

LAND GRAB

Israel's Settlement Policy
in the West Bank



May 2002

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Table of Contents

Introduction	-----	7
Chapter One:	Policy, Processes, and Institutions: Basic Concepts -----	11
Chapter Two:	The Settlements in International Law -----	37
Chapter Three:	The Land-seizure Mechanisms -----	47
Chapter Four:	The Annexation Policy and Local Government -----	65
Chapter Five:	Benefits and Financial Incentives -----	73
Chapter Six:	The Planning System -----	85
Chapter Seven:	An Analysis of the Map of the West Bank -----	91
Chapter Eight:	The Ari'el Settlement - A Case Study -----	117
Conclusions	-----	133

Tables

Table 1:	Population of Settlements in East Jerusalem	17
Table 2:	Settlements and Settlers in the West Bank	18
Table 3:	Local Authorities in the West Bank	69
Table 4:	Per-capita Income in West Bank Local Councils	80
Table 5:	Per-capita Income in West Bank Regional Councils	82
Table 6:	Comparison between Local Authorities in the West Bank and in Israel	83
Table 7:	Multi-year Average of Municipal Income, 1990-1999	84
Table 8:	West Bank Regions according to Oslo Accords	93
Table 9:	Area of the Settlements, by Region	116

Diagrams

Diagram 1:	Settlers in the West Bank	19
Diagram 2:	Settlements in the West Bank	19
Diagram 3:	Building Starts of Housing Units in the West Bank and Gaza Strip	20
Diagram 4:	Settlements in the West Bank, by Type	23
Diagram 5:	Settlements in the West Bank, by Level of Priority	76
Diagram 6:	Settlers in the West Bank, by Level of Priority	77
Diagram 7:	Per-capita Income in Local Councils	81
Diagram 8:	Per-capita Income in Regional Councils	82
Diagram 9:	Incremental Growth of Ari'el: Dates of Outline Plan	132

Maps

Map 1:	Dispersion of Built-up Areas	105
Map 2:	Settlements - Divided into Regions	106
Map 3:	Areas controlled by Settlements	107
Map 4:	Area of Jurisdiction of Settlements' Regional Councils	108
Map 5:	Division of Powers pursuant to Oslo Accords	109
Map 6:	Existing Road Network	110
Map 7:	Settlements surrounding Nablus	111
Map 8:	Settlements in the Western Hills Strip	111
Map 9:	Settlements Bloc along Road 60	112
Map 10:	Settlements' Land Control in South Mount Hebron Area	112

Photos

Photo 1:	Hinanit and Shaqed - municipal boundaries	25
Photo 2:	Tapuah - municipal boundaries	25
Photo 3:	Rimmonim - municipal boundaries	26
Photo 4:	Ez Efrayim - municipal boundaries	26
Photo 5:	Pesagot, Ramallah, and al-Bira	27
Photo 6:	Ma'ale Adummim - built-up area and land reserves	27
Photo 7:	Har Homa - construction stage	28
Photo 8:	Har Adar - built-up area and expansion area	28
Photo 9:	Alone Shilo Farm outpost with Qarne Shomeron and Kafr Laqif in the background	29
Photo 10:	Mizpe Keramim outpost, near Kokhav Hashahar	30
Photo 11:	Nili	31
Photo 12:	Qedar	31
Photo 13:	The Tunnels Road	32
Photo 14:	IDF soldiers during Operation Defensive Shield, the Itamar settlement in the background	32
Photo 15:	Ari'el - view from the southeast	121
Photo 16:	Caravans in the area east of Ari'el with Jamma'in in the background	121
Photo 17:	Physical roadblock at entrance to Yasuf	122
Photo 18:	Sewage from Ari'el flowing toward Salfit's pumping station	122
Photo 19:	Ari'el and Salfit	123
Photo 20:	Ari'el and surrounding areas	124
Photo 21:	On the bridge: Road No. 447 / Under the bridge: the Iskaka-Salfit road	126
Photo 22:	Area planned for expansion of Ari'el	126
Photo 23:	Houses in Ari'el - view from the settlement's ring road	128
Photo 24:	Houses in Ari'el - view from the settlement's ring road	128

Introduction

In December 2001, a long article appeared in *Ha'aretz* under the headline "Five Minutes from Kfar Saba – A Look at the Ari'el Region."¹ The article reviewed the real estate situation in a number of settlements adjacent to the Trans-Samaria Highway in the vicinity of Ari'el. The article included the information that most of the land on which these "communities"² were established are "state-owned land," and that "despite the security problems and the depressed state of the real estate market, the situation in these locales is not as bad as might be expected."

The perspective from which this article is written (the real estate market) and the terminology it employs largely reflect the process of the assimilation of the settlements into the State of Israel. As a result of this process, these settlements have become just another region of the State of Israel, where houses and apartments are constructed and offered to the general public according to free-market principles of supply and demand.

This deliberate and systematic process of assimilation obscures a number of fundamental truths about the settlements. The fundamental truth is that the "communities" mentioned in the article are not part of the State of Israel, but are settlements established in the West Bank – an area that, since 1967, has been occupied territory under a military regime and in violation of the Fourth Geneva Convention. The fundamental truth is that the "state-owned land" mentioned in the article was seized from Palestinian residents by illegal and unfair proceedings. The fundamental truth is that the settlements have been a continuing source of violations of the human rights of the Palestinians, among them the right to freedom of movement, property, improvement in their standard of living, and self-determination. The fundamental truth is that the growth of these settlements is fueled not only by neutral forces of supply and demand, but primarily by a sophisticated governmental system designed to encourage Israeli citizens to live in the settlements. In essence, the process of assimilation blurs the fact that the settlement enterprise in the Occupied Territories has created a system of legally sanctioned separation based on discrimination that has, perhaps, no parallel anywhere in the world since the apartheid regime in South Africa.

As part of the mechanism used to obscure these fundamental truths, the State of Israel makes a determined effort to conceal information relating to the settlements. In order to prepare this report, B'Tselem was obliged to engage in a protracted and exhaustive struggle with the Civil Administration to obtain maps marking the municipal boundaries of the settlements. This information, which is readily available in the case of local authorities within Israel, was eventually partially provided almost one year after the initial request, and only after B'Tselem threatened legal action.

1. Shlomi Sheffer, "Five Minutes from Kfar Saba – A Look at the Ari'el Region," *Ha'aretz Real Estate Supplement*, 13 December 2001.

2. In this report, "community" is used for the Hebrew term *yishuv*, which is a general term blurring the fact that the settlement is in the Occupied Territories, while "settlement" is used to translate the Hebrew term *hitnachlut*, which maintains this distinction (*trans.*).

The peace process between Israel and the Palestinians did not lead to the dismantling of even one settlement, and the settlements even grew substantially in area and population during this period. While at the end of 1993 (at the time of the signing of the Declaration of Principles) the population of the settlements in the West Bank (including settlements in East Jerusalem) totaled some 247,000, by the end of 2001 this figure had risen to 375,000.

The agreements signed between Israel and the Palestinian Authority entailed the transfer of certain powers to the PA; these powers apply in dozens of disconnected enclaves containing the majority of the Palestinian population. Since 2000, these enclaves, referred to as Areas A and B, have accounted for approximately forty percent of the area of the West Bank. Control of the remaining areas, including the roads providing transit between the enclaves, as well as points of departure from the West Bank, remains with Israel.

This report, which is the continuation of several reports published by B'Tselem in recent years,³ examines a number of aspects relating to Israeli policy toward the settlements in the West Bank and to the results of this policy in terms of human rights and international law. The report also relates to settlements in East Jerusalem that Israel established and officially annexed into Israel. Under international law, these areas are occupied territory whose status is the same as the rest of the West Bank.

This report does not relate to the settlements in the Gaza Strip. Though similar in many ways to their counterparts in the West Bank, the Gaza Strip settlements differ in several respects. For example, the legal framework in the Gaza Strip differs from that applying in the West Bank in various fields, including land laws; these differences are due to the different laws that were in effect in these areas prior to 1967.

This report comprises eight chapters:

- Chapter One presents a number of basic concepts on the principal plans implemented by the Israeli governments, the bureaucratic process of establishing new settlements, and the types of settlements.
- Chapter Two examines the status of the settlements and settlers according to international law and briefly surveys the violations of Palestinian human rights resulting from the establishment of the settlements.
- Chapter Three discusses the bureaucratic and legal apparatus used by Israel to seize control of land in the West Bank for the establishment and expansion of settlements. The chief component of this apparatus, and the main focus of the chapter, is the process of declaring and registering land as "state land."

3. B'Tselem, *A Policy of Discrimination: Land Expropriation, Planning and Building in East Jerusalem* (May 1995); *Impossible Coexistence: Human Rights in Hebron since the Massacre at the Cave of the Patriarchs* (Information Sheet, September 1995); *Israeli Settlement in the Occupied Territories as a Violation of Human Rights* (March 1997); *Demolishing Peace: Israel's Policy of Mass Demolition of Palestinian Houses in the West Bank* (Information Sheet, September 1997); *On the Way to Annexation: Human Rights Violations Resulting from the Establishment and Expansion of the Ma'ale Adummim Settlement* (Information Sheet, June 1999).

- Chapter Four reviews the changes in Israeli law that were adopted to annex the settlements into the State of Israel by turning them into civilian enclaves within the occupied territory. This chapter also examines the structure of local government in the settlements in the context of municipal boundaries.
- Chapter Five examines the economic incentives Israel provides to settlers and settlements to encourage Israelis to move to the West Bank and to encourage those already living in the region to remain there.
- Chapter Six analyzes the planning mechanism in the West Bank applied by the Civil Administration, which is responsible for issuing building permits both in the settlements and in Palestinian communities. This mechanism plays a decisive role in the establishment and expansion of the settlements, and in limiting the development of Palestinian communities.
- Chapter Seven analyzes the map of the West Bank attached to this report. This analysis examines the layout of the settlements by area, noting some of the negative ramifications the settlements have on the human rights of the Palestinian population.
- Chapter Eight focuses in depth on the Ari'el settlement and the ramifications of its establishment on the adjacent Palestinian communities. This chapter also discusses the expected consequences of Ari'el's expansion according to the current outline plan.

Chapter One

Policy, Processes, and Institutions: Basic Concepts

This chapter presents a number of basic concepts that must be understood to continue the discussion of our subject. The first part of this chapter briefly reviews a number of key approaches and plans delineating the activities of Israeli governments with regard to the settlements in the West Bank. The second part discusses the principal institutions and processes involved in the establishment of a settlement. The last part of this chapter presents a typology of settlements according to various forms of settlement (kibbutz, communal settlement, urban settlement, etc.) Throughout the chapter, a number of statistics will also be presented that relate to the settlements and settlers.

A. Settlement Policy

Israeli policy toward the settlements in the West Bank has undergone various changes over the years, reflecting the divergent political views of decision makers, the relative weight of various interest groups active in this field, and developments in the international arena. While these divergent approaches have been manifested, inter alia, in changes in the scope of resources allocated to this issue, and in the areas in which it was decided to establish settlements, all Israeli governments have contributed to the strengthening, development and expansion of the settlement enterprise.

The national unity government headed by Levi Eshkol was established shortly before the outbreak of war in June 1967. During the months immediately following the war, this government did not have any clear policy regarding Israeli settlement in the West Bank. The initial inclination of most of the members of the government was to hold the territory as a bargaining chip for future negotiations. Accordingly, they opposed plans to establish civilian settlements in this area. However, these inclinations were rapidly eroded, due both to the pressures exerted by various interest groups and as the result of initiatives from within the government. As early as September 1967, Kfar Ezyon became the first settlement to be established in the West Bank. It was established because of the pressure of a group of settlers, some of whom were relatives of the residents of the original community of Kfar Ezyon, which was abandoned and destroyed during the 1948 war.⁴

The unity government's policy on "East Jerusalem" was different. Immediately after the war, the government applied Israeli law to extensive areas to the north, east and south of West Jerusalem, which were annexed to the Municipality of Jerusalem. The government began a rapid process to build settlements in these areas. Its goal was to prevent any challenge to Israel's sovereignty over them and to impede initiatives leading to an Israeli withdrawal from these areas.⁵

4. Shlomo Gazit, *Fools in a Trap – Thirty Years of Israeli Policy in the Territories* (in Hebrew) (Tel-Aviv: Zemor-Beitan, 1999), p. 228.

5. As detailed in Chapters Three and Seven below, the areas annexed to Jerusalem in 1967 extended far beyond the city limits of the time, as defined under Jordanian rule. For the sake of convenience, this area will be referred to below as East Jerusalem.

In addition, Israel also annexed to its territory a strip of land parallel to the Green Line along a few kilometers north and south of the Latrun area (see the map attached to this report). This strip of land had been known as "no man's land," because in 1948-1967 it was not subject to the control of either the Israeli or the Jordanian side. Over the years, Israel established four communities in this area (Shilat, Lapid, Kefar Ruth and Maccabim). We shall not relate to these settlements in this report, since under international law this area is not considered occupied territory.

The Ma'arach Governments: The Alon Plan

As early as the end of 1967, Yigal Alon – who served at the time as the head of the Ministerial Committee on Settlements – began to prepare a strategic plan for the establishment of settlements in certain parts of the West Bank. This plan was reformulated several times over the coming years. Although never formally approved by the Israeli government, the plan provided the basis for the layout of the settlements established in the West Bank on the initiative of the governments led by the Ma'arach (the precursor of the modern Labor Party) through 1977, and as the foundation for the "territorial compromise" advocated by the Ma'arach in its platform through the 1988 elections.

The initial objective of the Alon Plan was to redraw the borders of the State of Israel to include the Jordan Valley and the Judean Desert within the territory of the state, which the plan's proponents argued was necessary to ensure state security. Within these areas, the plan advocated the establishment of a string of Israeli settlements ensuring a "Jewish presence" and constituting a preliminary step leading to formal annexation. The Alon Plan also recommended that, as far as possible, the annexation of areas densely populated by Palestinians should be avoided.⁶

Despite this recommendation, the last draft of the plan from 1970 proposes to annex to Israel areas that far exceed those required by the original approach. These areas include: a strip along the Jordan River with a width of approximately twenty kilometers (extending to the starting point of the dense Palestinian communities); various areas around Greater Jerusalem; the Ezyon bloc; most of the Judean Desert; and a strip of territory in the south of the Hebron mountains. Together, these areas comprise approximately half the area of the West Bank. According to the Alon Plan, the remaining half of the West Bank, comprising two unconnected areas to the north and south, was supposed to become part of a Jordanian-Palestinian state.⁷

By the time the Likud came to power in 1977, almost thirty settlements inhabited by some 4,500 Israelis had been established in the West Bank (excluding East Jerusalem) at the government's initiative.⁸ Most of these settlements were established in areas earmarked for annexation to Israel according to the Alon Plan, while a minority were established by Gush Emunim (see below) outside these areas. In addition, by 1977 some 50,000 Israelis lived in settlements established in East Jerusalem.⁹ The Alon Plan was abandoned during the period of Likud-led governments (1977-1984), when efforts were concentrated in other parts of the West Bank. Under the national unity government headed by Shimon Peres and Yitzhak Shamir (1984-1988), the Alon Plan once again formed part of official policy, leading to the flow of

6. Meron Benvenisti and Shlomo Khayat, *The West Bank and Gaza Atlas*, West Bank Data Project (Jerusalem: The Jerusalem Post, 1987), pp. 63-64.

7. *Ibid.*

8. For full data on the growth in the population and the number of settlements, see the tables and graphs in this chapter.

9. Geoffrey Aronson, *Settlements and the Israel-Palestinian Negotiations* (Washington: Institute of Palestinian Studies, 1996), p. 5.

resources to settlements established within the areas covered by the plan in the 1970s (see the Hundred Thousand Plan, below).

The Influence of Gush Emunim

Among certain religious right-wing circles, Israel's victory in the 1967 war was interpreted in theological terms, constituting the "beginning of Redemption" and offering an opportunity "to realize the vision of the Whole Land of Israel." In 1974, these circles formed the basis for the establishment of Gush Emunim [Bloc of the Faithful], under the spiritual leadership of Rabbi Zvi Yehuda Kook.¹⁰ The immediate goal of the movement was to force the Ma'arach government to establish as many settlements as possible throughout the "Land of Israel." Gush Emunim aimed to disperse the settlements it established over as wide an area as possible: "Our control of a region is a function not only of the size of the population resident there, but also of the size of the area in which this population exercises its impression and influence."¹¹

Since the Jordan Valley, Gush Ezyon and areas of the Hebron mountains region formed part of the Labor government's settlement strategy, Gush Emunim prioritized settlement activities in the central mountain range of the West Bank – the area containing most of the Palestinian population.¹² The principal method adopted by the movement was to settle a given site without government permission – and sometimes contrary to its policy – in an effort to force the government later to recognize the settlement as an accomplished fact. Between July 1974 and December 1975, members of Gush Emunim made seven unsuccessful attempts to establish a settlement at various sites in the Nablus area without government permission. The eighth attempt led to a compromise between the activists and then Minister of Defense Shimon Peres. The settlers were allowed to stay at an IDF base called Qadum to the west of Nablus; two years later, the base was officially transformed into the settlement of Qedumim.¹³

In other cases, the Gush Emunim settlers group received permission from the authorities to establish a settlement site on false pretenses. In one instance, members of Gush Emunim secured permission to establish a "work camp" close to the village of 'Ein Yabrud. The "camp" later became the settlement Ofra. In another case, the settlement of Shilo was established under the guise of an archeological excavation.¹⁴

The clashes between Gush Emunim and the government continued during most of the period of the first Likud government headed by Menachem Begin, but ended shortly before the 1981 elections, after the Democratic Movement for Change resigned from the government. At this point, the government began to work to realize all the settlement plans of Gush Emunim, providing extensive financial assistance for its activities.¹⁵

10. For an analysis of the ideological platform of Gush Emunim, see Gidon Eran, *From Religious Zionism to Zionist Religion – The Roots and Culture of Gush Emunim* (in Hebrew) (thesis toward a D.Phil. degree at the Hebrew University of Jerusalem, 1987).

11. Gush Emunim, *Master Plan for Settlement in Judea and Samaria* (in Hebrew) (1980), p. 15.

12. For a detailed geographical description of the West Bank, and for a description of the layout of settlements in the area, see Chapter Seven below.

13. David Newman, *Jewish Settlement in the West Bank: The Role of Gush Emunim* (Durham, England: Centre for Middle Eastern and Islamic Studies, 1982), pp. 40–43.

14. A similar tactic, employed in 1968 by a group of settlers in Hebron headed by Rabbi Levinger, led to the establishment of the settlement Qiryat Arba. Gazit, *Fools in a Trap*, p. 231.

15. Meron Benvenisti, *Lexicon of Judea and Samaria: Settlements Administration and Society* (in Hebrew) (Jerusalem: Cana, 1987), p. 155.

Likud Policy: The Drobless Plan and the Sharon Plan

After the Likud came to power in 1977, Matityahu Drobless, head of the World Zionist Organization's Settlement Division, prepared a comprehensive plan for the establishment of settlements throughout the West Bank.¹⁶ This plan, which was published in 1978 and updated several times in the following years, was also known as the Drobless Plan and constituted a guiding document for government and WZO policy regarding the settlements. According to the plan:

The civilian presence of Jewish communities is vital for the security of the state... There must not be the slightest doubt regarding our intention to hold the areas of Judea and Samaria for ever... The best and most effective way to remove any shred of doubt regarding our intention to hold Judea and Samaria forever is a rapid settlement drive in these areas.¹⁷

The Drobless Plan was completely in line with the plans of Gush Emunim, providing the foundation for close cooperation between the two bodies. This cooperation led to the establishment of dozens of "community settlements" (see below), most of which were situated on the central mountain ridge close to Palestinian population centers.

Another key figure who made a significant contribution to promoting the settlements enterprise was the Minister of Agriculture in the first Likud government (1977-1981), Ariel Sharon. Sharon prepared a plan bearing his name that included a map delineating areas he believed were vital for Israel's security, and should therefore be annexed. According to Sharon's map, only a small number of enclaves densely populated by Palestinians were not to come under Israeli sovereignty in the future.¹⁸ Like Alon and Drobless, Sharon recommended the establishment of settlements in these areas as a means of promoting annexation. While this plan was not officially adopted by the government, it provided the basis for the activities of the Ministry of Agriculture. The ministry's power over the establishment of settlements resulted from its control of the Israel Lands Administration, which was responsible for the management of "state land" (see Chapter Three) and for financing the activities of the WZO Settlement Division (see below).

Following the preparation of this plan, the Ministry of Agriculture and the Ministry of Construction and Housing concentrated their efforts on establishing settlements on the western slopes of the central mountain ridge in the West Bank, north of Jerusalem (western Samaria). These efforts reflected Sharon's belief that it was important to prevent the creation of a contiguous area populated by Arabs on either side of the Green Line, leading to the connection of the area west of Jenin and Nablus, and north of Ramallah, to the Palestinian communities within Israel adjacent to the Green Line, such as Umm el-Fahm and Kafr Qasem.¹⁹ While the settlements initiated by the WZO in the central mountain ridge area were populated mainly by members and supporters of Gush Emunim, the above-mentioned government ministries made great efforts to attract the general, non-ideological public to the settlements in western Samaria by guaranteeing an improved standard of living within a short distance from the urban centers on the coastal plain.²⁰

16. Regarding the role of the World Zionist Congress in initiating and establishing new settlements, see below.

17. Matityahu Drobless, *The Settlement in Judea and Samaria – Strategy, Policy and Program* (in Hebrew) (Jerusalem: World Zionist Organization, September 1980), p. 3.

18. Benvenisti and Khayat, *The West Bank and Gaza Atlas*, p. 65.

19. Geoffrey Aronson, *Creating Facts: Israel, Palestinians and the West Bank* (Washington: Institute for Palestinian Studies, 1987), p. 71.

20. *Ibid.*, pp. 72-74.

At the beginning of 1983, the Ministry of Agriculture and the WZO published a "master plan" for settlements in the West Bank through the year 2010, including an operative development plan for the period 1983-1986.²¹ This plan was also known as The Hundred Thousand Plan, due to its aspiration to attract 80,000 new Israeli citizens by 1986, so that the Jewish population (excluding East Jerusalem) would number 100,000. According to the plan, twenty-three new communal and rural communities were to be established, as well as twenty NAHAL army settlement sites. In addition, 300-450 kilometers of new roads were to be paved.²² While the original emphasis of the plan called for settlements in the central mountain ridge and on the western slopes of the ridge, the establishment of the national unity government in 1984 meant that a considerable part of the resources was actually diverted to promote settlements in the Jordan Valley, constituting a compromise between supporters of the Drobless-Sharon approach and exponents of the Alon Plan.²³ During the period of the plan, the government achieved the objective in terms of the number of new settlements, but failed to meet the population forecast; the actual population by the end of 1986 was just 51,000.

Settlement activities continued at full pace under the newly elected Likud government (1988-1992). The emphasis of the government was on expanding existing settlements. The population of the settlements increased by sixty percent during this period. Ten new settlements were established, a small number compared to previous governments. The tremendous scale of construction in the territories by this government led to an open confrontation with the United States government, which decided to freeze guarantees it had promised to provide Israel as part of the United States assistance to help absorb the wave of immigrants from the Soviet Union.²⁴

The Oslo Process and Continued Expansion

The establishment in July 1992 of a new government headed by Yitzhak Rabin seemed to offer the possibility of a real change in Israel's settlement policy. The Labor Party had fought the election on a promise to "change national priorities," including a substantial reduction in the allocation of resources for the settlements. The signing of the Declaration of Principles between Israel and the PLO in September 1993 also indicated the government's intention to change its policy, although the Declaration did not explicitly prohibit the establishment of new settlements. It was only in the Oslo 2 accords, which were signed two years later, that the parties stated: "Neither 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."²⁵

However, within a short period time, it became clear that the change in policy was insignificant and that the new government intended to continue the development of settlements.

The government made a promise to the United States that it would not establish new settlements and would halt the expansion of the existing settlements, with the exception of construction to meet the

21. Ministry of Agriculture and the Settlement Division of the World Zionist Organization, *Master Plan for Settlement for Judea and Samaria, Development Plan for the Region for 1983-1986* (Jerusalem, April 1983).

22. *Ibid.*, p. 9.

23. Benvenisti, *Lexicon of Judea and Samaria*, p. 152.

24. Aronson, *Settlements and the Israel-Palestinian Negotiations*, pp. 48-49.

25. Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip, 28 September 1995 (Oslo 2), Chapter 5, Article 31(7).

"natural growth" of the local population.²⁶ This commitment was also included in the government's basic guidelines, with two significant exceptions that were remnants of the approach embodied in the Alon Plan: "No new settlements will be established and existing settlements will not be expanded, with the exception of those situated within the Greater Jerusalem area and in the Jordan Valley."

The exceptions in the government's guidelines effectively became the main tool permitting the continued building of settlements and growth of the Israeli population in the settlements. According to the basic guidelines, "Greater Jerusalem area" included not only those areas annexed in 1967 and included in the municipal boundaries of the city, but also considerable areas beyond these limits (see the discussion of the Jerusalem Metropolis in Chapter Seven). In addition, during the period of office of the Rabin government, 9,850 new housing units were completed throughout the West Bank (not only in the government's priority areas). Construction of these units had begun under the previous government, though no mention is made in the government's basic guidelines.²⁷

Moreover, the term "natural growth" was never precisely defined, and the vague nature of the term has allowed Israel to continue to expand the settlements while avoiding direct confrontation with the United States Administration. Since the signing of the Declaration of Principles, in 1993, all Israeli governments have interpreted this phrase as including not only the natural growth of the existing population (i.e., birth rates), but also the growth of the population by migration. At the same time, the governments themselves have strongly encouraged migration from Israel to the settlements by offering generous financial benefits and incentives (see Chapter Four below).

Under the banner of "natural growth," Israel has established new settlements under the guise of "new neighborhoods" of existing settlements. To this end, these new settlements have been included in the area of jurisdiction of the adjacent settlement, even in cases of no territorial contiguity between the two settlements.²⁸ Exceptions to this approach included the settlements Modi'in Illit (Qiryat Sefer) and Menorah, recognized as new settlements in 1996 and 1998, respectively.

Another method employed in order to expand the settlements was the seizure of a new location by a group of settlers who erected a number of caravans on the site (see Photos 9 and 10). While this method was the settlers' initiative, without approval from the relevant authorities, the government generally refrained from evicting the settlers or demolishing the buildings they erected without permits. Some received retroactive approval.²⁹

Overall, contrary to the expectations raised by the Oslo Process, the Israeli governments have implemented a policy leading to the dramatic growth of the settlements. Between September 1993, on the signing of the Declaration of Principles, and September 2001 (the time of the outbreak of the al-Aqsa intifada), the number of housing units in the settlements in the West Bank (excluding East Jerusalem) and Gaza Strip rose from 20,400 to 31,400 – an increase of approximately fifty-four percent in just seven years. The sharpest increase during this period was recorded in 2000, under the government headed by

26. Aronson, *Settlements and the Israel-Palestinian Negotiations*, pp. 50-51.

27. *Ibid.*, p. 11.

28. The State Comptroller offered a detailed criticism of certain aspects of this method in the specific case of the establishment of the Tel Zion settlement, in 1998, under the guise of a "neighborhood" of the settlement Kochav Ya'akov. See State Comptroller, *Annual Report 51B* (in Hebrew) (Jerusalem, April 2001), pp. 398-405.

29. For a list of outposts erected since the beginning of the current intifada, see the Peace Now Website: www.peacenow.org.il.

Ehud Barak, when the construction of almost 4,800 new housing units was commenced. At the end of 1993, the population of the West Bank settlements (excluding East Jerusalem) totaled 100,500. By the end of 2000, this figure increased to 191,600, representing a growth rate of some ninety percent. By contrast, the growth rate in the settlements in East Jerusalem was much slower: the population of these settlements totaled 146,800 in 1993 and 176,900 in 2001 – an increase of just twenty percent.

Table 1
Population of Settlements in East Jerusalem (in thousands)

Year	Number of Residents
1992	141
1993	146.8
1994	152.7
1995	155
1996	160.4
1997	158.8
1998	162.9
1999	170.4
2000*	173.4
2001*	176.9

* This is an estimation based on percentage of growth of population throughout Jerusalem (Central Statistics Bureau).

Source: Jerusalem Institute for Israel Studies, *On Your Statistics, Jerusalem* (various years).

Table 2
Settlements and Settlers in the West Bank*

Year	Number of Settlements**	Population (in thousands)
1967	1	Unknown
1968	3	Unknown
1969	8	Unknown
1970	10	Unknown
1971	12	Unknown
1972	14	Unknown
1973	14	Unknown
1974	14	Unknown
1975	19	Unknown
1976	20	3.2
1977	31	4.4
1978	39	7.4
1979	43	10
1980	53	12.5
1981	68	16.2
1982	73	21
1983	76	22.8
1984	102	35.3
1985	105	44.2
1986	110	51.1
1987	110	57.9
1988	110	63.6
1989	115	69.8
1990	118	78.6
1991	119	90.3
1992	120	100.5
1993	120	110.9
1994	120	122.7
1995	120	127.9
1996	121	141.5
1997	122	154.4
1998	123	166.1
1999	123	177.5
2000	123	191.6
2001***	123	198

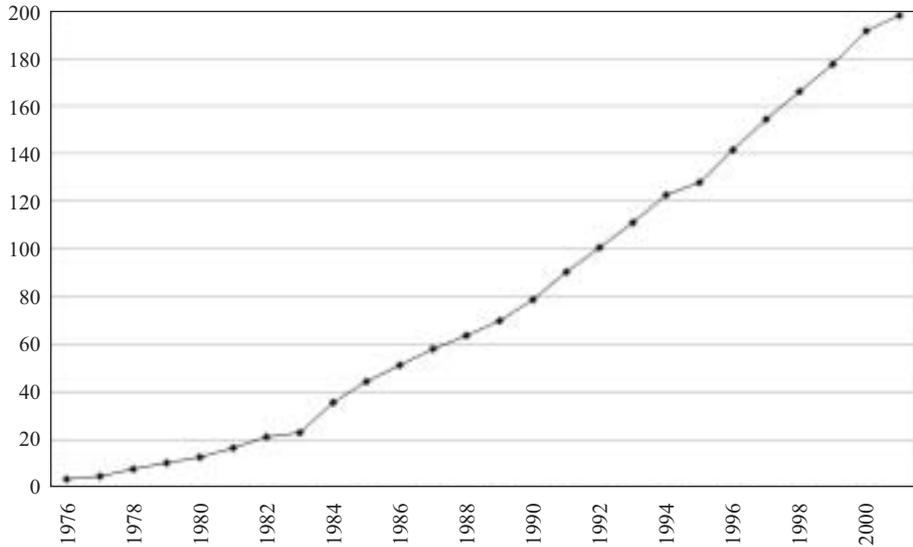
* Not including East Jerusalem.

** These figures relate to the number of settlements recognized by the Ministry of the Interior.

*** As of 31 September 2001 (provisional data).

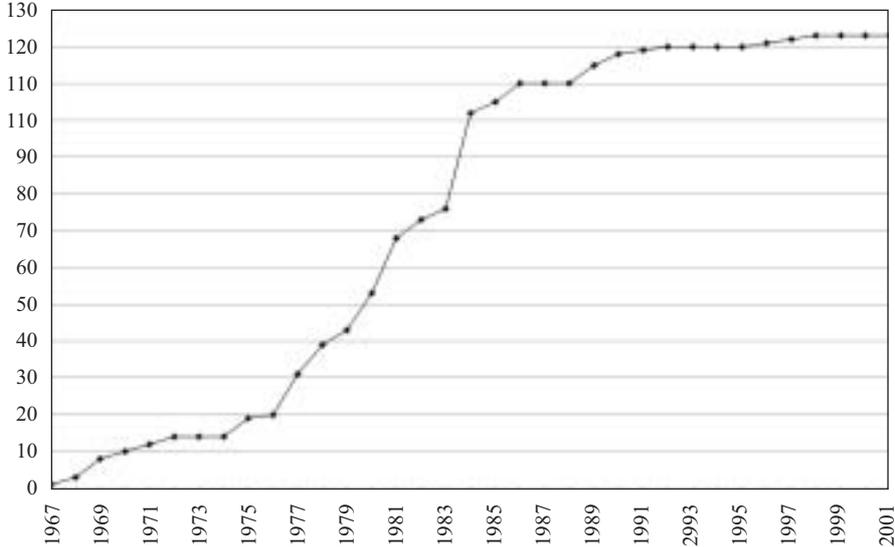
Source: Central Bureau of Statistics *Israel Statistical Yearbook* (various years), not including a "number of settlements" for the years 1967-1981, based on Benvenisti and Khayat, *The West Bank and Gaza Atlas*, pp. 138-140.

Diagram 1
Settlers in the West Bank* (in thousands)



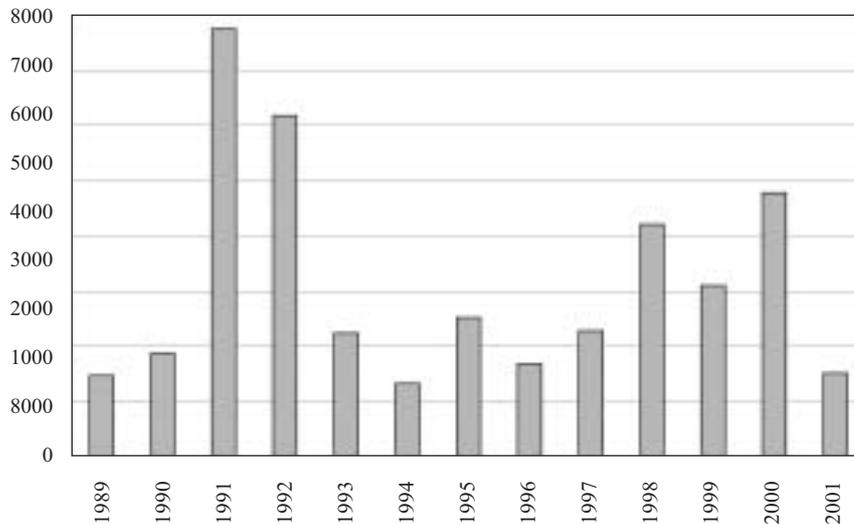
* Not including East Jerusalem.

Diagram 2
Settlements in the West Bank*



* Not including East Jerusalem.

Diagram 3
Building Starts of Housing Units in the West Bank* and Gaza Strip



* Not including East Jerusalem.

B. Establishing a Settlement: The Bureaucratic Procedure

The establishment of a new settlement involves numerous stages and entails the involvement of a variety of institutions and bodies. The first formal step is to secure the authorization of the Joint Settlement Committee of the Israeli Government and the World Zionist Organization (hereafter: the Ministerial Committee for Settlement), which was established in 1970 and is empowered to decide on the establishment of a new settlement. The Ministerial Committee for Settlement is composed of an equal number of ministers from the relevant government ministries and members of the WZO Executive.³⁰

While the mandate of this committee included the establishment of communities within the State of Israel, its activities since its establishment centered mainly on the establishment of settlements in the territories occupied in 1967 (the West Bank, Gaza Strip, Golan Heights and northern Sinai). In addition to granting formal approval, the committee is responsible for deciding on the location of the settlement and the form of settlement (see below), as well as its intended size in geographical terms and in population, the official body to be responsible for establishment, and so on. In several cases, the committee has provided retroactive approval after the establishment of a settlement by Gush Emunim. In August 1996, given the political sensitivity of this issue in the context of U.S. - Israel relations, the government determined that any decision by the Ministerial Committee for Settlement relating to the establishment of a new settlement in the territories would be brought to the government for discussion and approval.³¹

30. Avshalom Rokach, *Rural Settlement in Israel* (Jerusalem: The Jewish Agency for Israel and the World Zionist Organization, 1978), p. 63.

31. State Comptroller, *Annual Report 51B*, p. 399.

The role of the World Zionist Organization as part of this governmental mechanism deserves further explanation because the WZO is a non-governmental body, representing not the citizens of Israel but world Jewry. One of Israel's traditional methods to direct national resources exclusively to the state's Jewish population, without this automatically being defined as discrimination, is delegating responsibilities to the Jewish Agency, which is not a governmental body. For example, the Settlement Department of the Jewish Agency was given responsibility for the establishment of new communities that were intended for Jews only. In the case of the establishment of settlements in the Occupied Territories, however, the Jewish Agency encountered problems: it was unable to secure tax exemption in the United States for donations raised in the United States for this purpose, because the settlements were said to oppose U.S. policy.³² Accordingly, in 1971 the Settlement Division was established within the World Zionist Organization; this body performed the function of the Jewish Agency's Settlement Department in all matters relating to the establishment of settlements in the Occupied Territories.

The funding of the Settlement Division comes from the state budget, through the Ministry of Agriculture. Through 1992, however, a significant portion of its operations were executed by the staff and apparatus of the Jewish Agency Settlement Department, from the budget of the Settlement Division.³³ Since the beginning of 1993, the Settlement Division has operated separately from the Settlement Department.³⁴

The two principal bodies involved in establishing the physical and economic infrastructure of the settlements are the Ministry of Construction and Housing and the Settlement Division of the World Zionist Organization. The decision as to which of these two bodies will be responsible for any given settlement is made by the committee on an *ad hoc* basis; the main considerations are the expected pace of implementation, the availability of budgets and the planned type of settlement.³⁵

The first step to be taken by the body selected by the Ministerial Committee for Settlement to implement the settlement is to receive "permission" from the Custodian for Governmental and Abandoned Property in Judea and Samaria to plan and build on the specific land on which the settlement is to be established.³⁶ The vast majority of settlements are established on land seized by Israel by various means; the management of these lands rests with the Custodian. In organizational terms, the Custodian functions as an arm of the Civil Administration, though professionally he is accountable to the Israel Lands Administration.³⁷ Since 1996, any new permission granted by the Custodian for Governmental Property requires the approval of the Minister of Defense.³⁸

After a permission contract is signed with the Custodian, the Ministry of Construction and Housing or the Settlement Division is entitled to sign contracts with any cooperative association (see below) or with a particular construction company, which then receives the status of an "authorized body." At the same time, the Ministry of Construction or Housing or the Settlement Division is expected to work to secure approval for an outline plan for the settlement from the Supreme Planning Committee of the Civil

32. Benvenisti, *Lexicon of Judea and Samaria*, p. 50.

33. Rokach, *Rural Settlement in Israel*, p. 71.

34. For details of this issue, see State Comptroller, *Report on Audit Regarding Governmental Assistance for the Development of the New Settlement in the Judea, Samaria, Gaza and Golan Areas* (in Hebrew) (Jerusalem, May 1999).

35. Meir Harnoy, "Processes in the Planning of Settlement in Judea, Samaria and the Gaza Strip" (in Hebrew), in *Judea and Samaria Studies*, Protocol of the Second Conference, 1992, p. 369.

36. An exception to this rule is when land was purchased privately by Israeli civilians. For discussion of the methods used to seize control of land, and of the office of the Custodian for Governmental Property, see Chapter Three below.

37. State Comptroller, *Annual Report 51B*, p. 399.

38. *Ibid.*

Administration, and to issue building permits on the basis of this plan.³⁹ After all contracts have been signed and all permits received, the authorized body is entitled to build.

The Settlement Division has specialized in establishing small settlements in the form of a "community settlement" or one of the models for cooperative settlements, although it has also established regular rural communities (see below). As settlers begin to move into the settlement, routine management is transferred to a cooperative association responsible, among other things, for accepting (or rejecting) new members in the settlement.⁴⁰ In certain cases, the involvement of the cooperative association begins during the construction phase, and the association reaches agreements directly with a contractor to execute the development and construction. The cooperative associations generally operate under the auspices of one of the "settling movements" – Amana, the settlement wing of Gush Emunim (numerically the most important movement), the Agricultural Union, Betar, the Union of Moshavim of Po'alei Agudat Yisrael, the Union of Moshavim of Hapo'el Hamizrachi, etc.⁴¹

The Ministry of Construction and Housing processes the planning and development of the settlements through two units within the ministry: the Rural Construction Authority and the urban construction departments in each of the ministry's districts. The Rural Construction Authority was established in 1968. It is usually charged with responsibility for communities defined as "non-urban," both inside Israel and in the territories occupied in 1967.⁴² The Ministry of Construction and Housing's urban construction departments process the larger settlements, which have generally been granted independent municipal status (see Chapter Four). Unlike the settlements established by the Settlement Division, the management of settlements established by the Ministry of Construction and Housing is not transferred to a specific "settling movement," but rests with an establishing team under the auspices of the Ministry of Construction and Housing pending the organization of a local committee. Houses in these settlements are ostensibly sold on the free market to any buyer, though in fact they are sold exclusively to Jews.⁴³

Although the complex process described above is required in accordance with governmental decisions and military legislation, in many cases the authorities skip over one or another of the stages, or acts retroactively to secure the authorizations and sign the appropriate contracts.⁴⁴ The most prominent examples of this approach are the outposts established in recent years throughout the West Bank, where none of the stages described above was implemented. In some cases, the Israeli authorities have gradually begun to meet the relevant requirements retroactively and in stages.

39. For discussion of the physical planning apparatus, see Chapter Six below.

40. Harnoy, *Judea and Samaria Studies*, pp. 370-371.

41. For the organizational affiliation of each settlement, see Central Bureau of Statistics, *List of Localities, Their Populations and Codes* (various years).

42. For discussion of the functions of the Authority, and criticism on the need for it (based on grounds of efficiency), see State Comptroller, *Annual Report 47* (in Hebrew) (Jerusalem, April 1997), pp. 166-173.

43. Harnoy, *Judea and Samaria Studies*, p. 371.

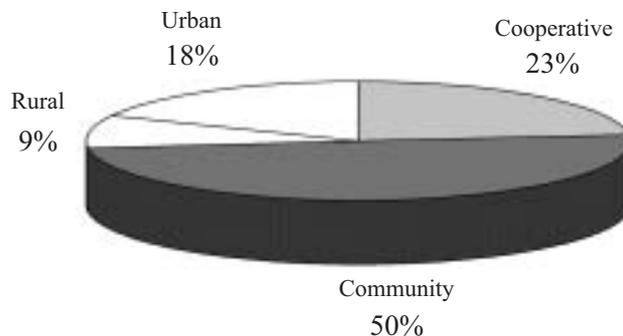
44. For examples of this phenomenon, see the reports of the State Comptroller (all in Hebrew): *Annual Report 37* (Jerusalem, 1987), p. 1205; *Annual Report 43* (Jerusalem, April 1993), pp. 911-914; *Annual Report 51B* (Jerusalem, April 2001), pp. 398-405.

C. Types of Settlements

The settlements established in the West Bank vary in several respects, one being their social structure, or "type of settlement" – regular urban and rural settlements, community settlements and cooperative settlements.

Cooperative settlements are subdivided into three clear models – kibbutz, moshav and cooperative moshav – that vary in terms of the level of equality and extent of cooperation in ownership of property, in general, and of means of production, in particular. However, these distinctions have become blurred since the 1990s, due to the economic crisis affecting the kibbutz and moshav movements and due to changes in the prevailing values of Israeli society. These forms of settlement are the classic models cherished by the Labor movement, and accordingly most of the kibbutzim and moshavim in the West Bank were founded during the 1970s under the Ma'arach governments and situated in areas within the Alon Plan. The common feature of all three types of settlement, at least during the early phases, is their agricultural character, although since the 1980s many of these settlements have branched out into industry and tourism, while some of their members have begun to work as salaried employees in the adjacent urban centers. There are currently nine kibbutzim, thirteen moshavim and nine cooperative moshavim in the West Bank.⁴⁵

Diagram 4
Settlements in the West Bank, by Type



Unlike cooperative settlements, *community settlements* began as a form of settlement unique to the Occupied Territories, and as an initiative of Gush Emunim and its settlement wing (Amana).⁴⁶ The legal framework is a cooperative association registered with the Registrar of Associations, managed by its general meeting and usually comprising some 100-200 families. Like the kibbutz and the cooperative moshav, the community settlement absorbs new members by a clearly defined process at the end of which the general meeting decides whether to accept the candidates. Most of the members of the community settlements are middle-class settlers employed in white-collar positions in nearby cities

45. The number of settlements in each category is based on the definition of the "type of settlement" adopted by the Central Bureau of Statistics.

46. At a later stage, community settlements also began to be established within Israel, particularly in the Galilee.

within Israel.⁴⁷ Sixty-six settlements throughout the West Bank, particularly in the Mountain Strip and the Jerusalem Metropolis, are defined as community settlements.

The remaining settlements are *regular urban* or *rural settlements* managed by local committees or councils elected by the residents. These settlements do not carry out any special procedures for membership or any cooperative financial frameworks. However, the smaller the settlement the greater the homogeneity among its members (in terms of religious/secular identity, economic status, origin, etc.) The exceptions to this rule are the ultra-Orthodox settlements of Betar Illit (15,800 residents) and Modi'in Illit (16,400 residents); though among the largest of all the settlements, these are almost completely homogenous in demographic terms. The Central Bureau of Statistics defines a settlement as "urban" if its population is 2,000 or more, while rural settlements are those with fewer than 2,000 inhabitants. There are currently twelve settlements defined as rural and thirteen defined as urban; to the latter figure, one should add twelve settlements established in East Jerusalem that operate under the auspices of the Municipality of Jerusalem.

47. For more detailed discussion on the characteristics of this form of settlement and the processes that led to its creation, see David Newman, *The Role of Gush Emunim and the Yishuv Kehilati*, Ph.D. dissertation, University of Durham, 1981, Chapter 5.

Photo 1 Hinanit (top) and Shaqed (bottom): municipal boundaries



Photo 2 Tapuah: municipal boundaries



Photo 3 Rimmonim: municipal boundaries



Photo 4 Ez Efrayim: municipal boundaries



Photo 5 Pesagot (on the right), Ramallah and al-Bira (on the left)



Photo 6 Ma'ale Addumim: built-up area and land reserves



Photo 7 Har Homa: construction stage



Photo 8 Har Adar: built-up area and expansion area



Photo 9 Alone Shilo Farm (bottom) outpost with Qarne Shomeron and Kafr Laqif in the background



Photo credit: Milotin Levodowitz (Peace Now)

Photo 10 Mizpe Keramim outpost, near Kokhav Hashahar



Photo credit: Milotin Levodowitz (Peace Now)

Photo 11 Nili



Photo 12 Qedar



Photo 13 The Tunnels Road

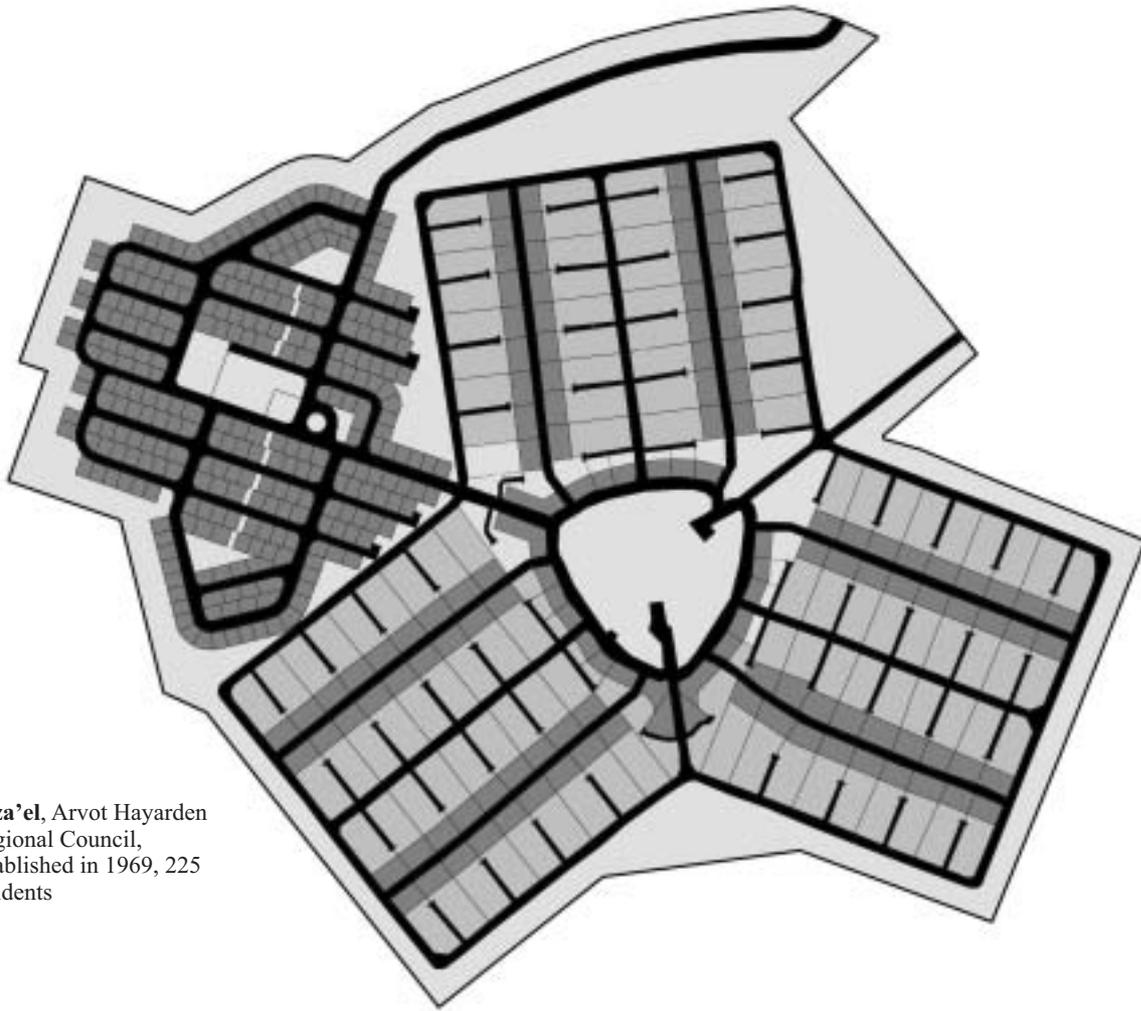


Photo 14 IDF soldiers during Operation Defensive Shield, the Itamar settlement in the background



Photo credit: Anonymous

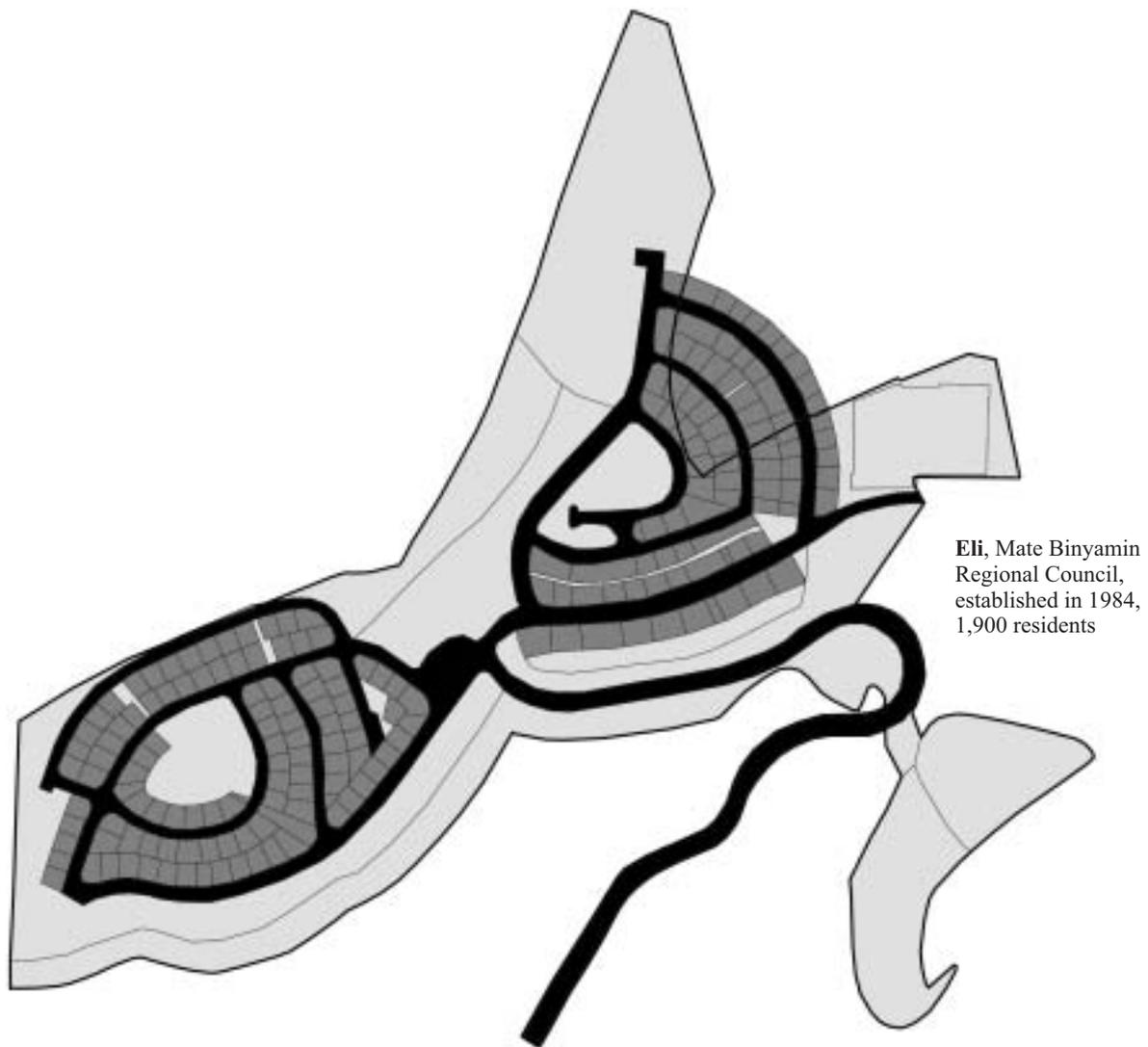
Types of Settlements: Planning Structure



Peza'el, Arvot Hayarden
Regional Council,
established in 1969, 225
residents

Cooperative Settlement

Most of the settlements in the Jordan Valley are similar in form to the cooperative settlements within Israel. Unlike the other kinds of settlements, the planning of cooperative settlements is affected primarily by its social organization and less by topography or the restrictions associated with land ownership (state land, contiguity). The geometric form of the settlement reflects an egalitarian division of the land among the members of the settlement (moshav), in which each plot lies adjacent to the owner's house. Peza'el was initially divided into three sections built around the social and administrative center of the moshav. At a later stage, the moshav constructed a new residential area intended for the next generation (the children and their families) of settlers.



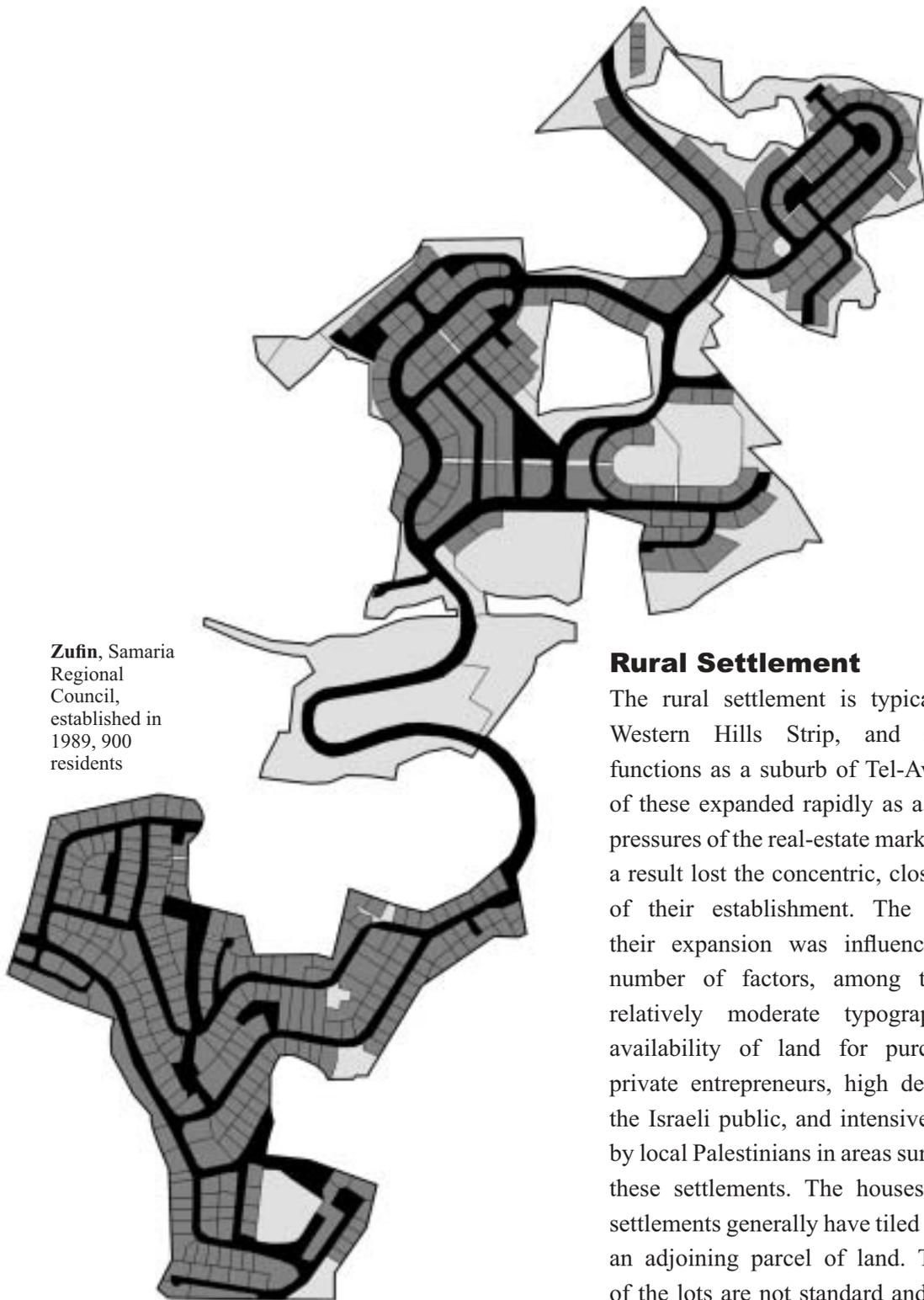
Community Settlement

Most of the community settlements were established on mountainous terrain and their shape was primarily determined by topographical constraints. A typical layout of such settlement is concentric circles along the contour line around the perimeter of the summit. The houses are mostly single-family homes of one or two stories with tiled roofs, constructed perpendicular to the contour lines and with a view of the landscape. The lots allocated to each house are identical - approximately half a dunam [1/8 of an acre]. The social and administrative center of the settlement is usually located in the inner circle, at the highest point. The settlement Eli, which lies on Road No. 60 halfway between Ramallah and Nablus, is a typical community settlement. It spreads out over two adjacent mountain peaks.



Urban Settlement

The urban settlements are located mostly in the Jerusalem Metropolis or adjacent to it (most of them within the Jerusalem Municipality). However, urban settlements are also found elsewhere in the West Bank. These settlements were planned to create rapid demographic change in areas intended for annexation into Israel, or as a large regional service center for clusters of smaller settlements. The settlements include joint-terrace housing or cooperative multi-story buildings. As a result, the housing density is high in comparison with more rural settlements. The form of the urban settlements was also influenced by topography and the constraints of land ownership. The winding shape of the Giv'at Ze'ev settlement, located northwest of Jerusalem, illustrates the effect of these constraints.



Zufin, Samaria Regional Council, established in 1989, 900 residents

Rural Settlement

The rural settlement is typical in the Western Hills Strip, and generally functions as a suburb of Tel-Aviv. Most of these expanded rapidly as a result of pressures of the real-estate market, and as a result lost the concentric, closed shape of their establishment. The form of their expansion was influenced by a number of factors, among them the relatively moderate topography, the availability of land for purchase by private entrepreneurs, high demand by the Israeli public, and intensive farming by local Palestinians in areas surrounding these settlements. The houses in rural settlements generally have tiled roofs and an adjoining parcel of land. The sizes of the lots are not standard and reflect a speculative private-market attitude. The settlement Zufin, northeast of Qalqiliya, was built entirely by private developers. Within the built-up area of the settlement lie two Palestinian enclaves under private ownership.

Chapter Two

The Settlements in International Law

The settlements established throughout the West Bank violate various provisions of international law that are binding on Israel. International humanitarian law prohibits the establishment of the settlements. Breach of this prohibition leads to the infringement of numerous human rights of Palestinians that are set forth in international human rights law. This chapter will describe these principles of international law and then will discuss the prohibition on Palestinian attacks against settlers.

A. International Humanitarian Law

International humanitarian law sets forth the rules applying to states during times of war and occupation. The settlements in the Occupied Territories breach two primary instruments of this branch of law: the Hague Convention on the Laws and Customs of War on Land, and its attached Regulations, of 1907 (hereafter: the Hague Regulations), and the Fourth Geneva Convention Relative to Civilian Persons in Time of War, of 1949 (hereafter: the Fourth Geneva Convention).

Israel's official position is that international humanitarian law is not fully binding on its actions in the Occupied Territories. Its position was established in 1971 by then Attorney General Meir Shamgar.⁴⁸ According to Shamgar, humanitarian law does not apply to the West Bank and the Gaza Strip because their annexation by Jordan and Egypt never received international recognition. Thus, the land occupied was not "the territory of a High Contracting Party," a requirement for application of the Geneva Convention. Therefore, Israel argued, it was not obliged to comply with the Fourth Geneva Convention. However, Israel undertook to comply with what it referred to as the "humanitarian provisions" of the Fourth Geneva Convention, although it never specified what constituted the convention's "humanitarian provisions."⁴⁹ It is interesting to note that, unlike Shamgar's original position, Israeli officials generally refrain from questioning the application of the Hague Regulations to the Occupied Territories, although the identical problem of application exists.⁵⁰

Israel's position has never gained any support in the international arena and even is rejected by Israelis to a significant degree. The International Red Cross, the UN, and the vast majority of states and international law experts have often stated that the Fourth Geneva Convention is binding on Israel in its activity in the Occupied Territories.

Israel's Supreme Court has ruled that application of the laws of occupation depends on effective military control from outside the borders of the state, and not on prior sovereignty over the territory by a specific state.⁵¹ This test is preferable to the "sovereignty test" because in many cases, "border disputes are legal

48. Meir Shamgar, "The Observance of International Law in the Administered Territories," 1 *Israel Yearbook of Human Rights* (1971) 262, esp. pp. 262-266.

49. Yahav *et al.*, *Israel, the "Intifada" and the Rule of Law* (Tel-Aviv, 1993), p. 22.

50. Eyal Zamir and Eyal Benvenisti, *"Jewish Lands" in Judea, Samaria, the Gaza Strip, and East Jerusalem* (in Hebrew) (Jerusalem: Jerusalem Institute of Israel Studies, 1993), p. 62.

51. HCJ 785/87, *Afo v. Commander of IDF Forces in the West Bank*, Piskei Din 42(2) 4.

disputes over the status of the occupied territory. In this situation, subordinating the laws of belligerent seizure to a legal test would neutralize their application," in that it would be interpreted as a waiver of rights in the occupied territory.⁵²

Fourth Geneva Convention

Article 49 of the Fourth Geneva Convention explicitly states that, "The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies." The most accepted interpretation of this convention is the commentary prepared by the International Red Cross. According to the commentary on this section, "It is intended to prevent a practice adopted during the Second World War by certain Powers, 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."⁵³

Israel rejects the contention that the settlements in the West Bank are prohibited by Article 49. In the words of the Israeli Ministry of Foreign Affairs:

- The provisions of the Geneva Convention regarding forced population transfer to occupied sovereign territory cannot be viewed as prohibiting the voluntary return of individuals to the towns and villages from which they, or their ancestors, had been ousted....
- It should be emphasized that the movement of individuals to the territory is entirely voluntary, while the settlements themselves are not intended to displace Arab inhabitants, nor do they do so in practice.⁵⁴

The Ministry's comments contain several legal and factual errors and distortions.

Firstly, according to the Fourth Geneva Convention, the absence of the element of force in the transfer of Israelis into the occupied territory does not legitimize the transfer. Unlike the prohibition on deporting local residents from the occupied territory, which is found at the beginning of Article 49 and forbids the "forcible transfer" of protected persons, the end of the article states that the occupying state "shall not deport *or transfer* parts of its own civilian population into the territory it occupies" (our emphasis). The word "forcible" is absent from this latter prohibition. The prohibition on transferring a civilian population from the occupying state into the occupied territory is thus broader, and also includes non-forcible transfers.⁵⁵

Secondly, the contention that the transfer of settlers into the occupied territory was not intended to expel local residents and that such expulsion did not in practice take place does not legitimize the settlements. The objective of the last clause of Article 49 is to protect the local residents against another population settling on their land, with all the harm that is derived from such settlement – extraction of natural resources, harm to economic development, restriction of urban development, and the like – and not only to protect them from expulsion.

52. Zamir and Benvenisti, "Jewish Lands," p. 63.

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

54. Israel Ministry of Foreign Affairs, *Israeli Settlements and International Law*, May 2001, www.israel-mfa.gov.il.

55. B'Tselem, *Israeli Settlement in the Occupied Territories as a Violation of Human Rights: Legal and Conceptual Aspects* (March 1997), p. 18.

Thirdly, the term "voluntary transfer" is deceiving. Even if the transfer is not forced or does not constitute deportation, the willingness of the civilians to move to the Occupied Territories could not have been implemented without the state's massive intervention in establishing and expanding the settlements. As this report shows, a number of state authorities initiated, approved, and seized land, and planned and financed the vast majority of the settlements. Although in some cases the initial initiative was made by entities unrelated to the state, such as Gush Emunim, and faced governmental opposition, the government ultimately approved the settlement retroactively and provided organizational and financial support. Furthermore, as will be shown in Chapter Five, the government has always offered diverse financial incentives to encourage Israelis to move to the Occupied Territories.

Fourthly, the historic or religious ties of the Jewish people to the West Bank, mentioned in the Ministry of Foreign Affairs document, cannot legitimize a flagrant breach of Israel's duties under international humanitarian law. The vast majority of the settlements was not intended as a "return to towns and villages" (in the Ministry's language) or even as a return to sites populated by Jews prior to 1948, but were entirely new settlements. This "return" was not done by weaving settlers into the existing pattern of life in the area. Rather, it was done by creating a separate and discriminatory (physical and legal) system between the settlers and the Palestinians.

It should be noted that the Jews who fled or were expelled from certain places in the West Bank during the 1948 war, and who lost their property as a result, may, in the context of a peace arrangement or any other arrangement, demand restitution of their property or compensation. However, this right is completely unrelated to Israel's settlement policy.

Hague Regulations

A fundamental principle of humanitarian law, and of the Hague Regulations in particular, is the temporary nature of military occupation. It is the temporary nature of occupation that dictates the limitations on the occupier in creating permanent facts in the occupied territory.⁵⁶

The Supreme Court held that, because the occupying state is not the sovereign in the territory under occupation and its administration there is temporary, it may take into account only two factors: security needs and the welfare of the local population.⁵⁷ In the words of Justice Aharon Barak:

The Hague Regulations revolve about two main pivots: one – ensuring the legitimate security interest of those holding the land by belligerent occupation; and the other – ensuring the needs of the civilian population in the territory subject to belligerent population... the military commander may not weigh national, economic, or social interests of his country insofar as they have no ramifications on his security interest in the area, or on the interest of the local population. Even military needs are his [i.e., the military commander's] needs and not national security needs in their broad sense.⁵⁸

Indeed, it is hard to imagine a more profound or more permanent change than turning an open landscape (agricultural land, grazing land, or virgin hills) into a populated civilian community. The permanence of

56. Yoram Dinstein, *Laws of War* (in Hebrew) (Tel-Aviv: Schocken and Tel-Aviv University, 1983), pp. 209-220.

57. HCJ 393/82, *Jam'iyyat Iskan al-Mu'aliman al-Mahddudat al-Mas'uliyah v. Commander of IDF Forces*, *Piskei Din* 37(4) 785.

58. *Ibid.*, p. 794.

such change results not only from the enormous investment in buildings, infrastructure, and roads, but also from the ties of the lives of entire families to a particular place.

To sidestep the prohibitions mentioned above, Israel argued that the settlements were not permanent changes in the occupied territory. Even the Supreme Court has sanctioned this claim. For example, in a decision regarding the requisition of privately-owned land to establish the Bet El settlement, Justice Miriam Ben-Porat noted that the term "permanent community" is a "purely relative concept."⁵⁹ She made this comment although the building of permanent civilian communities and civilian neighborhoods is one of the most obvious examples of permanent change. This interpretation of the prohibition on creating permanent facts renders meaningless the relevant provisions of international law.

Because it is clear that the settlements were not intended to benefit the Palestinians, Israel's main justification prior to 1979 for the expropriation of privately-owned land was that it was intended to meet "pressing security needs."

There has been constant debate in the army as to whether the settlements contribute to Israel's security. In any event, it is clear that even if some military benefit arose from certain settlements, meeting security needs was not the reason for the establishment of the vast majority of them. As shown in the previous chapter, Israel's settlement policy was formed on the basis of political, strategic, and ideological reasons completely unrelated to security needs within the narrow meaning of the term. According to Major General (res.) Shlomo Gazit, who was the first coordinator of government operations in the Occupied Territories:

It was clear that the Israeli settlements in the territories, and especially in the densely-populated areas, have far-reaching political consequences. These settlements are intended to establish new facts to affect the future political solution. It was clear that establishment of the Israeli civilian settlements is a kind of statement of policy, whose weight is not much less than the Knesset's decision in 1967 to annex East Jerusalem: this settlement was established on land from which Israel does not intend to withdraw.⁶⁰

In this context, it should be noted that one of the functions of the IDF's NAHAL brigades is to establish military settlement posts. Even though these posts may exist for many years and the soldiers based there are not involved in military actions, they are not permanent encampments. The soldiers remain there only during their army service and do not establish their home on the site. This kind of settlement does not violate international law.⁶¹ However, most of these NAHAL encampments were in practice a preliminary stage in the establishment of permanent civilian settlements on the sites.

In establishing settlements since 1979 (the Elon Moreh case), Israel has not used land that was expropriated on grounds of security needs. Rather, it has used land defined as state land (see Chapter Three). Even if these lands indeed belonged to the government of Jordan – which is doubtful in many instances – their use for settlements violates the Hague Regulations.

Article 55 of the Hague Regulations states the rules relating to the permitted use of government property under the control of the occupier:

59. HCJ 258/79, *Ayyub et al v. Minister of Defense et al.*, *Piskei Din* 33(2) 113 (hereafter: *Bet El*).

60. Gazit, *Fools in a Trap*, p. 217.

61. Dinstein, *Laws of War*, p. 226.

The occupying State shall be regarded only as administrator and usufructuary of public buildings, real estate, forests, and agricultural estates belonging to the hostile State, and situated in the occupied country. It must safeguard the capital of these properties and administer them in accordance with the rules of usufruct.

The terms "administrator" and "usufructuary" indicate the right of the occupying state to manage the properties of the state it occupies and use them to meet its needs subject to certain limitations. These limitations are derived from the temporary nature of the occupation and the lack of sovereignty of the occupying state. Therefore, the occupying state is forbidden, *inter alia*, to *change the character and nature* of the governmental properties (in the context of the settlements, state land), except for security needs or for the benefit of the local population.⁶²

As noted above, the settlements permanently and significantly change the character of the state lands on which they are built. Because the settlements do not meet either of the two exceptions, their establishment constitutes a flagrant violation of Article 55 of the Hague Regulations.

B. International Human Rights Law

The fundamental breach of international law described above has repercussions that also constitute human rights violations. This part of the report briefly sketches the provisions of international law that Israel violates by allowing the presence of the settlements and settlers, and refers to the chapters of the report that examine each of the violations in detail.

The fundamental human rights, as they appear in the Universal Declaration of Human Rights, were drafted in two international conventions that the UN adopted in 1966: the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Israel signed and ratified both of these covenants. The two UN committees responsible for interpreting the covenants and monitoring their implementation have unequivocally stated that these covenants apply to all persons over whom the signatory states have control, regardless of sovereignty. Furthermore, the two committees expressly stated that they also apply to Israel in regards to its actions in the West Bank.⁶³

Right to Self-Determination

The first article, which is common to both covenants, states:

1. All peoples have the right to 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... In no case may a people be deprived of its own means of subsistence.

62. Yuval Ginbar, "The Belligerent Occupant as a Usufructuary and Israeli Settlements on 'State Lands' in the West Bank and Gaza Strip," unpublished paper submitted to the University of Essex, England, March 1996.

63. See the concluding comments that the two committees issued after their hearings on reports that Israel submitted: Committee on Economic, Social and Cultural Rights, 19th Session, E/C.12/1/Add.27; Committee on Human Rights, 63rd session, 1998, CCPR/C/79/Add93.

In recent years, the Israeli government, the Palestinian Authority, and most of the international community have agreed that the proper framework for realizing the right to self-determination of the Palestinian people is the establishment – alongside the State of Israel – of an independent Palestinian state in the West Bank and Gaza Strip.

Chapter Seven of this report presents a map of the West Bank that delineates the areas currently held by settlements and their jurisdictional areas that are closed to Palestinians. The map shows that many settlements block the territorial continuity of dozens of Palestinian enclaves, which are currently defined as Areas A and B. This lack of contiguity prevents the establishment of a viable Palestinian state, and therefore prevents realization of the right to self-determination.

Also, as is shown in Chapter Seven, the settlements deny the Palestinian people a substantial portion of two resources that are vital to urban and economic growth – land and water. This phenomenon is conspicuous in the Jordan Valley, which contains significant land and water reserves that are extensively used by the settlements in that area.

Right to Equality

The right to equality is one of the pillars of human rights. It is set forth in the second article of the two covenants, and in the second article of the Universal Declaration of Human Rights, as follows:

1. Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
2. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

This report, particularly Chapter Four, demonstrates how Israel has used laws, regulations, and military orders to carry out an undeclared annexation of the settlements into the State of Israel. The annexation's direct effect is the application of different legal systems, and different protections, to the Jewish and Palestinian populations living in the same territory. Whereas the settlers benefit from their status as citizens of a democratic state and enjoy all the rights that accompany citizenship, the Palestinians live under a military occupation that denies them these rights.

The transfer of certain powers to the Palestinian Authority in the context of the Oslo Accords changed matters only slightly. Most Palestinians are still exposed to the bureaucratic controls of the Israeli occupation, and the IDF is still able to impose, for example, broad restrictions on movement, to restrict entry and exit from the Occupied Territories, and to detain Palestinians. The settlers, on the other hand, remain subject to total civilian control, just like Israeli citizens living within the Green Lines, and are not subject to the Palestinian Authority in any matter. This situation, in which an individual's rights are determined according to his or her national identity, constitutes a flagrant breach of the right to equality.

Right to Property

The right to property is vested in Article 17 of the Universal Declaration of Human Rights, which provides:

1. Everyone has the right to own property alone as well as in association with others.
2. No one shall be arbitrarily deprived of his property.

Protection of private property is well grounded in international humanitarian law, and is found, *inter alia*, in the Hague Regulations (Article 46) and in the Fourth Geneva Convention (Article 53). Israeli law recognizes this right in Section 3 of the Basic Law: Human Dignity and Liberty, which provides: "There shall be no violation of the property of a person."

Chapter Three discusses the legal-bureaucratic system that Israel created to control the land intended for the establishment and expansion of settlements. Because some of these lands were privately or collectively owned by Palestinians, and the settlements were illegal from their inception, a significant proportion of the seizures of land infringed the Palestinians' right to property. Furthermore, the procedures Israel used in taking over the land entailed flagrant, arbitrary breaches of due process.

Right to an Adequate Standard of Living

Article 11 of the International Covenant on Economic, Social and Cultural Rights states:

The States Parties to the present Covenant recognize the right of everyone 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.

Chapter Seven discusses a common phenomenon in various areas of the West Bank: the location of settlements very close to Palestinian towns and villages, thus limiting their urban development, at least in one direction of possible expansion. In some cases, the settlement is purposely situated on the side of the Palestinian community that is the natural direction of expansion for the particular community. This phenomenon is analyzed in Chapter Eight, which examines the effect of the Ari'el settlement on Palestinian residents in the area.

Another phenomenon that affects the urban-development options available to the Palestinians is the discriminatory use of physical planning, which is discussed in Chapter Six. Israel has used military legislation to change the planning mechanism that was previously in effect. This change was intended primarily to serve the interests of the Israeli administration and the settlers, while almost totally ignoring the needs of the Palestinian population.

In some areas, the blocking of Palestinian urban development has created housing shortages and an increase in population density. These hardships resulted in part from Israel's settlement policy and discriminatory planning system, and consequently infringed the Palestinian's right to adequate housing and continuous improvement of living conditions.

As emphasized in Chapter Eight, the seizure of land used for farming or grazing often severely affected the primary source of income of entire families. This harm undoubtedly led to a significant deterioration in the standard of living – a violation under Article 11 of the International Covenant on Economic, Social

and Cultural Rights, quoted above – and of Article 6 of the same covenant, which recognizes the right of everyone to work and to make a living through work that he or she freely chooses.

Freedom of Movement

Article 12 of the International Covenant on Civil and Political Rights provides that everyone shall have the right to freedom of movement, without restrictions, in his country. The right to move from place to place is important because movement is necessary to live normally and to exercise many other rights delineated in international law, such as the right to work, health, education, and to maintain family life.

Chapter Seven will show that a substantial proportion of the settlements that were established along the central hill region were set up near Road No. 60, which is the main north-south traffic artery in the West Bank. To ensure the security and freedom of movement of settlers in this area, the IDF set up checkpoints along the road, and from time to time has imposed harsh restrictions on Palestinian movement along certain parts of this road. Since the beginning of the al-Aqsa intifada and the increase in Palestinian attacks on Israeli cars on the roads, the IDF has tightened the restrictions to the point of almost totally preventing Palestinians from traveling on roads used by settlers.

C. Injury to Settlers

Since the beginning of the occupation, the settler population has been a frequent target of attacks by Palestinian residents. The gravity of the attacks varies from stones thrown at cars, which only cause property damage, to shootings and the laying of explosives, which have killed Israeli civilians. The number of attacks increased during the first intifada (1987-1993), and since the beginning of the al-Aqsa intifada, the Palestinian attacks on settlers have been common and increasingly severe.

Palestinian Authority officials and non-governmental organizations have hinted, some even stating openly, that the illegality of the settlements justifies the use of any means to fight them. For example, the Palestinian Authority's Minister for Prisoner Affairs, Heysham 'Abd al-Raze1, justified an attack on a bus transporting school children from the Kfar Darom settlement in the Gaza Strip, which killed two civilians and wounded nine, with five children among the wounded, saying:

The perpetrator of this attack was one of the Palestinian people. We committed it against people who occupy our land. From our point of view, any action against the occupation is legal.⁶⁴

In another case, a number of Palestinian NGOs published a statement in the press saying that the right to oppose the occupation legitimates Palestinian attacks on settlers. The NGOs further stated that the settlements serve a military function and the settlers, therefore, are not entitled to civilian status.⁶⁵ Another argument that Palestinians sometimes raise in this context is that settlers take part in violent attacks against Palestinians, and the Israeli authorities do not intervene and enforce the law.⁶⁶

64. Keith B. Richburg, "Missile Attacks Stoke Palestinian Defiance," *International Herald Tribune*, 22 November 2000.

65. *Al-Quds*, 3 July 2001. The statement was published in condemnation of a B'Tselem press release that condemned attacks on the settlers.

66. For details on settler violence and the failure to enforce the law against them, see B'Tselem, *Law Enforcement vis-a-vis Israeli Civilians in the Occupied Territories*, March 1994; B'Tselem, *Tacit Consent: Israeli Law Enforcement on Settlers in the Occupied Territories*, March 2001; B'Tselem, *Free Rein: Vigilante Settlers and Israel's Non-Enforcement of the Law*, October 2001.

Arguments of these kinds undermine the fundamental principles of international human rights law and international humanitarian law. These principles are part of international customary law, which binds all persons and all groups, and not only the states that are party to the relevant conventions. The right to combat the occupation in general and the settlements in particular does not justify disregard for these fundamental principles.

The infliction of extensive injuries on settlers is a flagrant breach of the right to life and security of person, which is vested in Article 3 of the Universal Declaration of Human Rights and in Article 6 of the International Covenant on Civil and Political Rights. Also, one of the fundamental principles of international humanitarian law is the duty to distinguish between combatants and civilians who do not take part in the combat. As a collective, the settler population, which includes children, clearly comprises a civilian population. As such, it is not part of the IDF forces. Particular settlers belong to the security forces, but this fact does not affect the civilian status of the other settlers, who are not legitimate targets of attack.

The Palestinian NGOs' argument that the settlements and settlers all serve Israel's military needs is imprecise. As Chapter Three will show, Israel made the same argument to justify the legality of the requisition of privately-owned Palestinian property to establish settlements. However, in 1979, the High Court rejected this argument (see the discussion on *Elon Moreh* below); since then, Israel has not used this argument. Paradoxically, if the Palestinians' argument (and Israel's argument until 1979) that the settlements were established to meet military needs is correct, the settlements would not breach international law.

Independent attacks on Palestinians by settlers do not affect the civilian status of the attackers, and certainly not that of their families and neighbors in the settlements. That status does not affect, of course, the right of Palestinians under attack to use the force necessary to defend themselves against the attackers.

Chapter Three

The Land-seizure Mechanisms

Since the beginning of the occupation, Israel has taken control of hundreds of thousands of dunam [four dunam = 1 acre] throughout the West Bank, with the primary objective of establishing settlements and providing reserves of land for their expansion. It has done this by means of a complex legal-bureaucratic mechanism whose central element is the declaration and registration of land as "state land." In addition, Israel uses three complementary methods to seize control of land: requisition for military needs, declaration of land as abandoned property and the expropriation of land for public needs. In addition, Israel has also helped its Jewish citizens to purchase land on the free market for the purpose of establishing new settlements.⁶⁷ Using these methods, Israel has seized control of some fifty percent of the West Bank, excluding East Jerusalem (see the map).

Despite the diverse methods used, they have all been perceived, and continue to be perceived, by all the relevant bodies – viz., the Israeli government, the settlers and the Palestinians – as a single mechanism serving a single purpose: the establishment of civilian settlements in the Occupied Territories. This reality is clearly illustrated in those cases where the land on which certain settlements are constructed is composed of a patchwork quilt of plots that Israel seized by several different methods. Thus, for example, the area of the settlement of Shilo (as of 1985) comprised some 740 dunam seized for military needs, approximately 850 dunam were declared state land, and 41 dunam were expropriated for public needs.⁶⁸

The establishment of civilian settlements in the Occupied Territories is prohibited by the Fourth Geneva Convention and the Hague Regulations. Because this was precisely the purpose behind the mechanism used to seize control of land in the West Bank, the seizure itself also constitutes a violation of international humanitarian law. In taking control of the land, Israel also flagrantly breaches fundamental principles of natural justice that are enshrined in numerous rulings of the High Court.

Exclusively using the seized lands to benefit the settlements, while prohibiting the Palestinian public from using them in any way, is forbidden and illegal in itself. This would be the case even if the process by which the lands were seized were done fairly and in accordance with international and Jordanian law. This exclusive use of the lands has severely limited Palestinian potential for urban and agricultural development (see Chapter Seven). As the occupying force in the Occupied Territories, Israel is not entitled to determine the designated use of public land in a manner that ignores the needs of an entire population.

67. Many of the technical terms in this chapter might well be placed in inverted commas, given the distance between their apparent meaning and the actual use that has been made of them in the field. We have refrained from doing so since our main aim in this chapter is precisely to illustrate the use of legal mechanisms for purposes other than those for which they were intended.

68. Usamah Halabi, Aron Turner and Meron Benvenisti, *Land Alienation in the West Bank: a Legal and Spatial Analysis* (Jerusalem: The West Bank Data Project, 1985), p. 85.

As a general rule, the High Court has cooperated with the mechanism used to seize control of land, and has played an important role in creating an illusion of legality. Initially, the Court accepted the state's argument that the settlements met urgent military needs, so that the state was allowed to seize private land to establish them. When the process of declaring land as state land began, the High Court refused to intervene and prevent the new process.

Each of these methods rests on a different legal foundation, combining in different ways and degrees the legislation existing prior to the Israeli occupation, including remnants of Ottoman and British Mandate law absorbed into the Jordanian legal system, and orders issued by Israeli military commanders. This chapter will discuss the legal background of each of the methods of seizure and outline the modalities in which Israel implemented them.

A. Seizure for Military Needs

Humanitarian customary law obliges the occupying power to protect the property of residents of the occupied area and prohibits it from expropriating it.⁶⁹ However, an occupying power may take temporary possession of privately-owned land and buildings belonging to the residents of the occupied area in order to house its military forces and administrative units. Such seizure is by definition temporary; accordingly, the occupying power does not acquire property rights in the requisitioned land and buildings, and is not entitled to sell them to others. Moreover, the occupying power is obliged to pay compensation to the owners for the use of their property.⁷⁰

On the basis of this exception, Israeli military commanders issued dozens of orders between 1968-1979 for the requisition of private land in the West Bank, claiming that it "is required for essential and urgent military needs."⁷¹ During the above-mentioned period, almost 47,000 dunam of private land were requisitioned, most of which were intended for the establishment of settlements. The following settlements were among those established on this land: Matityahu, Neve Zuf, Rimonim, Bet El, Kokhav Hashahar, Alon Shvut, El'azar, Efrat, Har Gilo, Migdal Oz, Gittit, Yitav and Qiryat Arba.⁷²

In several cases, Palestinian residents petitioned the High Court of Justice against the seizure of their land, claiming that the use of this land for the purpose of establishing settlements is contrary to the requirements of international humanitarian law.⁷³ Until the judgment regarding Elon Moreh (see below), the High Court rejected all these petitions and accepted the state's argument that the land seizure was legal because the settlements performed key defense and military functions. According to Justice Vitkon:

In terms of the purely security-based consideration, there can be no questioning that the presence in the administered territory of settlements – even "civilian" – of the citizens of the administering power makes a significant contribution to the security situation in that territory, and facilitates the

69. See, *inter alia*, Article 46 of the Regulations Attached to the Hague Convention (IV) Respecting the Laws and Customs of War on Land, of 1907, and Article 53 of the Fourth Geneva Convention.

70. This norm is not stated explicitly, but may be deduced from the accepted interpretation of the Hague Regulations. See Yoram Dinstein, *Laws of War*, p. 234.

71. This is the standard formula that appears in the orders. For example, see *Bet El*, *supra*, footnote 59.

72. Halabi *et al.*, *Land Alienation in the West Bank*, p. 83.

73. The best known petitions are *Bet El*; H CJ 834/78, *Salama et al. v. Minister of Defense et al.*, *Piskei Din* 33(1) 971; H CJ 258/79, *Amira et al. v. Minister of Defense et al.*, *Piskei Din* 34(1) 90.

army's performance of its function. One need not be an expert in military and defense matters to appreciate that terrorist elements operate more easily in territory occupied exclusively by a population that is indifferent or sympathetic to the enemy than in a territory in which there are also persons liable to monitor them and inform the authorities of any suspicious movement. With such people the terrorists will find no shelter, assistance and equipment. These are simple matters and there is no need to elaborate.⁷⁴

The justices in this case also found no contradiction between the requirement embodied in humanitarian law that the seizure of private land be temporary and not injure the property rights of its owner, and the fact that permanent settlements, including extensive and diverse physical infrastructure, were established on the seized land.⁷⁵

The argument that the settlements serve military needs could be comfortably adopted under the Ma'arach governments, which acted in accordance with the Alon Plan. Among right-wing circles such as Gush Emunim, however, this argument was perceived as unacceptable. They viewed the settlements in the context of a religious vision; thus, they were not to be justified on security grounds or defined – even for declarative purposes only – as temporary communities. After the rise to power of the Likud in 1977, this approach gained a more central status. Neither Gush Emunim nor certain sections of the Likud-led government were willing to excuse the establishment of the settlements on security grounds, with the concomitant – albeit declarative – definition of these settlements as temporary. This approach, which was supported by some of the ministers in the Likud government that was formed in 1977, eventually led to the ruling in *Elon Moreh*. Following the Court's decision in *Elon Moreh*, the policy of seizing privately-owned land to establish settlements stopped.

The petition in *Elon Moreh* was submitted to the High Court in June 1979 by several residents of the village of Rujeib, southeast of Nablus. The petition asked the court to nullify an order issued by the IDF commander in the region for the requisition of some 5,000 dunam.⁷⁶ The land affected by the seizure order was slated for the establishment of a settlement, named *Elon Moreh*. Work on laying the infrastructure for the settlement began on the same day the order was issued. The state's response, as customary until this case, was that the settlement was planned for military reasons, and accordingly the requisition orders were lawful. In contrast to previous cases, however, settlers who intended to live in *Elon Moreh* joined as respondents to the petition. In an affidavit submitted to the Court, one of the leaders of Gush Emunim, Menachem Felix, explained his perspective regarding the goals of the seizure:

Basing the requisition orders on security grounds in their narrow, technical meaning rather than their basic and comprehensive meaning as explained above can be construed only in one way: the settlement is temporary and replaceable. We reject this frightening conclusion outright. It is also inconsistent with the government's decision on our settling on this site. In all our contacts and from the many promises we received from government ministers, and most importantly from the prime minister himself – and the said seizure order was issued in accordance with the personal intervention of the prime minister – all see *Elon Moreh* to be a permanent Jewish settlement no less than *Deganya* or *Netanya*.⁷⁷

74. *Bet El*, p. 119.

75. See in particular Justice Ben Porat's decision in *Bet El*.

76. HCJ 390/79, *Dweikat et al. v. Government of Israel et al.*, *Piskei Din* 34(1) 1 (hereafter: *Elon Moreh*).

77. *Elon Moreh*, pp. 21-22. *Deganya* and *Netanya* are a kibbutz and a town located within the Green Line.

Chaim Bar Lev, a former army chief of staff, also challenged the argument of military need to establish Elon Moreh. In an affidavit on behalf of the petitioners that was submitted to the Court, Bar Lev stated that, "Elon Moreh, to the best of my professional evaluation, does not contribute to Israel's security."⁷⁸

Against the background of these two affidavits, which undermined the argument of military necessity, and based on the extensive evidence brought before the court regarding the pressure that Gush Emunim applied on the government to approve the settlement, the High Court ordered the IDF to dismantle the settlement and return the seized land to its owners. The immediate result of this ruling was the finding of an alternative site for the establishment of the settlement of Elon Moreh. Beyond this, however, the ruling was a watershed in terms of the legal tools that would henceforth be used by Israel in establishing and expanding settlements.

Since *Elon Moreh*, military seizure orders have not been used for the purpose of the establishment and expansion of settlements. However, this tool has been reintroduced and widely used since 1994 to build bypass roads. This occurred as part of the plans for preparing for the redeployment of IDF forces in the Occupied Territories following the signing of the Oslo Accords between Israel and the Palestinian Authority.

One of the main components of this plan was the construction of an extensive system of bypass roads intended to meet four key needs defined by the Ministry of Defense to facilitate Israeli civilian travel in the Occupied Territories: to enable them to travel in the Occupied Territories without passing through Palestinian population centers; to permit Israelis to travel across the Green Line by the shortest route; to maintain "an internal fabric of life" within the Israeli settlement blocs; and to ensure that Palestinian traffic did not pass through the settlements.⁷⁹ According to an examination undertaken by the State Comptroller, between August 1994 and September 1996, the army issued requisition orders in the framework of this plan for 4,386 dunam of private land, for the purpose of constructing seventeen bypass roads.⁸⁰

In one case, Palestinian residents petitioned the High Court against requisition orders issued for their land. They claimed, *inter alia*, that the construction of bypass roads for the settlements could not be considered a military need. The court rejected the petition, accepting the state's argument that the construction of the roads was needed for "absolute security needs."⁸¹

After the outbreak of the al-Aqsa intifada, toward the end of 2000, a new wave of land requisition through military orders began. Private lands were seized to construct new bypass roads to replace old roads or bypass roads that were no longer safe.⁸² The new roads were intended to meet the needs of the settlers who, since the beginning of the new intifada, had suffered repeated attacks from Palestinians while traveling on the roads. According to one press report, eight new bypass roads are currently in various phases of construction, at a total cost of NIS 228 million.⁸³

78. *Elon Moreh*, p. 24.

79. State Comptroller, *Annual Report 48* (in Hebrew) (Jerusalem, 1998), pp. 1032-1033.

80. State Comptroller, *Annual Report 48*, p. 1036. Other bypass roads included in this plan were constructed on land seized through orders of expropriation for public purposes, a method discussed below.

81. H CJ 2717/96, *Wafa et al. v. Minister of Defense et al.*, *Piskei Din* 50(2) 848.

82. For example, see a report on the requisition of some three hundred dunam of land in the vicinity of al-Khadr on 5 September 2001 (ARIJ, *A New Military Order to Seize 300 Dunam of al-Khader Village*, September 2001, www.poica.org).

83. Ze'ev Schiff, "The Foolish March of the Bypass Roads," *Ha'aretz*, 15 February 2002. The roads being paved are the Teqoa-Noqedim road (Za'tara bypass), the road leading to the northern entrance of Efrat, the road joining Eli-Zahav and the Trans-Samaria Highway, the Ari'el-Yatma road, the bypass road near Negohot, the 'Auja bypass road, the road bypassing Ya'bad from the west, the Qedar-Ma'ale Adummim road.

B. Declaration of Land as State Land

The need to cope with the increasing number of High Court of Justice petitions, combined with the potential – actualized in the Elon Moreh case – that the court might thwart the establishment of a settlement, led to pressure on the government from the settlers and right-wing parties to find another way to seize land in the West Bank. The solution was found through the manipulative use of the Ottoman Land Law of 1858 (hereafter: the Land Law).⁸⁴ By this method, approximately forty percent of the area of the West Bank was declared state land. According to Pliya Albeck, former head of the Civil Department in the State Attorney's Office, approximately ninety percent of the settlements were established on land declared state land.⁸⁵

The legal foundation used by Israel to undertake this procedure is based on two key articles from the 1907 Hague Regulations. The first, Article 43, requires the occupying power to respect the laws applying in the occupied territory. The essential elements of the Land Law were adopted first by British Mandate legislation, and later by Jordanian legislation, and accordingly continued to apply at the time of the Israeli occupation in 1967. The second foundation is Article 55, which permits an occupying power to manage the properties of the occupied country (in the occupied territory) and to derive profits therefrom, while at the same time maintaining the value and integrity of those properties.⁸⁶ On the basis of this clause, Israel has argued that the establishment of the settlements is a lawful act of deriving profits which, in addition, contributes to maintaining the properties of the Jordanian government.⁸⁷

The use of state land for the establishment and expansion of settlements, unlike the use of private lands seized under the pretext of military needs, has enabled the High Court to avoid the issue. Petitions filed by Palestinians against the process of declaring land as state land and against the existence of the appeals committee (see below) were rejected by the High Court, which affirmed the legality of mechanisms.⁸⁸ After recognizing the state's right to these lands, the High Court refused to acknowledge the Palestinians' right to object to their use, claiming they could not prove that they personally were injured. As no petitions have ever been filed to the High Court challenging the legality of the settlements under the Hague Regulations, the High Court has never had to state its position on this issue.

The Ottoman Land Law

The Ottoman Land Law defines five types of possession or ownership of land.⁸⁹

Mulk refers to completely privately-owned land. The proportion of land in the West Bank that is defined as *mulk* is negligible, and found mainly within the built-up area of towns.⁹⁰ *Waqf* lands include two sub-types: land intended for religious or cultural activities and land used for all other purposes, which

84. This law was valid within Israel until its replacement in 1970 by a different law passed by the Knesset, The Lands Law, 5729-1969.

85. Pliya Albeck, *Lands in Judea and Samaria* (in Hebrew) (lecture at Bet Hapraklit on 28 May 1985, Israel Bar Association), p. 5.

86. For discussion of the detailed provisions incumbent on the occupying power regarding government property in an occupied territory, see Dinstein, *Laws of War*, pp. 230-231.

87. Albeck, *Lands in Judea and Samaria*, pp. 8-9; Eyal Zamir, *State Lands in Judea and Samaria – a Legal Review*, No. 12 (in Hebrew) (Jerusalem: Jerusalem Institute for Israel Studies, 1985), p. 42.

88. See, for example, see HJC 81/285, *Fadil Muhammad a-Nazar et al v. Commander of Judea and Samaria et al.*, *Piskei Din* 36 (1) 701.

89. *Planning, Building and Land Laws in Judea and Samaria*, ed. Maj. Aharon Mishnayot (Judge Advocate's Office and Civil Administration of Judea and Samaria) (in Hebrew), p. 425.

90. Kenneth Stein, *The Land Question in Palestine, 1917-1939* (Chapel Hill: University of North Carolina Press, 1984), p. 11.

are protected against confiscation according to the laws of Islam.⁹¹ In general, Israel has refrained from taking control of both these types of land.

Miri lands are those situated close to places of settlement and suitable for agricultural use. A person may secure ownership of such land by holding and working the land for ten consecutive years.⁹² If a landowner of this type fails completely to farm the land for three consecutive years for reasons other than those recognized by the law (e.g., the landowner is drafted into the army, or the land lays fallow for agricultural reasons), the land is then known as *makhlul*. In such a circumstance, the sovereign may take possession of the land or transfer the rights therein to another person. The rationale behind this provision in the Land Law was to create an incentive ensuring that as much land as possible was farmed, yielding agricultural produce which could then be taxed.⁹³

Mawat ("dead") land is land that is half an hour walking distance from a place of settlement, or land where "the loudest noise made by a person in the closest place of settlement will not be heard."⁹⁴ According to the legal definition, this land should be empty and not used by any person. In this case, the sovereign is responsible for ensuring that no unlawful activities take place in such areas.⁹⁵ *Matruka* land is land intended for public use, where "public" may mean the residents of a particular village, as in the case of grazing land or cemeteries, or all the residents of the state, as in the case of roads.⁹⁶

An additional method of ownership, known as *musha'a*, exists alongside the above-mentioned types in many parts of the West Bank. According to this method, land is owned collectively by the residents of each village. Each family is responsible for farming a particular section of land during a fixed period, at the end of which the plots of land are rotated.⁹⁷ Although this method was not recognized in the Land Law, or in the British and Jordanian legislation that absorbed the law, it continued to exist.

The Policy

The declaration of land in the West Bank as state land was based on the Order Regarding Government Property (Judea and Samaria) (No. 59), 5727-1967, which authorized the person delegated by the Commander of IDF Forces in the Region to take possession of properties belonging to an "enemy state" and to manage these at his discretion.⁹⁸ This order, issued shortly after the occupation began, was used through 1979 to seize control of land registered in the name of the Jordanian government. Initial examinations revealed a total of approximately 527,000 dunam of such land.⁹⁹ Additional examination of Turkish and British ownership certificates during the first five years of the occupation revealed that an additional 160,000 dunam were eligible for the status of registered state land. Accordingly, through

91. Raja Shehade, *The Law of the Land – Settlement and Land Issues Under Israeli Military Occupation* (Jerusalem: PASSIA, 1993), pp. 15-16.

92. Section 78, *Ottoman Land Law in Planning, Building and Land Laws*, p. 528.

93. Shehade, *The Law of the Land*, pp. 22-23.

94. Section 6, *Ottoman Land Law*, in *Planning, Building and Land Laws*, p. 427.

95. Zamir, *State Land in Judea and Samaria*, p. 18.

96. *Ibid.*, p. 16.

97. Stein, *The Land Question in Palestine*, pp. 14-15.

98. Order Regarding Government Property (Judea and Samaria) (No. 59), 5727-1967, in *Planning, Building and Land Laws*, pp. 520-523.

99. Meron Benvenisti and Shlomo Khayat, *The West Bank and Gaza Atlas*, p. 60.

1979, the Custodian for Government Property (hereafter: the Custodian) considered an area of 687,000 dunam, constituting some thirteen percent of the total area of the West Bank, to constitute state land.¹⁰⁰ The Labor-led governments through 1977 used some of this land to establish settlements within the borders defined in the Alon Plan.

This area included land purchased by Jews (individuals or the "national institutions") prior to 1948. After the 1948 war, this land was held and managed by the Jordanian Custodian of Enemy Property in accordance with the rules established in a Mandatory order from 1939.¹⁰¹ One estimate puts the total area of such land at approximately 25,000 dunam. In quantitative terms, the main concentrations of this land are in Gush Ezyon, to the south of Ramallah, and around Tulkarm. Smaller areas of land in Jerusalem and Hebron also exist.¹⁰²

In December 1979, following *Elon Moreh*, the Custodian began, with the guidance of the Civil Department of the State Attorney's Office, to prepare a detailed survey of all the ownership records currently available at the regional offices of the Jordanian Land Registrar. In addition, the Civil Administration initiated a project to map systematically all areas under cultivation, using aerial photographs taken periodically. This double investigation led to the location and marking of lands that the sovereign was entitled to seize under the Ottoman Land Law and the Jordanian laws that absorbed this law:¹⁰³

- *Miri* land that was not farmed for at least three consecutive years, and thus became *makhlul*;
- *Miri* land that had been farmed for less than ten years (the period of limitation), so that the farmer had not yet secured ownership;
- Land defined as *mawat* due to its distance from the nearest village.

In these investigations, the Custodian located approximately one and a half million dunam,¹⁰⁴ or some twenty-six percent of the area of the West Bank, considered to belong to one of these categories. The stage of locating the land was followed by the process of declaring the land state land, which was composed of several stages. In the first stage, the relevant decisions and documents relating to land earmarked for registration as state land were forwarded to the State Attorney's Office for examination, and for a decision as to whether the land was eligible for such status. If the decision was positive, the Custodian began to act, forwarding the file to the district office responsible for the area in which the land was situated. The Custodian's representative in this office summoned the *mukhtars* from the villages adjacent to the land declared state land, took them for a tour of the intended site and showed them the borders of the area that the Custodian believed was government property.¹⁰⁵ Thus, the Custodian transferred to the *mukhtars* the responsibility for informing those liable to be injured by the Custodian's

100. *Ibid.*, p. 61.

101. For detailed discussion of the legal status of this land, see Zamir and Benvenisti, "*Jewish Lands*."

102. *Ibid.*, p. 27.

103. The Ottoman Land Law was absorbed in Jordanian legislation in a number of laws enacted over the years. However, the law determining which land is to be defined as state land is Law No. 14 of 1961 – The Protection of State Land and Property Law, in *Planning, Building and Land Laws*, pp. 501-502.

104. Benvenisti and Khayat, *The West Bank and Gaza Atlas*, p. 61.

105. Zamir, *State Lands in Judea and Samaria*, p. 33.

decision to seize possession of a particular area. Once the declaration was made, those liable to be injured by the registration had forty-five days to submit an appeal to a military appeals committee.¹⁰⁶

Approximately 800,000 dunam of land were declared and registered during the period 1980-1984.¹⁰⁷ Thereafter, the pace of declaration decelerated, both due to the changes in the composition of the government following the elections (see Chapter One) but mainly because, by this stage, the settlements had already been assured enormous reserves of land for the foreseeable future. Several times B'Tselem requested information from the Israel Lands Administration regarding the scope of lands currently registered as state land, but has not received a reply.

The declaration of hundreds of thousands of dunam in the Occupied Territories as state land was made possible mainly because much land was not registered in *Tabu* [the land registration office]. Although the Ottoman Land Law required the registration of every plot of land, many residents during the period of Turkish rule did not observe this provision. The reasons for this included a desire to preserve the collective ownership system (*musha'a*); a desire to evade tax liability, and an effort to avoid being drafted into the Turkish army.¹⁰⁸ The records that survived from this period are vague, and do not easily permit the identification of a specific plot of land. Only in 1928, during the British Mandate period, was a systematic process introduced to survey all state land and register ownership on the basis of plot identification numbers. The process of regulation continued at an extremely slow pace during the period of Jordanian control of the West Bank. By the time Israel occupied the West Bank, regulation proceedings had been completed for approximately one-third of the area, particularly in the Jenin area and the Jordan Valley.¹⁰⁹ In areas where registration had not been completed, ownership continued to be managed over the years on the basis of the possession of land, and the mutual recognition of the connection of each person to a given plot of land.

At the beginning of the Israeli occupation of the West Bank, a military order was issued halting the process of regulation and registration of the rights of residents of the West Bank to their land.¹¹⁰ Israel justified this delay by arguing that it was necessary to prevent injury to the rights of people who left the area during the war, and were therefore unable to oppose the registration of their land under another person's name.¹¹¹ However, to enable Israel to continue the process of registering land as state land, it was determined that the order would not apply to the registration of state land in the Custodian's name, and the declaration process continued at an accelerated pace on the basis of a Jordanian law of 1964.¹¹² In addition, another military order was issued establishing a Special Land Registry for the registry of transactions in land held by the Custodian. This was done to enable the transfer of the rights of use in land declared state land to one of the settling bodies, i.e., the Ministry of Housing or the World Zionist Organization.¹¹³

106. Order Regarding Appeals Committees (Judea and Samaria) (No. 172), 5727-1967, in *Planning, Building and Land Laws*, pp. 536-541.

107. Benvenisti and Khayat, *The West Bank and Gaza Atlas*, p. 61.

108. Stein, *The Land Question in Palestine*, p. 21.

109. Zamir, *State Land in Judea and Samaria*, p. 27.

110. Order Regarding the Regulation of Land and Water (Judea and Samaria) (No. 291), 5729-1968, in *Planning, Building and Land Laws*, pp. 542-543.

111. Zamir, *State Land in Judea and Samaria*, p. 27. Regarding the measure of sincerity of this justification, see Section C, on absentee property, in the present chapter.

112. Registration of Previously Unregistered Immovable Property Law, No. 6 for 1964, in *Planning, Building and Land Laws*, p. 503.

113. Order Regarding the Registration of Transactions in Certain Lands (Judea and Samaria) (No. 569), 5735-1974, in *Legislation in Judea and Samaria*, ed. Zvi Preisler (in Hebrew) (Jerusalem: Ketubim, 1987), p. 105.

The Appeals Committee

The military appeals committee is composed of three persons appointed by the commander, one of whom must have legal training.¹¹⁴ The central principle guiding the committee in hearing appeals by Palestinian residents against the Custodian's ruling is that the burden of proof always rests with the person claiming that particular land is *not* state land: "If the Custodian has confirmed, in a written certificate bearing his signature, that any property is government property, that property shall be considered government property until proven otherwise."¹¹⁵ If the committee decides to reject an appeal, or if an appeal was not filed on time, the process is completed and the land is registered in the Custodian's name.

The chances that the appeals committee will nullify the process of declaring and registering a Palestinian's land as state land are extremely low. In most cases, the committee merely rubberstamps the military administration's decisions. Since the appeals committee is the only body before which the decisions of the Custodian may be challenged, its existence allowed the Israeli authorities to continue the process of declaring lands as state land on one hand, while claiming that this process was under judicial review on the other hand.

The first obstacle facing Palestinian efforts to prevent the registration of their land as state land was their lack of knowledge of the procedure. The information provided by the *mukhtars* regarding the declared area was often vague because the *mukhtars* themselves received partial information from the Custodian. Another reason for the lack of clarity was that the *mukhtars*, having been appointed by the military, had problematic relations with the residents and often preferred not to act as spokesmen for Israeli decisions. As a result, it was only when the work building the settlement began that the residents were first informed that their land had been declared state land.¹¹⁶ Since actual construction usually began months and even years after the date of declaration, the owners of the land could not turn to the appeals committee because the forty-five day period for filing an appeal had long since passed.

The case of the Makhamara *hamula* [clan] illustrates this problem. Four families from the Makhamara *hamula* jointly held some 280 dunam of land near Yatta (Hebron District), southwest of the Ma'on settlement. The families had farmed the land consistently throughout the years. At the end of 1997, a settler from the settlement of Suseya arrived on the plot of land and erected a caravan. He proceeded to threaten, with firearms, members of the *hamula*, preventing them from reaching the field to farm their land. After the family filed a complaint at the Hebron police station claiming that the settler was trespassing on their land, a clerk representing the Custodian informed them that the area in which the settler from Suseya was living had been declared state land in 1982. For its part, the Mt. Hebron Regional Council added that the land in question belonged to the council, on the basis of a permission contract it had signed with the World Zionist Organization in December 1983.

114. Section 2 of the Order Regarding Appeals Committees (Judea and Samaria) (No. 172), 5728-1967.

115. Section 2C of the Order Regarding Government Property, in *Planning, Building and Land Laws*, p. 522.

116. Since 1983, the *mukhtars* have been the sole source of information for the residents because the Custodian ceased attaching a map to the declaration order defining the borders of the area to which the order relates. See Raja Shehade, *Occupier's Law, Israel and the West Bank* (Washington: Institute for Palestine Studies, 1988), p. 30.

The Makhamara *hamula*, represented by the Association for Civil Rights in Israel, filed a protest with the appeals committee.¹¹⁷ In his response to the appeal, the Custodian claimed that "according to the aerial photographs held by the Respondent [i.e., the Custodian], the preparatory and farming work took place a few years ago in a completely rocky area, in a manner that does not grant rights to the Appellants."¹¹⁸ The Custodian further claimed that the area in which the settler from Suseya erected his caravan "has been transferred to the World Zionist Organization in an allocation agreement, and in connection therewith the Respondent shall claim that the Appellants missed the date for submission of an appeal."¹¹⁹ The case is pending before the appeals committee.¹²⁰

Palestinian residents who do receive word of the declaration in time to appeal encounter yet another obstacle impeding them from turning to the appeals committee. Preparing an appeal entails enormous expense, including payment of a fee upon submission of the appeal,¹²¹ precise mapping by a qualified surveyor of the land of which the appellant claims ownership,¹²² and retaining an attorney to prepare an affidavit and represent the appellant before the committee.¹²³

Those who overcome these obstacles and appeal the decision of the Custodian to the committee in time will have great difficulty proving their rights to lands declared state lands. Since the declarations generally take place in areas where the British or Jordanians did not register the land, the appeals-committee hearings inevitably center on possession and farming as the basis for the right to the land. The appellant is required to prove to the committee that the land in question had been held and farmed for ten consecutive years to substantiate his ownership of the land. For the appeal to succeed, the evidence brought by Palestinians has to contradict the periodic aerial photographs taken by the Custodian that indicated the cessation of farming at any stage.¹²⁴ Receipts for payment of land tax, whether from the Jordanian authorities or the Civil Administration, may constitute *prima facie* evidence in disputes between two individuals, but "do not constitute evidence against the state and do not impair the state's rights."¹²⁵

Many Palestinians have indeed discontinued or reduced their involvement in agriculture, due in part to the policies introduced by Israel in two key spheres: water and the labor market. One of the main components of Israel's policy concerning water is to reject all applications submitted by Palestinians to receive permits to drill agricultural wells, which prevented development in that sphere.¹²⁶ As for the

117. Appeal 13/2000, *Isma'il 'Alyan et al. v. Custodian for Government Property in Judea and Samaria*.

118. Paragraph 2 of the Custodian's response, *ibid.*

119. Paragraph 2 of the Custodian's amended response, *ibid.*

120. Settlers from Suseya recently also seized control of additional land to the west of their settlement, claiming that this was state land. Palestinians live on this land, mainly in shacks and caves, and grow various crops and graze their flocks. In September 2001, the Palestinians appealed to the High Court, asking that the settlers be evicted from their land and they be allowed to continue to farm the land without hindrance. The state has not yet responded to the petition (HCJ 7530/01, *'Ali Khalil Musalem Sharitih et al. v. Civil Administration for Judea and Samaria et al.*).

121. Section 3(D) of the Provisions Regarding Legal Arrangements in the Appeals Committees (Judea and Samaria), 5747-1987, in *Planning, Building and Land Laws*, p. 567.

122. *Ibid.*, Section 7.

123. *Ibid.*, Section 3(C).

124. Regarding the question as to the test for "reasonable agricultural farming" in the light of the land investigator and the High Court rulings, see Avraham Sochovolsky, Eliyahu Cohen and Avi Ehrlich, *Judea and Samaria – Land Rights and Law in Israel* (in Hebrew) (Tel-Aviv: Bursi, 1986), pp. 29-35.

125. *Ibid.*, p. 37.

126. B'Tselem, *Thirsty for a Solution – Resolving the Water Crisis in the West Bank in the Occupied Territories and its Resolution in the Final-Status Agreement* (Position Paper, July 2000), p. 42.

labor market, Israel encouraged the integration of Palestinians in its own labor market. This became a highly attractive proposition because of the high salaries relative to those in the West Bank, and many Palestinians have been inclined therefore to abandon agriculture.¹²⁷

Even if a Palestinian appellant meets the demanding burden of proof required by the committee and convinces its members that he indeed owns the land in question, the committee may still deny the appeal. The reason for this is that the hearing before the committee sometimes take place after the Custodian has already signed permission contracts with one of the settling bodies, and after preparatory work has begun toward the establishment of a settlement. Accordingly, in order to prevent the reversal of an existing situation, Section 5 of Order Regarding Government Property (No. 59) includes the following provision:

No transaction undertaken in good faith by the Custodian and another person in any property which the Custodian believed, at the time of the transaction, to be government property shall be nullified, and it shall continue to be valid even if it is proved that the property was not at that time government property.¹²⁸

Since the decisions of the appeals committee are not published and are not accessible for public review, B'Tselem was unable to undertake a systematic review to ascertain how many times this provision has been used regarding land that was declared state land.

However, the good-faith argument has been used by Israel to approve new construction in the settlements, even in cases where the land-registration process has not been completed. For example, since 1984, the construction on three new neighborhoods in the settlement of Giv'at Ze'ev (Moreshet Binyamin A, B and C) began before all the land on which these neighborhoods were established had been declared state land, and without the signing of permission contracts with the Custodian.¹²⁹ Despite this fact, and despite the fact that the Civil Administration did not approve the outline plan for these neighborhoods, the planning board of Mate Binyamin Regional Council granted permits for development work and for private construction on all three sites. When this situation became apparent at an early stage, the head of the Civil Department in the Ministry of Justice, Pliya Albeck, prepared a legal opinion in which she stated: "Notwithstanding the defects, questions and doubts, it would seem desirable to enable the continued construction of phase A of Moreshet Binyamin, both since the houses were built in good faith by residents who received building permits, and because the absence of objections provides a foundation for believing that the land was acquired lawfully."¹³⁰

Additional problems regarding the military appeals committee have to do with its place in the military hierarchy and its mode of operation. Firstly, the appeals committee is completely dependent on the body on whom it is supposed to provide quasi-judicial review, i.e., the military administration or the Commander of IDF Forces in the Region. Thus, the same body that issues land-seizure orders is also the primary legislative body that established the committee, and the only body entitled to appoint or dismiss

127. B'Tselem, *Builders of Zion – Human Rights Violations of Palestinians from the Occupied Territories Working in Israel and the Settlements* (September 1999), Chapter 1.

128. Section 5 of the Order Regarding Government Property, in *Planning, Building and Land Laws*, p. 522.

129. State Comptroller, *Annual Report 43* (in Hebrew) (Jerusalem, April 1993), pp. 911-914. For another example of the establishment of a settlement in the Jordan Valley prior to the registration of the land in the Custodian's name, see State Comptroller, *Annual Report 37* (in Hebrew) (Jerusalem, 1987), p. 1205.

130. *Ibid.*, p. 911.

its members.¹³¹ Moreover, the Order Regarding Appeals Committees stipulates that the committee's decisions are merely "recommendations," while the final decision rests with the commander in the region, who is entitled to accept or reject these recommendations at his discretion, without any public criteria being established for his decision.¹³² This relationship between the judiciary and the body it reviews constitutes a gross violation of the independence of the appeals committee.

Secondly, the appeals committee is not subject to the rules of judicial proceedings or the usual rules of evidence pertaining in Israel or in any other legal system. According to one of the sections in the order, "the appeals committee shall not be bound by the laws of evidence and judicial proceedings, except for those established in this Order, and shall determine its procedures."¹³³ These provisions seriously impair the principle of transparency and fairness in the judicial process.

These problems in the functioning of the committee are particularly grave as the existence of a quasi-judicial body such as the appeals committee prevents the submission of petitions to the High Court. One of the conditions for intervention by the High Court is the absence of alternative relief. The presence of alternative relief does not completely bar such intervention, but it significantly lessens the willingness of the High Court to intervene.¹³⁴

C. Absentee Property

According to the Order Regarding Abandoned Property,¹³⁵ any property whose owner and holder left the West Bank before, during or after the 1967 war is defined as an abandoned property and attributed to the Custodian for Abandoned Property on behalf of the IDF commander in the region. The Custodian is entitled to take possession of the property and to manage it as he sees fit.¹³⁶ According to the order, the Custodian, on behalf of the Commander of IDF Forces in the Region, may classify property as "abandoned property" in instances in which the owner or possessor of a property is unknown.¹³⁷ A further order published by Israel in this matter expanded the definition of the term "abandoned property" to include property belonging to a person who is a resident of an enemy country, or a corporation controlled by residents of an enemy country.¹³⁸

In legal terms, the Custodian for Abandoned Property becomes the trustee on behalf of the owner of the property who left the West Bank. The Custodian is responsible for protecting the property pending the owner's return. Moreover, on the return of the owner of the property defined as abandoned, the Custodian must restitute not only the property itself, but also the profits he derived therefrom.¹³⁹ As a general rule, however, Israel has forbidden the return of refugees to the West Bank, and therefore has not

131. Sections 1 and 2 of the Order Regarding Appeals Committees (Judea and Samaria) (No. 172), 5728-1967, in *Planning, Building and Land Laws*, p. 536.

132. *Ibid.*, Section 6.

133. *Ibid.*, Section 8(A).

134. Hofnung, *State Security versus the Rule of Law*, p. 308.

135. Order Regarding Abandoned Property (Private Property) (Judea and Samaria) (No. 58), 5727-1967, in *Planning, Building and Land Laws*, pp. 515-519.

136. *Ibid.*, Section 8, p. 516.

137. *Ibid.*, Section 4(C), p. 516.

138. Order Regarding Abandoned Property (Private Property) (Additional Provisions) (Judea and Samaria) (No. 150), 5727-1967, in *Planning, Building and Land Laws*, pp. 534-535.

139. *Ibid.*, Sections 7 and 8, at p. 516.

had to face massive claims for the restitution of abandoned property. The exceptions to this rule occurred when Palestinians returned to their homes pursuant to permits for family unification and demanded their property from the Custodian. An examination undertaken by the State Comptroller shows that, at least through 1985, the Custodian customarily returned money accumulated in favor of the absentees (in cases where their eligibility was proven), but at nominal value and without linkage or interest, despite the high inflation rates in Israel during the first half of the 1980s.¹⁴⁰

The Israeli administration has combined the function of the Custodian for Abandoned Property with that of the Custodian for Government Property, forming a single body called the Custodian for Government and Abandoned Property in Judea and Samaria. Just as the Custodian for Government Property is also the Custodian for Abandoned Property, so too are the basic rules applying to the procedures for seizure and management similar in both cases. Accordingly, a person who claims that property belonging to him was unjustly recorded as abandoned property may turn to the military appeals committee. The burden of proof rests with the person claiming that a particular piece of land is not an abandoned property.¹⁴¹

As in the process of declaring land state land, if the Custodian has made a transaction in an abandoned property, and it subsequently emerges that the property was not eligible for status as abandoned property, the transaction shall not be nullified if it is proved that the Custodian made the transaction in good faith.¹⁴² An illustration of the use of this provision is the case in which the Custodian signed a permission agreement with the World Zionist Organization in relation to seventy dunam earmarked for the establishment of the settlement of Bet Horon. The owner of the land, who was resident in the West Bank at the time, filed an objection with the appeals committee, arguing that he was the owner of the land on which the settlement was constructed. In its ruling, the appeals committee stated that while there was no doubt that the land indeed belonged to the Palestinian appellant, and that he had not left his home, the transaction was legitimate since it was made "in good faith."¹⁴³

This practice, which has caused injury to the property of Palestinian residents who were defined as absentees although they did not leave the area, is additional to Israel's general policy preventing the return of refugees who left their homes due to the war. Given this reality, Israel's claim that all the land-arrangement procedures were suspended "with the goal of preventing injury to the property of absentees" cannot be seen as anything other than a cynical justification intended to facilitate the process of seizing control of land.

A report by the State Comptroller shows that during the first few years of the occupation, the Civil Administration registered approximately 430,000 dunam of land and some 11,000 buildings as abandoned properties.¹⁴⁴ Since a significant proportion of this land was not farmed, it was later declared state land. The remaining areas continue to be defined as abandoned properties, and have been leased by the Custodian – both to relatives of the absentees and to settling bodies to establish settlements.¹⁴⁵

140. State Comptroller, *Annual Report 37*, p. 1189.

141. Section 10(D) of the Order Regarding Abandoned Property, in *Planning, Building and Land Laws*, p. 517.

142. *Ibid.*, Section 10(A).

143. Appeal 16/84, *Albina v. Custodian for Government Property in Judea and Samaria*.

144. State Comptroller, *Annual Report 37*.

145. Benvenisti, *Judea and Samaria Lexicon*, p. 52.

D. Expropriation for Public Needs

Land expropriation in the West Bank (excluding East Jerusalem) is effected under the provisions of a Jordanian law that delineates the phases required for the expropriation of land and the reviewing bodies.¹⁴⁶ According to the law, a public body (local authority, development agency, etc.) interested in expropriating private land must publish its intention in the official gazette. If no appeal is filed to the court by the owner of the land within fifteen days, the application is discussed by the Ministerial Council, which examines whether the purpose declared by the initiating body is indeed in the public interest and decides whether to purchase the land or acquire rights of use for a defined period. The decision must be approved by the king, and is published in the official gazette. The Land Registration Office is subsequently responsible for forwarding copies of the decision to the owners of the land, and the initiating body must enter into negotiations with the owners regarding the level of compensation.¹⁴⁷ According to Section 12 of the law, the notification and negotiation phases may be omitted in urgent cases if the Ministerial Council "was convinced that there are reasons requiring the establisher [namely, the initiator] to hold the land immediately."

Israel has amended this law to suit its needs twice, by means of military orders.¹⁴⁸ The first amendment, in 1969, transferred the authorities of the Ministerial Council and the king to the "empowered authority" on behalf of the commander of the region, which later became the deputy head of the Civil Administration.¹⁴⁹ In addition, the order abolished the requirement in the Jordanian law to publish the decisions in the official gazette and deliver them to the owner of the land. The legal authority for discussing appeals against expropriations was changed by the order from the local court, as established in the Jordanian law, to the military appeals committee. Possession and management of the expropriated land were transferred to the Custodian for Government and Abandoned Property in Judea and Samaria.

Through 1981, i.e., for some twelve years following the first amendment, no alternative procedures were established allowing for the publication of expropriation decisions or for notification of those injured by these decisions. In 1981, a second amendment was introduced following a petition to the High Court filed by Palestinian residents, who claimed that they had only learned of an expropriation decision after tractors began to work on the land.¹⁵⁰ According to this amendment, the "empowered authority" must publish its decisions in the Compilation of Proclamations and must inform the owner of the land personally or through the *mukhtar* of the village in which he is resident.

In practice, most of the notifications given to landowners – both before and after the second amendment – are forwarded via the *mukhtars*. As noted above, the status of the *mukhtars* among the Palestinian population is problematic, and they often preferred to refrain from giving out that information.¹⁵¹ Israel, on its part, chose to undertake most expropriations on the basis of Section 12 of the Jordanian Law,

146. The Land Law – Acquisition for Public Needs, Law No. 2 for 1953, in *Planning, Building and Land Laws*, pp. 439-446.

147. This procedure is detailed in Sections 5-9 of The Land Law – Acquisition for Public Needs.

148. Order Regarding the Lands Law (Acquisition for Public Needs) (No. 321 and No. 949), 5729-1969 and 5743-1981, in *Planning, Building and Land Laws*, pp. 545-547.

149. Zamir, *State Land in Judea and Samaria*, p. 33.

150. HCJ 202/81, *Tabib et al. v. Minister of Defense, Piskei Din* 36(2) 622 (hereafter: *Tabib*).

151. Halabi *et al.*, *Land Alienation in the West Bank*, p. 33.

which was intended solely for urgent cases. This section exempts the authorities from certain obligations regarding the injured landowners and also prevents High Court intervention.¹⁵²

The Jordanian law specifically states that the expropriation of land is permitted only when it is for a public purpose, so Israel has not used this law extensively to confiscate land intended for the establishment of settlements. An exception to this generalization is the case of Ma'ale Adummim, established in 1975 on an area of some 30,000 dunam expropriated from Palestinians.¹⁵³

Israel has, however, used this law extensively as a tool for seizing control of land for the purpose of constructing an extensive network of roads serving the settlements, connecting one settlement to another and connecting the settlements to Israel, and in most cases deliberately circumventing the Palestinian communities. These expropriations were upheld by the High Court, which accepted the state's argument that the roads under review also met the transportation needs of the Palestinian population. In one ruling relating to the expropriation of land for the construction of a road connecting a new neighborhood in the settlement of Qarne Shomeron with Israel, while circumventing the city of Qalqiliya, Justice Shilo determined that in effect "a road is a neutral installation." He added:

It is true that part of the route that is the subject of this petition passes not far from Ras, which is the edge of the area intended for the establishment of a Jewish community by the name of Zavta (Qarne Shomeron C), and that same section – insofar as it forms part of the regional road continuing to the east – is intended to create access from the west to the community of Zavta. However, it shortens and improves the road to the village of Habla and to several smaller villages in the vicinity.¹⁵⁴

In most cases, the argument that the bypass roads were intended to serve all the local residents, including Palestinians, proved to be completely spurious. Nevertheless, Israel continued to use this argument in all the High Court petitions that Palestinians filed against the expropriation of their land, and in most cases the Court accepted the argument.¹⁵⁵

B'Tselem does not have any estimate of the scope of land over which the IDF has seized control by means of the Jordanian expropriation law. According to the State Comptroller, IDF actions in the West Bank in preparation for the implementation of the Oslo B Accords (see below) entailed the expropriation of private land under this law for the construction of twelve bypass roads.¹⁵⁶ Chapter Eight of this report offers a detailed account of the recent land expropriation to construct roads in the vicinity of the Ari'el settlement.

Land Expropriation in East Jerusalem¹⁵⁷

The legal tool used by Israel to seize control of land in East Jerusalem for the purpose of establishing settlements was a Mandatory order from 1943 absorbed into Israeli legislation.¹⁵⁸ This order is similar,

152. *Ibid.*, p. 34.

153. Paragraph 3 of the response of the state in HCJ 3125/98, *'Abd Al-'Aziz Muhammed 'Ayad et al. v. Commander of IDF Forces in Judea and Samaria* (hereafter: *Ma'ale Adummim*).

154. *Tabib*, p. 627.

155. For example, see HCJ 393/82, *Jam'ayat Iskan Al-Mu'alimun v. Commander of IDF Forces*, *Piskei Din* 37(4) 785, and HCJ 6592/94, *Municipality of Hebron et al. v. Minister of Defense et al.*, *Piskei Din* 50(2) 617.

156. State Comptroller, *Annual Report* 48, p. 1036.

157. For further discussion of this aspect, see B'Tselem, *A Policy of Discrimination*.

158. The Lands Order (Acquisition for Public Purposes) 1943.

though not identical, to the Jordanian law for acquisition of land for public needs as implemented in the remainder of the West Bank. The Mandatory order empowers the Minister of Finance to issue expropriation orders for privately-owned land in cases when this is justified by a public need. Unlike the Jordanian law, this order grants the Minister of Finance complete discretion in determining what constitutes a public purpose ("any need authorized by the Minister of Finance as a public purpose.") As in Jordanian law, the landowners are entitled to compensation at market value.

Since 1968, Israel has expropriated approximately 24,500 dunam of land – over one-third of the land annexed to Jerusalem.¹⁵⁹ While it is difficult to calculate a precise figure, most of the expropriated land was undoubtedly privately owned by Palestinians,¹⁶⁰ and only a small proportion was state land, *waqf* land, or land owned by Jews prior to 1948.¹⁶¹ The vast majority of the expropriated land was used to establish twelve Jewish settlements, termed "neighborhoods" in domestic Israeli discourse.

Although the expropriated land is intended for the Jewish population only, Israeli government and Ministry of Jerusalem officials have claimed on several occasions – along the lines of the similar declarations regarding expropriations in the remainder of the West Bank – that the land expropriations are implemented for the benefit of all the residents of the city, "Jews and Arabs alike."¹⁶² These claims are contradicted by numerous official and semi-official decisions and statements reflecting Israel's desire to "Judaify" East Jerusalem, with the goal of preventing any future compromise over this land.¹⁶³ One petition, filed in the High Court in 1994 against the expropriation of land in the south of Jerusalem to establish the Har Homa settlement, claimed that the plan discriminated against the city's Palestinians. The High Court rejected the petition on the grounds that "the question of populating the area is not currently germane."¹⁶⁴

E. Acquisition of Land on the Free Market

The Ma'arach-led governments preferred to limit the taking of control of land in the Occupied Territories to governmental institutions. A military order was published in 1967 imposing a sweeping restriction on the implementation of land transactions in the West Bank without the written authorization of the commander of the region.¹⁶⁵ Accordingly, until the late 1970s the only body involved in the purchase of land from Palestinian residents for the purpose of establishing the settlements was the Jewish National Fund through *Himanuta*, a company established for this purpose.¹⁶⁶

After the Likud came to power, this policy was reversed: the acquisition of land in the West Bank was now encouraged. In formal terms, this change was reflected in a decision of the Ministerial Committee for Settlement in April 1982 providing approval in principle for the establishment of settlements as a "private initiative."¹⁶⁷ This authorization embodied the commitment of the government to enable Jews

159. Ir Shalem, *East Jerusalem – Planning Situation* (in Hebrew) (Jerusalem, November 1999), p. 4.

160. B'Tselem, *A Policy of Discrimination*, p. 57.

161. Jewish-owned land was situated mainly in the Jewish Quarter of the Old City; as noted above, this was considered state land, since it was held and managed by the Jordanian Custodian of Enemy Property (Zamir and Benvenisti, *Jewish Lands*, pp. 87-98).

162. For examples of such statements, see B'Tselem, *A Policy of Discrimination*, pp. 60-61.

163. *Ibid.*, pp. 44-55.

164. H CJ 5601/94, *Odeh A'ida Abu Tier et al. v. Prime Minister et al.*, *Takdin Elyon* 94 (4) 246.

165. Order Regarding Land Transactions (Judea and Samaria) (No. 25), 5727-1967, in *Planning, Building and Land Laws*, pp. 513-514.

166. Gazit, *Fools in a Trap*, pp. 244-245.

167. *Ibid.*

to purchase land and settle throughout the West Bank, including areas where land could not be declared state land because it was registered in the owner's name and held according to the provisions of the Ottoman Land Law.¹⁶⁸ The Deputy Minister of Agriculture in the second Likud government, Michael Dekel, was given responsibility for the subject of "private settlement." He worked under the close though informal supervision of the then Minister of Defense, Ariel Sharon.¹⁶⁹

Through the enactment of several military orders, Israel amended the Jordanian land legislation in order to adapt it to the needs of Israeli entrepreneurs. For example, the powers of local judicial committees under Jordanian law to register land transactions were transferred to the Custodian on behalf of the military commander.¹⁷⁰ Because Palestinians have always considered the sale of land to Israelis an act of treason, an order was issued extending the validity of irrevocable powers of attorney from five years, as provided by Jordanian law, to fifteen years.¹⁷¹ This amendment enabled land transactions to be executed while postponing registration for an extended period, thereby not endangering the life of the Palestinian seller by exposing his identity.¹⁷²

The involvement of private entrepreneurs in the transfer of land to Jewish hands was accompanied by fraud, forgery and various criminal offenses involving both Israelis and Palestinians.¹⁷³ These offenses were possible, *inter alia*, because of the relatively vague nature of the registration of land ownership in most of the West Bank.¹⁷⁴ Moreover, the government's decision to enable the establishment of settlements as a private initiative led to increased demand for land in the West Bank, particularly in areas adjacent to the Green Line (popularly known in Israel as "five minutes from Kfar Saba"). Land prices in these areas rose sharply, creating a strong incentive for various Israeli intermediaries to purchase Palestinian land.¹⁷⁵

As a result of these fraudulent acts, in many cases Palestinians only learned that their land had been sold to Israelis by Palestinians when tractors moved in to prepare the ground to build a settlement. Conversely, many Israelis were enticed into purchasing plots of land in the West Bank from Israeli intermediaries, only to find out later that they had paid for a worthless scrap of paper. This phenomenon was halted in 1985, when the police began to investigate hundreds of cases of fraudulent land transactions. Several of those involved were indicted, including senior government officials.¹⁷⁶

168. Hofnung, *State Security Versus the Rule of Law*, p. 311.

169. *Ibid.*

170. Order Regarding Land Laws (Judea and Samaria) (No. 450), 5732-1971.

171. Order Regarding the Law to Amend Provisions Relating to Real Estate (Judea and Samaria) (No. 811), 5740-1979, in *Planning, Building and Land Laws*, p. 554.

172. Shehade, *Occupier's Law*, p. 40.

173. Albeck, *Lands in Judea and Samaria*, pp. 12-16.

174. See Section B of this chapter for further discussion.

175. Benvenisti, *Lexicon of Judea and Samaria*, p. 139.

176. Hofnung, *State Security Versus the Rule of Law*, pp. 312-313.

Chapter Four

The Annexation Policy and Local Government

A. The Annexation Policy

The government, the Knesset and the IDF commanders, with the blessing of the High Court of Justice, altered Israeli and military legislation with the objective of enabling the *de facto* annexation of the settlements to the State of Israel, while avoiding the problems that would be caused by *de jure* annexation, particularly in the international arena.¹⁷⁷ This annexation created a distinct separation between the Jewish settlers and the Palestinian residents, who continued to live under military rule. Eradicating the significance of the Green Line in the everyday life of Jewish residents of the West Bank made a crucial contribution to the success of Israel's policy to transfer population from Israel to the settlements.

The result was the creation of two types of enclaves of Israeli civilian law in the Occupied Territories – personal and territorial. The significance of the personal enclaves is that any Israeli citizen, and indeed any Jew (see below), in the Occupied Territories are subject, wherever they may be, to the authority of Israeli civilian law for almost all purposes, and not to the authority of the military law applying in these territories. This situation was perpetuated in the Oslo Accords in a manner that denied the Palestinian Authority any power over Israelis in the Occupied Territories, including Israelis entering its own territory.¹⁷⁸

Creation of the enclaves began at the beginning of the occupation. The Israeli government and the Knesset imposed Israeli law on the settlers in particular, and on Israeli citizens in the Occupied Territories in general. Initially, this was implemented through emergency regulations enacted in July 1967 by the Minister of Defense.¹⁷⁹ According to these regulations, Israeli citizens who commit offenses in the territories are tried in Israeli civilian courts. Although they did not prohibit Israelis from being tried in courts in the Occupied Territories, these regulations effectively limited the power of the military commander and the local courts, for the first time granting Israeli citizens extra-territorial status there.

In 1969, the Minister of Justice enacted regulations empowering Israeli civilian courts to hear any civil matter between settlers (and Israelis in general) and Palestinians, or among settlers themselves.¹⁸⁰ These courts naturally operate in accordance with Israeli law, rather than the local law that supposedly applies in the Occupied Territories. Local courts were effectively – though not formally – denied the power to judge settlers.

177. Extensive sections of this chapter are based on the B'Tselem report, *On the Way to Annexation: Human Rights Violations Resulting from the Establishment and Expansion of the Ma'ale Adumim Settlement* (Information Sheet, June 1999), pp. 15-20. For a comprehensive study of this issue prepared in the late 1980s, see Eyal Benvenisti, *Legal Dualism: The Absorption of the Occupied Territories into Israel* (Jerusalem: West Bank Data Base Project, 1989).

178. Agreement on the Gaza Strip and the Jericho Area (Oslo 1), 4 May 1994, Article 1(26); Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip (Oslo 2), 28 September 1995, Annex IV.

179. Emergency Regulations (Offenses in the Administered Territories – Jurisdiction and Legal Assistance), 5727-1967. In 1977, the name was amended to read "Judea and Samaria, the Gaza Strip, the Golan Heights, Sinai and South Sinai."

180. Rules of Civil Procedure (Furnishing of Documents for the Administered Territories), 5730-1969, *Kovetz Takkanot* 2482, p. 458. A similar ordinance was issued regarding the labor courts (*Kovetz Takkanot* 2482, p. 460).

The Knesset has periodically extended by statute the emergency regulations mentioned above.¹⁸¹ In 1984, the Knesset imposed additional laws on Israeli settlers, including laws relating to military service, the Income Tax Ordinance, the Population Registry, National Insurance, etc. The law also empowered the Minister of Justice to add other laws to this list, with the approval of the Knesset's Constitution, Law and Justice Committee.¹⁸²

Israeli law is imposed not only on Israelis resident in the Occupied Territories, but also on Jews who move to the settlements, even if they do not have Israeli citizenship:

For the purpose of the acts of legislation listed in the Addendum, the expression "Israeli resident" or any other expression regarding residency, residence or presence in Israel as stated therein, shall be considered also to include a person whose place of residence is in the region and who is an Israeli citizen, or who is eligible to immigrate to Israel in accordance with the Law of Return, 5710-1950, and who would fall under the said term were his place of residence in Israel.¹⁸³

The territorial enclaves were created by the imposition of Israeli civilian law on the Jewish local authorities established in the West Bank. In 1988, the Knesset empowered the government to impose the Development Towns and Areas Law on "local authorities and Israeli citizens" in the Occupied Territories.¹⁸⁴ This was the first time the Knesset had imposed one of its laws on the settlements in territorial terms, rather than merely on the settlers as individuals, as had been the case previously. In recent years, the Knesset has adopted several laws – relating to local authorities and elections for these authorities – that apply directly to the settlements.¹⁸⁵

Military legislation, in the form of the collection of military orders published by the Commander of IDF Forces in the West Bank, provides an extremely effective tool for realizing Israel's policy of imposing its own law on the settlements and the settlers, while separating them from Palestinian residents and their communities. In some cases, these orders have constituted a waiver by the military commander of his powers in the settlements in favor of Israeli civilian authorities, whether in the settlements or in Israel. Most of the orders were phrased in such a manner that it is not directly evident that they are intended to apply solely to the settlements and not to Palestinian communities or residents. The *de facto* enactment was effected by means of an appendix or addendum to the order detailing those communities in which it applies, sometimes only as a matter of policy in practice. A significant portion of this military legislation, as discussed in the last part of this chapter, relates to the settlements as local authorities, and makes an important contribution to the process by which these settlements have been converted into territorial enclaves governed by Israeli law (see below).

The complex fabric of laws, regulations and orders combine to form a rather straightforward picture of annexation. For almost all purposes, the lives of settlers proceed as do the lives of Israeli citizens living within Israel, even though the area in which they live is subject to military rule. Settlers elect their local or regional council, participate in Knesset elections, pay taxes, National Insurance and health insurance,

181. Amendment and Extension of the Validity of the Emergency Regulations (Judea and Samaria, the Gaza Strip, Sinai and South Sinai – Jurisdiction and Legal Assistance) Law, 5744-1984, Section 6.

182. *Ibid.*, Section 6B(B).

183. *Ibid.*, Section 6B(A).

184. Development Towns and Areas Law, 5748-1988, Section 3(E).

185. Regional Councils (Date of General Elections) (Amendment) Law, 5757-1997; Amendment of Local Authorities Ordinance (No. 21) Law, 5757-1997; Local Authorities (Special Elections) (Legislative Amendments) Law, 5758-1998.

and enjoy all the social rights granted by Israel to its citizens. If suspected of an offense under the law, they are arrested by the civilian police and tried in civilian courts in accordance with the law applying in Israel.

B. The Structure of Local Government

Israeli law recognizes three types of municipal entities through which local government operates: municipalities, local councils and regional councils. Local government plays a central role in the daily life of Israeli citizens, both within the Green Line and in the Occupied Territories, because it is responsible for providing a wide range of vital services in education, health, welfare, culture, urban planning, water and sewage, public parks, cleaning, and so on. During the 1990s, the local government expenditures accounted for approximately thirty percent of all public expenditure in Israel.¹⁸⁶

The two key military orders granting the Jewish local authorities the status of territorial enclaves of Israeli law were issued in 1979: the Order Regarding the Management of Regional Councils (No. 783), and the Order Regarding the Management of Local Councils (No. 892). With a few exceptions, these orders replicate Israeli law regarding the local authorities in matters such as elections, composition of the councils, budgets, planning and building, education, and courts for local matters. The addendum to these orders specifies the names of the local authorities in which they apply, i.e., the names of settlements. The list of names is updated each time a new settlement is established, and each time a particular settlement changes its status (from a community within a regional council to a separate local council, or from a local council to a municipality).

Because the terms "local councils" and "regional councils" did not exist in the Jordanian law regulating the status of Palestinian communities, their use in the context of the settlements did not raise any legal difficulties. The problem arose when it was decided to grant the municipality status to the largest settlements (the first such case was Ma'ale Adummim). In theory, the military commander should have taken this action in accordance with the Jordanian Municipalities Law (No. 29) of 1955.¹⁸⁷ Had the commander done so, the settlements would have been required to operate in accordance with Jordanian law, and the Israeli administration would have been required to treat them according to the same standards that applied in Palestinian municipalities (prior to their transfer to the Palestinian Authority), for example in the allocation of resources, the level of services, declaration as a development area, mortgages for eligible residents, elections for the municipal council, and so on.

To prevent this situation, which Israel considered undesirable, the Commander of IDF Forces in the West Bank issued an order amending the Order Regarding the Management of Local Councils (No. 892). According to this amendment, the settlements defined as municipalities would continue to act on the basis of the Order Regarding Local Councils, and not on the basis of Jordanian municipal law: "The Commander of IDF Forces in the Region is entitled, on the recommendation of the Supervisor, to declare by order that a given local council shall be called a 'municipality.'"¹⁸⁸

186. State Comptroller, *Annual Report 49* (in Hebrew) (Jerusalem, April 1999), p. 343.

187. The reason for this is that, as noted, the law applying in the West Bank, unless amended by military order, is the Jordanian law in force until 1967. See B'Tselem, *On the Way to Annexation*, pp. 18-19.

188. Order Concerning the Management of Local Councils (Judea and Samaria) (No. 892), 5741-1981; By-Laws of the Local Councils (Amendment No. 68), 14 July 1991, Section 140C.

In certain matters, the local authorities in Israel are subject to the Ministry of the Interior, which is responsible for supervising their proper functioning. Each local authority belongs to a particular district, for which a unit in the Ministry of the Interior is responsible. Supervision of the local authorities in the West Bank (including Palestinian local authorities) is handled by the Internal Affairs Officer of the Civil Administration; for many years, a Supervisor of the Israeli Communities operated within this framework, and was responsible solely for the settlements. At the beginning of 1996, presumably as part of the process of *de facto* annexation, the unit of the Supervisor of the Israeli Communities was transferred from the Civil Administration to the direct authority of the Ministry of the Interior, acquiring a status similar to that of the units responsible for the various districts inside Israel.¹⁸⁹

The local councils and municipalities are independent municipal mechanisms managing the affairs of what are defined by the law as single communities, while the regional councils include a number of communities in the context of a two-tier system of government. The upper tier is the council, while the lower tier includes the communities within the area or jurisdiction of the council, which are managed in certain matters by a local committee. The division of responsibility between the regional council and the local committees is not clearly or unequivocally defined in the law, and hence varies from one community or regional council to another. However, the local committees may not adopt decisions contrary to those of the council; in a few areas, such as the approval of budgets, the local committee must obtain the authorization of the regional council.¹⁹⁰

Until recently, the sphere of activity of the regional council was usually confined to mediation between the communities and central government, while most municipal services were provided by the local committees. In the early 1990s, however, as the cooperative frameworks weakened, the regional council became stronger and came to be perceived as bearing direct responsibility for managing the affairs of the community, similar to the municipality or the local council.¹⁹¹

On the recommendation of the official in charge of the relevant district, the Minister of the Interior is empowered to change the status of communities and local authorities (transforming a group of communities into a distinct regional council, removing a given community from a regional council and making it a local council, or changing the status of a local council to a municipality). Changing a community to a local council entitles it to obtain direct funding from the Ministry of the Interior. Moreover, the local council receives significant powers, such as the authority to establish a local planning committee entitled to issue building permits. The transition from the status of local council to that of municipality is generally reflected in the level of funding received from the Ministry of the Interior.

In the case of the settlements in the West Bank, the recommendation to establish any type of local authority is made to the Minister of the Interior by the Supervisor of Israeli Communities, while the minister's decision is formally implemented by means of a military ordinance signed by the Commander of IDF Forces in the West Bank.

189. For a criticism of the activities of the Supervisor of the Israeli Communities in Judea and Samaria, see State Comptroller, *Annual Report 52A* (in Hebrew) (Jerusalem, 2001), pp. 163-180.

190. Audit of Local Authorities Division, Ministry of the Interior, *Special Audit Report on the Regional Councils 1998* (in Hebrew) (Jerusalem, August 1998), pp. 9-11.

191. *Ibid.*

According to a law enacted in 1992, the minister is not permitted to award the status of a local council to communities with a population of fewer than 3,000 residents, nor to award the status of a municipality to communities with a population of fewer than 20,000. However, the law grants the minister discretion to act otherwise "if special conditions and circumstances exist."¹⁹² As of the end of 2001, four of the fourteen local councils in the West Bank had a population of fewer than 3,000 residents, and two of the three municipalities had a population of fewer than 20,000 (see Table 3 below).

The number of local authorities currently existing and serving as frameworks for the management of settlements in the West Bank is as follows: three municipalities, fourteen local councils and six regional councils, containing 106 small settlements. In addition, twelve settlements were established in areas annexed to Israel in 1967, and are included within the area of jurisdiction of the Jerusalem Municipality.

Table 3
Local Authorities in the West Bank

Name of Local Authority	Municipal Status*	Number of Residents**
Oranit	Local Council	5,100
Alfe Menashe	Local Council	4,600
Elqana	Local Council	3,000
Efrat	Local Council	6,400
Ari'el	Municipality	15,600
Bet El	Local Council	4,100
Bet Arye	Local Council	2,400
Betar Illit	Municipality	15,800
Arvot Hayarden	Regional Council (18)	3,000
Giv'at Ze'ev	Local Council	10,300
Gush Ezyon	Regional Council (14)	9,600
Har Adar	Local Council	1,400
Mt. Hebron	Regional Council (12)	4,100
Megillot	Regional Council (5)	900
Modi'in Illit	Local Council	16,400
Mate Binyamin	Regional Council (27)	27,200
Ma'ale Adummim	Municipality	24,900
Ma'ale Efrayim	Local Council	1,500
Immanu'el	Local Council	3,000
Qedumim	Local Council	2,700
Qiryat Arba	Local Council	6,400
Qarne Shomeron	Local Council	5,900
Shomeron	Regional Council (30)	17,400

* The numbers in parentheses relate to the number of settlements (according to the number of local committees recognized by the Ministry of the Interior) included within each regional council.

** Figures of the Central Bureau of Statistics for the end of 2000.

192. Arrangements in the State Economy (Amendments of Legislation to Secure the Budgetary Objectives) Law, 5793-1992, Section 18.

C. The Significance of the Municipal Boundaries

The municipal boundaries of the local authorities, i.e., their area of jurisdiction, are marked on a map signed by the Commander of IDF Forces in the West Bank and attached to the Order Regarding Local Councils (No. 892) or the Order Regarding Regional Councils (No. 783), as the case may be. The borders of the settlements composing the regional councils, too, are set forth on maps signed by the Commander of IDF Forces in the West Bank. In this case, the map defines not the area or jurisdiction, but the "area of the community" (see Photos 1-4).

The areas constituting these areas of jurisdiction or areas of the community include all the land of which Israel has seized control over the years by the methods discussed above in Chapter Three. Accordingly, the borders of most of the Jewish local authorities in the West Bank are tortuous, and include non-contiguous areas of land (see the map attached to this report, as well as Chapter Seven below).

Palestinians are forbidden to enter the areas of jurisdiction or the areas of community of the settlements unless they received special authorization. In an order issued in 1996, the Commander of IDF Forces in the West Bank declared all the areas of the settlements to be a "closed military area," claiming that "... this is necessary for reasons of security and given the special circumstances currently pertaining, and the need to take immediate emergency measures..."¹⁹³ The order notes that "the provisions of this declaration do not apply to Israelis."

The definition of "Israeli" in the order offers a revealing illustration of the system of separation created by Israel in the West Bank:

"Israeli:" A resident of Israel, a person whose place of residence is in the region and who is an Israeli citizen or was eligible to immigrate to Israel in accordance with the Law of Return, 5710-1950, as in effect in Israel, as well as a person who is not a resident of the region and who holds a valid entry visa to Israel.

This definition given in the order to the term "Israeli" creates a situation in which entrance to an area "closed for military reasons" is permitted to Israeli citizens, Jews from anywhere in the world, and any person who enters Israel as a tourist (with a "valid entry visa"). The result is that only local Palestinian residents require special authorization from the commander of the region to enter the area of the settlements.

The areas of jurisdiction of the regional councils in the West Bank include enormous empty areas (approximately thirty-five percent of the area of the West Bank) that are not attached to the area of any specific settlement. These areas constitute the reserves of land for future expansion of the settlements, or for the establishment of industrial zones (see Chapter Seven). Various areas within the regional councils' areas of jurisdiction in the West Bank are defined as "firing zones" and are used by the IDF for military exercises. Other areas are now defined as "nature reserves," where any form of development is prohibited.

193. Order Regarding Security (Judea and Samaria) (No. 378), 5730-1970, Declaration of the Closure of an Area (Israeli Communities).

The extent to which the settlers and the Civil Administration exercise control over these areas is not uniform, and Palestinians still use some of them for agriculture or grazing. This situation is the result of Israel's policy of declaring broad tracts of land as state land, without always informing the residents living on or using these lands. Consequently, the expansion of a settlement within the area of jurisdiction of the regional council to which it belongs sometimes entails the eviction of Palestinians from their land.¹⁹⁴

Arvot Hayarden Regional Council (almost 900,000 dunam), for example, exercises maximum control of these areas, a result of the combined effect of the sparse Palestinian population in the area and the farming of some of this area by settlers. A counter example is Mt. Hebron Regional Council, which maintains almost no supervision over these areas. Thus, during attempts by settlers in recent years to expand the settlements in this regional council, it emerged that areas defined as part of the council's area of jurisdiction were used by Palestinians for residence, agriculture or grazing.

194. For example, see the outposts established near the settlement of Suseya in the south of the Hebron mountains, as discussed in the section on state land in Chapter Three above.

Chapter Five

Benefits and Financial Incentives

One of the claims made by Israel to justify the settlements, although they are prohibited by the Fourth Geneva Convention, is that the state does not transfer its citizens to the occupied territory. Israel argues that each citizen decides privately, of his own free will, to move to the settlement.

In reality, however, all Israeli governments have implemented a vigorous and systematic policy to encourage Israeli citizens to move from Israel to the West Bank. As shown in this chapter, one of the main tools used to realize this policy is the provision of significant financial benefits and incentives. For the purpose of this discussion, a distinction will be made between two types of benefits and incentives granted by the government: support granted directly to citizens by defining settlements as "national priority areas," and support granted to local authorities in the West Bank, i.e., to the settlements, in a manner that favors these settlements in comparison to local authorities inside Israel.

The purpose of the discussion in this chapter is not to examine the "burden" that the settlements place on the national budget, nor to estimate the total sum invested in the Occupied Territories by the government. Rather, the report will describe those components of government policy that influence the *standard of living* of individual citizens, and may therefore constitute an incentive to migrate to the West Bank. Accordingly, the report will not discuss other forms of financial investments, such as security, other military expenses or the construction of roads, because these investments constitute, to a certain extent, a pre-condition for the very existence of the settlements, rather than a component in improving the standard of living.¹⁹⁵ Moreover, given the unique reality in which the settlements exist (violence by Palestinians, construction of roads following redeployment, etc.), it is difficult to compare these investments with those inside Israel.

A. The Settlements as National Priority Areas

One of the main tools used to channel resources to the residents of the settlements is the definition of most of the settlements in the West Bank as "development areas" (according to the term applying through 1992) or as "national priority areas." This definition has been applied not only to settlements (in the West Bank and in the Gaza Strip), but also to various communities inside Israel, particularly in the Galilee and the Negev. The current map of national priority areas and the relevant incentives and benefits were established in 1998 by a committee of directors-general headed by the then director-general of the Prime Minister's Office, Avigdor Lieberman, and was approved by the government headed by Binyamin Netanyahu.¹⁹⁶ This map, which replaced the previous map, which was established in 1992 under the

195. For comparative data on the construction of new roads for settlements in the West Bank and Gaza Strip in the 1990s, see Adva Center, *Government Funding of the Israeli Settlement in Judea, Samaria, Gaza and the Golan Heights in the 1990s: Local Authorities, Residential Construction and the Construction of Roads* (in Hebrew) (January 2002), pp. 58-62; for data for the years 2001-2002, see Ze'ev Schiff, "The March of Stupidity on the Bypass Roads," *Ha'aretz*, 15 February 2002.

196. Prime Minister's Office, Coordination, Monitoring and Control Division, *National Priority Areas* (in Hebrew) (Jerusalem, 26 April 1998).

government of Yitzhak Rabin,¹⁹⁷ continued to apply under the government of Ehud Barak (1999-2001) and under the present government headed by Ariel Sharon.

The purpose of the map of national priority areas, as defined by the committee of directors-general from 1998, is "to encourage the generation remaining in these areas, to encourage initial settling by new immigrants, and to encourage the migration of veterans to the priority areas." According to the committee, "the map of national priority areas is based principally on geographical criteria," assuming that "the scope of opportunities of citizens residing in the peripheral areas is in many respects limited by comparison to that in the center."¹⁹⁸

While the geographical consideration might explain the inclusion in the priority map of the Negev and Galilee areas, it cannot explain the inclusion of most of the settlements in the West Bank, a substantial number of which are adjacent or relatively close to Jerusalem and the cities of the Tel-Aviv metropolitan area, where many of the residents of the settlements are employed (with the possible exception of the Jordan Valley settlements).¹⁹⁹ Accordingly, it would seem that the factor determining the inclusion of most of the settlements on the map is not the "limited opportunities" available to the settlers due to the distance from the center of Israel, but rather the desire to encourage Israeli citizens to move to the West Bank for political reasons. The committee was certainly right to emphasize that the map of national priority areas is based "principally" – i.e., not only – on geographical considerations.

The benefits and incentives provided for the priority areas are granted by six government ministries: Housing and Construction; National Infrastructure (through the Israel Lands Administration); Education; Trade and Industry; Labor and Social Affairs; and Finance (through income tax).²⁰⁰ The level of incentives varies according to the classification of each settlement as a Class A or B priority area. This classification is given separately for each benefit, so some settlements are simultaneously categorized as Class A, Class B, or no priority, depending on the government ministry and the benefit involved.

The Ministry of Construction and Housing provides generous assistance for those who purchase a new apartment or build their own home in national priority areas. In areas defined as Class A priority areas, the ministry provides a loan of NIS 60,000, half of which is converted into a grant after fifteen years. In Class B priority areas, the loan is NIS 50,000, of which NIS 20,000 is converted into a grant after the same period of time. It should be noted that the rules established by the committee of directors-general state that the grant component is not supposed to be provided in affluent, established communities included in the map;²⁰¹ however, this component is provided in all the settlements in the West Bank, including those that are affluent. The ministry also contributes to development costs by means of a grant covering up to fifty percent of expenses, according to the classification of the community and the type of expense. It is important to note that these benefits are provided in addition to the "eligibility loans" provided by the ministry throughout Israel on the basis of personal criteria.

197. Prime Minister's Office, *National Priority Areas* (in Hebrew) (Jerusalem, 30 November 1992).

198. *National Priority Areas*, 1998, p. 4. "Veterans" in apposition to "new immigrants" (*trans.*).

199. For a detailed analysis of the geographical dispersion of the settlements, see Chapter Seven below.

200. Data on the benefits included in this part of the chapter are based on *National Priority Areas*, 1998, unless otherwise stated.

201. According to the committee, prosperous communities are those that belong in the 7-10 grade cluster in the socioeconomic ranking of the Central Bureau of Statistics.

The Israel Lands Administration, which is accountable to the Ministry of National Infrastructure, provides discounts of sixty-nine percent and forty-nine percent (for Class A and B priority areas, respectively) from the value of the land in the payment of lease fees for residential construction, and a discount of sixty-nine percent on leasehold fees for industrial and tourism purposes.

The Ministry of Education provides a range of incentives for teachers who work in Class A priority areas, including promotion and the addition of four years' seniority, partial exemption from payment of the employee's contribution to the in-service training fund, participation in rental costs and travel expenses, and reimbursement of seventy-five percent of tuition fees paid by teachers at institutions of higher education.²⁰² Class B areas do not appear in the Ministry's map of benefits. For parents in Class A areas, the Ministry of Education provides a discount of ninety percent for tuition fees in pre-compulsory kindergartens. This discount is also provided in settlements included on the map and defined as affluent (see above), contrary to the policy regarding communities inside Israel with the same profile. In addition, the Ministry of Education covers all transportation costs for students to schools in the settlements, regardless of whether a given settlement is included in the map of priority areas.

The Ministry of Industry and Trade provides "approved enterprises" pursuant to the Capital Investments Encouragement Law, i.e., those defined as entitled to government support, with grants of thirty percent in Class A priority areas (twenty percent according to the law, and a ten percent administrative grant), and twenty-three percent in Class B priority areas (ten percent according to the law and a thirteen percent administrative grant).²⁰³ Any enterprise approved in accordance with the law enjoys income tax benefits in all areas, both in terms of corporate tax and in terms of individual taxation on income from the enterprise. In addition, industries situated in Class A priority areas are entitled to increased grants for research and development, which can cover as much as sixty percent of the costs of each project. The Ministry of Industry and Trade also covers a significant portion of costs for the establishment of new industrial zones and the maintenance of existing zones, including significant discounts on land prices. It should be noted that during the 1990s, the ministry established ten new industrial zones in the West Bank, mostly within the area of the six regional councils, at an average cost of approximately NIS 20 million per zone.²⁰⁴ The enterprises established in these industrial zones are under Israeli ownership, and some employ Palestinians.²⁰⁵

The Ministry of Labor and Social Affairs provides social workers it employs in Class A priority areas with a package of benefits that is almost identical to that provided to teachers by the Ministry of Education (i.e., promotion and seniority, funding of tuition fees for higher education, etc.) Regarding Class B priority areas, the ministry provides social workers with three years' seniority, seventy-five percent reimbursement of travel expenses, and financing of seventy-five percent of the employee's contribution to the in-service-training fund.

202. For a comparison of the benefits provided for settlements in the field of education with those provided for Arab communities and development towns, see Adva Center, *National Priority Status in the Field of Education – Arab Communities, Development Towns and Settlements* (in Hebrew) (February 1999).

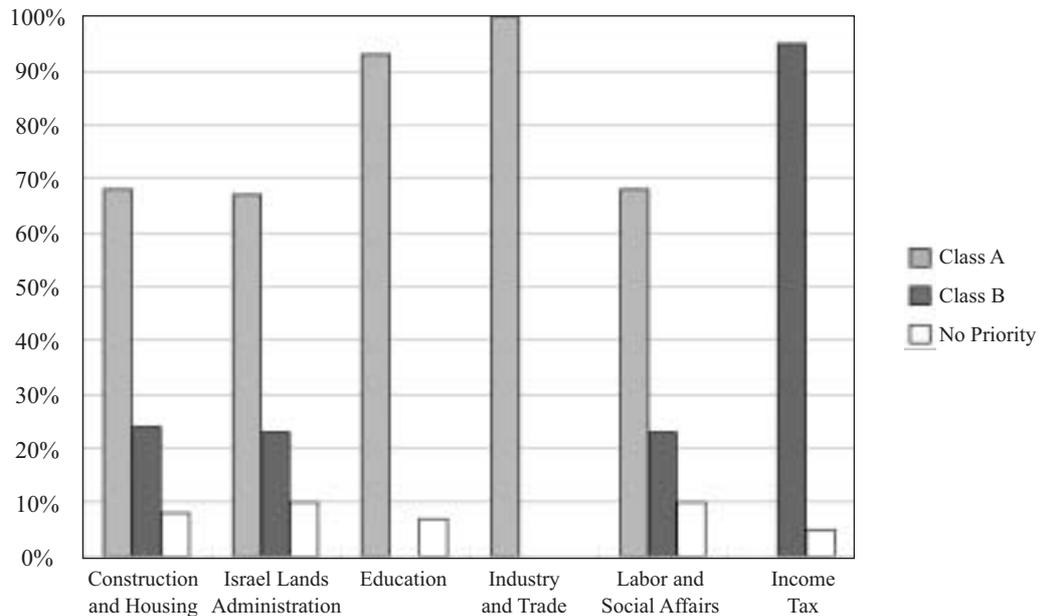
203. Capital Investment Encouragement Law, 5719-1959. This law was amended in 1990. In 1980, the Capital Investment in Agriculture Encouragement Law, 5741-1980, was added.

204. "Sha'ar Binyamin" between Pesagot and Ofra; "Emek Shilo" near Shilo; "Baron" near Qedumim; Gush Ezyon Industrial Park near Efrat; Mishor Adummim Industrial Park; Ma'ale Efrayim Industrial Park; Immanu'el Industrial Park; Qiryat Arba Industrial Park; Barkan Industrial Park near Ari'el; and Shim'a Industrial Park in the south of the Hebron Mountains.

205. For more on this aspect, see Shlomo Tzezana, "White Elephants in Judea, Samaria and Gaza," *Ma'ariv*, 30 November 2001.

The Ministry of Finance, through the Income Tax Commission, provides the residents of certain locales in Israel with reductions in the payment of income tax at rates varying from five to twenty percent. This benefit is not tied to the map of national priority areas as established by the committee of directors-general. The Minister of Finance decides on the discounts independently, through ordinances he enacts stating the communities to receive benefits and the level of the reduction. Most of the settlements enjoy a seven percent income-tax reduction.²⁰⁶

Diagram 5
Settlements in the West Bank,* by Level of Priority

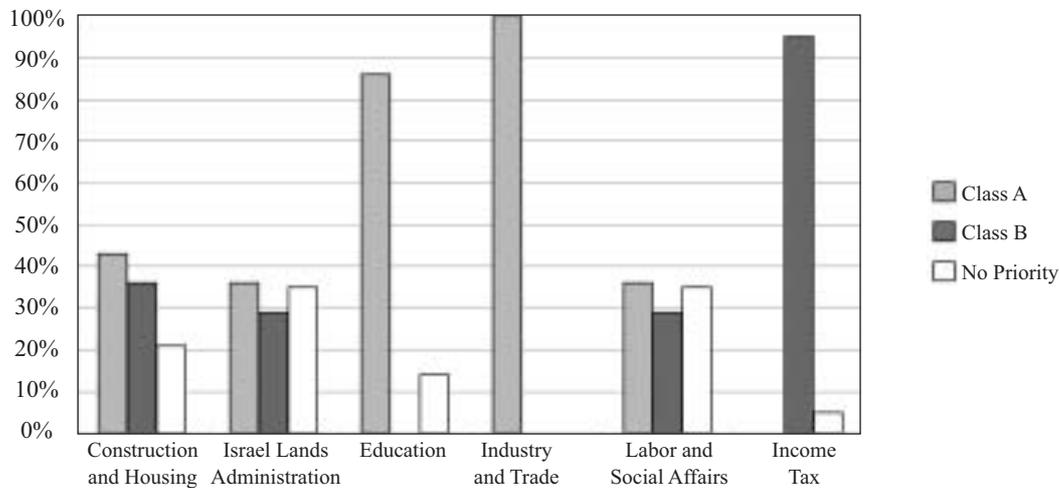


* Does not include East Jerusalem.

** The "no priority" category does not relate to transportation to school, which is entirely funded by the settlements.

206. In the diagrams below, this benefit is included under Class B priority areas.

Diagram 6
Settlers in the West Bank,* by Level of Priority



* Does not include East Jerusalem.

** The "no priority" category does not relate to transportation to school, which is funded entirely by the settlements.

B. Incentives for the Local Authorities

A significant proportion of the services received from the state by Israeli citizens is provided through the local authorities, i.e., the municipalities, local councils and regional councils. These services extend across diverse and varied fields. Some services are provided by the local authority on an independent basis, while others are provided in cooperation with various government ministries. The former category includes, for example, the maintenance of the water and sewage systems, the provision of cleaning services, sanitation and veterinary supervision, the preparation of local outline plans and the granting of building permits, the maintenance of public buildings, roads and public parks, and the collection of municipal taxes. Services provided in cooperation with government ministries include the maintenance of school buildings, the operation of pre-school kindergartens, cultural activities, the maintenance of museums, libraries and sports facilities, the operation of family health clinics, therapy and support for distressed youth and families, support for the religious councils, and the like.

The sources of funding for these services may be divided into two categories.²⁰⁷ The first includes the local authority's self-generated income: municipal taxes, levies, duties, payments from local committees (in the case of regional councils), payments for services provided to residents (engineering services, veterinary supervision, use of libraries, medical services, etc.), school tuition fees, contribution by residents to the costs of development works, and the like.

207. For comprehensive discussion of the funding of local government, see Aryeh Hecht, *The Usurping of the Financing Systems of the Local Authorities* (in Hebrew) (Jerusalem: Floresheimer Policy Research Institute, 1997).

The second source of financing is the government, which transfers money to the local authorities by two methods. The first is participation in the direct financing of specific services, particularly by the Ministry of Education and the Ministry of Labor and Social Affairs (hereafter: earmarked contributions). The second form is the provision of general grants by the Ministry of the Interior for the routine operations of the local authority. The Ministry of the Interior also provides certain local authorities with additional *ad hoc* grants enabling them to meet "special needs" (immigrant absorption, encouraging settlement by young people, flood control, reducing deficits, etc.) Although various criteria exist for the allocation of these grants, the Ministry of the Interior enjoys extensive discretion in this field.

One of the mechanisms used by the government to favor local authorities in the West Bank, in comparison to those inside Israel, is the channeling of money through the Settlement Division of the World Zionist Organization (hereafter: the Division). As described above, the sole purpose of the Division is to establish settlements in the territories occupied in 1967 and to support the continued development of these settlements. Most of the support funds granted by the Division are transferred to the settlers via the local authorities, both within the framework of the regular budget and in the special budget. The unique aspect of the Division is that on the one hand, the budget is drawn entirely from the state budget, while on the other, the rules, procedures and laws applying to government ministries – above all, the Basic Law: The Budget – do not apply because the Division is not a government body. The Division's budget, which is transferred via the Ministry of Agriculture,²⁰⁸ ranged from NIS 153 million to NIS 194 million per annum during the period 1992-1998.²⁰⁹

In 1999, the State Comptroller published a special report on the functioning of the Division. According to this report, since the beginning of 1997, the Division had expanded its areas of support for the settlements beyond housing and agriculture, following a similar move by the Jewish Agency regarding the communities it supported within Israel. The new spheres included social, educational and communal activities, assistance for establishing public buildings, the provision of grants for entrepreneurs, assistance for Jewish religious institutions, financing of transportation, the organization of exhibitions, and the like. According to the State Comptroller's report, this expansion served as a vehicle to favor the settlements relative to communities inside Israel:

The Division has expanded its activities and liabilities on the basis of the principle of equality in assistance for communities on both sides of the Green Line. At the same time, however, the Division interpreted the principle of equality in a flexible manner; in some cases, it extended its activities to spheres beyond those in which the Jewish Agency is active, and in some cases it increased its assistance beyond the assistance standards established by the Jewish Agency for communities it assists within the Green Line. Thus, the Division created the favoring – which had not been decided by the government – of the settlements in Judea, Samaria, Gaza and the Golan relative to other communities.²¹⁰

208. Until 1998, money transferred to the Division was recorded within the budget of the Ministry of Agriculture under the title "The Division," without explaining what division this was or for what purposes this money was devoted (Aryeh Caspi, *Ha'aretz*, 25 June 1999). This is a further example of the general lack of transparency that is typical of many other aspects relating to the settlements (see the Introduction to this report).

209. State Comptroller, *Report of an Audit Regarding Government Assistance for the Development of the New Settlement in the Judea, Samaria, Gaza and Golan Areas* (in Hebrew) (Jerusalem, May 1999).

210. *Ibid.*, p. 20.

Another reason for this preferential treatment, according to the State Comptroller's report, is that, "since both government ministries and the Division are active in assisting settlers in the same areas, and sometimes for the same purposes, 'double support' is sometimes provided to the settlers."²¹¹

The Ministry of the Interior's Local Authorities Audit Division publishes an annual report presenting the summary of financial data for all the local authorities in Israel and the settlements. We shall present below data based on the information included in the most recent report, for the year 2000.²¹² These data provide a breakdown of the source of income of (Israeli) local authorities in the West Bank in that year, and compare these with the parallel data for local authorities inside Israel. It should be emphasized that the al-Aqsa intifada did not increase the level of government funding for local authorities in the West Bank in 2000 – the budgets for these authorities were approved in 1999, before these events erupted.

Before examining the data, it is worth clarifying a number of methodological issues. Firstly, since the size of the population varies from place to place, which has a crucial impact on the level of budgets, the data below are presented on a per capita basis, and not in terms of the total allocation for the authority. Secondly, the data presented here relate to the routine budget of the authorities (the "regular budget" in accounting terms), and *do not* include income in the "special budget" earmarked for one-time investments (usually physical infrastructure), because there is no way to compare this income for different local authorities for any given year. Thirdly, the analysis below does not relate to the financial data for the municipalities, because there are only two local authorities in the West Bank with this status (Ma'ale Adummim and Ari'el),²¹³ so that a comparison with national averages could be unrepresentative.

A review of Tables 4 and 5, and of the accompanying diagrams, shows that the per capita financial transfers of the government to local authorities in the West Bank are significantly higher than the average for local authorities inside Israel. The discrepancy between the two is particularly evident in the case of general grants, which are particularly important from the perspective of the local authorities; unlike earmarked contributions, the authorities are free to use the grant moneys at their discretion, although the entire budget is subject to the approval of the local authority's council and the Ministry of the Interior.

The level of general grants provided by the government for local councils in the West Bank in 2000 averaged NIS 2,224 per resident, compared with an average of NIS 1,336 per resident for local councils in Israel, i.e., sixty-five percent more. Only in four of the fifteen local councils in the West Bank was the level of grants per resident lower than the Israeli average, while in five of the councils the level was over one hundred percent more than the average. The discrepancy in favor of the local councils in the West Bank may also be seen in the context of earmarked contributions by government ministries. While the average for such investment in local councils in Israel is NIS 1,100 per resident, the investment in the local councils in the West Bank was almost NIS 1,500 per resident, i.e., thirty-six percent more.

It is worth noting that the preferential status enjoyed by the local councils in the West Bank in terms of the transfer of government funds was not reflected in any decrease in the residents' participation

211. *Ibid.*, p. 17.

212. Ministry of the Interior, Local Authorities Audit Division, *Report of Controlled Financial Data for the Local Authorities 2000*, Report No. 6 (in Hebrew) (Jerusalem, September 2001).

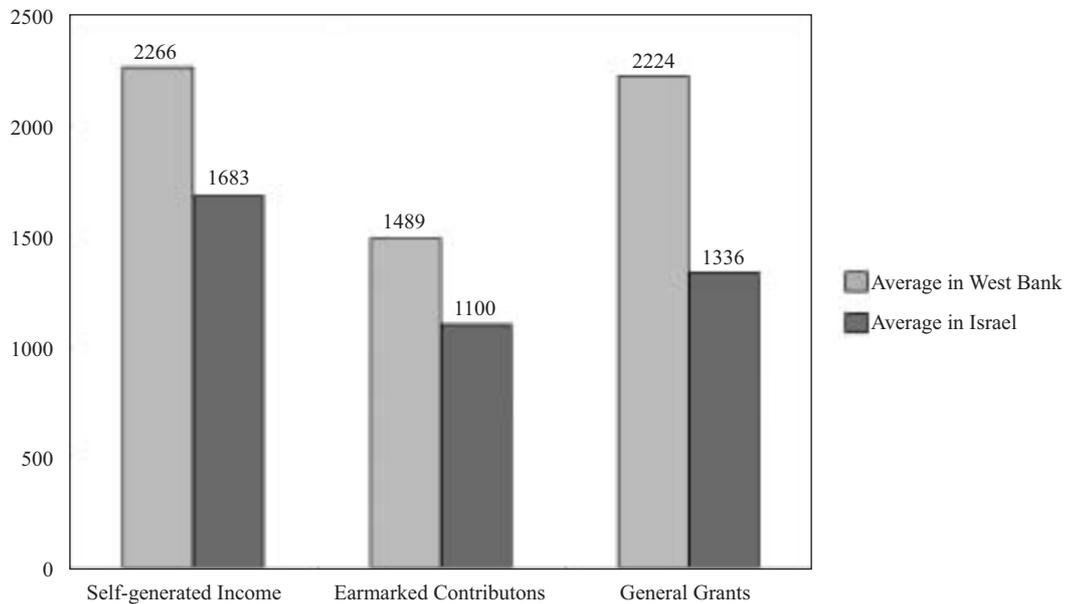
213. At the end of 2001, the settlement of Betar Illit also received the status of a municipality.

in the council's income relative to the average in Israel. One of the reasons for this is the high economic capability that is characteristic, on average, of the local councils in the West Bank relative to those in Israel. Thus, average self-generated income for the local authorities in the West Bank totals approximately NIS 2,300 per resident, while the average figure inside Israel is approximately NIS 1,700 per resident. The combination of the preferential treatment by the government and the higher rate of participation by residents yields a total income basket that is forty-five percent higher in the West Bank than inside Israel.

Table 4
Per-capita Income in West Bank Local Councils (in NIS)

Name of Council	Self-generated Income	Earmarked Contributions	General Grants	Total Per Capita Income
Oranit	3,010	983	1,224	5,217
Alfe Menashe	2,977	1,184	1,712	5,874
Elqana	2,717	1,767	1,860	6,325
Efrat	1,971	1,508	1,743	5,221
Bet El	2,301	1,547	2,840	6,688
Bet Arye	2,761	1,344	2,198	6,304
Betar Illit	1,073	389	1,283	2,744
Giv'at Ze'ev	1,656	1,147	1,232	4,049
Har Adar	3,806	664	2,015	6,486
Modi'in Illit	1,334	735	1,063	3,133
Ma'ale Efrayim	2,497	3,157	4,658	10,312
Immanu'el	1,174	1,467	3,379	6,020
Qedumim	2,739	1,538	3,325	7,851
Qiryat Arba	1,888	2,872	3,085	7,846
Qarne Shomeron	2,081	2,029	1,745	5,855
Average Income in West Bank Local Councils	2,266	1,489	2,224	5,995
Average Income in Local Councils in Israel	1,683	1,100	1,336	4,119

Diagram 7
Per-capita Income in Local Councils (in NIS)



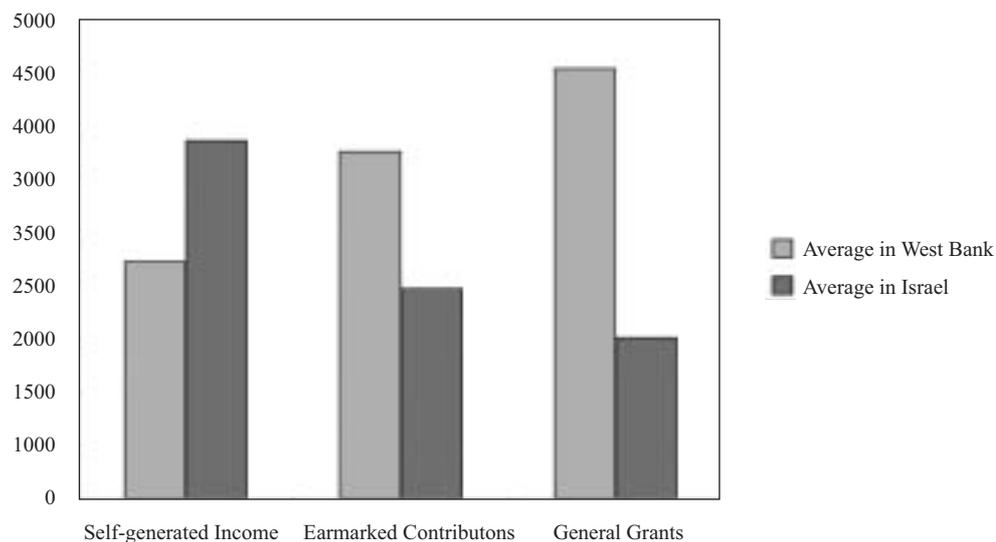
The situation regarding the regional councils is similar, though not identical, to that of the local councils. In the case of regional councils, the discrepancy in general grants is even more pronounced than in the case of the local councils. While the average for regional councils inside Israel is approximately NIS 1,500 per resident, the average for the West Bank is approximately NIS 4,000 – approximately 165 percent more. In all six regional councils in the West Bank, the level of grants is higher than the Israeli average; the highest level is for Megillot Regional Council, where grants amount to approximately NIS 7,500 per resident. In terms of earmarked contributions from government ministries, the discrepancy is approximately sixty-five percent in favor of the regional councils in the West Bank.

Regarding self-generated income, the situation in the regional councils differs somewhat from that in the local councils. The contribution of residents of regional councils in Israel to the income of the council is approximately fifty percent higher on average than that of the residents of regional councils in the West Bank. Nevertheless, the enormous discrepancy in government transfers in favor of the councils in the West Bank means that the total basket of income per resident is still approximately forty percent higher on average in these councils than in the regional councils inside Israel.

Table 5
Per-capita Income in the West Bank Regional Councils (in NIS)

Name of the Council	Self-generated Income	Earmarked Contributions	General Grants	Per Capita Income
Arvot Hayarden	2,618	4,078	4,474	11,171
Gush Ezyon	1,733	2,203	2,807	6,785
Megillot	3,840	4,839	7,511	16,190
Mate Binyamin	1,397	2,447	1,936	5,780
Mt. Hebron	1,768	3,354	4,884	10,007
Shomeron	1,887	2,471	2,421	6,780
Average Income in West Bank Regional Councils	2,207	3,232	4,006	9,452
Average Income in Regional Councils in Israel	3,333	1,952	1,498	6,783

Diagram 8
Per-capita Income in Regional Councils (in NIS)



The extent of the discrepancies in the scope of moneys transferred to local authorities by the government may be examined by comparing transfers to specific local authorities on either side of the Green Line. To ensure that such a comparison is fair and indicative, care was taken to compare local authorities with similar profiles in terms of population size, distance from the center of the country, and socioeconomic status of the residents.²¹⁴ The results of this comparison are presented in Table 6 below.

Table 6
Comparison between Local Authorities in the West Bank and in Israel (in NIS)

Name of Local Authority	Number of Residents	Socio-economic Level	Govt. Grant per Resident*	Name of Local Authority	Number of Residents	Socio-economic Level	Govt. Grant per Resident*
R.C.** Arvot Hayarden	4,400	6	8,550	R.C. Ramat Hanegev	4,900	7	1,710
R.C. Mt. Hebron	4,300	5	8,240	R.C. Yoav	4,300	5	4,740
R.C. Mate Binyamin	26,300	5	4,380	R.C. Mate Yehuda	29,300	5	2,790
L.C.** Qedumim	2,700	6	4,860	L.C. Yavni'el	2,700	6	3,620
L.C. Efrat	6,300	7	3,250	L.C. Bnei Ayish	6,400	6	2,110
L.C. Qiryat Arba	5,700	4	5,960	L.C. Mizpe Ramon	5,300	3	4,180
L.C. Alfe Menashe	4,600	9	2,900	L.C. Ramat Yeshai	4,600	9	1,570

* These figures include both the earmarked contributions and general grants.

** R.C. = Regional Council; L.C. = Local Council

A study undertaken by the Adva Center offers an extensive picture of the system used for financing the activities of Jewish local authorities in the West Bank, Gaza Strip and Golan Heights (as a single unit) during the 1990s (1990-1999).²¹⁵ The study compares data for this group both as regards average figures for Israel and for special groups of authorities, such as development towns. Although this study includes additional authorities beyond those included in that presented above, its conclusions are essentially similar.²¹⁶

214. This variable is reflected in the ranking of the economic capability of the residents of each authority (on a rising scale from 1 to 10) as calculated by the Central Bureau of Statistics, combining various data such as income, size of housing units, number of vehicles per family, etc.

215. Adva Center, *Government Funding of the Israeli Settlement in Judea, Samaria, Gaza and the Golan Heights in the 1990s*.

216. The additional authorities are Hof'Azza Regional Council, Ramat Hagolan Regional Council, and Katzrin Local Council.

Table 7
Multi-year Average of Municipal Income, 1990-1999 (in NIS)*

	Total Budget	Self-generated Income	Government Funding***
West Bank, Gaza and Golan	5,428	1,732	3,679
Development Towns**	4,176	1,925	2,308
Israel	3,807	2,348	1,458

* These figures relate to the three types of local councils, and are updated based on the price index for the year 2000.

** This group is composed of twenty-five communities defined as "developing settlements" by the Central Bureau of Statistics.

*** These figures include both earmarked contributions and general grants.

The research shows that throughout the 1990s, the Israeli government favored the local authorities in the Occupied Territories and in the Golan Heights in comparison to local authorities in Israel. Per capita financial transfers were 150 percent higher. This table shows that these transfers were approximately sixty percent higher than those to the development towns, which ostensibly form part of the areas to which the government seeks to attract residents (see discussion of the national priority areas map above). As a result of the considerable government contribution, the residents of local authorities in the Occupied Territories were required to independently fund (through self-generated income) twenty-five percent less than the national average, and ten percent less than the average for development towns. In total, the per capita budget available to the local authorities in the Occupied Territories was more than forty percent higher than the national average throughout the 1990s, and approximately thirty percent higher than the average for the development towns.

Chapter Six

The Planning System

The planning system in the West Bank, which is implemented by the Civil Administration, has decisive effect over the map of the West Bank. Like other mechanisms established in the Occupied Territories, the planning system operates along two separate tracks – one for Jews and the other for Palestinians. While the system works vigorously to establish and expand settlements, it also acts diligently to prevent the expansion of Palestinian towns and villages.

The inherent importance of any planning system is this: it is charged with determining the use of the land available to a given public in accordance with the needs, perceptions and interests of that public as a whole, and of the individuals that compose that public. The document detailing the decisions made by this system in any given locale is the outline plan, which determines the size, location and zoning of each unit of land (housing, industry, commerce, public institutions, road, open public area, and the like). The Israeli planning system in the West Bank utilized its power to advance the political interests of the Israeli government in power rather than to benefit the local population.

In legal terms, the planning system in the West Bank operates on the basis of the Jordanian legislation applying in the area at the time of occupation, principally the City, Village and Building Planning Law, No. 79, adopted in 1966.²¹⁷ This law defines three types of outline plan, each subject to the next in a hierarchical form and with an ascending level of detail: a regional outline plan, a general-local outline plan, and a detailed plan. These plans are supposed to be prepared and approved by an institutional system reflecting each level: the Supreme Planning Council, the district planning committees and the local planning committees, respectively.²¹⁸ For the purposes of the law, the village councils and municipalities function as local planning boards, as is also customary in Israel.²¹⁹ The law also establishes various provisions relating to the process of consultation with all the relevant bodies when preparing the outline plans, the publication of these plans and deposition for public review, the hearing of objections, and the like.

The Jordanian planning law was changed by Israel by means of Military Order No. 418, issued in 1971 and amended several times over the years.²²⁰ This order introduced far-reaching changes in the planning system in the West Bank. These changes reflected almost exclusively the interests of the Israeli administration and the settlers, while minimizing Palestinian representation on the planning committees and Palestinian influence in planning matters.

With the signing of the interim accords in 1995, and following the redeployment of the IDF in the years that followed, planning powers in Areas A and B were transferred to the Palestinian Authority. The

217. *Planning, Building and Land Laws*, pp. 43-158.

218. In the case of towns or small villages, the law permits the unification of the two latter stages, in the form of a "general-detailed outline plan" (City, Village and Building Planning Law, No. 79, Section 22).

219. For a comparison of the laws and institutional structure of the planning system inside Israel, see Dennis Goldman, *Introduction to Planning and Building Laws* (in Hebrew) (Jerusalem: Hebrew University of Jerusalem, 2000).

220. Order Concerning the City, Village and Building Planning Law (Judea and Samaria) (No. 418), 5731-1971, in *Planning, Building and Land Laws*, pp. 239-250.

planning powers relating to Area C, which since 2000 accounts for some sixty percent of the West Bank, were not affected. Although at present a very small percentage of the Palestinian population in the West Bank lives in Area C, the military planning system continues to exert a direct influence on the lives of tens of thousands of Palestinians, mainly in Area B, and indirectly on all the Palestinian residents of the West Bank.

A. Restriction of Construction in Palestinian Communities

One of the principal changes that Israel made in the Jordanian law was the transfer of all the powers granted in the Jordanian law to the Minister of the Interior to the Commander of IDF Forces in the Region.²²¹ Accordingly, most of the Jordanian and Palestinian officials were replaced by Israelis, most of whom were IDF officials or representatives of the settlers. The Supreme Planning Council became a unit of the Civil Administration under the direct responsibility of the Officer for Internal Affairs.

In addition, Israel eliminated the district planning committees (which were responsible for preparing the local-general outline plans) and the planning authorities of the village councils (in the context of detailed planning). These authorities were transferred to the Central Planning Bureau, which is a technical and professional body operating alongside the Supreme Planning Council. Accordingly, the only powers continuing to rest with Palestinians were the planning authorities of the municipal councils (for the purpose of detailed plans); even these powers were curtailed by various means.²²²

Over the years, the main tool used by Israel to restrict building by the Palestinian population outside the borders of the municipalities was simply to refrain from planning. Like its Jordanian predecessor, the Israeli administration has refrained from preparing updated regional outline plans for the West Bank. As a result, until the transfer of authority to the Palestinian Authority (and to this day, in Area C), two regional plans prepared in the 1940s by the British Mandate continue to apply – one in the north of the West Bank and the other in the south.²²³

The Mandatory outline plans were already a completely unreasonable basis for urban planning in the initial years of the occupation, and they are even more so today.²²⁴ One of the principal reasons for this is the discrepancy, which has widened over the years, between the size of the population on which the Mandatory plans were based and the actual size of the population. Areas in which these plans permitted building, generally around existing built-up areas, were quickly exploited, while most of the area of the West Bank continued to be zoned as "agricultural areas" or "nature reserves," where building is prohibited.

The British outline plans also do not meet the planning needs of the Palestinian population because the plans are divided into just four land uses: agriculture, development, nature reserve and coastal reserve. This division ignores numerous land uses that are included, for example, in the district outline plans

221. *Ibid.*, Section 2(1).

222. *Ibid.*, Section 2(2)(3).

223. Jerusalem District Outline Regional Planning Scheme RJ/5, approved in 1942, and *Samaria Regional Planning Scheme S15*, deposited in 1945 but which never received final approval.

224. For greater detail on this matter, see a planning opinion prepared by Bimkom, *Villages in Area C Without Outline Plans* (in Hebrew), Planning Opinion, June 2001 (unpublished).

applying inside Israel (industrial zone, tourism area, quarry area, etc.) Moreover, these plans determine that the minimum area for construction of a single housing unit is 1,000 square meters, without any possibility to subdivide this area into smaller units (parcellation).

In the early 1990s, the Central Planning Bureau of the Civil Administration prepared Special Partial Outline Plans for some four hundred villages in the West Bank. These plans were supposed to fill the role of the detailed plans required by Jordanian law. However, instead of permitting the development of the villages, these plans effectively constituted demarcation plans. In preparing the plans, aerial photographs were taken of each village, and a schematic line was then added around the settled area. Construction was prohibited on land outside this line. According to the perception reflected in these demarcation plans, construction in Palestinian villages is supposed to take place by the "infill" method, i.e., the filling of vacant areas within the demarcated area through high-rise construction and a gradual increase in the population density.²²⁵

Applications filed in the past by Palestinian residents to the Civil Administration (and still filed, in the case of Area C) for building on private land outside the area of these plans are almost always rejected. The reasons for the rejections are based both on the demarcation plans (the land is outside the plan area) and on the Mandatory outline plans (the area is zoned for agriculture or a nature reserve). For example, between 1996 and 1999, the Civil Administration issued just seventy-nine building permits.²²⁶ The Civil Administration issues demolition orders against houses built without a permit.²²⁷

In some parts of the West Bank, particularly along the Western Hills Strip, the borders of Areas A or B are almost identical to the border of built-up area of Palestinian communities, i.e., the border of the demarcation plans (see the map attached to this report, as well as Chapter Seven below). Although most of the residents in these areas live in Areas A and B, most of the available land for building on the edges of the villages lies within Area C. Accordingly, although planning and building powers in Areas A and B has ostensibly been transferred to the Palestinian Authority, the transfer of power is meaningless in a large proportion of the cases.

The use of the outline plans as a tool for restricting Palestinian building, and for promoting the building of the settlements, is also very widespread in East Jerusalem, despite the differences in the legal and institutional mechanism imposed on this area in comparison with the remainder of the West Bank. Immediately after the annexation of East Jerusalem, in 1967, and contrary to the remainder of the West Bank, all the Jordanian outline plans applying in the area were nullified, and a planning vacuum was created that has only gradually been filled. During the first decade following the annexation, *ad hoc* building permits were issued in extremely restricted areas of the city.²²⁸

In the early 1980s, the Jerusalem Municipality decided to prepare an outline plan for all the Palestinian neighborhoods of East Jerusalem. Most of the plans have now been completed; a minority are still in the process of preparation and approval. The most striking feature of these outline plans is the extraordinary

225. B'Tselem, *Demolishing Peace*, p. 11.

226. Amnesty International, *Demolition and Dispossession: The Destruction of Palestinians' Homes*, MDE 15/059/1999 (December 1999).

227. For details of the number of houses demolished in this context, see B'Tselem, *Demolishing Peace*; Amnesty International, *Demolition and Dispossession*.

228. Ir Shalem, *East Jerusalem – Planning Situation*, p. 5.

amount of land (approximately forty percent) defined as "open landscape," in which any form of development is prohibited. The plans approved through the end of 1999 show that only eleven percent of the area of East Jerusalem *excluding the expropriated land* is available to the Palestinian population for building. As was the case in the remainder of the West Bank in the context of the demarcation plans, this construction is allowed mainly within existing built-up areas.²²⁹

B. The Planning System for the Settlements

The same legal and institutional system responsible for planning in Palestinian areas is also responsible for planning in the settlements. However, the criteria applied in these two cases are diametrically opposed. In institutional terms, the outline plans for the settlements are discussed and approved by the Sub-Committee for Settlement, which is one of several subcommittees operating under the auspices of the Supreme Planning Council.

The order that changed the Jordanian law empowered the Commander of IDF Forces in the Region to issue orders appointing "special planning committees" for defined areas "which shall possess the powers of the local planning committee... [and] also the powers of the district planning committee."²³⁰ This provision was used by the Israeli administration to define the Jewish local authorities in the West Bank as special planning committees, empowered to prepare and submit (to the Supreme Planning Council) detailed outline plans and local-general outline plans, and to grant building permits to residents on the basis of these plans. Not a single Palestinian village council has ever been defined as a special planning committee for the purpose of this law.

The municipal boundaries, i.e., area of jurisdiction, of each Jewish local authority, as determined in the orders issued by the commander of IDF forces, function as the "planning area" for each special planning committee, and the committee's authority encompasses this area. In the case of the regional councils, the planning area is confined to the "areas of the communities" included in these councils, i.e., it does not include the reserves of land within the area of the council that have not been attached to any specific settlement (for further discussion, see Chapter Seven below).

The Jewish local authorities, in their function as the local and district planning committees for the settlements, operate in coordination and cooperation with the various institutions of the military and governmental system, in a constant process of expansion and growth. The first condition for submission of outline plans for approval by the Supreme Planning Council is that the planned area lies within the area of jurisdiction of the local authority. If this is not the case, the Civil Administration acts to rearrange the administrative borders of the local authorities in order to adapt these to the new outline plan. For example, the State Attorney's Office described the manner in which the latest local outline plan for the settlement of Ma'ale Adummim (against which a petition was filed in the High Court) was brought for approval:

At the beginning of 1990, the head of Ma'ale Adummim Council contacted the Civil Administration and asked to expand the area of jurisdiction of the community by some 18,000 additional dunam...

²²⁹. *Ibid.*

²³⁰. Section 2A of the Order Regarding the City, Village and Building Planning Law.

The areas Ma'ale Adummim asked to attach to its area of jurisdiction were at this time included in the area of jurisdiction of Mate Binyamin Regional Council and Gush Ezyon Regional Council... On 16 October 1991, after work undertaken by the headquarters on this matter, Respondent No. 1 [the Commander of IDF Forces in the West Bank] signed regulations regarding the local councils (replacement of map)... in accordance with which the area of jurisdiction of the community was expanded by some 13,500 dunam.²³¹

A further difficulty results from the establishment of the settlements in areas defined as agricultural areas or nature reserves in the Mandatory regional outline plans. This difficulty is overcome by ensuring that almost all the general local outline plans for the settlements are filed with the Supreme Planning Council as an "amendment to Regional Outline Plan S-15 or RJ-5." This allows the military planning system to authorize the establishment of new settlements and the expansion of existing ones, on the one hand, without waiving the Mandatory outline plans, which are effectively used to restrict the expansion of Palestinian communities, on the other hand.

There is nothing improper *per se* about the flexibility shown by the planning system, both in terms of amending the areas of jurisdiction of the Jewish local authorities and in terms of changing the zoning of land in the settlements as established in the Mandatory outline plans. What is improper, however, is the contrast between this flexibility and Israel's strict enforcement of the letter of the law regarding planning and development in Palestinian communities, where Israel does not hesitate to misuse the planning system to serve its purposes.

The Jewish local authorities prepare their outline plans in cooperation with the settling body responsible for establishing the settlements – the Ministry of Housing and Construction or the Settlement Division of the World Zionist Organization; these bodies continue to accompany the settlement after establishment. One of these two bodies appears in each plan under the title "submitter of the plan" as the body empowered by the Custodian for Government Property to plan the land, and/or under the title "implementer."

Once the plan has been submitted to the Sub-Committee for Settlement in the Supreme Planning Council, and once this body provides preliminary approval, notification thereof appears in the press (including the Arabic-language press in the Occupied Territories), and the plans are deposited for public review for a period of several weeks. Persons who believe that they are injured by decisions taken in the plan, including Palestinian residents, are entitled to submit objections to the objections committee of the Supreme Planning Council.

In practice, the ability of Palestinian residents to object *effectively* to the outline plans for the settlements is extremely limited. The main reason for this is that most of the grounds that might lead the objections committee to accept an objection to the outline plan for a settlement are already resolved before the plan is deposited for public review. The question of land ownership, for example, is settled during the process of seizure of land. Even if a Palestinian resident first learns that his land is intended for the expansion of a settlement when the outline plan is published, he will almost certainly have missed the date for submission of an appeal to the appeals committee against this decision (as far as the land is concerned).

231. Paragraph 9 of the response of the Attorney General in H CJ 3125/98, 'Abd Al-'Aziz Muhammed Iyad et al. v. Commander of IDF Forces in Judea and Samaria et al.

Similarly, any potential conflict between the outline plan for the settlement and the development needs and aspirations of the Palestinian communities is "resolved" by the military planning system through the demarcation plans approved by Israel in the 1990s, as well as by the restrictive land-zoning provisions established in the Mandatory outline plans. The ability of Palestinian residents to object effectively to the outline plans for the settlements is also influenced by technical considerations, such as the difficulties they encounter in reaching the Civil Administration offices to review the outline plans, difficulties in accessing the land covered by the plan in order to prepare an objection, the high costs involved in filing an objection, difficulties in participating effectively in a hearing that takes place in Hebrew, and so on.

Chapter Seven

An Analysis of the Map of the West Bank

The attached map of the West Bank reflects the radical transformation of the area that has resulted from thirty-five years of Israeli occupation:²³² the establishment of dozens of settlements that extend over enormous areas and are connected to each other, and to Israel, by means of an extensive network of roads. The character of the settlements as Israeli enclaves, separated from and closed to the Palestinian population, are an important source of the infringement of the Palestinians' human rights.

To analyze the geographical dispersion of the settlements and their impact on Palestinian residents, the report divides the West Bank into four areas (see Map 2). It should be emphasized that this division is purely to facilitate the discussion, and does not have any legal or bureaucratic manifestation. Each area includes settlements that share certain similarities in terms of topography, proximity to Palestinian communities and main roads, economic infrastructure, the composition of the population, distance from the Green Line, and the like. These characteristics in turn influence the manner and degree in which the human rights of the Palestinian population are violated.²³³

Three of the four areas are longitudinal strips of land stretching from north to south across the West Bank, while excluding the Jerusalem area, which constitutes a separate group:

- *The Eastern Strip* – includes the Jordan Valley and the northern shores of the Dead Sea (outside the Green Line), as well as the eastern slopes of the mountain range that run along the entire West Bank from north to south.
- *The Mountain Strip* – the area on or adjacent to the peaks of the mountain range. This area is also known as the watershed line or the mountain-range area.
- *The Western Hills Strip* – includes the western slopes of the mountain range, and extends to the Green Line to the west.
- *The Jerusalem Metropolis* – this area extends across a wide radius around West Jerusalem. Although in purely geographical terms this area lies mainly in the Mountain Strip, it has unique characteristics that demand separate attention.

Areas Marked on the Map and Sources of Information

Built-up area: The built-up areas in the settlements and Palestinian communities (see Map 1) include all areas in which any development has been carried out, including residential construction, commerce, industry and agricultural buildings (hereafter: developed areas), but excluding open agricultural areas. The main source of information presented in this section of the map is a map at a scale of 1:150,000 produced by the U.S. State Department following the implementation of the Sharm el-Sheikh agreement, based on

232. B'Tselem, *Settlements in the West Bank – Built-up Areas and Land Reserves* (May 2002).

233. Moreover, since any analytical classification is by definition based on the principle of generalization, it should not be inferred that every settlement included in a given category necessarily shares all the characteristics of that group; in certain respects, a particular settlement in one group may share the characteristics of a different group.

a satellite photograph of the West Bank from November 2000. Another source of information comes from the Peace Now data regarding outposts established over the past two years, as well as information from ARIJ (Applied Research Institute Jerusalem) concerning expansion undertaken through April 2001.²³⁴

Municipal boundaries: The municipal boundary of each settlement is the area of authority of the local committee or council, according to the status of each settlement (see Chapter Four). This area also constitutes the planning zone of the special planning committees – in other words, this is the area within which the (Jewish) local authorities are permitted to submit an outline plan for the approval of the Supreme Planning Council, and to issue building permits for the expansion of the settlement (see Chapter Six).

In most cases, this information is based on the map of the area of jurisdiction/area of community of each settlement accompanying the military order signed by the Commander of IDF Forces in the West Bank declaring the establishment of the settlement or the revision of its boundaries (see Map 3). For some settlements, the municipal boundaries shown are based on the boundaries appearing in the outline plans for each settlement. The outline plans generally relate to the entire municipal area of each settlement. There may, however, be cases in which the municipal boundaries include areas for which no planning has yet been carried out, and which extend beyond the boundary shown on this map.

One of the reasons for the lack of uniformity in the sources of information relates to the difficulties B'Tselem experienced in obtaining the relevant maps from the Civil Administration (see the discussion in the Introduction). A further reason is that, for some settlements, no map has yet been drawn demarcating the revised area of settlement, so that the only existing boundary is that included in the outline plan of the settlement. Regarding four settlements, B'Tselem has been unable to obtain information relating to the municipal boundaries.²³⁵

Regional councils: The area of the regional councils include the areas of jurisdiction of the regional councils that lie beyond the municipal boundaries of a specific settlement (see Map 3). These areas include all the land Israel has seized control of during the years of occupation (with the exception of land included in Areas A and B), according to the methods described in Chapter Three. This land is intended to serve as reserves for the future expansion of the settlements or to establish new industrial zones along the lines of those established in recent years. As noted in Chapter Four, although this land has been declared state land, parts of it are currently used by Palestinians for farming or grazing.

As in the case of the municipal boundaries of each settlement, the source of information regarding these boundaries is the maps accompanying the military orders declaring the establishment of each regional council. The maps showing the area of jurisdiction of the regional councils as forwarded to B'Tselem by the Civil Administration are the original maps issued on the declaration of the establishment of each council. According to the Civil Administration, "the Civil Administration does not currently have updated maps for the regional authorities in Judea and Samaria."²³⁶ To represent the updated situation, as far as possible, we deleted from the map shown in this report areas that appear in the original maps within the area of jurisdiction of the regional councils but which have been transferred to the Palestinian Authority in the framework of the Oslo Accords.

234. See the Website of Peace Now (www.peacenow.org.il) and the Website of ARIJ (www.arij.org).

235. These settlements are Telem, Adura, Pene Hever and Har Adar.

236. Letter of 31 December 2001 from Civil Administration Spokesperson Captain Peter Lerner to Attorney Sharon Tal of the Israel Religious Action Center, which provided legal counsel to B'Tselem.

Areas A, B, C: The map also marks the division of powers between Israel and the Palestinian Authority following the implementation of the Oslo Accords signed between 1993 and 2000: Area A, in which the Palestinian Authority is responsible for most internal affairs, including security and building; Area B, where the IDF holds security control and is entitled to enter freely, while the Palestinian Authority holds control in civilian matters; Area C, where Israel controls both security matters and planning and construction (see Map 5). Table 8 below summarizes the division of the West Bank into these three areas, as determined following the second redeployment, in March 2000, following the Sharm el-Sheikh Agreement.

Table 8
West Bank Regions according to the Oslo Accords*

Region	Thousands of Dunam	Area of the West Bank (by percentage) **
Area A	1,008	18.2
Area B	1,207	21.8
Area C	3,323	60
Total	5,538	100

* After the second redeployment (March 2000) following the Sharm el-Sheikh agreement.

** The area of the West Bank referred to here does not include East Jerusalem, no man's land and the proportionate area of the Dead Sea (based on the Sharm el-Sheikh agreement).

Source: ARIJ, www.arij.org

A. The Eastern Strip

The Eastern Strip includes the Jordan Valley and the northern Dead Sea coast, as well as the eastern slopes of the mountain ridge and part of the Judean Desert. This area is bordered by Jordan to the east, the Green Line in the vicinity of Bet She'an to the north, and the Green Line north of 'Ein Gedi to the south. The western boundary of this area is less sharply defined than the above, but may be characterized as the point where the arid climate typical of this strip gives way to the semi-arid climate, at or around the four-hundred-meter altitude level.²³⁷

The geographical conditions in this area are extreme, characterized by high temperatures, sparse precipitation (100-300 mm per annum) and, in the western part of the area, extremely steep topography. Due to these conditions, only a limited number of Palestinian communities developed in this area. The Palestinian population is relatively sparse, and lives in three areas: the city of Jericho and the Auja area north of Jericho, which were transferred to the control of the Palestinian Authority (Area A) in 1994; the villages in the Jiftlik area (Marj An-Na'aja, Zubeidat, Qarawa Al-Foqa); and a number of villages in the north of the Jordan Valley, including Bardala and 'Ein el-Beida. There are no permanent Palestinian communities in the Judean Desert and Dead Sea areas.

237. Elisha Efrat, *Judea and Samaria: Outline for Physical-Regional Planning* (in Hebrew) (Jerusalem: Ministry of the Interior, 1970), p. 27.

The Jordan Valley was the first area in which settlements were established, on the basis of the outline sketched by the Alon Plan (see Chapter One), because this plan recommended avoiding settlement in areas densely populated by Palestinians. An additional reason was that a significant proportion of land in this area was already registered as state land under the Jordanian administration, so that the process of seizure was relatively simple and straightforward (see Chapter Three). The limited scope of Palestinian farming – confined to the above-mentioned areas – also facilitated Israel's declaration of additional land as state land since 1979, both in the Jordan Valley and on the shores of the Dead Sea and the eastern slopes of the mountain range.

As a result, most of the land reserves held by Israel in the West Bank and registered in the name of the Custodian for Government and Abandoned Property is situated in this strip and included in the area of jurisdiction of two regional councils – Arvot Hayarden and Megillot. In the case of Arvot Hayarden, a certain proportion of the land is exploited for agricultural purposes by settlers, whereas in Megillot the land is unused. Both these regional councils differ from the other regional councils in the West Bank in that their areas or jurisdiction are contiguous, with regular and unconvoluted boundaries consonant with the boundaries of the Eastern Strip. Control of these land reserves has enabled Israel to establish settlements in the Jordan Valley and Dead Sea areas according to the cooperative settlement model (kibbutzim, moshavim and cooperative moshavim, as well as a number of NAHAL outposts). In economic terms, these settlements depend mainly on agriculture, with the exception of Ma'ale Efrayim, an urban settlement.

Most of the settlements in the Eastern Strip were established to the north of Jericho, within the area of jurisdiction of Arvot Hayarden Regional Council. In terms of geographical distribution, these settlements may be divided into two parallel strings extending along the north-south axis – one along Road No. 90, which is also known as the "Jordan Valley Road," and the other further to the west, along Road No. 508 and Road No. 578, adjacent to the sea-level elevation contour. The former string of settlements includes Mehola, Shademot Mehola, Hemdat, Argaman, Mesu'a, Yafit, Peza'el, Tomer, Gilgal, Netiv Hagedud, Niran, Yitav, No'omi, and two NAHAL outposts – Zuri and Elisha. The latter string includes the settlements of Ro'i, Beqa'ot, Hamra, Mehora, Gittit and Ma'ale Efrayim, as well as the NAHAL outposts Maskiyyot and Rotem. To the south of Jericho and along the Dead Sea coast, within the area of jurisdiction of Megillot Regional Council, lie the settlements of Vered Yeriho, Bet Ha'arava, Almog, Qalya and Mizpe Shalem, and the NAHAL outposts 'Ein Hogla and Avenat.

The areas of jurisdiction of most of the settlements in this strip extend across extensive areas, from two to seven times the built-up area of the settlement. The borders of Peza'el, Yafit, Tomer, Gilgal and Netiv Hagedud (total 1,000) are contiguous, creating a unified block with an area of over 16,000 dunam in the heart of the Eastern Strip – an area ten times the current built-up area of these settlements.²³⁸ However, and in contrast to other areas, the outline plans for the settlements in this strip define most of these areas as agricultural land; only a small portion is zoned for construction. Ma'ale Efrayim (1,500) constitutes an exception in this respect: according to its outline plan, the settlement is planned to occupy a built-up area eight times that currently existing.²³⁹ Large areas of land farmed by the settlers extend beyond the municipal boundaries of any settlement, and are situated in areas of Arvot Hayarden Regional Council that have yet to be attached to any specific settlement.

238. The numbers that appear in parentheses in this analysis refer to the estimated number of residents in each settlement as of the end of 2001, unless otherwise stated.

239. Ma'ale Efrayim Local Outline Plan, No. 310.

In this strip, the main infringement of Palestinian human rights relates to the restriction of opportunities for economic development and for agriculture, in particular. To a lesser extent, opportunities for urban development are also reduced.

On the declaration of the establishment of Arvot Hayarden Regional Council, the then Commander of IDF Forces in the West Bank, Binyamin Ben-Eliezer, signed the map showing the area of jurisdiction of this council, which is allocated the entire Jordan Valley, except for the Palestinian communities mentioned above.²⁴⁰ The immediate ramification of this declaration was to block Palestinians from using these lands or expanding their agricultural activities.

As proved by the settlements located along the Jordan Valley, and despite the harsh climatic conditions, the land in this area permits the development of diverse branches of agriculture through the use of irrigation technology. The fact that Palestinian agriculture did not develop in this area prior to 1967 on a more significant scale is due to the lack of know-how and resources that would enable exploitation of the underground water basins. During the 1960s, the Jordanian administration initiated a large-scale project to move water via channels from the Yarmuk River to the entire West Bank. This project was discontinued after the Israeli occupation.²⁴¹ Additional evidence may be found in a publication of the Ministry of the Interior's Planning Division dated 1970, prior to the commencement of the settlement drive, which analyzes the geography of the West Bank and recommends the development of Palestinian settlement in the Jordan Valley, "to be accompanied by regional development projects, particularly in the field of irrigation and land preparation."²⁴²

The reliance of the Jordan Valley settlements on agriculture, which is, as noted, dependent on intensive irrigation, denies Palestinian residents the opportunity to enjoy a large proportion of the water resources in the region. Several underground water basins exist along the entire Eastern Strip, constituting part of the larger system known as the "mountain aquifer."²⁴³ According to the interim agreement between Israel and the Palestinian Authority, Israel is permitted to pump forty million cubic liters per annum from these basins for the use of the settlements in the area, constituting some forty percent of the annual renewable water in these basins, i.e., natural recharge.²⁴⁴ The water consumption of the population of the Jewish settlements in the Jordan Valley – a population of less than 5,000 – is equivalent to seventy-five percent of the water consumption of the entire Palestinian population of the West Bank (approximately two million people) for domestic and urban use. This discrepancy is particularly disturbing in the context of the severe water shortage facing the Palestinian population in general, and the rural population in particular.²⁴⁵

240. Order Concerning the Management of Regional Councils (Amendment No. 2) (Judea and Samaria) (No. 806), 5740-1979, Map of the Area of Biq'at Hayarden Regional Council, 30 September 1979.

241. This plan was known as the Western Ghor Channel. For details of the project, see Micha Bar, *Cooperation and Regimes in International Drainage Basins – The Function of Norms* (in Hebrew) (thesis toward a Ph.D. in Philosophy at the Hebrew University of Jerusalem, 1998).

242. Elisha Efrat, *Judea and Samaria*, p. 71.

243. For details of the characteristics of the aquifer, see B'Tselem, *Thirsty for a Solution*.

244. Interim Israeli-Palestinian Agreement Regarding the West Bank and Gaza Strip, Washington, September 28, 1995, Protocol Concerning Civil Affairs, Article 40, Schedule 10. This agreement establishes that the natural recharge of the basins is 172 million cubic liters per annum – a figure that is contrary to the estimate of most experts, who put the natural recharge at approximately 100 million cubic liters per annum. See *Thirsty for a Solution*, p. 30.

245. For details of the water shortage, see B'Tselem, *Not Even a Drop – The Water Crisis in Palestinian Villages Without a Water Network* (Information Sheet, July 2001).

Just as the inclusion of most of the Jordan Valley in the area of jurisdiction of Arvot Hayarden Regional Council denies the Palestinian population the possibility for agricultural development, the inclusion of the Dead Sea shore and Judean Desert in the area of jurisdiction of Megillot Regional Council denies valuable possibilities for industrial and tourism development. In this context, it is important to emphasize that the Dead Sea is a unique natural phenomenon. Israel exploits this resource intensively, particularly in the section to the south, within the Green Line, both for its chemical industry (the Dead Sea Works) and for tourism. These two economic activities create numerous jobs and significant foreign currency earnings.

The enclave handed over to the control of the Palestinian Authority in 1994 includes the city of Jericho (17,000) and the Auja area (3,400). The two sections are linked by a narrow corridor surrounded on all sides by settlements, NAHAL outposts and IDF bases, preventing any possibility for significant urban sprawl beyond the boundaries of the enclave. The Auja region is blocked to the north by the settlement of Niran (60), and to the west by the settlement of Yitav (110) and the adjacent military base. The corridor connecting the Auja region to the city of Jericho is blocked to the east by the settlement of No'omi (130) and the NAHAL outpost Zuri, and to the west by two IDF bases. The city of Jericho itself is blocked to the west by the edge of the area of jurisdiction of Merhav Adummim (within the Jerusalem Metropolis – see below), while area A to the south of the city is blocked by the settlement of Bet Ha'arava (55) and the NAHAL outpost 'Ein Hogla. Aqbat Jaber refugee camp (5,400), on the southwest edge of Jericho, is blocked almost entirely by the settlement of Vered Yeriho (160).

In total, the municipal boundaries of the settlements in the Eastern Strip encompass approximately 76,000 dunam, of which approximately 15,000 are developed areas inhabited by some 5,400 residents. As noted, unlike the other three areas, most of the undeveloped areas within the borders of the settlements are used for agriculture or earmarked for such use in the future. The areas of the regional councils outside the municipal boundaries encompass some 1,203,000 dunam; in the case of Arvot Hayarden Regional Council, part of this area is farmed by settlers.

B. The Mountain Strip

The second strip extends along the entire length of the West Bank in the peaks of the mountain range along the watershed line. The northern and southern borders of the strip are the Green Line. The eastern and western borders are not clear. In the east, the border is set at the four-hundred-meter elevation contour, which is the western border of the Eastern Strip, while the western border is at around the 400-500 meter elevation. In climactic terms, this is a relatively cool area with relatively heavy precipitation. However, topographical conditions severely restrict the possibilities for farming.

This strip includes the six largest and most populous Palestinian cities in the West Bank: Jenin, Nablus, Ramallah, East Jerusalem, Bethlehem and Hebron, which are surrounded by dozens of towns and small and medium-sized villages. Accordingly, and in keeping with the principles of the Alon Plan, the Ma'arach governments (1969-1977) generally refrained from establishing settlements in this area. The wave of settlement in this area thus began after the rise to power of the Likud, and particularly after 1979, when the procedure for declaring land as state land began. Most of these settlements were established by the Settlement Division of the World Zionist Organization, and were transferred to the

management of Gush Emunim (or one of the other settling movements), which was responsible for populating them with settlers. The result is that the community settlement is by far the most common form of settlement in the Mountain Strip.

Unlike the cooperative and urban settlements, community settlements generally lack any local economic base. Most of the settlements do not farm the land, and most of the residents work in urban centers inside Israel. This is due to the topographical conditions and to the dense Palestinian population in this area, which prevented Israel from seizing control of extensive patches of land and allocating them for agriculture. Also, the emphasis on agricultural labor is less pronounced in the ideology of Gush Emunim than in the kibbutz and moshav movements.

In administrative terms, the Israeli-controlled land in this area is divided among four regional councils (Shomeron, Mate Binyamin, Gush Ezyon and Mt. Hebron). The areas of jurisdiction of these councils extend west into the Western Hills and the Jerusalem area. Other lands that Israel has taken control of in this strip are included in the areas of jurisdiction of a number of local councils.

The distribution of settlements in the Mountain Strip is similar to that in the Eastern Strip, i.e., the settlements are arranged in two parallel strings. The first and central string extends across the length of the West Bank, alongside or adjacent to Road No. 60, which is the main road connecting the six main Palestinian cities in the West Bank. From north to south (and excluding the Jerusalem Metropolis), this strip included the settlements of Gannim, Kaddim, Sa-Nur, Homesh, Shave Shomeron, Qedumim, Yizhar, Tapuah (see Photo 2), Rehelim, Eli, Ma'ale Levona, Shilo, Ofra, Bet El, Pesagot, Karne Zur, Qiryat Arba, Bet Haggai, Otni'el and Shim'a. To this one should add Elon Moreh, Har Brakha and Itamar, which lie adjacent to Road No. 57, the main branch of Road No. 60 circumventing the city of Nablus to the east.

The second string of settlements in this strip is situated to the east of Road No. 60 and the watershed. To the north of the Jerusalem Metropolis, this string runs along Road No. 458 (also known as the Alon Road); this includes Migdalim, Kohav Hashahar, Rimonim (see Photo 3) and Ma'ale Mikhmas; to the south of the metropolis, the string extends along Road No. 356, from the southeast corner of Bethlehem through to the Green Line; this area includes Teqoa, Noqedim, Ma'ale Amos, Mezad, Pene Hever, Carmel, Ma'on, Suseya, Shani and Mezadot Yehuda.

The dispersion of settlements along Road No. 60 reflects Israel's objective to control the main transport artery of the Palestinian population by creating blockages preventing the expansion of Palestinian construction toward the road, and to prevent the growing together of Palestinian communities located on different sides of the road. This objective, which has been partially realized, is stated explicitly in the Hundred Thousand Plan, as follows:

The majority of the Arab population is concentrated in this strip, in urban and rural communities. The mountain ridge road [Road No. 60] is essentially a local Arab traffic artery. Jewish settlement along this road will create a mental obstacle in considering the mountain ridge, and may also limit the uncontrolled expansion of the Arab settlement.²⁴⁶

246. Ministry of Agriculture and the Settlement Division of the World Zionist Organization, *Master Plan for Settlement for Samaria and Judea, Development Plan for the Area for 1983-1986*, p. 22.

In most cases, these settlements are isolated and occupy relatively short stretches of the road. In several places, however, Israel has managed to create a block of settlements controlling a more significant section of Road No. 60. One example of this is the Shilo – Eli – Ma'ale Levona block (total 3,900), whose municipal boundaries extend over some 7,700 dunam around the road (see Map 9). Another example is the settlement of Shim'a (300), situated by the road in the southern extremity of the West Bank. Although this settlement has only a relatively limited built-up area (265 dunam, including an outpost to the south), its borders include no less than 10,600 dunam, which is forty times the built-up area (see map 10).²⁴⁷

Because of the location of these settlements on or adjacent to Road No. 60, the Oslo Accords stated that most of this road would continue to be under direct Israeli control, i.e., it was defined as Area C. The presence of Israeli citizens at various points of dispersion along a long stretch passing through densely-populated Palestinian areas has led to a significant military presence to protect these citizens.

During periods of rising violence against settlers, Israel has responded by imposing harsh restrictions on the freedom of movement of the Palestinian population along this key artery. These restrictions disrupt all aspects of everyday life for some two million Palestinians and severely infringe the right to health, employment, family life and education.²⁴⁸

Shortly after the outbreak of the al-Aqsa intifada, Israel blocked the access roads from Palestinian communities in the mountain area to Road No. 60, either by means of physical roadblocks (dirt piles, concrete blocks or trenches) or by establishing checkpoints staffed by IDF soldiers that prevent the passage of Palestinian vehicles. According to official Israeli sources, the blockage of these roads is *also* intended to prevent acts of terror within Israel, but these sources do not deny that one of the main goals of this policy is to ensure the safety of the settlers.²⁴⁹ The connection between the presence of settlers and restrictions on freedom of movement is even more apparent in places where Road No. 60 passes *within* the built-up area of Palestinian communities, such as in the towns of Hawara (5,100) and Silat Adh-Dhahr (5,500), in the districts of Nablus and Jenin, respectively. Since the beginning of the al-Aqsa intifada, the IDF has responded by imposing curfews on these towns for protracted periods, in order to ensure the freedom of movement of the settlers who live in the adjacent settlements.²⁵⁰

Moreover, some of the settlements along Road No. 60 block the urban development of the six main Palestinian cities, at least in some directions. Bethlehem and East Jerusalem are affected mainly by the settlements in the Jerusalem Metropolis, to which the report will relate below.

The city of Hebron (140,000) is blocked to the east by the settlement of Qiryat Arba (6,400), and to the south by the settlement of Bet Haggai (400) and the NAHAL outpost Aner. Within the heart of Hebron, there are a number of scattered Jewish settlements with a total population of approximately four hundred. In the Oslo Accords, the presence of these settlements has led to the remainder of an entire strip on the east of the city under Israeli control (area H2). The settlements in the heart of Hebron severely damage not only the urban development of the city, but also the ability of the residents to live a normal life. The main reason for this is the systematic violence exerted against the residents by the settlers who

247. Another prominent example of this phenomenon is Gush Ezyon in the Jerusalem Metropolis, as discussed below in this chapter.

248. For details of the human ramifications of restrictions on the freedom of movement, see B'Tselem, *Civilians under Siege*, pp. 9-10.

249. For example, see the response of the IDF Spokesperson to the B'Tselem report *Civilians under Siege*.

250. B'Tselem, *Civilians under Siege*, pp. 9-10.

live in these areas.²⁵¹ Since the beginning of the current intifada, and less frequently in earlier periods, the IDF has imposed curfews for extended periods on the 30,000 Palestinians who live in area H2, with the goal of enabling the settlers in the city to continue their regular life as much as possible.

The development of Ramallah and al-Bira (53,800) to the northeast is completely blocked by the settlement of Bet El (4,100) and the large IDF base to the south of the settlement, which houses the headquarters of the Civil Administration. This Israeli presence also breaks the territorial contiguity of Ramallah and the villages of 'Ein Yabrud and Beitin (total 5,400). The settlement of Pesagot (1,100) begins close to the last houses of Ramallah on the eastern side. Pesagot effectively functions as an enclave within the city, which it controls topographically, and blocks the expansion of Ramallah in this direction (see Photo 5).²⁵²

The urban area of the city of Nablus, which includes eight villages and two refugee camps that are completely contiguous with the city (total 158,000) is surrounded on almost all sides by settlements blocking the area's development (see Map 7). The settlements of Har Brakha and subsequently Yizhar (total 1,100) lie to the south of the city itself. To the west are the settlements of Qedumim and Shave Shomeron (total 3,300). To the east, adjacent to the refugee camps of Askar and Balata (total 26,600), are the settlements of Elon Moreh and Itamar (total 1,600). The municipal boundaries of the Itamar settlement (540) extend in a south-east diagonal over an area of some 7,000 dunam – fourteen times the current built-up area, which also includes a number of new outposts.²⁵³ This large area completely blocks the development of the town of Beit Furiq (9,100) to the south. In addition, over the years, settlers from these settlements have exerted violence against local Palestinians; the Israeli authorities have been delinquent in enforcing the law on the offenders.²⁵⁴

Two settlements, Gannim and Kaddim (total 300), surround Jenin (41,900). These settlements overlook the city from the east (in topographical terms) and cut up the largest area of contiguous territory handed over to Palestinian control (Area A). According to the outline plan, these settlements are expected to grow to up to five times their present size, and to extend from the southern suburbs of Jenin to the village of Umm At-Tut to the east of the city.²⁵⁵

The impact of the settlements along the second chain of the Mountain Strip on the Palestinian population is less immediate than in the case of the settlements along Road No. 60, because the former lie to the east of the Palestinian population centers. As in the case of the Eastern Strip, the main impact lies in the seizure of land which, were it not for the settlements, could have been used for the development of the Palestinian economy and the urban development to the east of the population centers on the mountain ridge. Some of these settlements have significant land reserves included in their municipal boundaries. The seizure by Israel of extensive land in this area exploits the sparse Palestinian communities and topographic conditions that have made it difficult for Palestinians to engage in significant agricultural activities in these areas.

251. See, for example, B'Tselem, *Impossible Coexistence: Human Rights in Hebron since the Massacre at the Cave of the Patriarchs* (Information Sheet, September 1995).

252. See the comments on the urban development of Ramallah in the discussion on the Jerusalem Metropolis, below.

253. Outline Plan No. 163/3, Itamar.

254. See footnote 66.

255. Outline Plan 168/1, Merhav Kaddim, and Outline Plan 138/2, Merhav Gannim.

The municipal boundaries of the settlements in the Mountain Strip area include a total of approximately 62,000 dunam, populated by some 34,000 settlers. Of this area, approximately 17,000 dunam are developed land. Accordingly, the current potential for the expansion of the settlements in these areas is approximately 45,600 dunam, or some 270 percent. In addition, some 409,000 dunam are included in the areas of jurisdiction of the four above-mentioned regional councils but have not been attached to any settlement. These constitute reserves for the future.

C. The Western Hills

This strip lies along the north-south axis, between the western border of the Mountain Strip (the 400-500 meter elevation contour) and the Green Line, its width varying from ten to twenty kilometers. In topographic terms, this area is characterized by slopes descending gently toward the coastal plain. The incline of the slopes in this area is more moderate than on the eastern side of the mountain ridge, i.e., in the Eastern Strip.

The two Palestinian cities in this strip, Tulkarm and Qalqiliya, are both situated in the north of the strip. However, the entire strip includes medium-sized towns such as Ya'bad, Anabta, Azzun, Bidya and Salfit in the north, and Surif, Tarqumiya, Dura and Dahariya in the south, as well as dozens of smaller villages. This strip includes the most fertile land in the West Bank, and accordingly it has been the site of the development of Palestinian agriculture in diverse fields (olives, orchards, hothouses and field crops).

As in the Mountain Strip, most of the settlements in the Western Hills were established in the 1980s, particularly as the result of the Sharon Plan. In municipal terms, the areas of settlements in this strip are divided among three regional councils (Shomeron, Mate Binyamin and Mt. Hebron), as well as several local councils and one municipality (Ari'el).

The main characteristic of the Western Hills area north of the Jerusalem Metropolis that attracts Israelis and has led to a relatively rapid growth rate is its proximity to the main urban centers on Israel's coastal plain. In the development plan for 1983-1986 (the Hundred Thousand Plan), this strip was defined as the "high demand area" because of the short travel times (twenty to thirty minutes) to employment centers inside Israel.²⁵⁶ In the area south of the Jerusalem Metropolis, only isolated settlements have been established. The main forms of settlement in this strip are urban and regular rural settlements. The population is mostly middle class, some of whom are secular Jews without any particular political affiliation. The population also includes ultra-Orthodox Jews, who generally come from a low socioeconomic class.

While the prevailing form of dispersion of the settlements in the first two strips is the string formation alongside the main north-south roads, the main form of dispersion in the Western Hills runs from east to west, along latitudinal roads that mainly connect to Road No. 60, and most of which were constructed or upgraded by Israel. A further characteristic in several parts of this strip is the creation of contiguous borders of the settlements, forming contiguous or almost contiguous urban areas (or "blocs") controlled by the settlements.

²⁵⁶ *Master Plan for Settlement for Samaria and Judea*, p. 19.

To the north of this strip, along Road No. 596, lie the settlements of Hinanit, Tel Menashe (Hinanit B), Shaqed and Rehan (total 1,100). The first three of these settlements include several built-up sites (including one industrial zone), and their outline plans reflect an intention to expand these settlements, creating a compact and contiguous bloc extending over some 9,900 dunam – nine times the present built-up area (see Photo 1).²⁵⁷ Further south, adjacent to Road No. 585, are the settlements of Hermesh and Mevo Dotan (total 600). Mevo Dotan is planned for expansion over an area of approximately 3,000 dunam – ten times the present built-up area.²⁵⁸ Along Road No. 57 (the Tulkarem-Nablus road) lie Enav and Avne Hefez (total 1,300). Not far to the south, close to the Green Line, is the settlement of Sal'it (410).

The area between Road No. 55 (the Qalqiliya-Nablus road) and the Trans-Samaria Highway (Road No. 5, which extends from Rosh Ha'ayin to the Jordan Valley) is the area of the Western Hills in highest demand, since it lies parallel, and only a few miles away, from the Tel-Aviv – Herzliya region. In the northeast corner of this area, close to Road No. 55, lie the settlements of Qarne Shomeron, Ma'ale Shomeron, Immanu'el, Yaqir and Nofim (total 10,700). The municipal boundaries of these five settlements create an almost completely contiguous urban area extending over some 13,000 dunam – almost four times the built-up area.

In the same area lies a large group of settlements in a funnel-shaped bloc, from Tapuah on Road No. 60 (at the narrow end of the funnel) to the Green Line (the broad end). This group includes Ari'el, Revava, Netifim, Barqan, Ez Efrayim (see Photo 4), Elqana, Sha'are Tiqva, Oranit, Alfe Menashe, Zufin, Ale Zahav and Padu'el (total 35,900). On the whole, the areas of jurisdiction of these settlements are not contiguous, and are interrupted by Palestinian communities defined as Area B, as well as agricultural land defined as Area C (see Map 8). At the center of the funnel lies the settlement of Ari'el, which is discussed in Chapter Eight.

To the south of the Trans-Samaria Highway, alongside Road No. 465, lie (from east to west) the settlement of Ateret, Halamish, Ofarim and Bet Arye (total 4,300). In terms of size, Ofarim (690) is exceptional, with municipal boundaries extending over an area in excess of 6,000 dunam – fourteen times the current built-up area. Between Road No. 465 and the northern border of the Jerusalem Metropolis lie Nahli'el, Talmon and Dolev (total 2,400) to the east, whose borders create an additional bloc extending from north to south over an area of some 7,700 dunam, almost seven times the existing built-up area. Parallel to this bloc and to the west, adjacent to the Green Line, lies another bloc of settlements composed of Na'aleh, Nili (see Photo 11), Hashmona'im, Modi'in Illit, Menora, and Mevo Horon (total 21,500).

To the south of the Jerusalem Metropolis, alongside Road No. 35 (the Trans-Judea Highway), within the area of jurisdiction of Mt. Hebron Regional Council, lie the settlements of Telem and Adora (total 370); further south are the NAHAL outpost Negohot and the settlements of Eshkolot and Tenne (total 730). The municipal boundaries of the latter two settlements cover an area of some 15,300 dunam – more than thirty times their current built-up area (see Map 10).

257. Detailed Plan Hinanit, No. 101, 101/2, 101/3 and Detailed Plan Shaqed, No. 103, 103/2, 103/4.

258. Outline Plan No. 104, Mevo Dotan.

Apart from limiting the possibilities for urban and economic development through the seizure of land, the main impact on the Palestinians of the settlements in this strip is the disruption of the territorial contiguity of the Palestinian communities situated along the strip. This disruption is seen most clearly in the high-demand areas. Following the transfer of powers to the Palestinian Authority under the Oslo Accords, this situation has resulted in the creation of over fifty enclaves of Area B, and a smaller number of enclaves defined as Area A, all of which are surrounded by Area C, which continues to be under full Israeli control. In most cases, the boundaries of Area A and B are almost identical to the edge of the built-up area of the Palestinian community (for example, in the villages of Azzun, Biddya, Az-Zawiya, Mas-ha, Deir Balut, Rantis, Abud, and Qibya). As explained in Chapter Six, the ramification of this situation is that although powers in the field of planning and construction in areas A and B were ostensibly transferred to the Palestinian Authority, Israel continues to restrict Palestinian construction to the best of its ability in the non-built-up areas belonging to these communities and their residents.

This phenomenon is less pronounced to the south of the Jerusalem Metropolis, due to the smaller number of settlements in this area, but it is still evident. For example, the location of the settlements of Telem and Adora breaks a territorial contiguity that might otherwise have been created between the Area B bloc containing the towns of Beit Surif and Tarqumiya and the Area B territory to the south of Road No. 35, including the town of Idna, and Area A, which contains the town of Dura. In addition, the two settlements prevent contiguity with Area A, in which Hebron is located.

A further ramification resulting from the location of some of the settlements in this strip literally on the Green Line is the blurring of this line as a recognized border between the sovereign territory of the State of Israel and the West Bank. In certain areas, the Green Line runs within an urban area extending to either side. Thus, for example, the bloc of settlements Hashmona'im – Modi'in Illit – Matitياهو borders on the Green Line, creating a contiguous urban bloc with the communities of Hevel Modi'in Regional Council (Shilat, Lapid and Kefar Ruth), which were established within the area that, until 1967, separated Israel and Jordan and was later annexed to the State of Israel (see Chapter One). In the case of the Oranit and Shani (Mountain Strip) settlements, the Green Line passes through the built-up area. This phenomenon is even more pronounced in the Jerusalem area, as will be discussed below.

The municipal borders of the settlements in the Western Hills Strip include a total of some 109,800 dunam, and are inhabited by approximately 85,000 settlers. Less than thirty percent of this land (30,900 dunam) is developed. Accordingly, the potential area for the expansion of these settlements is currently approximately 80,000 dunam, representing a growth rate of approximately 260 percent. In addition, the area of jurisdiction of the three regional councils mentioned above totals some 264,000 dunam, which have not been attached to any settlement and constitute land reserves for the future.

D. The Jerusalem Metropolis

Since the 1967 war, Israel has acted vigorously to establish new physical facts (settlements and roads) within an extended circle with West Jerusalem at its center. The result of these activities has been the creation of a large metropolis extending along three geographical strips: from the outskirts of Ramallah to the north to the bloc of settlements to the southwest of Bethlehem in the south; and from the edge of Ma'ale Adummim to the east to Bet Shemesh, which is within Israel proper, to the west.

The concept of a "metropolis" refers to a situation in which a given geographical area constitutes, in urban and functional terms, a single unit comprised of coordinated sub-units. The Jerusalem Metropolis was established with the declared purpose of serving its Israeli-Jewish residents while causing harm to its Palestinian residents. The idea of planning the Jerusalem area as a metropolis was embodied in 1994 in a master plan prepared for the government by the Jerusalem Institute for Israel Studies. The master plan proposes guidelines for development for the area through the year 2010.²⁵⁹ Although the plan has no legal force, it has, according to the State Attorney's Office, served as a basis for planning the expansion of Ma'ale Adummim to the west.²⁶⁰

Some of the settlements that Israel erected in this area were established within the area of jurisdiction of the Municipality of Jerusalem (hereafter: Municipal Jerusalem), while others were established outside its area of jurisdiction (hereafter: Greater Jerusalem).

Municipal Jerusalem includes approximately 70,000 dunam of the West Bank, which were annexed to the Municipality of Jerusalem pursuant to a decision of the Knesset in 1967, and in which Israeli law was imposed on an official and explicit basis, rather than merely *de facto*. Approximately nine percent of this area (some 6,000 dunam) formed part of Jordanian East Jerusalem, while the remaining ninety-one percent belonged to twenty-eight villages in the area.²⁶¹ Settlements in this area are perceived by most of the Jewish public in Israel, and by the government, as constituting an integral part of the State of Israel, and their development has continued on an intensive level since the beginning of the occupation. These settlements currently have a population of approximately 175,000 – slightly less than all the other settlements combined.

Over one-third of the area annexed to Jerusalem in 1967 was expropriated during the years that followed, and was used to establish twelve settlements: Neve Ya'akov, Pisgat Ze'ev, French Hill, Ramat Eshkol, Ma'alot Dafna, Ramot Alon, Ramat Shlomo (Rekhes Shu'afat), the Jewish Quarter (in the Old City), East Talpiot,²⁶² Giv'at Hamatos, Har Homa (see Photo 7) and Gilo. To these, one should add the industrial zone and airfield at Atarot. Several of these settlements (Ramat Eshkol, Ma'alot Dafna, Ramot and East Talpiot) create full territorial contiguity with West Jerusalem, while the remainder are interspersed with Palestinian areas. Municipal Jerusalem is a prominent example of the elimination of any signs of the Green Line through contiguous urban development.

The main harm to the Palestinian population inherent in the establishment of the settlements in municipal Jerusalem is the massive expropriation of land, most of which constituted private Palestinian property, as described in Chapter Three. As with most of the settlements in the three geographical strips, these settlements significantly restrict the capacity for urban development in the Palestinian neighborhoods and villages annexed to Jerusalem. The outline plans approved for the Palestinian neighborhoods in the annexed area through the end of 1999 show that approximately eleven percent of the area remaining after the expropriation is available for Palestinian construction. Approximately forty percent of the planned areas within these neighborhoods are defined as "open landscape areas," where construction of any kind is prohibited.²⁶³

259. Jerusalem Institute for Israel Studies, *The Jerusalem Metropolis – A Master Plan and Development Plan* (in Hebrew) (Jerusalem, 1994).

260. Paragraphs 83-85 of the response of the state in *Ma'ale Adummim* (see footnote 153, *supra*).

261. B'Tselem, *A Policy of Discrimination*, p. 17.

262. In this context, East Talpiot is an exception because it is located on both sides of the border that separated, from 1949 to 1967, the demilitarized area controlled by Israel and the demilitarized area controlled by Jordan.

263. Ir Shalem, *East Jerusalem – Planning Situation*, p. 5.

In some cases, the settlements in Municipal Jerusalem create divisions between Palestinian areas and prevent their natural expansion and the creation of territorial contiguity. For example, French Hill prevents the connection of Sheikh Jarrah and Wadi Joz on the one side, and Isawiya and Shu'afat on the other. Similarly, Giv'at Hamatos and Har Homa disrupt the territorial contiguity between Beit Safafa and the south of Sur Baher.

An additional problem is the physical severance of the Palestinian areas of Municipal Jerusalem from the remainder of the West Bank, a result of the general closure imposed by Israel in the West Bank in 1993. Since then, Palestinians without a special permit have been prohibited from entering Jerusalem.²⁶⁴ This measure has severely impaired the right of freedom of movement and other associated rights because it disrupts travel between the southern and northern portions of the West Bank, the main route for which passes through Jerusalem. This step has led to the diversion of all traffic to the Wadi An-Nar road to the east of the city, prolonging journey times considerably.

Greater Jerusalem includes four blocs of settlements that are thoroughly connected to municipal Jerusalem and to the west of the city.²⁶⁵ The main component, and an essential condition for the existence of the metropolis, is the presence of a complex and sophisticated network of roads enabling rapid travel between all parts of the metropolis and the center. This network enables the western portion of the city to function as an employment base and a center for various services (health, education, entertainment, etc.) for the Jewish residents of the entire metropolis. Conversely, the settlements in Greater Jerusalem offer cheap housing solutions for the residents of municipal Jerusalem. Moreover, a trend is emerging whereby settlements in Greater Jerusalem provide various services for the residents of municipal Jerusalem.

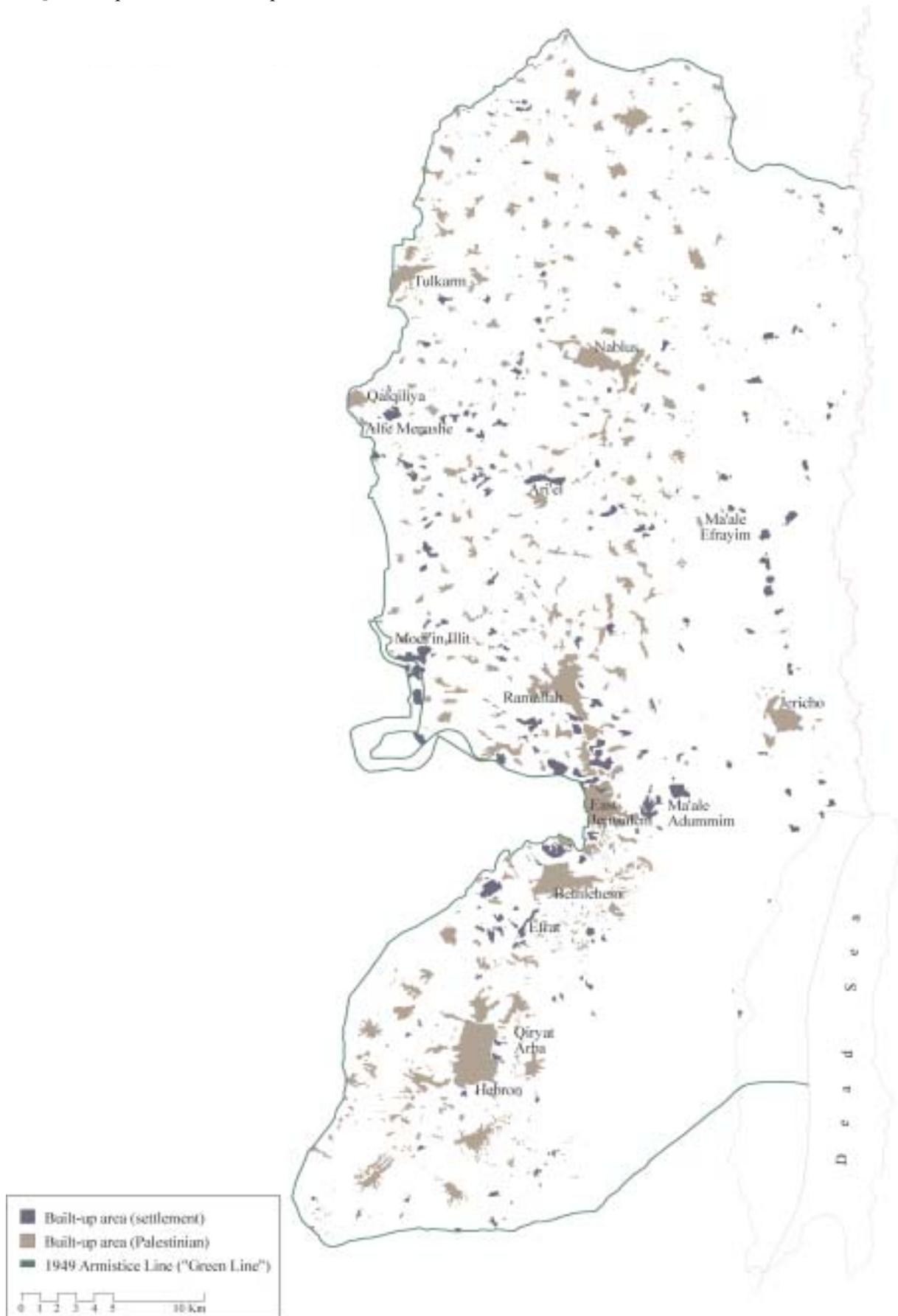
One of the settlement blocs is situated to the northwest of the area of jurisdiction of Jerusalem, including the settlements of Giv'on, Giv'on Hahadasha and Bet Horon (total 2,000), which form part of Mate Binyamin Regional Council, and Giv'at Ze'ev (10,300) which is a local council. The borders of these settlements interconnect, creating a long finger that connects to the settlement of Ramot within municipal Jerusalem, with almost complete territorial contiguity. A little further south lies the local council of Har Adar (1,400) (see Photo 8), which forms part of the same system. This bloc of settlements currently relies on Road No. 443, and in the future will rely on Road No. 45, which is now under construction. These roads connect the area to Modi'in and the Jerusalem - Tel-Aviv Highway, as well as to the city of Jerusalem.

A second bloc of settlements lies to the northeast of the borders of Jerusalem, including Kokhav Ya'akov, Tel Zion, Geva Binyamin (Adam) and Sha'ar Binyamin Industrial Area, all within the area of Mate Binyamin Regional Council (total 2,700). A few kilometers north of Kokhav Ya'akov are the settlements of Pesagot and Bet El, which belong to the Mountain Strip in terms of the composition of their population and the type of settlement, but in terms of distance could also be considered part of the Jerusalem Metropolis. The boundaries of these settlements form a long chain connecting the area to the settlement of Pisgat Ze'ev within the borders of Jerusalem.

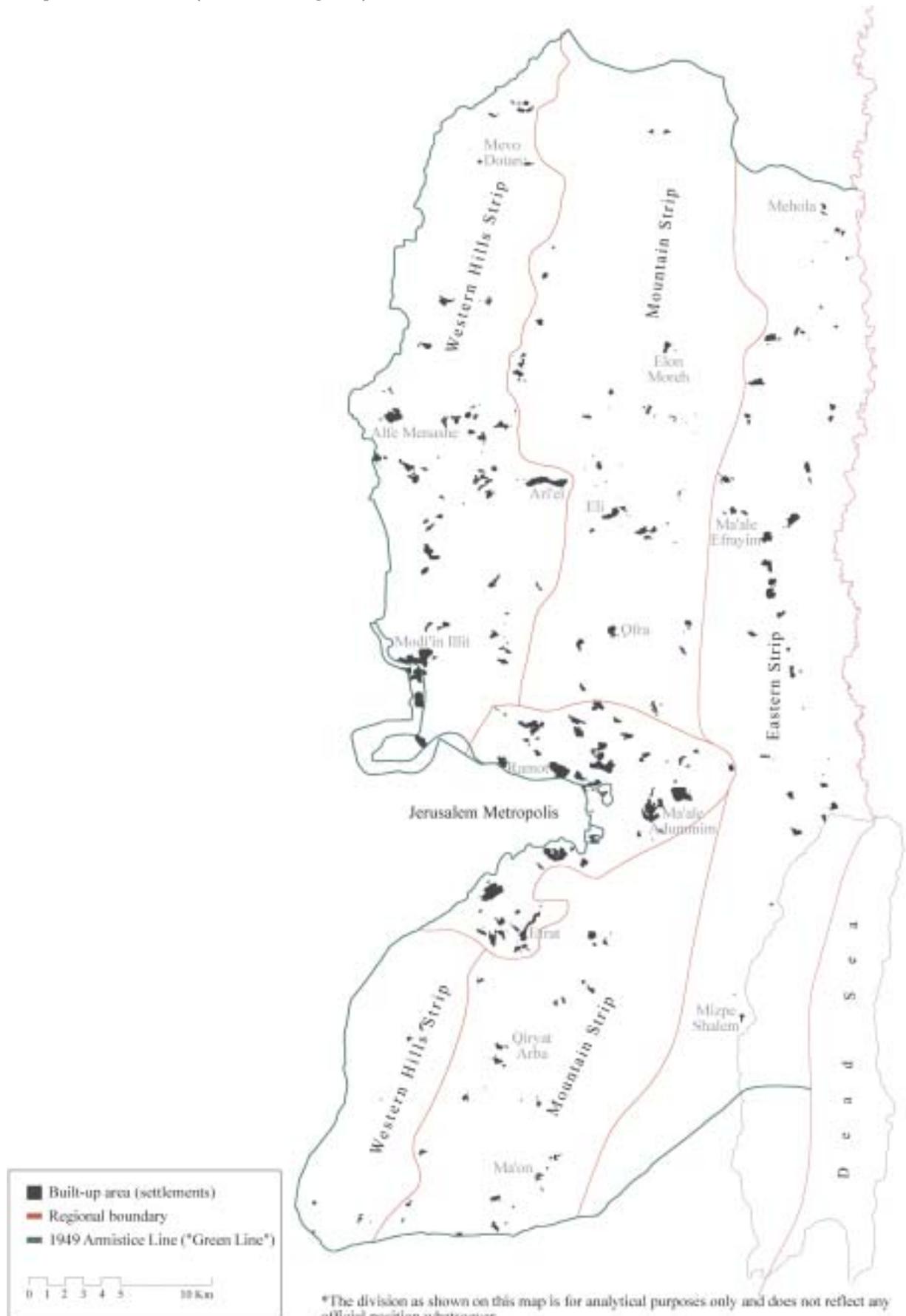
264. For more on this aspect, see B'Tselem, *Divide and Rule: Prohibition on Passage between the Gaza Strip and the West Bank* (Information Sheet, May 1998), pp. 5-6.

265. This report does not relate to the western parts of the metropolis, since these areas are in sovereign Israeli territory, and are therefore outside the purview of the report.

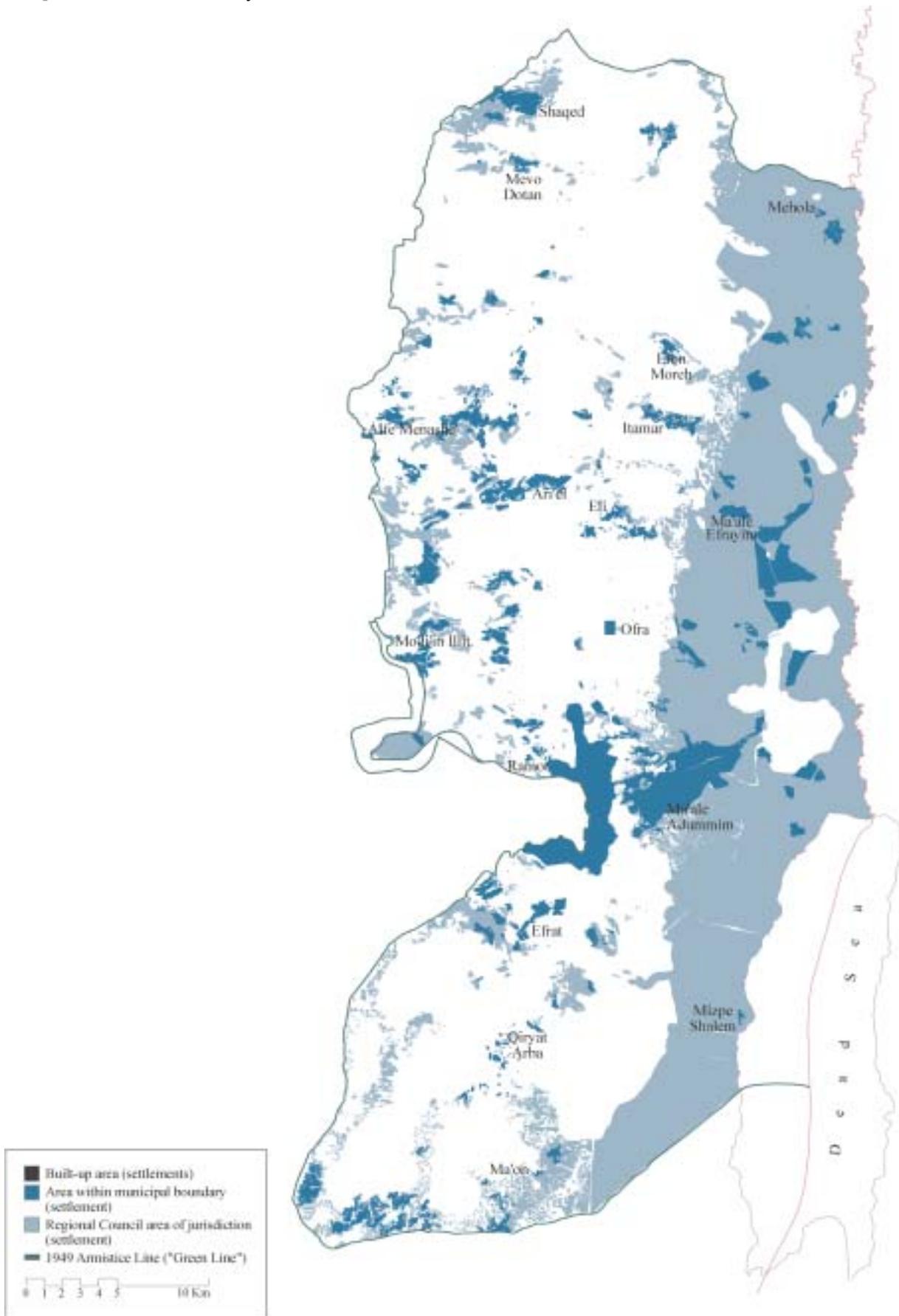
Map 1 Dispersion of Built-up Areas



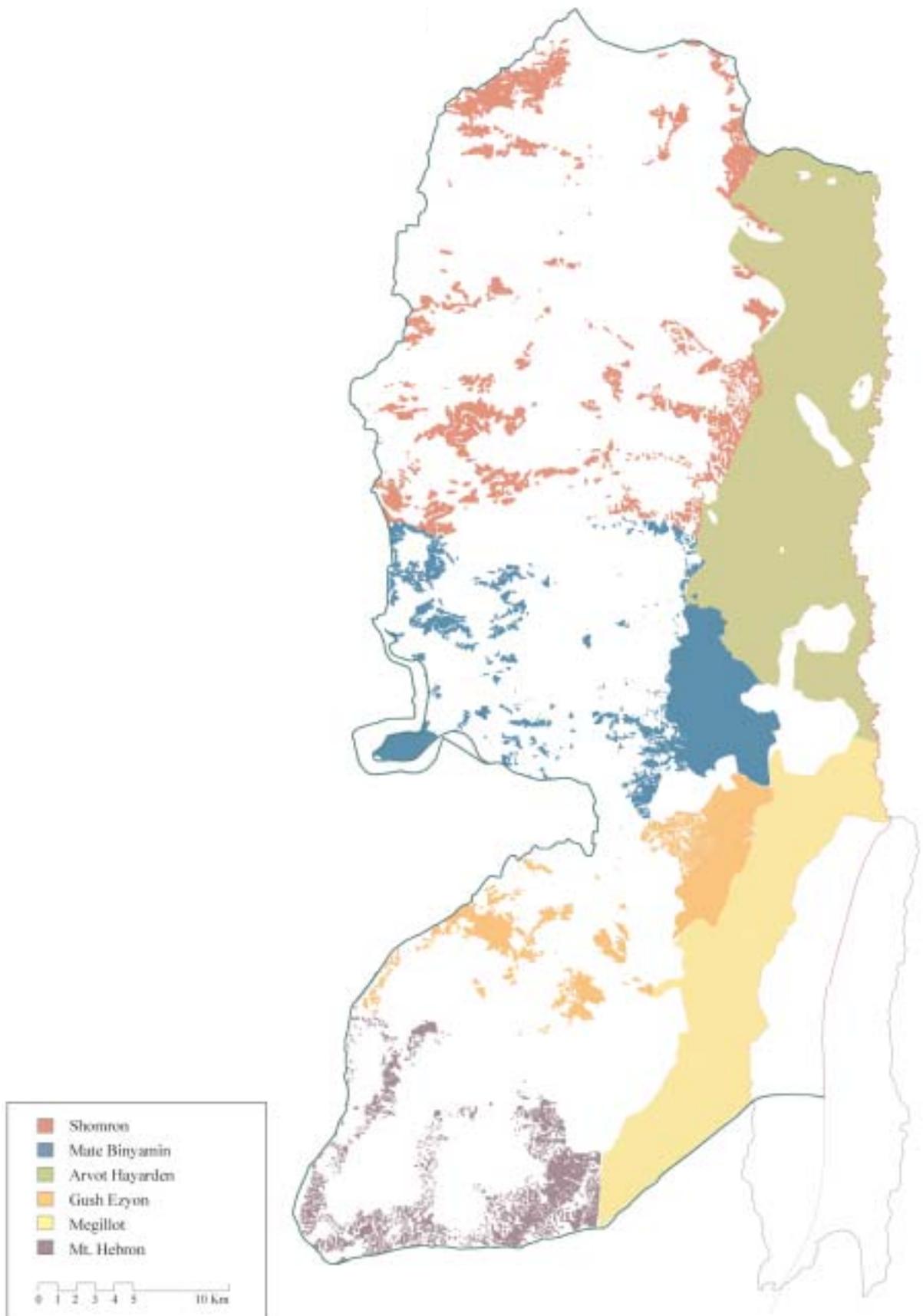
Map 2 Settlements (Divided into Regions*)



Map 3 Areas controlled by Settlements



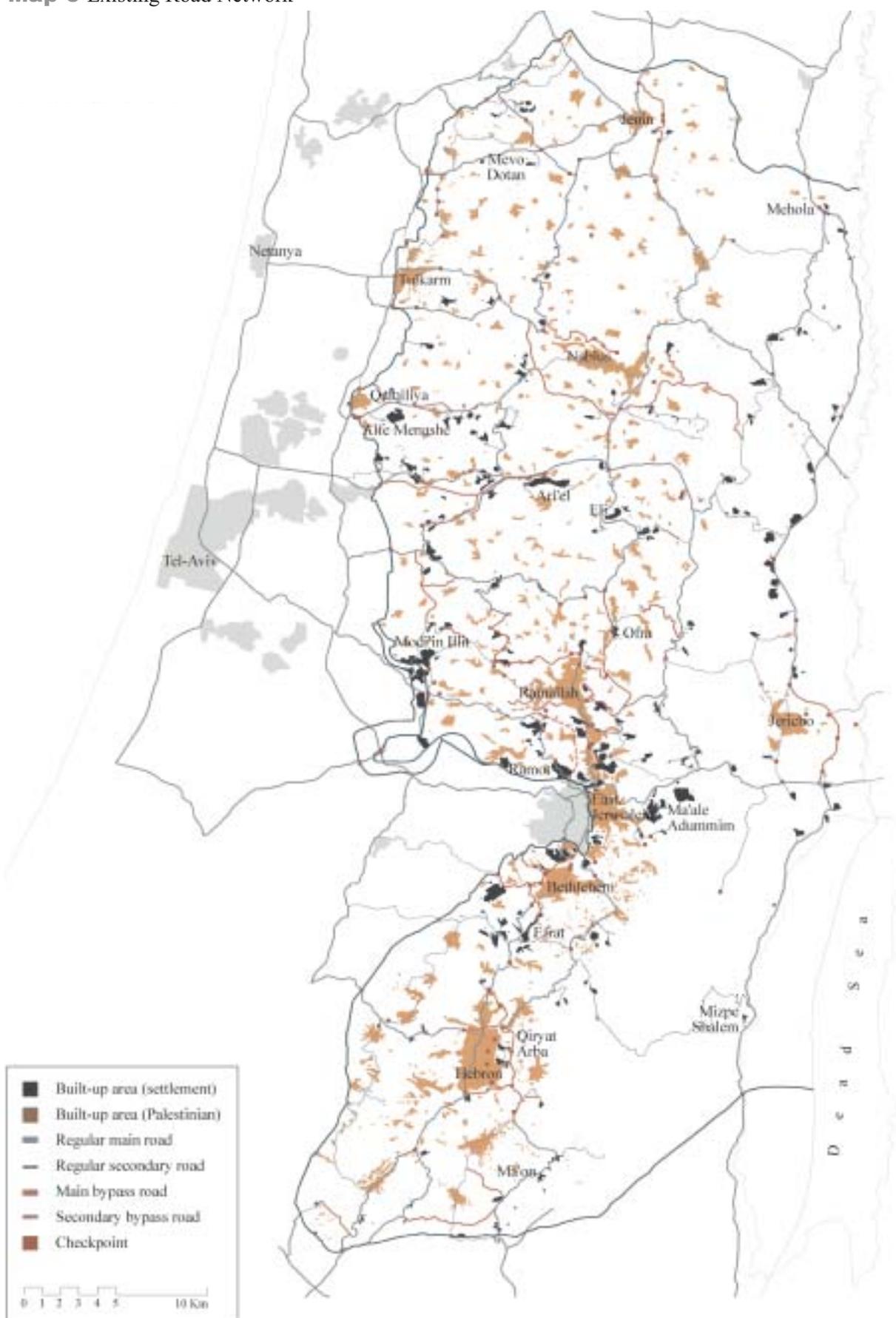
Map 4 Area of Jurisdiction of Settlements' Regional Councils



Map 5 Division of Powers pursuant to Oslo Accords



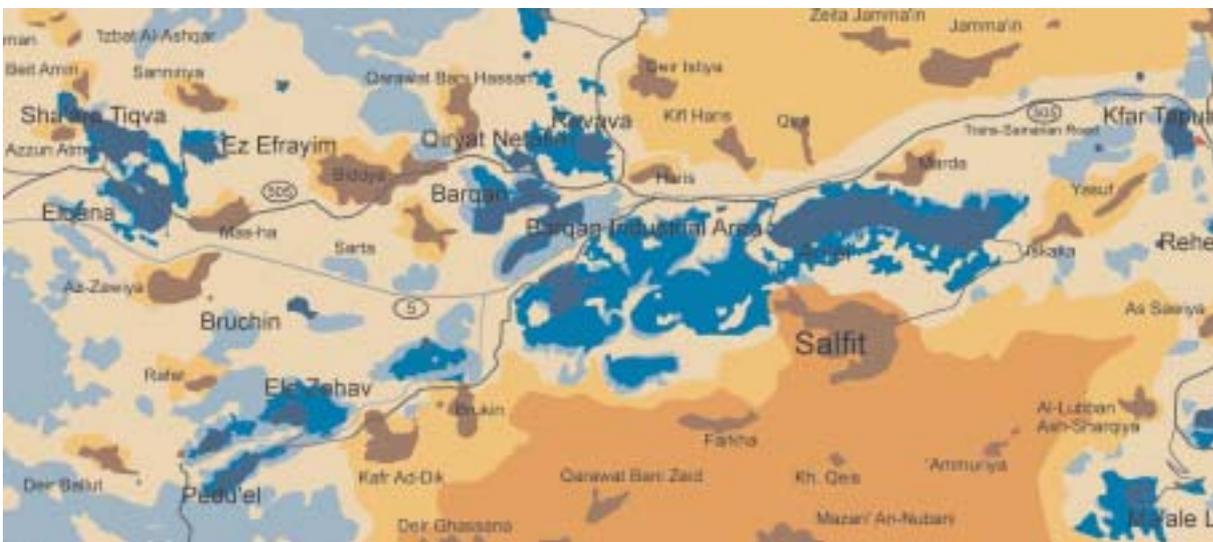
Map 6 Existing Road Network



Map 7 Settlements surrounding Nablus



Map 8 Settlements in the Western Hills Strip

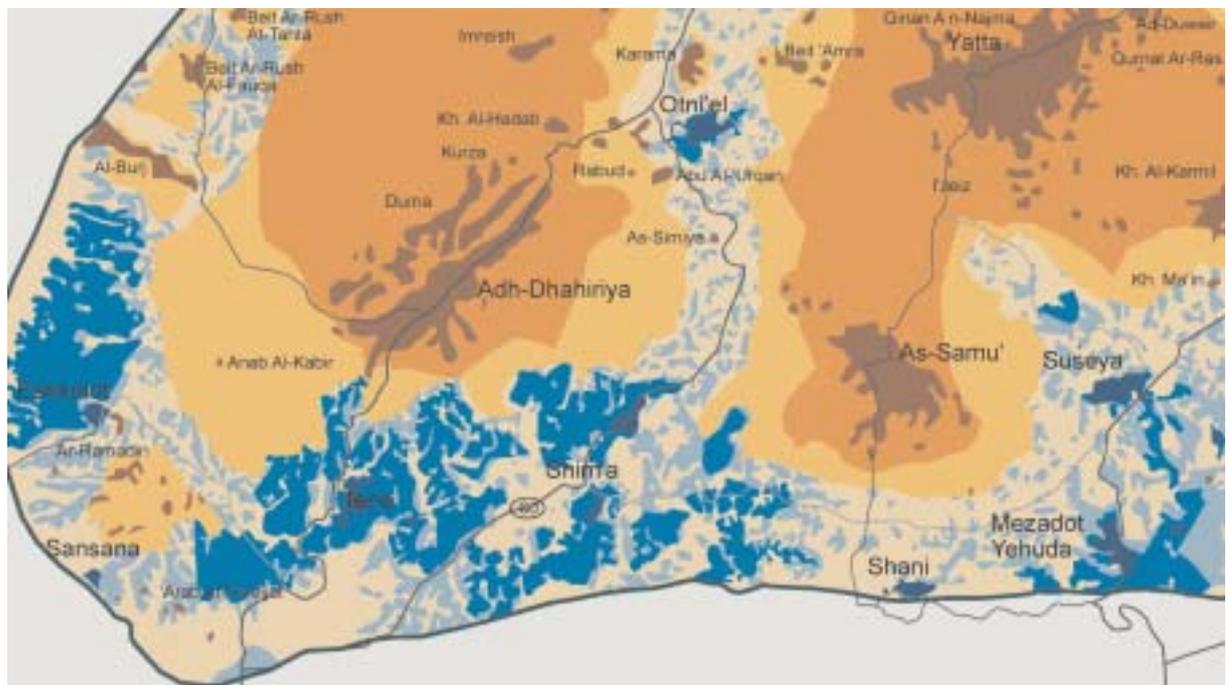


- | | |
|---|--------------------------------------|
| ■ Built-up area (Settlement) | ■ Area B |
| ■ Area within Municipal Boundary (Settlement) | ■ Area C |
| ■ Regional Council Jurisdictional Area (Settlement) | — Regular road |
| ■ Military base | — By-pass road |
| ■ Built-up area (Palestinian) | — 1949 Armistice Line ("Green Line") |
| ■ Area A | ⊙ Road number |

Map 9 Settlements Bloc along Road 60



Map 10 Settlements' Land Control in South Mount Hebron Area



- | | |
|---|--------------------------------------|
| ■ Built-up area (Settlement) | ■ Area B |
| ■ Area within Municipal Boundary (Settlement) | ■ Area C |
| ■ Regional Council Jurisdictional Area (Settlement) | — Regular road |
| ■ Military base | — By-pass road |
| ■ Built-up area (Palestinian) | — 1949 Armistice Line ("Green Line") |
| ■ Area A | Ⓢ Road number |

The principal influence of these two blocs in the north of the metropolis is to create a barrier severing the surrounding Palestinian villages. The principal villages in the area are Al-Qibiya, Al-Judeira, Beit Iksa and Beit Duqqu to the west (total 5,600), and A-Ram, Hizma, Jab'a and Mikhmas to the east (total 30,100), as well as villages and neighborhoods included in municipal Jerusalem (principally Kafr Aqab, Beit Hanina, Isawiya and the Shu'afat refugee camp). Moreover, Kokhav Ya'akov and the military base adjacent to Giv'at Ze'ev (Ofer base) prevent the expansion of Ramallah to the southeast and southwest, respectively.

The third bloc of settlements is situated to the east of the eastern border of Jerusalem. Its principal component is the settlement of Ma'ale Adummim (24,900), the largest settlement in the West Bank (outside municipal Jerusalem), which includes Mishor Adummim Industrial Area (see Photo 6). As part of this bloc, to the north of the road from Jerusalem to the Dead Sea, lie a group of community settlements that belong to Mate Binyamin Regional Council: Mizpe Yeriho, Kefar Adummim (which includes Alon and Nofe Perat) and Almon (total 3,600), as well as two large army bases. To the southeast of Ma'ale Adummim lies the settlement of Qedar (450), which belongs to Gush Ezyon Regional Council (see Photo 12). The borders of Ma'ale Adummim connect with those of this group of settlements, thus creating in the center of the West Bank a contiguous bloc extending over some 69,500 dunam, from the municipal border of Jerusalem to the western outskirts of Jericho. This area is almost fifteen times larger than the current built-up area in these settlements.

This bloc of settlements severs the territorial connection between the south of the West Bank and the north. The most concrete danger in this respect is that if Ma'ale Adummim is expanded to the west in accordance with its outline plan, the main road remaining for Palestinians to travel from Bethlehem to Ramallah, the Wadi An-Nar road, will be blocked. As mentioned above, Palestinians have already been prohibited to enter Jerusalem.

Establishment of the Ma'ale Adummim settlement entailed extensive infringement of the human rights of the Palestinian population. The initial area included in the area of jurisdiction of Ma'ale Adummim, some 30,000 dunam, was composed of land that even Israel acknowledges was private Palestinian property, and was therefore requisitioned by means of expropriation orders.²⁶⁶ In 1998, following the amendment to the Ma'ale Adummim outline plan calling for the expansion of Ma'ale Adummim to the west,²⁶⁷ the Bedouin population (Jahalin tribe) living in the area was expelled.²⁶⁸ The expansion of Ma'ale Adummim to the west significantly limits the possibilities for the development of the neighboring villages – Abu Dis, Anata, Az-Za'im and Al-Azariya (total 27,700).

The fourth bloc is situated in the southern part of the metropolis, to the west and south of Bethlehem. This bloc includes the municipality of Betar Illit (15,800), Efrat Local Council (6,400), and a number of smaller settlements belonging to Gush Ezyon Regional Council: Har Gilo, Alon Shevut, El'azar, Neve Daniel, Rosh Zurim, Kfar Ezyon, Bat Ayin, and the NAHAL outpost of Geva'ot (total 6,100). This bloc is further removed from municipal Jerusalem, from which it is cut off by Bethlehem and the surrounding Palestinian villages. However, this bloc functions as part of the metropolis thanks to

266. *Ma'ale Adummim*, Paragraph 3. The use of expropriation for public needs to establish a settlement is apparently unusual; in most cases, Israel has preferred to declare land state land.

267. Local Outline Plan, Ma'ale Adummim, No. 420/4.

268. For further details on this subject, see B'Tselem, *On the Way to Annexation*, pp. 23-35.

the Tunnels Road (a portion of Road No. 60), which permits rapid travel to and from Jerusalem while avoiding Palestinian-populated areas (see Photo 13).

This bloc contains many of the characteristics mentioned in the discussion on the types of settlements and the settler population. Most types of settlements were established in this bloc: Gush Ezyon is included in the outline of the Alon Plan, and kibbutzim were established there that engage, *inter alia*, in agriculture (El'azar and Neve Daniel). This area also includes one of the largest ultra-Orthodox settlements (Betar Illit). Because of its relative proximity both to Jerusalem and to the Green Line and the Jerusalem - Tel-Aviv Highway, Gush Ezyon is a high demand area that has also attracted middle-class settlers seeking to improve their standard of living.

In terms of the ramifications of the bloc of settlements on the Palestinian population, this bloc also includes several of the main phenomena identified in other areas, from the blockage of urban development to the restriction of freedom of movement. The area of jurisdiction of the settlement of Efrat extends in a diagonal to the northeast over an area of approximately 6,500 dunam. The tip of this area touches the southern border of Area A in the vicinity of Bethlehem (Al-Khader and Ad-Duheisha refugee camp – total 16,000), continuing along almost all of this border and completely restricting urban development in this direction. The town of Nahalin (5,500) has effectively become a Palestinian enclave surrounded by settlements preventing any possibility for urban development.²⁶⁹ As in the case of the settlements in the Western Hills, the settlements in this bloc also create an obstacle separating the villages and towns of the Bethlehem area from the city of Hebron and its environs. As in the case of the settlements in the Mountain Strip, some of the settlements in this area also lie along Road No. 60, creating a bloc that controls a broad stretch of the road. As a result, the IDF extensively restricts the freedom of movement of Palestinians along the road, as it does in the areas of the settlements in the Mountain Strip.

In total, the municipal boundaries of the settlements in the Jerusalem Metropolis include some 129,700 dunam, and the population of these settlements is approximately 247,600. Of this land, approximately 34,600 dunam is developed. Accordingly, the potential for the expansion of the settlements in this strip is approximately 95,000 dunam, representing a growth rate of approximately 275 percent. Contrary to the other areas, most of the land of which Israel has seized control over the years in the Jerusalem Metropolis has been attached to one of the settlements, thus reducing the areas included in the two regional councils in this area to some 90,000 dunam.

Conclusions

During the discussions on the final-status agreement, a discourse developed among the Israel public surrounding the question of "percentages of land" – percentages handed over, or due to be handed over, to the Palestinians, and percentages remaining, or that will remain, in Israeli hands.

As we have attempted to show in this chapter and in the map accompanying this report, the location of each area controlled by the settlements – and not merely its size is a crucial variable in terms of the infringement of human rights in general, and the chances for realizing the right to self-determination

269. These settlements are Betar Illit to the north, Neve Daniel to the east, Rosh Zurim to the south and Geva'ot to the west.

in particular. The value of two percent of the area of the West Bank located in the Judean Desert, for example, cannot be compared with the importance of a quarter of one percent of land included within the area of jurisdiction of the Ari'el settlement. The continued Israeli presence in Ari'el obliges Israel to control a long corridor (the Trans-Samaria Highway) leading to the settlement. This corridor extends from the Green Line almost to Road No. 60, severing the contiguity of Palestinian territory in the north of the West Bank, which is a densely populated area. Similarly, the area of jurisdiction of Ma'ale Adummim occupies just 0.8 percent of the area of the West Bank. Nevertheless, Israel's continued control of this area cuts the West Bank into two almost completely separate parts.

As this chapter shows, in addition to the breach of international humanitarian law resulting from the existence of the settlements, the dispersion of the settlements has been the source of numerous human rights violations under international law:

- The manner of dispersion of the settlements, including the areas of jurisdiction attached thereto, over most of the areas of the West Bank creates obstacles preventing the maintenance of meaningful territorial contiguity between the Palestinian communities. This phenomenon prevents the possibility of establishing an independent and viable Palestinian state, which is the framework agreed by all the relevant parties for realizing the Palestinian people's right to self-determination.
- Entry into the vast areas over which Israel has seized control over the years, which were added to the areas of jurisdiction of the regional councils, is denied to the Palestinian residents after a military order is issued declaring the land a closed military area. This prohibition drastically restricts the possibilities available to Palestinians for economic development in general, and for agriculture in particular. In the Eastern Strip, the settlements deny Palestinian residents the use of a significant part of the area's water resources. These ramifications constitute an infringement of the right given to all peoples to enjoy their natural resources freely.
- The location of some of the settlements around Palestinian cities and towns, and sometimes adjacent thereto, restricts the possibilities for the urban development of the Palestinian communities, and in some cases prevents such possibilities almost completely. This phenomenon has a negative impact, in a degree and manner that vary in each individual case, on the right to a continuous improvement in standard of living in general, and in the right to housing in particular.
- The location of some of the settlements along key roads which, prior to the establishment of the settlements, served the Palestinian population has led to the imposition by Israel of strict restrictions on the freedom of movement of this population, with the goal of ensuring the security and freedom of movement of the settlers. These restrictions have a negative impact on a variety of rights, including the right to work and make a living, the right to health and the right to education.

Table No. 9 summarizes the data mentioned throughout this chapter regarding the scope of areas under the control of the settlements. One of the main findings apparent in the table is the tremendous scope of land – almost two million dunam – included in the areas of jurisdiction of the six regional councils, and which is not included in the municipal boundaries of the settlements that compose the regional councils.

It is likely that developments in the political arena will dictate the future of these areas. As of now, no operative plans are known to exist with regard to these areas. If the pace of construction and expansion

of the settlements typical of the 1990s continues in years to come, these areas may be used as reserves of land for the establishment of new settlements and industrial zones, and/or for the expansion of existing settlements. In the event that Israel agrees to the redeployment of its forces, including the transfer of additional areas to the control of the Palestinian Authority, it will be easier to transfer these areas in the regional councils than to transfer areas included within the municipal boundaries of a specific settlement.

Table 9
Area of the Settlements, by Region (in thousands of dunam)

Region	Developed Area	Non-developed Municipal Areas	Land Reserves*	Total Area under Control of the Settlements
Eastern Strip	14.8	61.1	1,203	1,279
Mountain Strip	16.9	45.3	409.4	472
Western Hills Strip	30.9	78.9	265.2	375
Jerusalem Metropolis**	34.3	95.1	90.6	220
Total	96.9	280.8	1,968.2	2,346
Total as a percentage of the area of the West Bank***	1.7%	5.1%	35.1%	41.9%

* Within the jurisdiction of the regional councils.

** Including both Greater Jerusalem and Municipal Jerusalem. The "area of jurisdiction" of the settlements in municipal Jerusalem is calculated according to the area attributed by the Central Bureau of Statistics for each "neighborhood" as a statistical locale (Jerusalem Institute for Israel Studies, *Jerusalem Statistical Yearbook*, Table 4/A).

*** A total of some 5,608,000 dunam, which includes the areas annexed to Jerusalem. The calculation does not include no-man's land, and the proportionate area of the Dead Sea.

Chapter Eight

The Ari'el Settlement - A Case Study

Ari'el is one of the largest settlements established by Israel in the West Bank, both in population and area. In geographical terms, Ari'el is situated in the heart of the West Bank. The eastern edge of the settlement is only a few kilometers from Road No. 60 which, as noted above, forms the backbone of the mountain ridge. However, Ari'el is a secular and urban settlement attracting settlers from the center of the country (veteran Israelis and new immigrants from the former Soviet Union). In general, the settlers who come to Ari'el hope to find inexpensive housing and an improvement in their standard of living.

Due to the above-mentioned characteristics, Ari'el is perceived by significant sections of the Jewish public in Israel as "just another Israeli city," blurring the fact that Ari'el is actually a settlement situated in the Occupied Territories. This perception seems to have influenced Israel's position concerning its future borders during the negotiations with the Palestinian Authority. Media reports suggest that all the proposals raised by Israel during the Camp David conference of July 2000 and the Taba conference of January 2001 included the annexation of Ari'el to the State of Israel, despite the fact that, as mentioned, Ari'el is situated a considerable distance from the Green Line.²⁷⁰

The purpose of this chapter is to examine in depth the impact and ramifications of the settlement of Ari'el on the surrounding Palestinian communities and their residents.

A. Historical Background

The idea of establishing a large urban settlement in the "heart of Samaria" was first raised in 1973 by a group of future settlers comprised of employees of the aircraft industry. The proposal was presented to then Minister of Defense Moshe Dayan. Although Dayan was in principle in favor of the idea, it proved impossible to realize the plans because the location proposed by the group was incompatible with the Alon Plan, which was informally adopted by the Ma'arach government.²⁷¹

After the Likud came to power in 1977, a change occurred in government policy, and initiatives were introduced to establish settlements throughout the West Bank. The Drobless Plan, which guided the activities of the government and the World Zionist Organization, proposed the establishment of a large settlement on the Trans-Samaria Highway (see Road No. 505 on the map), in part for strategic and military reasons.²⁷² Given the sympathetic approach of the government, the group of would-be settlers that had contacted Dayan, calling themselves the Tel-Aviv Group, once again met and renewed their initiative. In October 1977, the Ministerial Committee for Settlement approved the establishment of a settlement by the name of Heres (the name was later changed to Ari'el) on a site to the south of Haris Village. The members of the group subsequently received permission to settle in this location.²⁷³

270. For example, see an interview with Foreign Minister (at the time of the negotiations) Shlomo Ben-Ami: Ari Shavit, "The Day Peace Died," *Ha'aretz Supplement*, 14 September 2001.

271. Esther Levine, *Ari'el – Capital of Samaria* (in Hebrew) (Philadelphia, 1990), p. 14.

272. Matityahu Drobless, *The Settlement in Judea and Samaria*.

273. Esther Levine, *Ari'el – Capital of Samaria*, p. 44.

The first forty settlers arrived on the approved site on 17 August 1978. At the instructions of then Minister of Agriculture Ariel Sharon, the site was defined as a military base, and initially included some one hundred temporary buildings. Shortly thereafter, the Rural Construction Authority of the Ministry of Construction and Housing began to build permanent accommodation.²⁷⁴ In addition to implementing construction and infrastructure, the Ministry of Construction and Housing team also worked in cooperation with the Tel Aviv Group in all matters relating to the administration and organization of the new settlement. In 1981, Ari'el was declared a local council and began to function in an autonomous manner.

Thanks to generous assistance from the government, the settlement developed rapidly. During the 1980s and 1990s, numerous official institutions opened in Ari'el, including elementary and high schools, an academic college, a religious council, a municipal court, a police station and so on. In 1996, with the support of the Ministry of Industry and Trade, an additional industrial zone was established in Ari'el alongside Barqan Industrial Zone.²⁷⁵

Following the commencement of the wave of immigration from the former Soviet Union in the early 1990s, thousands of immigrants were directed to Ari'el, considerably increasing the population of the settlement. In June 1998, as a result of this growth, then OC Central Command Uzi Dayan signed an order changing the status of Ari'el from a local council to a municipality. As of September 2001, the Central Bureau of Statistics estimates the population of Ari'el at 15,900 residents, approximately forty percent of whom are immigrants from the former Soviet Union. In addition, some 6,000 students attend Ari'el College, some of whom live in the settlement on a temporary basis.

B. The Geographical Context

As noted, Ari'el is situated in the center of Samaria, half way between Nablus and Ramallah, and to the west of the watershed line (the peaks of the mountain range crossing the West Bank). In terms of the road network, Ari'el lies adjacent to an important intersection between Road No. 5 (the Trans-Samaria Highway), which extends from west to east, and Road No. 60, which crosses the length of the West Bank from north to south.

Ari'el is surrounded on all sides by Palestinian towns and villages. To the south lies the town of Salfit (9,000),²⁷⁶ which functions as the governmental, administrative and commercial center for all the Palestinian villages in the vicinity. To the north of Ari'el, and in close proximity, are four villages – Haris (2,600), Kifl Haris (2,700), Qira (900) and Marda (1,900); a little further to the north lie Jamma'in (5,100), Zeita-Jamma'in (1,700) and Deir Istiya (3,300). To the east of Ari'el lie the villages of Iskaka (900) and then Yasuf (1,500), and on the western edge of the area of jurisdiction of Ari'el lie the villages of Brukin (3,100) and Kafr Ad-Dik (4,400).

To the east and west of Ari'el, and interspersed among the above-mentioned Palestinian villages, there are a number of settlements. To the east, on Road No. 60, lie Tapuah (350) and Rehelim (no population

274. Letter from Ariel Sharon to the Ministry of Construction and Housing dated July 21, 1978, as well as the minutes of a meeting from September 2, 1979 (in *Ari'el – Capital of Samaria*, pp. 140, 157).

275. For details of the institutions and the dates of opening, see the Website of the Municipality of Ari'el, www.ariel.muni.il.

276. Unless otherwise stated, the figures in parentheses are the estimated number of residents as of the end of 2001.

data available), which form part of the Mountain Strip. To the west of Ari'el lie numerous settlements arranged in a funnel shape (see Chapter Seven) that constitute the high demand area of the Western Hills. The closest settlements to Ari'el are Barqan (1,300), Revava (550) and Qiryat Netafim (300).

C. Seizing Control of Land

Research undertaken by B'Tselem shows that most of the land included in the area of jurisdiction of Ari'el was declared and registered as state land over the years (see Chapter Three).²⁷⁷ Although it is not possible to reconstruct precisely the situation prior to the establishment of the settlement, the research shows that a substantial part of this land, and particularly the area on which Ari'el is actually constructed, was formerly uncultivated, rocky land used by the villagers to graze their flocks. As shown by the testimonies collected during the course of the research, however, Israel also expropriated land that was farmed by Palestinians, claiming it to be state land, and this land was included within the area of jurisdiction of Ari'el.

In other cases, Israel seized control of cultivated land – which it acknowledged to be private Palestinian property – for the purpose of expanding the network of roads connecting Ari'el with Israel and with the adjacent settlements (see below, in the discussion of the new Trans-Samaria Highway and Road No. 447). In these instances, the military commanders signed expropriation orders.

The agricultural produce yielded by crops on this farmed land was used by the owners of the land, both for their own consumption and for commercial marketing. The seizure of control of this land deprived these families of an important source of livelihood – in some cases, their only source – and severely impaired their standard of living.

D. Municipal Boundaries

The municipal boundaries of Ari'el have been revised several times since its establishment. The most recent revision was undertaken in June 1999 by means of an order signed by the then commanding officer of the Central Command, Moshe Ya'alon, accompanied by a map including a total area of some 13,800 dunam in the area of the settlement. Of this area, approximately 3,000 dunam are built-up, or are in the process of construction, i.e., twenty-two percent of the total area of jurisdiction. Ari'el's area of jurisdiction extends over some eleven kilometers from east to west, with a maximum width of 2.5 kilometers. The length of this area is exceptional even by comparison with major Israeli cities of comparable population.

The municipal boundaries of Ari'el are convoluted and jagged. Land cultivated by Palestinians (mostly olive groves) exists within the settlement. The reason for this is that Israel was unable to declare them state land. This situation also created "islands" or "peninsulas" of Palestinian ownership within the area of jurisdiction of Ari'el, which surrounds the Palestinian lands on three sides. The reverse is also true:

277. This research was based on the testimonies of residents of the Palestinian villages adjacent to Ari'el, and on information provided by the Municipality of Salfit. B'Tselem asked the Israel Lands Administration and the Municipality of Ari'el to provide information clarifying the status of the land forming the area of jurisdiction of Ari'el, but did not receive any response.

there are cases in which parts of the jurisdictional area of Ari'el are surrounded by Palestinian farmland. These phenomena also exist elsewhere in the West Bank.²⁷⁸

These Palestinian-owned islands within the non-built-up part of the area of jurisdiction will apparently be eliminated and effectively annexed to Ari'el, as the area around the island becomes built-up and populated. An example may already be noted of such annexation, relating to a large Palestinian island situated to the south of the main built-up area of Ari'el (see coordinate D-6 in Photo 20). While the map of the area of jurisdiction of Ari'el attached to the military order shows this area as private Palestinian land, the Municipality of Ari'el has constructed a security road surrounding this area, effectively annexing it to the settlement. Moreover, the municipality's outline plans – as distinct from the map of the area of jurisdiction attached to the military order – completely eliminate this island. The area appears as an integral part of Ari'el.

E. Urban Sprawl

Diagram 9 offers a graphic depiction of the urban development of Ari'el in chronological terms, as reflected in the outline plans of the settlement. A review of this diagram shows a clear intention on the part of the planners to maximize the dispersion along the east-west axis, by means of extending "wedges" to either extreme of the area of jurisdiction, and then gradually filling the open spaces remaining within these boundaries. Accordingly, after the consolidation of the initial settling group, approximately in the center of the present area of jurisdiction, the area now occupied by Ari'el College at the east end of the area of jurisdiction was developed. Only during the years that followed was the space between the central core and the eastern edge gradually filled. Similarly, in the mid-1990s, work began to build a new industrial zone on the western edge of Ari'el. The next residential neighborhood planned for construction (see the last picture in the diagram) is situated between this new industrial compound and the western edge of the current built-up area.

The length of the current built-up area is approximately five kilometers (from the college to the entrance road to Ari'el), while its width is only some seven hundred meters. In urban planning terms, this dispersion is completely unreasonable and illogical. Modern planning approaches favor the most compact urban dispersion attainable, enabling residents to reach as many parts of the community as possible on foot.

The unreasonable nature of this dispersion in urban terms is even more pronounced because the area of jurisdiction of Ari'el includes extensive areas adjacent to the original site of the settlement (mainly to the south) that could have been used for expansion. The conclusion to be drawn from this situation is that the Israeli planning system was based not on urban planning considerations, but on extraneous considerations, as discussed below. One of these considerations was to create as long a barrier as possible separating the Palestinian communities on either side of the Trans-Samaria Highway and disrupting the territorial contiguity of this area.

278. For discussion of this phenomenon in the case of Ma'ale Adummim, see B'Tselem, *On the Way to Annexation*, pp. 33-34.

Photo 15 Ari'el: view from the southeast



Photo 16 Caravans in the area east of Ari'el with Jamma'in in the background



Photo 17 Physical roadblock at entrance to Yasuf



Photo 18 Sewage from Ari'el flowing toward Salfit's pumping station

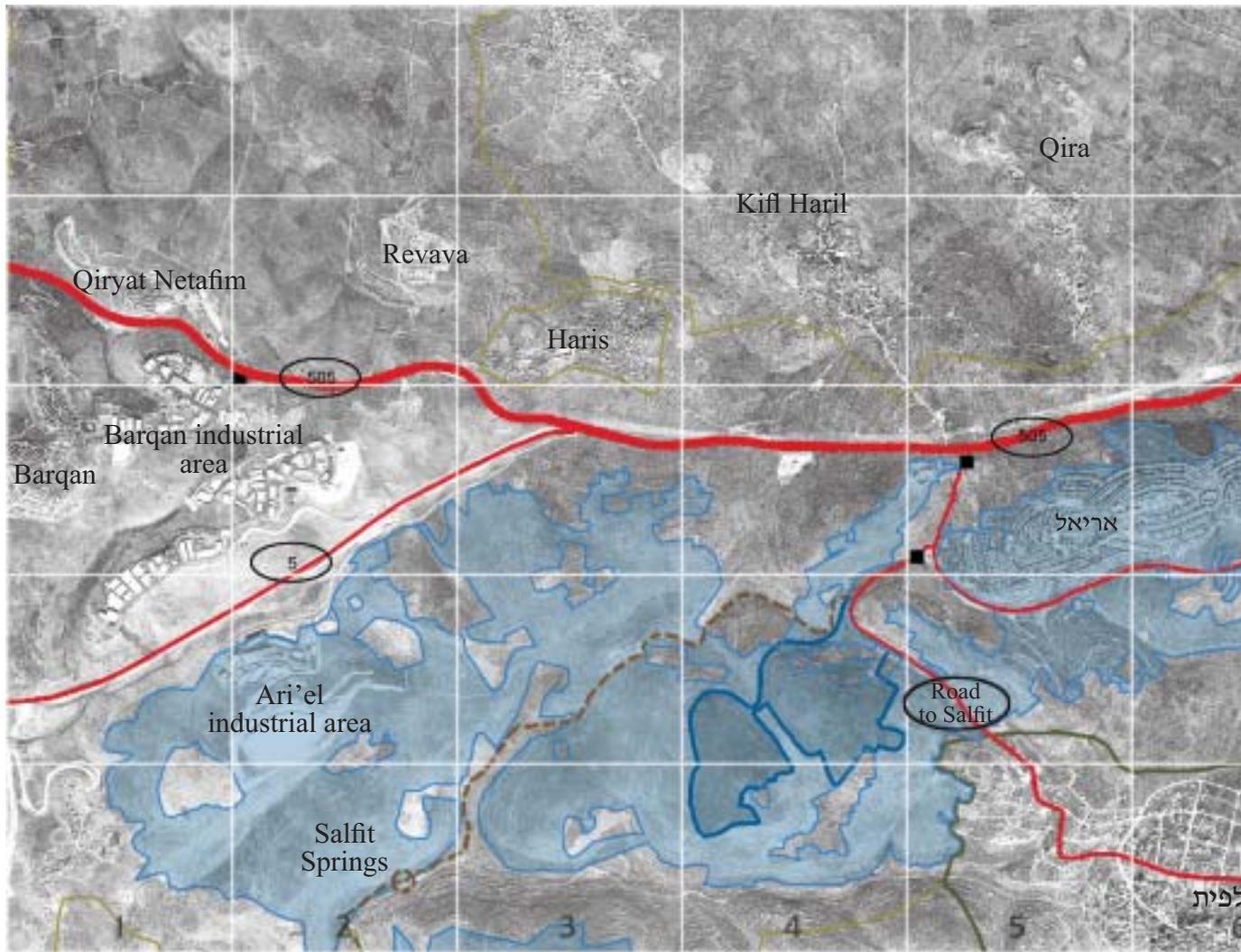


Photo 19 Ari'el and Salfit

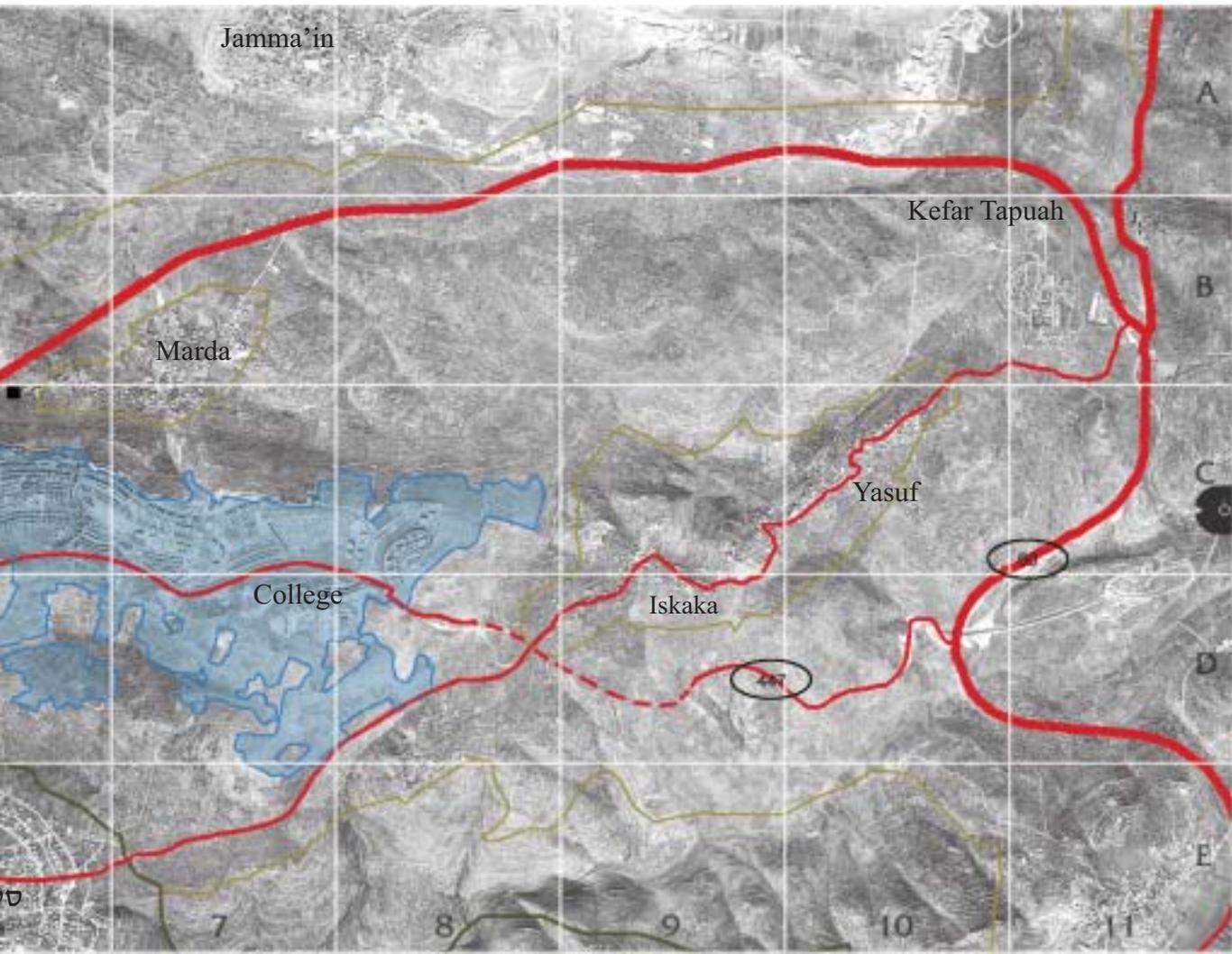


Photo credit: Israel Mapping Center

Photo 20 Ari'el and surrounding areas



- Area of jurisdiction of Ari'el
- Planned neighborhood – Ari'el
- Road
- 5 Road number
- Area A boundary
- Area B boundary
- River bed



Background photo: Israel Mapping Center

Photo 21 On the bridge: Road No. 447 / Under the bridge: the Iskaka-Salfit road

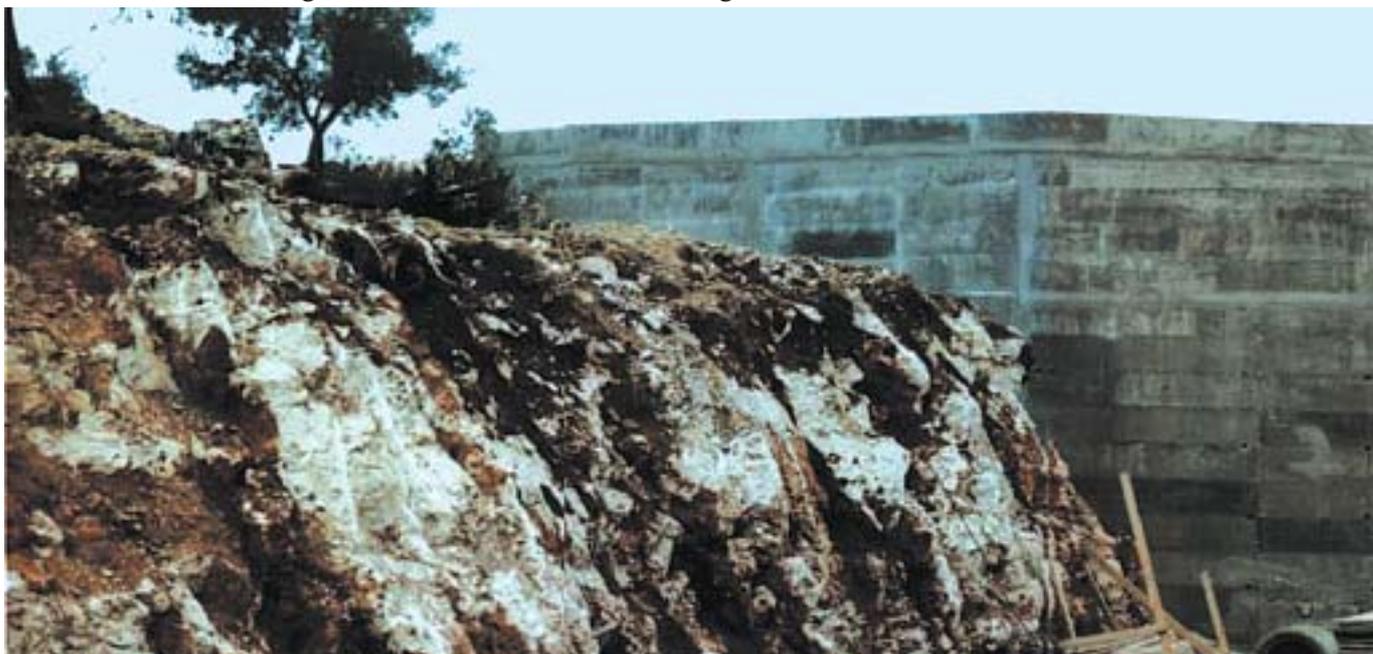


Photo 22 Area planned for expansion of Ari'el





Photo 23 Houses in Ari'el: view from the settlement's ring road



Photo 24 Houses in Ari'el: view from the settlement's ring road



F. Harm to the Development of Salfit

The location of Ari'el prevents the creation of a contiguous urban space that could otherwise have developed through the expansion of Salfit to the north and northeast, connecting to Haris, Kifl Haris, Qira, Marda and Iskaka. As a result of Israel's policy, the borders of Ari'el constitute a kind of physical barrier stopping such a process and almost totally block the urban development of Salfit. The current population of Salfit is approximately 9,000, and the annual growth rate is approximately 3.5 percent. According to the municipal engineer, Samir Masri, the lack of available land suitable for construction is worsening each year, and is already reflected in a housing shortage and in the decision of many young residents to leave the town.²⁷⁹

Because of the topographic and hydrologic characteristics of the Salfit area, the only reasonable direction of expansion is to the north. The areas to the south, southeast and southwest of Salfit are mountainous and extremely steep. Preparing such areas for construction would require enormous financial and technical resources, and would cause irreparable damage to the landscape. The area to the west of Salfit is rich in underground water reserves providing a considerable part of the residents' water needs (see below), and is also exploited by Israel. Construction in this area would damage these reserves as well as the crops currently grown in this area. While the area to the east of Salfit is suitable for construction in terms of the topographic conditions, it is currently intensively farmed by residents of the town, who grow thousands of olive trees that provide their most important source of income. Approximately fifteen percent of the area of jurisdiction of Salfit (the northern edge of which is shown by the border of Area A) is currently free for construction, but about half of this area is owned by a small number of residents of Salfit and is therefore not available for construction.²⁸⁰

The negative influence of Ari'el on the residents of Salfit is not confined solely to the question of land and the housing shortage, but also includes such aspects as the pollution of the underground water sources serving Salfit. Most of the sewage created by Ari'el flows into a riverbed at the western entrance to the settlement, and then continues to flow to the southwest (see Photo 20). This sewage channel, which seeps into the soil and mixes with the spring water stored in the aquifer, passes just a few meters from a pumping station supplying most of the water used for domestic consumption by the residents of Salfit (see Photo 18). According to the water engineer of Salfit, Salah Afani, this sewage channel pollutes the water, and he must occasionally order the municipality to stop pumping after routine inspections reveal particularly high levels of pollution.

G. The Regional Road Network

As noted above, the town of Salfit functions as an administrative and commercial center for the villages in the area, and particularly for the villages situated to the north: Haris, Kifl Haris, Qira, Marda, Jamma'in, Zeita-Jamma'in and Deir Istiya. The presence of Ari'el significantly restricts access routes to and from Salfit.

279. This information was given to B'Tselem during a tour of Salfit held by the organization on 31 December 2001.

280. This information was provided to B'Tselem by the Municipality of Salfit.

Until the outbreak of the al-Aqsa intifada, the main access road to Salfit was the road that forks from the entrance road to Ari'el, veers to the west and then leads south to Salfit (see Photo 20). Since the beginning of the intifada, the IDF has blocked access to this road by means of concrete blocks and dirt piles. If the planned expansion of Ari'el to the west (see Diagram 9) is realized, this road will pass through the built-up area of Ari'el and Palestinian traffic along this artery will be completely banned.

The restricted volume of traffic that currently passes between Salfit and the villages to the north takes place to the east, along a dirt road beginning on Road No. 60 to the south of the settlement of Tapuah, and leading west through the villages of Yasuf and Iskaka. Although the entrance to this road has also been blocked since the outbreak of the intifada, Palestinian residents reach the point of the blockage (to the east of Yasuf), go round this point on foot, and then continue toward Salfit (see Photo 17). Even without the current blockages, this road is long and unsuitable as a principal traffic artery between Salfit and the villages to the north. However, as noted, this is the situation that will presumably emerge if Ari'el is expanded to the west as planned.

For example, the length of the road from the southern exit of Kifl Haris to the western entrance of Salfit, which the residents of these communities used until the outbreak of the intifada, is some 3,500 meters. The alternate road, on the other hand, requires the residents of Kifl Haris to go to Route No. 60 and cross through the villages of Yasuf and Iskaka, a distance of some twenty kilometers.

The many restrictions on Palestinian movement and the minimal road network available to them is particularly striking in view of the enormous resources invested by Israel in order to meet the transportation needs of the settlers in general, and the residents of Ari'el in particular. This is clearly illustrated by two roads recently constructed in the vicinity of Ari'el that have severely harmed the Palestinian population.

The first example is the new alignment of the Trans-Samaria Highway, which connects Ari'el and the adjacent settlements to Tel-Aviv and the Tel-Aviv Metropolis. The old Trans-Samaria Highway (Road No. 505) crosses the villages of Mas-ha and Bidya, and Israel therefore decided to build a new road a few hundred meters to the south in order to circumvent these villages, and to upgrade the road to a four-lane highway. For the purpose of constructing the road, Israel expropriated extensive land from Palestinian residents in the area, and caused considerable environmental damage by bisecting all the hills situated along the course of the road. Since the beginning of the intifada, as part of Israel's policy of "clearing" territory, the IDF has uprooted numerous olive trees along the sides of this road in order to reduce the dangers facing settlers using the road (see coordinates C-3, C-4, C-5, B-6 in Photo 20).²⁸¹

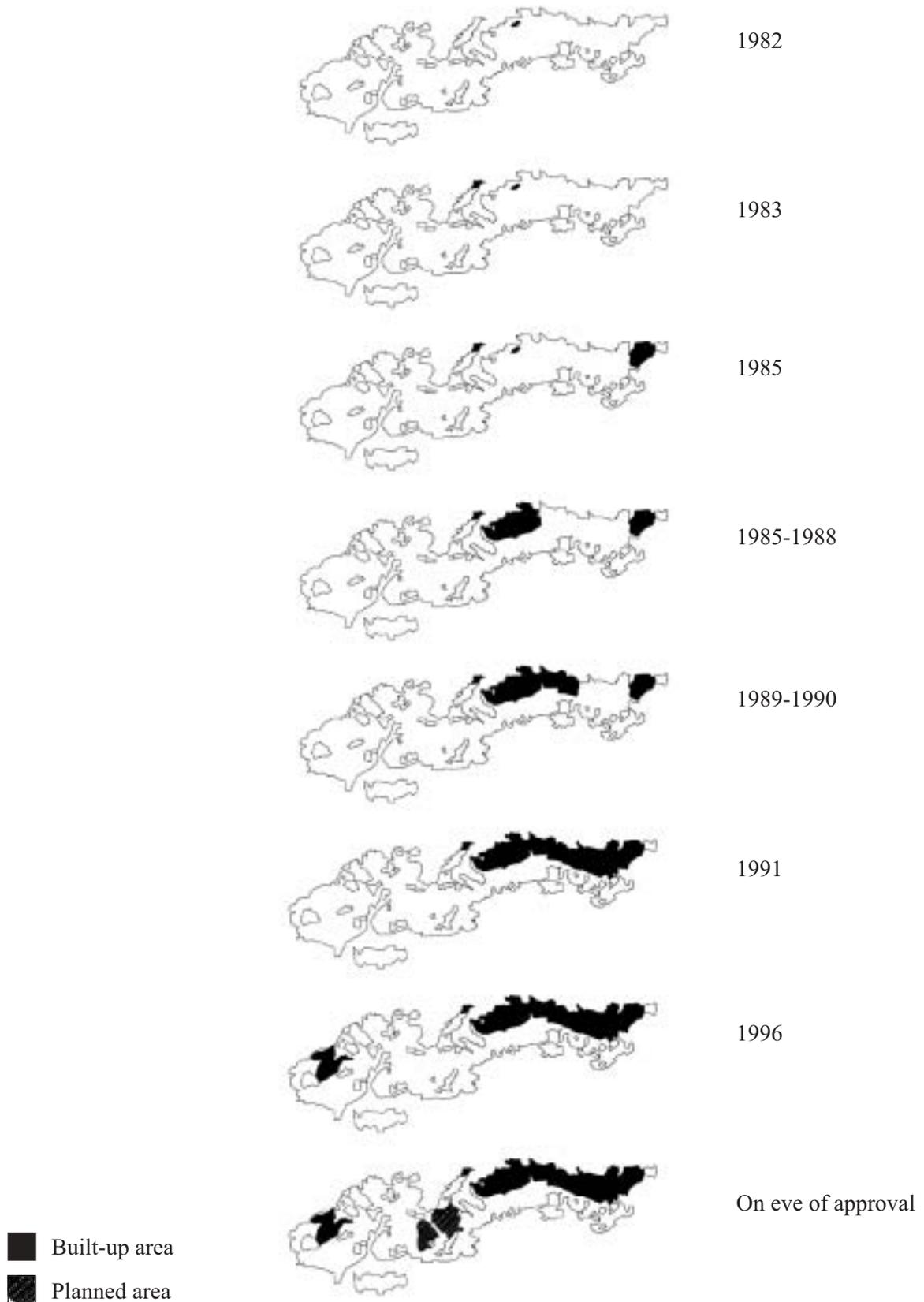
An additional example is Road No. 447, which is due to be completed shortly. This road connects the eastern edge of Ari'el to Road No. 60 close to the settlement of Revava (see Photo 21). For the purpose of its construction, some seventy-five dunam belonging to the residents of Iskaka and Salfit were expropriated, and over one thousand olive trees were uprooted, most of them extremely old and highly productive. This road is supposed to serve the bloc of settlements consisting of Eli, Shilo (including Shevut Rahel) and Ma'ale Levona, and will shorten the journey to Ari'el by a few minutes. The Palestinians whose land was expropriated petitioned the High Court of Justice, seeking to prevent

281. For details of this policy as implemented in the Gaza Strip, see B'Tselem, *A Policy of Destruction: House Demolitions and Destruction of Agricultural Land in the Gaza Strip* (Information Sheet, February 2002).

construction of the road. The Court rejected the petition, without detailing its reasons. The laconic ruling of Justice Matza simply states: "Regarding this matter, we have formed the conclusion that there is no room for the Court to intervene in the decision of the Respondents."²⁸²

282. HCJ 00/1451, *Talab 'Abd Al-Hadi et al. v. Supreme Planning Council and Commander of IDF Forces in Judea and Samaria*

Diagram 9
Incremental Growth of Ari'el: Dates of Outline Plan



Conclusions

Israel has created in the Occupied Territories a regime of separation based on discrimination, applying two separate systems of law in the same area and basing the rights of individuals on their nationality. This regime is the only one of its kind in the world, and is reminiscent of distasteful regimes from the past, such as the apartheid regime in South Africa.

The discrimination against Palestinians is apparent in almost all fields of activity of the occupation authorities, starting from the methods used by Israel to seize control of the land on which the settlements are established, to the separate planning institutions for Palestinians and for Israelis, to the application of Israeli law to the settlers and settlements while the Palestinian population remains subject to the military legislation.

Under this regime, Israel has stolen hundreds of thousands of dunam of land from the Palestinians. Israel has used this land to establish dozens of settlements in the West Bank and to populate them with hundreds of thousands of Israeli citizens. The manner of dispersion of settlements over extensive areas of the West Bank inherently creates numerous violations of the Palestinians' legal rights. As the report has demonstrated, the drastic change that Israel has made in the map of the West Bank prevents any real possibility for the establishment of an independent, viable Palestinian state as part of the Palestinians' right to self-determination.

The settlers, on the contrary, benefit from all the rights available to Israeli citizens living within the Green Line, and in some cases are even granted additional rights. The great effort that Israel has invested in the settlement enterprise – in financial, legal and bureaucratic terms – has turned the settlements into civilian enclaves in an area under military rule, with the settlers being given preferential status. To perpetuate this situation, which is *a priori* illegal, Israel has continuously breached the rights of the Palestinians.

Particularly evident is Israel's manipulative use of legal tools in order to give the settlement enterprise an impression of legality. When Jordanian legislation served Israel's goals, Israel adhered to this legislation, arguing that international law obliges it to respect the legislation in effect prior to the occupation; in practice, this legislation was used in a cynical and biased manner. On the other hand, when Jordanian legislation interfered with Israel's plans, it was changed in a cavalier manner through military legislation, and Israel established new rules to serve its interests. In so doing, Israel trampled on numerous restrictions and prohibitions established in the international conventions to which it is party, and which were intended to limit infringement of human rights and protect populations under occupation.

The responsibility for the infringement of human rights created by the existence of the settlements rests, first and foremost, with all the Israeli governments since the occupation began. It is the government that initiated the establishment of the settlements, provided political, organizational and economic support, and encouraged their continual expansion. The justices of the Israeli Supreme Court are senior partners in this responsibility: in their rulings, they provided the settlement enterprise with a legal stamp of approval by approving improper acts by the government and the IDF in certain cases, and by refusing to intervene in others to prevent harm to the Palestinian residents.

Since the outbreak of the al-Aqsa intifada, the settlers have been continuous targets for attacks by Palestinians. As a result, some settlers have wanted to return to live inside Israel and have asked the government to provide assistance to help them relocate. Despite the authorities' responsibility resulting from their long-standing policies regarding the settlements, the state has refused to provide any assistance for settlers to return to Israel as long as their relocation is not part of a political settlement.²⁸³ This refusal makes those settlers who wish to leave hostages of the illegal policy pursued by the State of Israel.

Because the settlements were illegal from the outset, and given the infringement of human rights caused by their presence, B'Tselem demands that the Israeli government act to dismantle all the settlements. The dismantling must take place in a manner that respects the human rights of the settlers, including the payment of compensation.

Evacuation of all the settlements is clearly a complex task that will require time. However, there are interim steps that can be taken immediately to reduce to a minimum the infringement of human rights and the violation of international law. The Israeli government must take, *inter alia*, the following steps:

- Cease all new construction in the settlements, either to build new settlements or to expand existing settlements;
- Freeze the planning and construction of new bypass roads, and cease expropriation and seizure of land for this purpose;
- Return to the Palestinian communities all the non-built-up areas within the municipal boundaries of the settlements and the regional councils;
- Abolish the special planning committees in the settlements, and hence the powers of the local authorities to prepare outline plans and issue building permits;
- Cease the policy of providing incentives that encourage Israeli citizens to move to the settlements, and direct these resources to encourage settlers to relocate to areas within the borders of the State of Israel.

283. MK Anat Maor submitted a proposed law before the Knesset that provides for compensation for settlers who decide to leave the settlements. The Knesset voted to reject the bill (Proposed Bill: Compensation for Evacuated Residents from Judea, Samaria, the Gaza Strip and the Golan Heights Law, 5760-1999, 4 July 2001).

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Case Studies

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March 1994	Lethal Gunfire and Collective Punishment in the Wake of the Massacre at the Tomb of the Patriarchs

- November 1993 The "New Procedure" in GSS Interrogation: The Case of 'Abd A-Nasser 'Ubeid
- January 1992 Khan Yunis, December 1992
- September 1992 The Death of Mustafa Barakat in the Interrogation Wing of the Tulkarm Prison

Joint and Miscellaneous Reports

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Position Papers

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