel settlement.[170] In some years, such as 1997-2001, the Ministry of Trade and Industry invested about 20 percent of its development budget in these industrial areas, expending a total of NIS 237 million.[171]

In addition, the Israel Land Administration reduces by 69 percent the leasing fees on land intended for industrial use, tourism, and trade in National Priority Area A. In communities classified as agricultural, this benefit includes allocation of some 150 dunams of land for employment – double the amount allocated for this purpose in areas not classified as National Priority Areas.[172]

Other benefits and incentives are given to factories by the Industry and Trade Ministry pursuant to the Law for the Encouragement of Capital Investment. These include grants of 24 percent of the investment, income tax benefits, increased grants for research and development of up to 60 percent of the cost of every project, and assistance in hiring workers, in areas of activity that are approved by the Investment Center in the Ministry of Industry and Trade. Moreover, Israel indemnifies factories in settlements for taxes imposed on their products by the European Union, which holds that they are not entitled to customs benefits specified in its free-trade agreement with Israel.[173]

Despite the substantial investment, the importance of the industrial sector in the settlements is marginal. Only 4,600 persons, 1.3 percent of those employed in industry in Israel, are employed in Israeli industrial areas in the West Bank, and the raw added value of each worker in these areas is less than inside Israel.[174]

Benefits in agriculture – The budget of the Ministry of Agriculture includes government outlays in the framework of the Settlement Division of the World Zionist Organization, a non-governmental body that operates as a principal arm of the government in supporting the settlements.[175] In the state budget for 2009-2010, an allocation of NIS 143 million is earmarked by the Settlement Division for the "development of regional components" in the West Bank, the Golan Heights, and the Galilee.[176] In 2004, the Settlement Division spent some NIS 44.4 million, which is one-third of its support for agriculture in National Priority Areas in all of Israel, on "assistance to rural settlement."[177]

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170. The industrial areas are Sha'ar Binyamin (between Psagot and Ofra), Shilo (next to Shilo), Bar-On (next to Kedumim), Gush Etzion Industrial Park (next to Efrat), Mishor Adumim Industrial Park, Ma'ale Efraim Industrial Park, Emmanuel Industrial Park, Kiryat Arba Industrial Park, Barkan Industrial Park (next to Ariel), Ariel Industrial Park (next to Ariel), Karne Shomeron Industrial Park, Metarim Industrial Park (in the southern Hebron Hills), and Shahak Industrial Park (next to Shaked and Hinanit).

171. Tzaban, *Government Budgets Directed to Settlements in the West Bank*, 27, see footnote 161.

172. See *Land Grab,* 75, see footnote 12. Research of Tznobar Consultants, 69, see footnote 139. The per-dunam cost for developing industry in the Etzion Bloc Industrial Park, built in 2009, was NIS 96,225. See "Table of Development Expenses for 2009," Regional Development Administration, Ministry of Industry and Trade.

173. Section 32 04 08 of the Proposed 2009-2010 Budget – Miscellaneous Support, Indemnification of Exporters, p. 32. In this section, NIS 32.1 million were allocated in 2009-2010.

174. Raw added value is the difference between sales revenue and the inputs – raw materials, costs of production, and payments to contractor employees. Central Bureau of Statistics, "Industry – Positions by District and Sub-district 2006," Table 20.11.

175. Moti Bassok, "Price of the Settlements: The Settlement Division – Bypass Conduit," *Ha'aretz,* 23 September 2009. Dror Tzaban concluded that the Settlement Division is comparable to the Settlement Department in the Jewish Agency. Due to the restrictions on transferring donations from the United States to the Occupied Territories, the Jewish Agency is precluded from operating in the West Bank. See Tzaban, *Government Budgets Directed to Settlements*, see footnote 161.

176. The Ministry of Agriculture and Rural Development, "Subjects in which the Ministry Operates a National-priority Policy regarding Communities or Areas." The budget also includes support for communities in the Galilee and in the Negev, but without providing details. See, in Hebrew, http://www.pmo.gov.il/PMO/Templates/General.aspx?NRMODE=Published&NRNODEGUID=%7b7D001474-A469-4E2B-82A3-EC1D92C78579%7d&NRORIGINALURL=%2fPMO%2fadifot%2fchaklaut%2fchaklaut%2ehtm&NRCACHEHINT=Guest#three (accessed 16 June 2010).

177. Research of Tznobar Consultants, "Appendix 1: Cost of Tools for Encouraging National Priority Areas," see footnote 139.

The Agriculture Ministry classifies communities in the Jordan Valley and the rest of the settlements as Administrative Development Area A.[178] As such, they are entitled to grants to establish an agricultural enterprise of up to 25 percent of the investment, a subsidy for agricultural tourist projects (olive presses, vineyards, and small dairies), and tax benefits on profits ranging from 25-30 percent and on investments.[179]

In addition, the government indemnifies farmers in settlements from lost income resulting from the customs imposed on their produce by European Union countries.[180]

These benefits and incentives primarily aid settlements in the Jordan Valley, most of which engage in farming for export. They also aid ventures of individual settlers in rural settlements that develop local agricultural projects.

Tax benefits – Most residents of the settlements enjoyed an income-tax reduction of 7 percent until it was cancelled by the Economic Recovery Plan of 2003.[181] There are no official data on the value of this benefit, but only various evaluations relating to different time periods. Dror Tzaban found that, in 2001 alone, 36,320 taxpayers in West Bank and Gaza Strip settlements received tax benefits totaling NIS 163 million, an average of NIS 4,487 per taxpayer. The benefit is given even though the socioeconomic level in most of the settlements is relatively high.[182] *Ha'aretz* estimated, a year later, that the tax reduction was higher and equal to an additional income of NIS 720 a month, or NIS 8,640 a year.[183]

Local taxes in the settlements are lower than in Israel, even though most settlers have a relatively high income. The Adva Center found that in 2000-2006, the tax and fees revenues of the local authorities in the settlements were NIS 2,130 per resident, which is some 60 percent of the per capita sum received for taxes and fees by local authorities inside Israel, which was NIS 3,496. This income is lower even than that of development towns in Israel, which stood at NIS 3,174.[184]

Benefits to settlements

The government also provides part of the budgets of the Israeli local authorities in the West Bank, both by funding governmental services and by providing balancing grants to authorities that operate at a deficit.

The lion's share of the budget earmarked for governmental services is for teachers' salaries. The government also funds the establishment and operation of Mother and Child Clinics, the salaries of social workers, operation of security rooms, purchase of security vehicles, and construction of synagogues, community centers, and day-care centers, as well as infrastructure such as town squares and traffic lights. According to Adva Center research, in 2000-2006, settlements in the West Bank, the Gaza Strip, and the Golan Heights received surplus funding for governmental services, compared

178. Letter of 21 December 2008 from Simcha Yudovich, senior deputy director-general for finance and investment, Ministry of Agriculture, to the ministry's district directors regarding the map of development areas in force from 1 January 2009 to 31 December 2009.

179. Development Plan for 2009, *Agriculture and Rural Development Office,* Division of Agricultural Investment, June 2009.

180. See footnote 173.

181. See *Land Grab,* 75, see footnote 12.

182. Tzaban, *Government Budgets Directed to Settlements*, 18, see footnote 162. The average socioeconomic rank of the settlements placed them in financially secure cluster 6.

183. Bassok, "The Exceptional Cost of the Settlements," see footnote 148.

184. Shlomo Swirski, Etty Konor-Attias, and Ehud Dagan, *Governmental Priority in Funding Communities: 2000-2006* (Adva Center, November 2006), 20.

with the government funding provided to communities inside Israel, in the sum of NIS 3.143 billion, which supplemented the relatively low local taxes of NIS 2.028 billion.[185]

Here, too, and in continuation of the policy of all past Israeli governments, the settlements benefit from discrimination in their favor, in comparison with the local authorities inside the Green Line.[186] This bias exists even though, ostensibly, the support of residents in the settlements should have declined following the sharp increase in the settler population in the past decade, and due to cuts in the state budget, primarily in 2002-2004. Per capita government funding of government services in the settlements was 36 percent higher than in development towns – NIS 2,132 compared with NIS 1,557. Per capita government funding for these services inside the Green Line was NIS 1,351. Per capita expenditure in the development budget – the "irregular budget" – of the settlements was 1.3 times higher than in local authorities inside the Green Line: NIS 1,251 compared with NIS 975.[187]

The balancing grants – grants that the Ministry of the Interior provides to the authorities to cover the gap between revenues and expenditures – given to the settlements was three times greater than those given to authorities inside Israel – NIS 1,105 compared with NIS 370 per capita. In 2001, prior to cuts in the state budget, per capita support in the form of balancing grants given to the settlements was even higher – NIS 1,888. In addition, the Interior Ministry now provides an automatic additional grant of 4 percent to every balancing grant to which the settlements are entitled.[188]

The report for 2007 of the Accountant General in the Finance Ministry on the total state-budget transfers to the local authorities showed that per capita support in the settlements was higher than in communities inside the Green Line. The total support given by government ministries to settlements that year amounted to more than NIS 1.1 billion, the percentage of support provided to the settlements being almost double the percentage of settlers in Israel's total population.[189] The report also states that per capita government support for the three Israeli municipalities and the six Israeli regional councils in the West Bank was significantly higher than for municipalities inside the Green Line, seven times greater in one case, also with respect to per capita support for local authorities in the same socioeconomic cluster.[190]

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185. Ibid., 33.

186. See *Land Grab,* 77-84, see footnote 12.

187. Swirski et al., *Governmental Priority in Funding Communities,* 15-18, 25-27, 42, see footnote 184.

188. Letter of 26 March 2008 from Rani Fintzi, director of the Local Government Administration, Ministry of the Interior, explaining the allocation of the balancing grant for 2008.

189. *Report on Transfers to Local Authorities, 2007,* Accountant General, Ministry of Finance.

190. The data on the socioeconomic clusters are taken from Tsibel, "Characteristics of Local Authorities and their Classification," see footnote 7.

Table 5: Support per resident in municipalities in the West Bank, 2007

	Average per capita transfer for all local authorities in Israel: 1,200 (in NIS)	**Socio-economic cluster**[191]	**Average per capita support nationwide of a resident in the cluster** (in NIS)	**Support compared with the national average** (by percentage)	**Support compared with the national average support in the cluster** (by percentage)
Ariel[192]	9,035	6	1,760	752	513
Betar Illit[193]	6,232	1	3,245	519	192
Ma'ale Adummim	1,937	6	1,760	161	110

Table 6: Support per resident in regional councils in the West Bank, 2007

	Average per capita transfer for all regional councils in Israel: 4,007 (in NIS)	**Socio-economic cluster**	**Average per capita support nationwide of a resident in the cluster** (in NIS)	**Support compared with the national average** (by percentage)	**Support compared with the national average support in the cluster** (by percentage)
Megillot Dead Sea[194]	15,454	7	1,113	385	1,388
Hebron Hills	9,640	2	1,928	240	500
Etzion Bloc	4,327	4	1,717	107	252
Mateh Binyamin	3,756	3	2,478	93	151
Arvot Hayarden[195]	8,343	6	1,760	208	474
Shomron	5,474	4	1,717	136	318

A similar situation exists in the local councils, though to a lesser degree, except in the relatively financially secure authorities (Oranit, Alfe Menashe, Elkana, and Efrat) and the ultra-Orthodox Modi'in Illit Council.

191. Combined index measuring the socioeconomic level of a community, based on variables such as financial resources, housing, apartment equipment, degree of motorization (vehicle ownership), education, employment and unemployment traits, socioeconomic hardship, and demographics.

192. The municipality receiving the most support in 2007 among Israeli local authorities.

193. The municipality receiving the second largest amount of support in 2007 among Israeli local authorities.

194. The regional council receiving the most support in Israel.

195. There is no data for 2007. The data relate to 2006.

Table 7: Support per resident in local councils in the West Bank, 2007

	Average per capita transfer for all local councils in Israel: 2,385 (in NIS)	**Socio-economic cluster**	**Average per capita support nationwide for a resident in the cluster** (in NIS)	**Support compared with the national average** (by percentage)	**Support compared with the national average support in the cluster** (by percentage)
Ma'ale Efraim	6,001	5	1,686	251	355
Oranit	941	7	1,113	39	84
Alfe Menashe	1,976	8	847	82	233
Elkana	2,243	8	847	94	264
Efrat	1,520	6	1,760	63	86
Bet El	3,585	4	1,717	150	208
Bet Arye	4,055	7	1,113	170	364
Giv'at Ze'ev	1,809	6	1,760	75	162
Modi'in Illit	2,213	1	3,245	92	68
Emmanuel	4,824	2	1,928	202	250
Kedumim	4,067	5	1,686	170	241
Kiryat Arba	4,209	3	2,478	176	169
Karne Shomeron	3,444	5	1,686	144	204

Chapter Five

The settlements in international law and violation of Palestinians' human rights in the West Bank

The establishment of settlements in the West Bank violates many rules of international law to which Israel is committed. International humanitarian law prohibits the establishment of settlements. Failing to adhere to this prohibition has brought about the violation of many fundamental human rights of the Palestinians, which are enshrined in international human rights law.

Land Grab presented a comprehensive survey of these violations, including a discussion of Israel's position, which repudiates its obligations as an occupying country.[196] This chapter presents a summary of Israel's obligations as an occupying country regarding the establishment of the settlements and the repercussions of violating these obligations on the human rights of the Palestinians.

A. International humanitarian law

Establishment of the settlements in the West Bank violates two principal conventions of international humanitarian law, which denote the rules in times of war and occupation: the Hague Convention on the Laws and Customs of War on Land of 1907 and the regulations accompanying it (hereafter: the Hague Regulations), and the Fourth Geneva Convention Relative to the Protection of Civilians in Time of War of 1949 (hereafter: the Fourth Geneva Convention).[197]

The Hague Regulations

One of the fundamental principles of international humanitarian law is the temporariness of military occupation. As a result, the occupying country is restricted from creating facts on the ground.

The Hague Regulations view the occupying country as a kind of "trustee" acting on behalf of the lawful sovereign in the territory. Article 55 states the rules on the permitted use of government property, including land under the control of the occupying country. The occupying country may administer the properties of the occupied country and use them for its needs, but since the occupying country is not the sovereign in the territory, it is prohibited from changing the character and nature of the government properties, except to meet military needs or to benefit the local population.[198]

The Hague Regulations also protect private property in the occupied territory. Article 46 requires the occupying country to respect the private property of persons, article 47 prohibits pillage, and article 52 prohibits requisitions except to meet military needs.

The Israeli High Court of Justice recognized that Israel is not the sovereign in the territory and that its administration there is temporary. Therefore, its actions are limited to those intended to serve two kinds of considerations: military needs and benefit of the local population. Israel is not permitted to give priority to its own interests, be they national, economic, or social.[199]

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196. See *Land Grab,* 37-41, see footnote 12.

197. The texts of the conventions are available on B'Tselem's website, the Hague Convention and Regulations at http://www.btselem.org/English/International_Law/Hague_Convention_and_Regulations.asp and the Fourth Geneva Convention at http://www.btselem.org/English/International_Law/Fourth_Geneva_Convention.asp.

198. *Land Grab,* 40, see footnote 12.

199. See, for example, HCJ 393/82, *Jamiyyat Iskan al-Mu'aliman al-Mahdudat al-Mas'uliyyah v. Commander of IDF Forces, Piskei Din* 37 (4) 785. The High Court reiterated this position in its recent judgment, dated 29 December 2009, in the matter of restricting Palestinian movement on Route 443, in HCJ 2150/07, *'Ali Hussein Muhammad Abu Safiyeh et al. v. Minister of Defense et al.* See also *Land Grab,* 39, see footnote 12.

The enormous investment in the settlements and the relocation of hundreds of thousands of Israeli civilians to live in them created a profound and extensive change in the landscape of the West Bank, a reality that breaches the principle of the temporariness of occupation. Establishment of the settlements breaches the Hague Regulations also because the settlements were not built to benefit the local population, the Palestinians, but solely for Israelis.

The Fourth Geneva Convention

One of the objectives of Article 49 of the Fourth Geneva Convention is to preserve the demographic status quo in the occupied territory. The article states that, "The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies." According to the commentary of the International Committee of the Red Cross, the purpose of this article is to prevent a practice that was adopted by certain powers during World War II, "which transferred portions of their own population to occupied territory for political and racial reasons, or in order, as they claimed, to colonize those territories."[200]

Israel argues that this article does not prevent the establishment of the settlements, inasmuch as civilians move there willingly.[201] This argument is misleading. The article is aimed at protecting the local population from the settlement of another population in its country. For this reason, the article also prohibits a government policy that enables, or encourages, movement of the occupying country's residents to the occupied territory. Israel is in breach of this article since the state seized large swathes of land for the settlements, initiated, approved, planned, and funded the establishment of the vast majority of the settlements, and created an apparatus for providing generous benefits and incentives to encourage its citizens to move and live there.

This position was reinforced in the Rome Statute of 1998, under which the International Criminal Court was established. The Statute states that the transfer of a population to occupied territory, directly or indirectly, is a war crime.[202] The opinion of the International Court of Justice in The Hague on the legality of the Separation Barrier, issued by the Court in 2004, states that the Israeli settlements are illegal under the Geneva Convention.[203]

B. International human rights law and the violation of Palestinians' human rights

Violation of the prohibition on establishing settlements has brought with it violation of a long list of human rights for Palestinians living in the West Bank, rights that are enshrined in international conventions ratified by Israel. These include the International Convention on the Elimination of All Forms of Racial Discrimination of 1965, the International Covenant on Economic, Social and Cultural Rights of 1966, and the International Covenant on Civil and Political Rights of 1966. Israel's argument that these conventions do not apply to its actions in the Occupied Territories has been repeatedly

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200. Jean S. Pictet (ed.), *Commentary: IV Geneva Convention Relative to the Protection of Civilian Persons in Time of War* (Geneva: International Committee of the Red Cross, 1958), 283.

201. See footnote 123.

202. Article 8(2)(b)(8) of the Statute. Israel signed the Statute on 31 December 2000 but announced that it would not ratify it. Therefore, the Statute does not apply to Israel.

203. The advisory opinion is available on B'Tselem's website at http://www.btselem.org/English/Separation_Barrier/International_Court_Decision.asp. See also Orna Ben Naftali and Yuval Shany, *International Law Between War and Peace* (Ramot Publications, University of Tel Aviv, 2006), 182-183.

rejected by jurists and professional bodies charged with their implementation, who argue that the conventions apply in every area controlled by the state, regardless of who holds sovereignty.[204]

Right of property

The right of property is enshrined in article 17 of the Universal Declaration of Human Rights, which states that every person has the right to own property and prohibits the arbitrary deprivation of property. The protection of property is also enshrined in international humanitarian law in, among other places, article 46 of the Hague Regulations and in article 53 of the Fourth Geneva Convention. Israeli law recognizes this right in section 3 of the Basic Law: Human Dignity and Liberty, which states, "There shall be no violation of the property of a person."

Israel established a legal-bureaucratic apparatus to gain control of land in the West Bank, based on the false grounds that the land was required for "military needs" or for "public needs" or that it was "state land," the objective being to transfer private and public Palestinian land to the settlements for their use. This apparatus enabled the transfer to the settlements of more than 42 percent of the land in the West Bank and the construction of 21 percent of the settlements' built-up land on private Palestinian land. In operating this apparatus, Israel has extensively and systematically infringed the right of property of Palestinians in the West Bank.

In instances in which settlers personally have taken control of private Palestinian land, the law-enforcement authorities have at times turned a blind eye. Some of these cases occurred under the aegis of government ministries and with government and public funding, and army protection. In this way, the state has legitimized the pillage of private Palestinian property.

The continuing seizure of West Bank land, by the various methods used, has been extensively documented in B'Tselem's reports issued since *Land Grab* was published in 2002.[205] The blatant breach of due process that accompanied the processes to gain control of the land makes the infringement of this right especially arbitrary.

Right to equality

The right to equality is a pillar in the protection of human rights. It is enshrined, inter alia, in article 2 of the International Covenant on Civil and Political Rights and in the International Covenant on Economic, Social and Cultural Rights, and in article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination. Under these covenants, every person is entitled to rights and freedoms without discrimination of any kind, including discrimination based on national origin, or on the political status of the person's country, "whether the country is independent, is administered, is self-governing, or its sovereignty is limited in some other way."[206]

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204. Concluding Observations of the Committee on Economic, Social and Cultural Rights – Israel, Economic and Social Council, E/C.12/1/Add.90, 23 May 2003, available at http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/E.C.12.1.Add.90.En?Opendocument (accessed 16 June 2010); Concluding Observations of the Committee on Economic, Social and Cultural Rights – Israel, Committee on Economic, Social and Cultural Rights, E/C.12/1/Add.69, 31 August 2001, available at http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/E.C.12.1.ADD.69.En?Opendocument (accessed 16 June 2010); Consideration of Reports Submitted by States Parties under Article 8 of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, Concluding Observations: Israel, Committee on the Rights of the Child, 11-29 January 2010, available at http://www2.ohchr.org/english/bodies/crc/docs/CRC-C-OPAC-ISR-CO-1.pdf (accessed 16 June 2010). See also the "summary comments" the two committees published following the hearing on the reports Israel submitted to them: Committee on Economic, Social and Cultural Rights, 19th session 1998, E/C.12/1add 27; Committee on Human Rights, 63rd session, 1998, CCPR/C/79/Add 93. See also sections 86-101 of the opinion of the International Court of Justice on the Separation Barrier, supra.

205. The reports are available on B'Tselem's website. *In the Guise of Security* at http://www.btselem.org/Download/200512_Under_the_Guise_of_Security_Eng.pdf; *The Ofra Settlement* at http://www.btselem.org/Download/200812_Ofra_Eng.pdf; *The Hidden Agenda* at http://www.btselem.org/Download/200912_Maale_Adumim_Eng.pdf.

206. The text of the covenants is available on B'Tselem's website, the Covenant on Civil and Political Rights at http://www.btselem.org/English/International_Law/Covenant_on_Civil_and_Political_Rights.asp, and the International Covenant on Economic, Social and Cultural Rights at http://www.btselem.org/English/International_Law/Covenant_on_Economical_social_and_cultural_rights.asp.

Israel de facto annexed the settlements as part of its territory, creating Israeli enclaves inside the West Bank, by means of statutes, regulations, and military orders which applied the vast majority of Israeli law on them. These actions produced a situation in which separate legal systems apply to the two populations living in the area – one the Jewish-Israeli population and the other the Palestinian population. In accordance with this policy, the settlers are subject to Israel's civil law, which adopts rules, values, and rights given to citizens in a democratic country, including numerous protections of their rights. In cases of injury to Palestinians, this system has not been effective for decades and treats leniently settlers who commit a wide variety of offenses, from violent assaults against Palestinians, damage to Palestinian property, and public disturbances, to building offenses and criminal taking of private Palestinian land for the settlers' use, to pollution of the environment.[207]

On the other hand, West Bank Palestinians live under an occupation regime and under a military legal system that systematically infringes their rights, including the right to due process.[208]

Granting different rights to civilians living in the same territory, based on their national origin, is a blatant breach of the right to equality.

Right to an adequate standard of living

Article 11 of the International Covenant on Economic, Social and Cultural Rights enshrines the right of every person to "an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions." Israel infringes this right in a number of aspects, as shown below.

Urban development – The location of the settlements very close to Palestinian communities, especially those close to the six large Palestinian towns – Bethlehem, East Jerusalem, Hebron, Ramallah and al-Bireh, Nablus, and Jenin – blocks their potential urban development, at least in one direction. In some instances, such as the case of Ariel, the settlement was built in the natural development area of the adjacent Palestinian communities – Salfit, Haris, Kifl Haris, Qira, Marda, and Iskaka. [209]

Preventing access to water sources – Israel's almost total control of the shared Israeli-Palestinian water sources in the West Bank – the underground water reserves and the Mountain Aquifer – creates structural and ongoing discrimination in the quantity of water available for Palestinian consumption compared with the quantity made available to residents of Israel and residents of the settlements: Palestinians consume 73 liters daily per capita (the World Health Organization recommends a minimal consumption of 100 liters), while the per capita daily consumption in Israeli urban communities is 242 liters and in rural communities 211 liters.[210]

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207. Official documentation of the leniency shown to settler lawbreakers first appeared in the conclusions of the Karp Committee, of 1982, headed by the deputy attorney general Yehudit Karp. See, Zertal and Eldar, *Lords of the Land*, see footnote 57. Yesh Din, *Trials in the Back Yard – Realization of Due Process in Military Trials in the Occupied Territories* (December 2007). See also the following B'Tselem reports: *Tacit Consent: Law Enforcement towards Israeli Settlers in the Occupied Territories* (March 2001); *2008 Annual Report: Human Rights in the Occupied Territories*, p. 11; *2007 Annual Report: Human Rights in the Occupied Territories*, pp. 38-9; *Foul Play: Neglect of Wastewater Treatment in the West Bank* (June 2009) p. 11-2.

208. See the following reports, jointly written by B'Tselem and HaMoked: Center for the Defence of the Individual: *Absolute Prohibition: The Torture and Ill-Treatment of Palestinian Detainees* (May 2007), available at http://www.btselem.org/Download/200705_Utterly_Forbidden_Eng.pdf; *Without Trial: Administrative Detention of Palestinians by Israel and the Incarceration of Unlawful Combatants Law* (October 2009), available at http://www.btselem.org/Download/200910_Without_Trial_Eng.pdf.

209. See *Land Grab,* Chapters Seven and Eight, see footnote 12.

210. The figures are from the Palestinian Water Authority (relating to 2008) and from Israel's Central Bureau of Statistics, "Local Authorities in Israel 2007," press release, 22 April 2009. See also B'Tselem, *Thirsty for a Solution: The Water Shortage in the Occupied Territories and its Solution in the Final-Status Agreement* (July 2000).

The continuing discrimination in allocation of the shared water sources creates a chronic water shortage for Palestinians, primarily in the northeastern and southern sections of the West Bank, at the same time as nearby settlers receive a regular and unlimited amount of water. Israeli policy severely diminishes the income and standard of living of Palestinian families.

Economic-agricultural development – Israel denies Palestinians use of the extensive water sources in the Jordan Valley, the location of 32 of the 48 wells that Mekorot, Israel's national water authority, has drilled in the West Bank. Mekorot pumps. 31.5 million cubic meters of water a year and provides it exclusively to the approximately 8,000 settlers in the Jordan Valley and northern Dead Sea area, enabling them to develop intensive-irrigation agriculture in a relatively arid and hot region.[211] In addition, according to the World Bank, 10.2 percent of the cultivated land in the West Bank lies west of the Separation Barrier, on land that generates 38 million dollars of agricultural produce a year, comprising 8 percent of total Palestinian agricultural output.[212] Israeli policy prevents Palestinians from generating further income from agriculture and from increasing employment in this sector.

The World Bank estimates the loss to the Palestinian economy at 480 million dollars a year and the loss of some 110,000 jobs.[213]

Restrictions on building – Israel's discriminatory use of the planning system in the West Bank was described in *Land Grab,* and later at length in Bimkom's report *The Prohibited Zone.*[214] This discrimination is implemented by means of military orders which changed the planning system that existed under Jordanian rule, the objective being to advance the interests of Israel and the settlements.

The new system, which is run by the Civil Administration, and the system operated in East Jerusalem by the Jerusalem Municipality and the District Planning and Building Committee in the Ministry of the Interior, deliberately refrain from planning and approving building plans that would enable construction and development in Palestinian communities in the West Bank and East Jerusalem. For example, Israel forces on the Palestinian communities in Area C a literal and stringent interpretation of British Mandate urban plans from 70 years ago, which classified most of the West Bank as agricultural land, preventing the issuance of building permits.

In addition, Israel pushes Palestinian residents away from Area C, primarily those living in the southern Hebron hills and the Jordan Valley, by means of repeated demolition of structures in their communities. In Jerusalem, Palestinians wanting to obtain building permits are subject to preliminary conditions that deny them almost any real possibility to obtain a building permit.[215]

Meanwhile, this planning system has approved plans for building tens of thousands of apartments in settlements and the sections of the West Bank that were annexed to Jerusalem.

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211. Letter of 15 November 2009 from Dani Sofer, Mekorot's central region director, to Attorney Nasrat Daqwar, of the Association for Civil Rights in Israel. See, B'Tselem, "Waters that Cross Borders," available at http://www.btselem.org/English/Water/20090322_International_water_day.asp. See also Mekorot's website, on the supply of water in the Jordan Valley, available in Hebrew, at http://www.mekorot.co.il/Heb/WaterResourcesManagement/mapeplants/central/Pages/JordanVally.aspx (accessed 16 June 2010).

212. World Bank, *West Bank and Gaza, The Economic Effects of Restricted Access to Land in the West Bank* (October 2008), 16.

213. World Bank, *West Bank and Gaza, Assessment on Restrictions on Palestinian Water Sector Development* (April 2000), 25-27. See also UN Office for the Coordination of Humanitarian Affairs, *Five Years after the International Court of Justice Advisory Opinion: A Summary of the Humanitarian Impact of the Barrier* (July 2009), 30-31; B'Tselem, "Restrictions on Movement: The Jordan Valley and the Northern Dead Sea," available at http://www.btselem.org/english/freedom_of_movement/Jordan_Valley.asp.

214. Bimkom, June 2008.

215. Ir Amim and Bimkom, *Making Bricks Without Straw,* see footnote 115.

Right to freedom of movement

Article 12 of the International Covenant on Civil and Political Rights states that every person has the right to freedom of movement within his country. This right is important because freedom of movement is necessary in daily life and in exercising other rights in international law, including the rights to work, health, education, and family life.

A considerable proportion of the settlements were built on the Mountain Ridge, adjacent to Route 60, the West Bank's main north-south artery. The location of the settlements, as mentioned above, severed the urban contiguity of the Palestinian communities.[216]

Many of B'Tselem's reports have dealt at length with the restrictions on Palestinian movement in the West Bank since 1991, which were intensified following the outbreak of the second intifada and construction of the Separation Barrier.[217] These reports documented the dozens of checkpoints that Israel set up inside the West Bank, along with hundreds of other obstructions (dirt mounds, concrete barriers, and gates) and the road regime prohibiting movement of Palestinian vehicles.

The number of the restrictions has changed over the years. Beginning in 2009, Israel significantly reduced the number of checkpoints inside the West Bank, reserving the ability to regulate and restrict Palestinian travel inside the West Bank by means of several major checkpoints. The vast majority of the restrictions currently in place are intended to keep Palestinians away from the settlements or from main roads used by settlers, and to reduce and preclude Palestinian travel in large areas, such as East Jerusalem, the Jordan Valley, and areas west of the Separation Barrier.

These ongoing restrictions make it difficult for Palestinians in the West Bank to lead a normal life. Besides the appreciable loss of time the restrictions cause, they also lead to the infringement of additional rights: the right to health, due to the access problems faced by medical teams and patients in getting to medical centers; the right to an adequate standard of living, due to the difficulties faced by workers in getting to their jobs and the continuous delays in transporting goods; the right to family life, due to the difficulties in traveling from one community to another, even when those adjacent to each other, and the need to obtain permits to visit in some communities; the right to education, because of the difficulty and great amount of time needed to get to the educational institutions, including Palestinian universities; and the right to freedom of religion, a result of the restrictions on movement to the religious centers in Jerusalem and Bethlehem.

Right to self-determination

The first article common to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights states:

> 1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
>
> 2. All peoples may, for their own ends, freely dispose of their natural wealth and resources... In no case may a people be deprived of its own means of subsistence.

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216. See *Land Grab,* 44, 97-98, see footnote 12.

217. See the following reports, available on B'Tselem's website: *Not All it Seems: Preventing Palestinians Access to their Lands West of the Separation Barrier in the Tulkarm-Qalqiliya Area* (June 2004), at http://www.btselem.org/Download/200406_Qalqiliya_Tulkarm_Barrier_Eng.pdf; *Forbidden Roads: The Discriminatory West Bank Road Regime*(August 2004), at http://www.btselem.org/download/200408_Forbidden_Roads_Eng.pdf; *Ground to a Halt: Denial of Palestinians' Freedom of Movement in the West Bank* (2007), at http://www.btselem.org/Download/200708_Ground_to_a_Halt_Eng.pdf. See also *Civilians Under Siege: Restrictions on Freedom of Movement as Collective Punishment* (January 2001) and *Behind The Barrier: Human Rights Violations As a Result of Israel's Separation Barrier* (April 2003). *Human Rights Review: 1 January 2009 to 30 April 2010.*

The official position of the government of Israel, the Palestinian Authority, and most of the international community is that the proper framework for realization of the Palestinian people's right to self-determination is establishment of an independent Palestinian state in the West Bank and Gaza Strip, alongside the State of Israel.[218]

The location of the settlements severs Palestinian territorial contiguity in the West Bank and creates instead dozens of enclaves that prevent any possibility of establishing an independent and viable Palestinian state, and thereby make realization of the right to self-determination impossible.

The expansion plans for the Ma'ale Adummim settlement, especially regarding the planned construction in E-1, north of the settlement, are liable, on their own, to make it impossible to establish a viable Palestinian state with territorial contiguity. Implementation of these plans, which await approval of the political echelon, will block movement between the northern and southern sections of the West Bank, and thus divide the West Bank into two cantons and physically separate, even more than at present, East Jerusalem from the rest of the West Bank.[219] In addition, the existence of the settlements denies the Palestinian people a substantial amount of the land and water resources in the West Bank, which are vital for urban and economic development.

218. See the discussion in Chapter One on the Road Map.

219. See *The Hidden Agenda*, see footnote 103.

Conclusion

The establishment of settlements is illegal. In spite of this, over the last 43 years, more than 42 percent of West Bank land has been allocated to the establishment of over 200 settlements, in addition to 12 neighborhoods in the areas annexed to Jerusalem's municipal borders. At the same time, Israel encouraged some half a million Israelis to relocate to these settlements by offering them a long list of generous benefits and incentives. This process has led to significant changes in the landscape of the West Bank.

Throughout the years of Israel's occupation of the West Bank, the settlement enterprise has been promoted under every government. Its main objective is to gain control of as much land as possible in the West Bank for the purpose of establishing and expanding settlements. The settlement enterprise has divided and separated the areas under Palestinian control, turning them into disconnected enclaves and blurring the border between Israel and the West Bank.

While developing the settlement enterprise, Israel also established and institutionalized two separate legal systems in the West Bank: one for settlers, which de facto annexes the settlements and grants their residents all the rights accorded to citizens of a democratic country; and the other, a military judicial system that systematically violates the rights of Palestinians and denies them any real power in shaping the policies that influence their lives. These separate systems entrench a regime in the protection of a person's rights is based on his or her national identity.

The development and strengthening of the settlement enterprise during the last four decades has created a new spatial-geographical, economic and legal reality throughout the West Bank. This, in turn, generates a continuous breach of Palestinian human rights. First and foremost is the infringement of the right of property, which is manifested in the seizure of hundreds of thousands of dunams of land from Palestinians and the usurping of personal property of Palestinian communities and individuals, all on various pretexts and by a range of means. The existence of the settlements also infringes the Palestinians' rights to an adequate standard of living, freedom of movement, equality, and self-determination.

The settlement enterprise has been characterized, since its inception, by an instrumental, cynical, and even criminal attitude toward international law, local legislation, Israeli military orders, and Israeli law. This attitude has enabled the continuous seizure of land from Palestinians in the West Bank. Israel has ignored the explicit prohibitions in international law on establishing settlements, offering its own interpretation for their establishment, an interpretation that has not been accepted by almost any jurists in the world or the international community. Israel has relied on false claims of "military needs" or "public needs" to justify the seizure of land for the settlements. It has also distorted the Ottoman Land Law in order to declare as "state land" hundreds of thousands of dunams, some under private Palestinian ownership. Moreover, the state consistently avoids enforcing the law on settlers who have seized private Palestinian land.

Israel has masked the ongoing land grab under a cloak of legality. As such, it has emptied the legal system that Israel operates in the West Bank of the basic values of law and justice, exposing it as a system intended to serve political objectives while enabling the routine violation of Palestinian human rights.

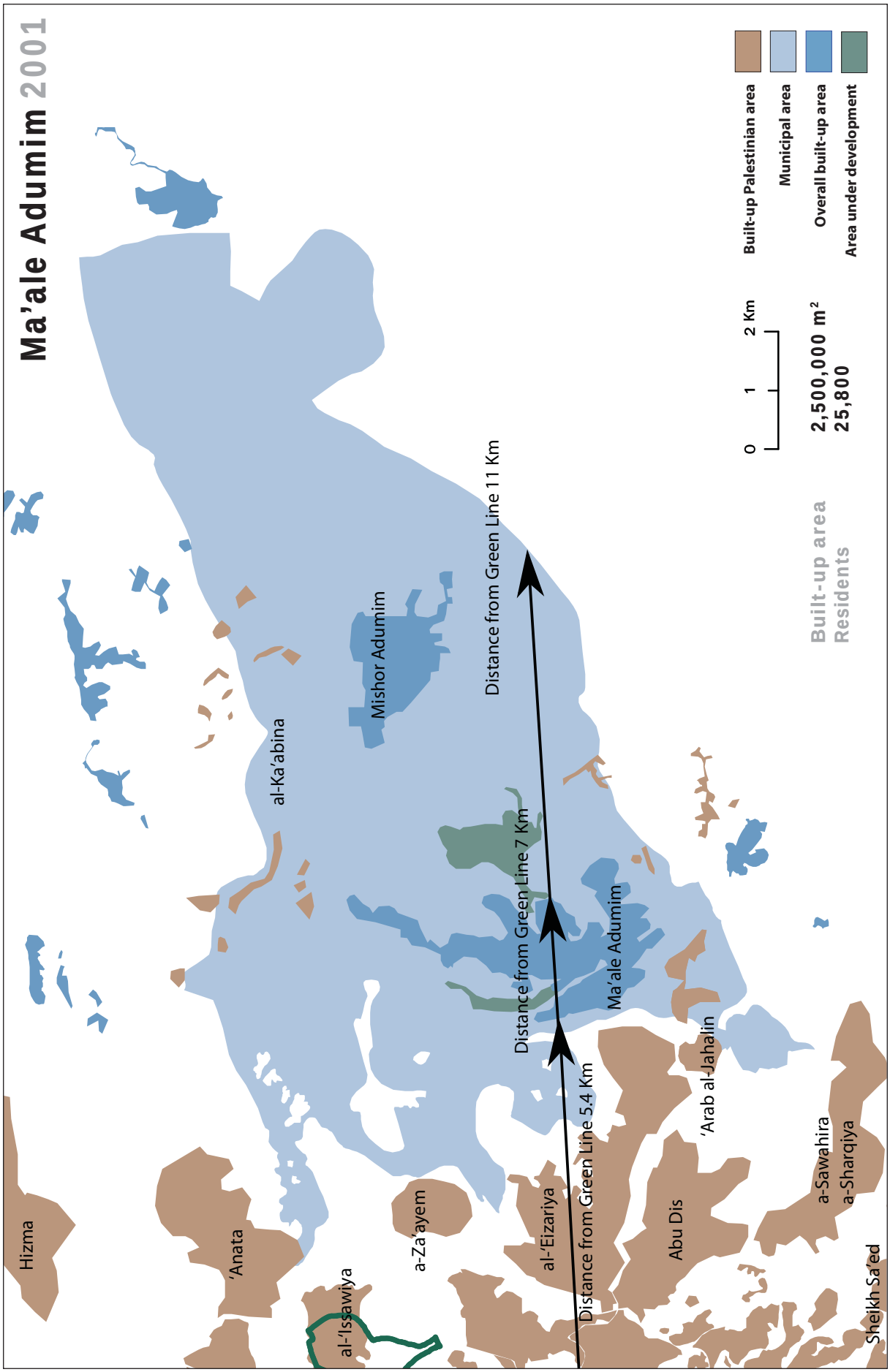
Responsibility for the settlement enterprise and for the many infringements of human rights that come in its wake lies first and foremost with all of Israel's governments, which initiated, established, and expanded the settlements. However, many other bodies also bear responsibility, including the Israeli legal system, which has sanctioned this enterprise by approving prohibited acts carried out by the police and the army, by refusing to prevent the systematic and ongoing harm to Palestinians, and by supporting a regime of two legal systems that is lenient towards settlers and harmful to Palestinians.

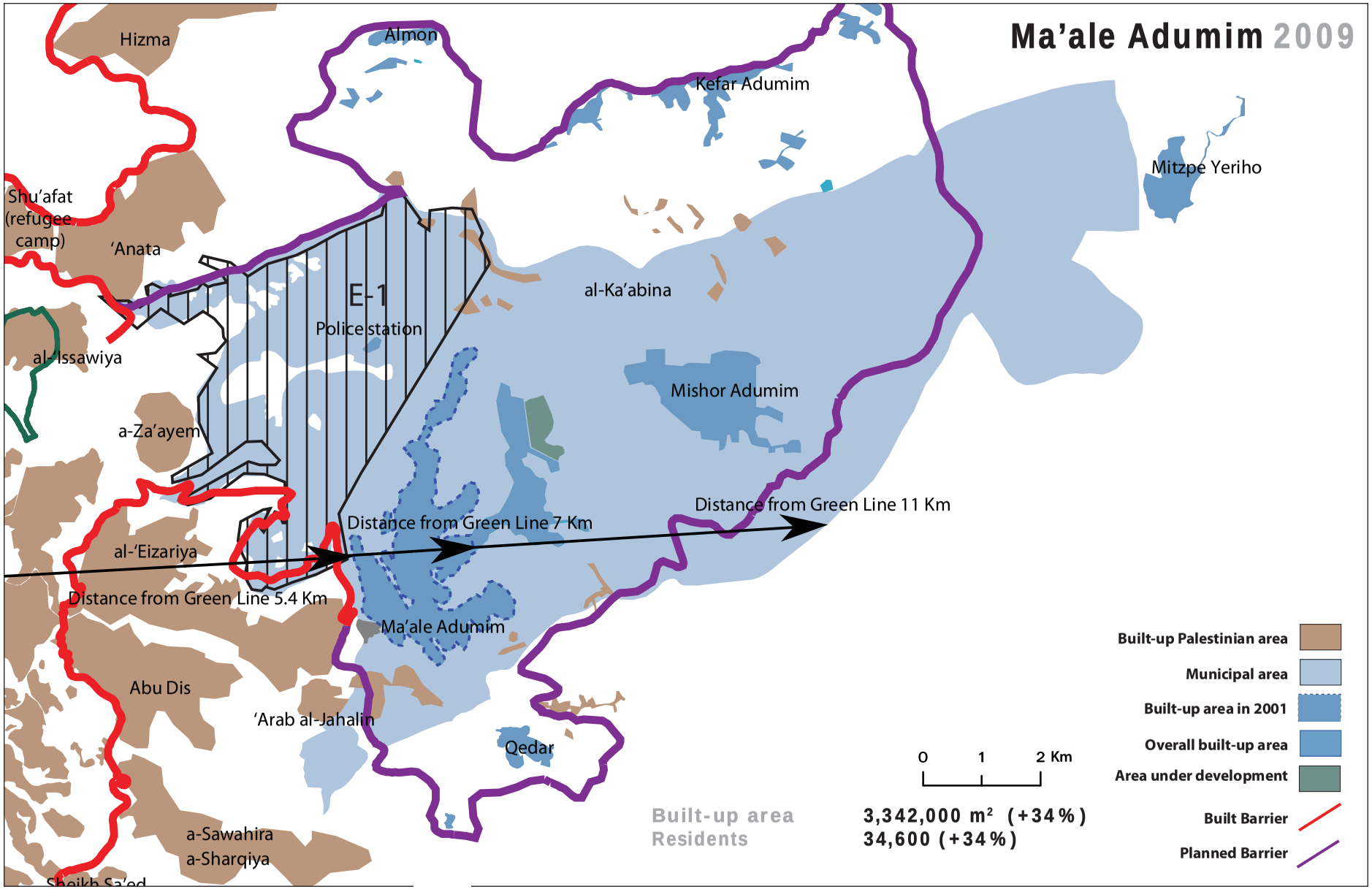
The continued expansion of this enterprise belies the declared objectives of the negotiations Israel has conducted with Palestinian representatives for over 18 years, and Israel's obligations during this process in the framework of the Road Map and toward the U.S. Administration. Given the breaches of law intrinsic to the settlement enterprise and its inherently discriminatory regime, their continued existence also undermines the foundations of Israeli democracy and damages Israel's standing among the nations of the world.

Given the illegality of the settlements from the outset, and in light of the ensuing violations of human rights, B'Tselem again demands that the government of Israel remove all the settlements. This must be done in a manner that respects the settlers' human rights, including payment of compensation.

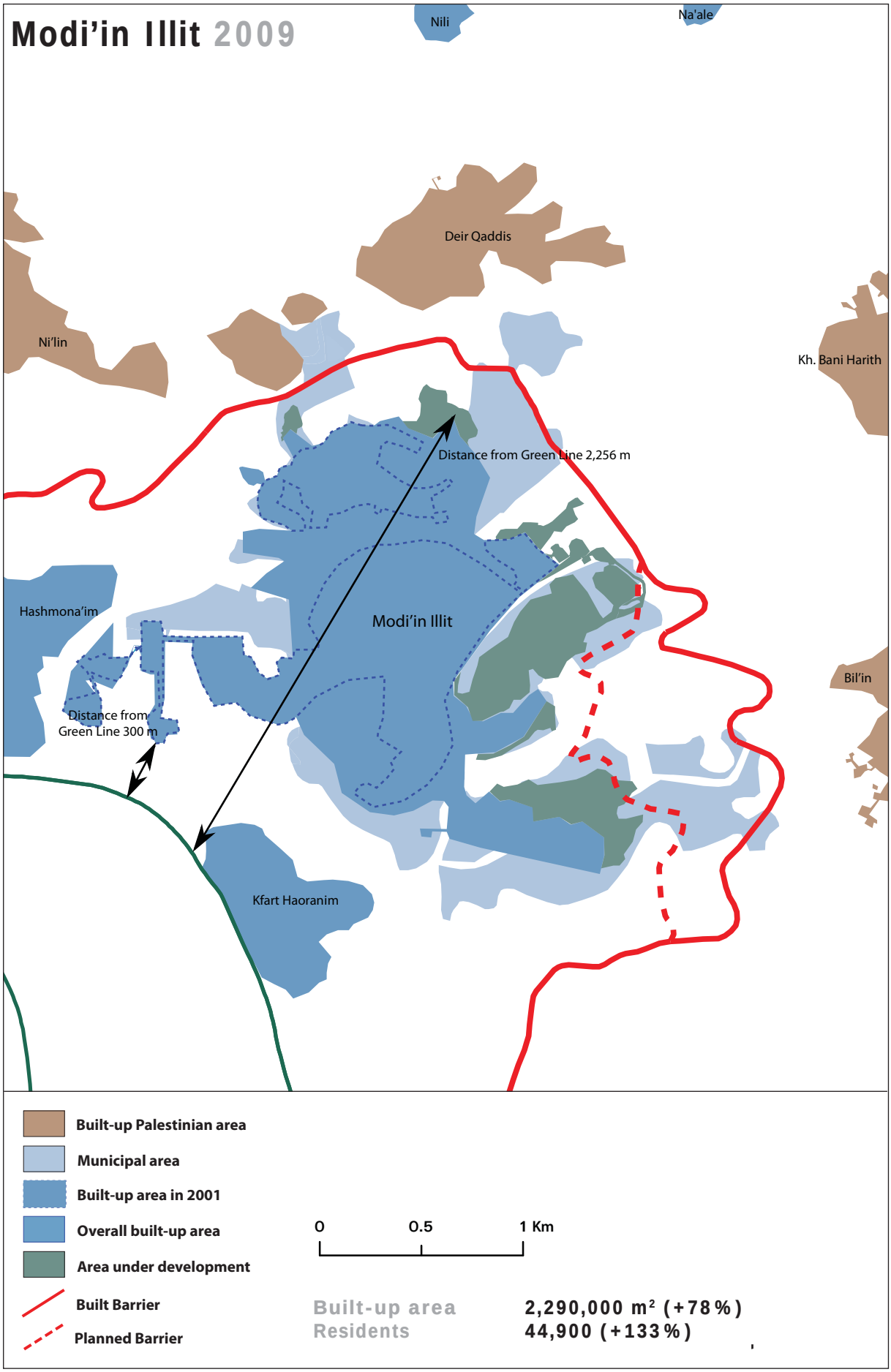
Until then, several interim measures can be taken immediately to reduce the infringement of human rights. Among other steps, the government of Israel must cease all new construction in the settlements, cancel existing building plans, and freeze procedures for seizing additional land. The government must also cancel all the benefits and incentives given to encourage Israeli citizens to move to the settlements.

MAPS

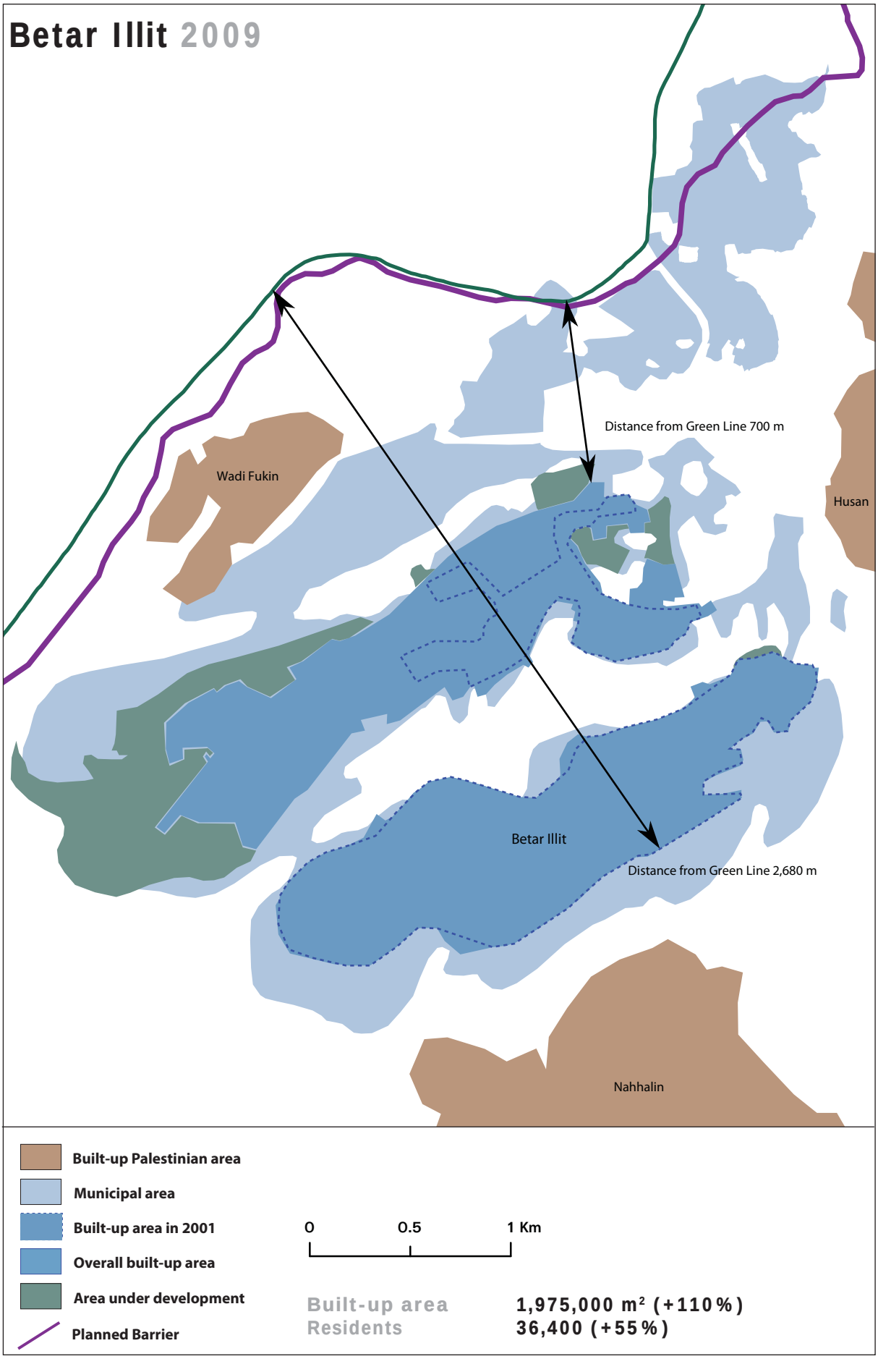

Ma'ale Adumim 2001
Built-up Palestinian area
Municipal area
Overall built-up area
Area under development
0 1 2 Km
2,500,000 m²
25,800
Built-up area
Residents
Distance from Green Line 11 Km
Distance from Green Line 7 Km
Distance from Green Line 5.4 Km
Mishor Adumim
al-Ka'abina
Ma'ale Adumim
Hizma
'Anata
al-'Issawiya
a-Za'ayem
al-'Eizariya
Abu Dis
'Arab al-Jahalin
a-Sawahira
a-Sharqiya
Sheikh Sa'ed


Ma'ale Adumim 2009
Hizma
Almon
Kefar Adumim
Mitzpe Yeriho
Shu'afat (refugee camp)
'Anata
E-1
Police station
al-Ka'abina
al-'Issawiya
Mishor Adumim
a-Za'ayem
Distance from Green Line 11 Km
Distance from Green Line 7 Km
al-'Eizariya
Distance from Green Line 5.4 Km
Ma'ale Adumim
Abu Dis
'Arab al-Jahalin
Qedar
a-Sawahira a-Sharqiya
Sheikh Sa'ed
0 1 2 Km
Built-up area 3,342,000 m² (+34%)
Residents 34,600 (+34%)
Built-up Palestinian area
Municipal area
Built-up area in 2001
Overall built-up area
Area under development
Built Barrier
Planned Barrier

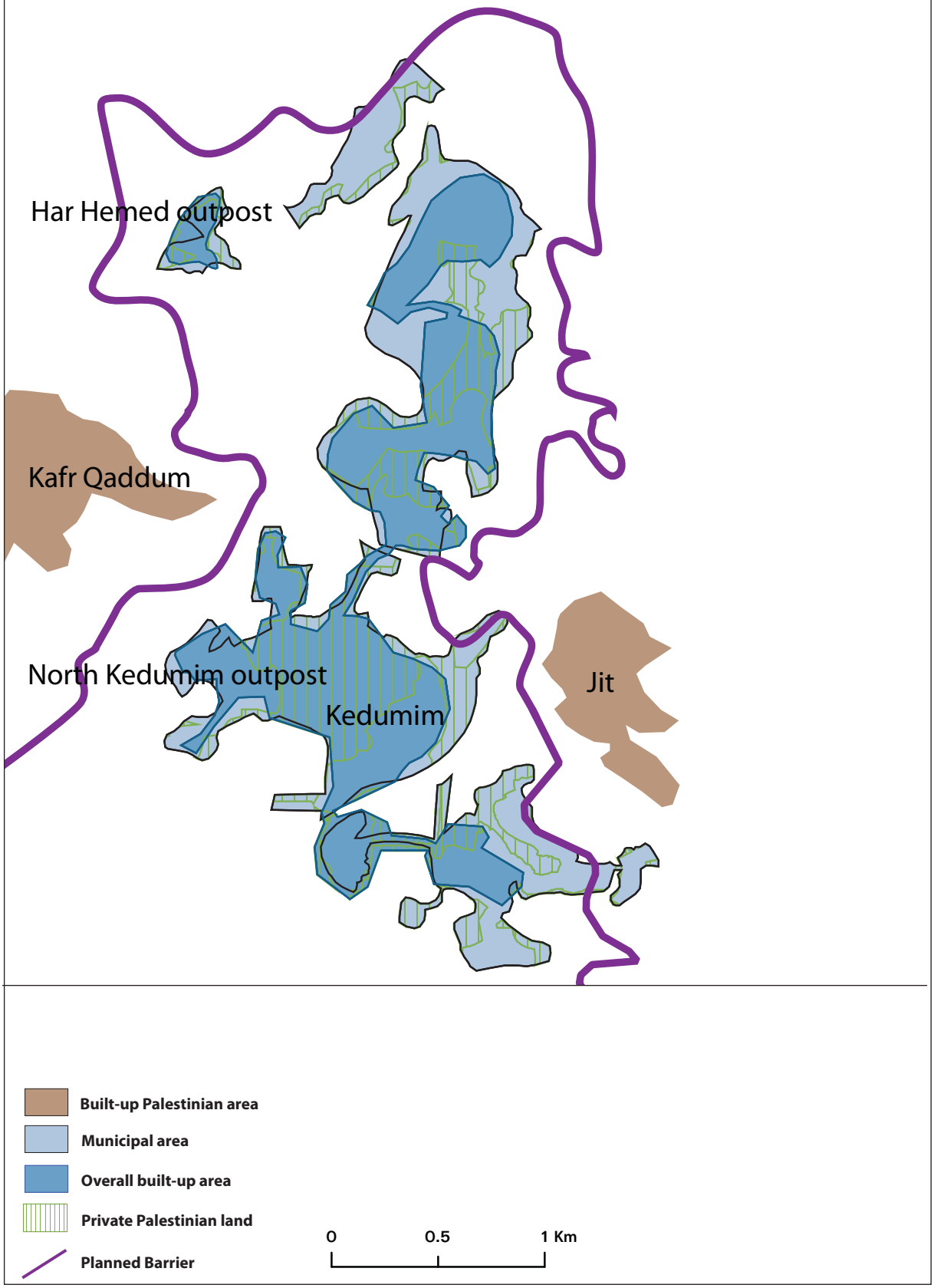

Modi'in Illit 2001
Nili
Na'ale
Deir Qaddis
Ni'lin
Kh. Bani Harith
Distance from Green Line 2,256 m
Hashmona'im
Modi'in Illit
Bil'in
Distance from
Green Line 300 m
Kfart Haoranim
Built-up Palestinian area
Municipal area
Overall built-up area
Area under development
0
0.5
1 Km
Built-up area 1,286,500 m²
Residents 19,200


Modi'in Illit 2009
Nili
Na'ale
Deir Qaddis
Ni'lin
Kh. Bani Harith
Distance from Green Line 2,256 m
Hashmona'im
Modi'in Illit
Bil'in
Distance from Green Line 300 m
Kfart Haoranim
Built-up Palestinian area
Municipal area
Built-up area in 2001
Overall built-up area
Area under development
Built Barrier
Planned Barrier
0
0.5
1 Km
Built-up area
2,290,000 m² (+78%)
Residents
44,900 (+133%)

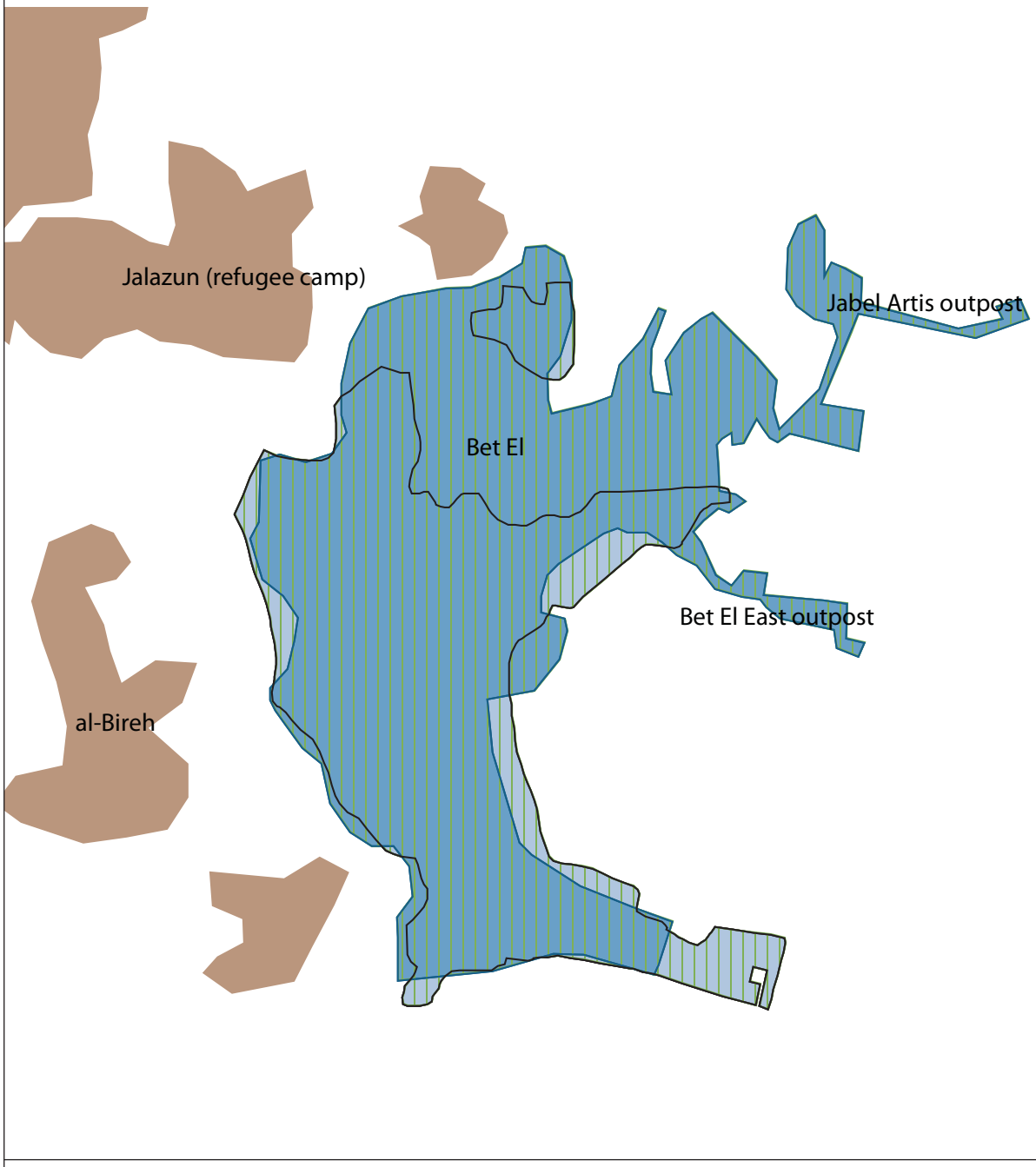

Betar Illit 2001
Distance from Green Line 700 m
Wadi Fukin
Husan
Betar Illit
Distance from Green Line 2,680 m
Nahhalin
Built-up Palestinian area
Municipal area
Overall built-up area
Area under development
0
0.5
1 Km
Built-up area
1,270,000 m²
Residents
17,300

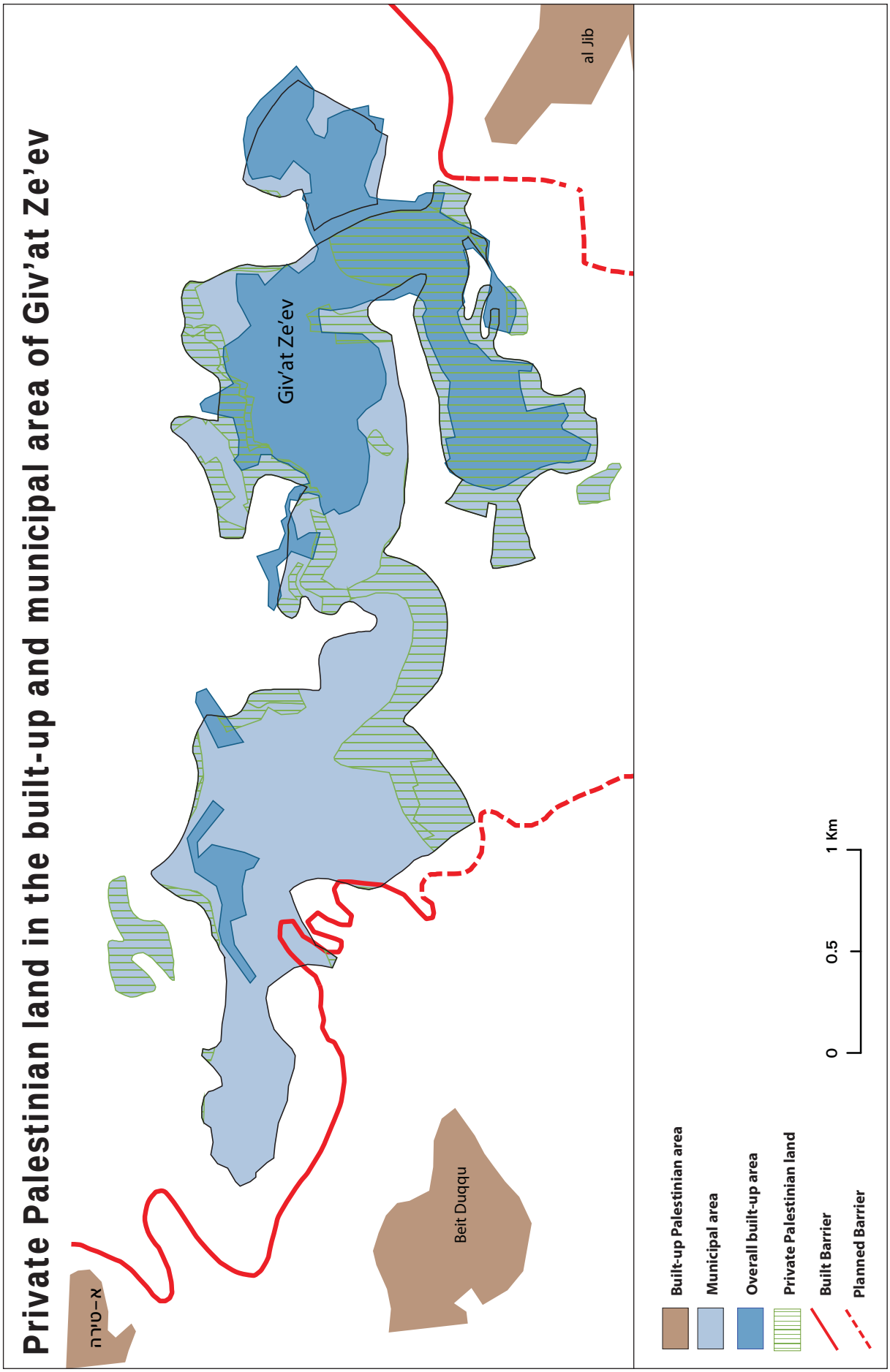

Betar Illit 2009
Distance from Green Line 700 m
Wadi Fukin
Husan
Betar Illit
Distance from Green Line 2,680 m
Nahhalin
Built-up Palestinian area
Municipal area
Built-up area in 2001
Overall built-up area
Area under development
Planned Barrier
0
0.5
1 Km
Built-up area
Residents
1,975,000 m² (+110%)
36,400 (+55%)

Private Palestinian land in the built-up and municipal area of Kedumim

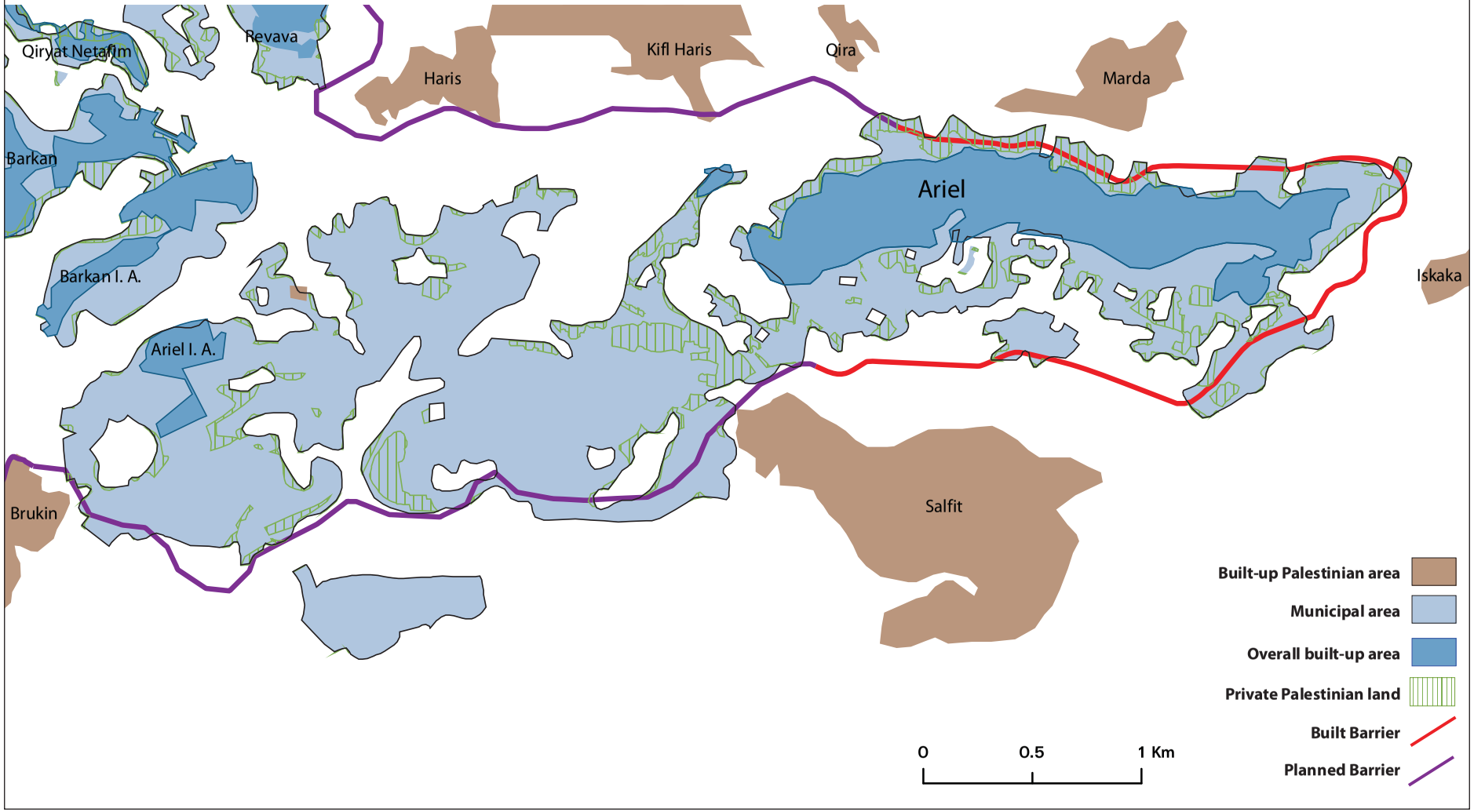


Private Palestinian land in the built-up and municipal area of Bet El




Private Palestinian land in the built-up and municipal area of Giv'at Ze'ev
Giv'at Ze'ev
al Jib
Beit Duqqu
א-טירה
Built-up Palestinian area
Municipal area
Overall built-up area
Private Palestinian land
Built Barrier
Planned Barrier
0
0.5
1 Km

Private Palestinian land in the built-up and municipal area of Ariel



בצלם

B'TSELEM - The Israeli Information Center for Human Rights in the Occupied Territories
8 Hata'asiya St., Talpiot P.O. Box 53132 Jerusalem 91531
Tel. (972) 2-6735599 | Fax. (972) 2-6749111
www.btselem.org | mail@btselem.org