



# Settlement Monitor

16 NOVEMBER 2016–15 FEBRUARY 2017

This section covers items—reprinted articles, statistics, and maps—pertaining to Israeli settlement activity in the West Bank, East Jerusalem, and the Golan Heights. They are reproduced as published, including original spelling and stylistic idiosyncrasies.

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*Significant developments this quarter: In anticipation of changes to U.S. policy on settlements under incoming U.S. president Donald Trump, Terrestrial Jerusalem and other settlement watch groups outlined the areas they consider most vulnerable to settlement expansion. While the Israeli Security Cabinet voted on 22 January 2017 to postpone discussion of a bill facilitating the annexation of the Ma’ale Adumim settlement until after Trump and Israeli prime minister Benjamin Netanyahu had a chance to meet in person, many analysts this quarter highlighted the probable annexation of settlements in East Jerusalem and even possibly part of Area C of the West Bank. Peace Now released a report estimating that 4,000 settlement units and 55 illegal outposts would be retroactively legalized under the recently enacted Regulation Law and documenting the 3,000 additional units that could be newly expropriated under the law (see *Update on Conflict & Diplomacy in JPS 46 [3]* for more on the new Israeli legislation).*

## SETTLING EAST JERUSALEM

### “EAST JERUSALEM SETTLEMENT ACTIVITY AND THE ONSET OF THE TRUMP ERA: WHAT TO WATCH” (EXCERPTS)

*In the first week of the Trump presidency, the organization Terrestrial Jerusalem released an analysis of settlement developments that the Israeli government would likely approve and pursue*

*Journal of Palestine Studies* Vol. XLVI, No. 3 (Spring 2017), p. 1, ISSN: 0377-919X; electronic ISSN: 1533-8614. © 2017 by the Institute for Palestine Studies. All rights reserved. Please direct all requests for permission to photocopy or reproduce article content through the University of California Press’s Reprints and Permissions web page, <http://www.ucpress.edu/journals.php?p=reprints>. DOI: <https://doi.org/10.1525/jps.2017.46.3.S1>.

*in light of the unequivocal support it anticipated on the part of the new U.S. administration. The briefing addresses three large-scale projects that Terrestrial Jerusalem estimates could be advanced with the new U.S. administration—Givat Hamatos, E-1, and E-2. Given the settlements' strategic locations around East Jerusalem and Bethlehem, completion of the projects could usher in a full-on Israeli annexation of East Jerusalem. Additionally, the briefing includes existing settlement blocs that are vulnerable to expansion.*

*Published on 24 January 2017, the briefing is excerpted below. It is available in full at [www.t-j.org.il](http://www.t-j.org.il).*

In recent weeks, the main focus of concern regarding Jerusalem has been the question: will President Trump move the U.S. embassy in Israel to Jerusalem? [ . . . ] In parallel, another highly problematic issue has been at the fore of the Israeli government's agenda: legislation for the annexation of Maale Adumim, located on East Jerusalem's northeast periphery. [ . . . ]

Based on statements made by Trump and his surrogates both during the campaign and after the election, and based on Trump's nominations and appointments (most notably of David Friedman as his ambassador to Israel, Jason Greenblatt as his Special Representative for International Negotiations, and his son-in-law, Jared Kushner, as his chosen representative to broker Israel-Palestinian peace—all of whom have a history of support for settlements), there has long been every reason to expect that Trump's inauguration would trigger a surge in Israeli settlement activities. And that is precisely what has happened. And, unsurprisingly, these activities are focused in large part on Jerusalem.

First, on January 22—less than 48 hours after Trump's inauguration—the Jerusalem Municipality reportedly voted to approve [566 new settlement units](#) in East Jerusalem (in Pisgat Zeev, Ramat Shlomo and Ramot). The vote on these units had been scheduled to take place in December, but had been [postponed](#) (clearly at the behest of Netanyahu) in order to avoid a confrontation with the Obama Administration before it left office. This means that the subsequent approval on January 22 entailed Netanyahu's knowledge and consent.

Shortly thereafter, also on January 22nd, in a meeting of the Israeli Cabinet, Prime Minister Netanyahu [vowed](#) to remove building restrictions in East Jerusalem and expand construction in settlement blocs (the contours/borders of which he did not define).

This focus on Jerusalem settlements should come as no surprise. Netanyahu has a long and famously contentious track [record] with respect to East Jerusalem, characterized by what seems to be an irresistible impulse to favor East Jerusalem settlement expansion as a means of “balancing out” anything he does that can be seen as remotely conciliatory toward the Palestinians. [ . . . ]

In this context, it is critical to examine the pending and likely plans for settlement activity in and immediately around East Jerusalem, and to hone in on the specific locations/projects of greatest concern.

### **1. Large-scale projects: Givat Hamatos, E-1, and E-2**

Large-scale, government-sponsored projects have for decades formed the backbone of the settlement enterprise in East Jerusalem. Huge amounts of government funding have been invested since 1967 to establish large settlements and settlement blocs strategically in and around East Jerusalem, with the goal of preventing contiguity between the West Bank and East Jerusalem, and preventing any future division of East and West Jerusalem. As a result, settlements today make

any future two-state agreement in and around Jerusalem extremely difficult. And likewise, as a result, there is not much land left in and around East Jerusalem today for major settlement projects.

However, the three exceptions—Givat Hamatos, E-1, and E-2—are critical, each project in its own way posing a dire threat to the two-state solution. As such, these projects will serve as a critical test—both of Prime Minister Netanyahu’s readiness and ability to stand up to the settlers now that he cannot shift blame for putting off new construction to the Obama Administration, and of the extent to which President Trump will or will not throw out longstanding U.S. policy and throw America’s support behind the settlement movement.

**Givat Hamatos:** Givat Hamatos is a new East Jerusalem settlement planned for a site located between the existing East Jerusalem settlement neighborhood of Gilo and the West Bank city of Bethlehem (full background on the plan is [here](#)).

Key facts about implementation of the Givat Hamatos plan are the following:

- Givat Hamatos is the last major settlement project planned for East Jerusalem (over the years all others have been implemented, notwithstanding international objections).
- The construction of Givat Hamatos is planned, sponsored and implemented by the Government primarily on “state land” or land privately owned by Israelis, and includes massive government-constructed associated infrastructure work. There is also a small amount of land within the Givat Hamatos plan that is privately owned by Palestinians and a number of churches, but this is not an obstacle to establishment of a new Israeli settlement neighborhood there.
- The first stage of Givat Hamatos plan would allow for the construction of 4500 units, the overwhelming majority of which would be for Israeli Jews, with a smattering of property that would be allotted for Palestinian landowners.
- Plans for construction in Givat Hamatos have been fully approved but tenders have not yet been issued—making it the ONLY settlement area within Jerusalem’s municipal borders where significant tenders are possible but have not yet been published.
- In the summer of 2014, Netanyahu was about to publish tenders for the construction of 1500 units in Givat Hamatos in retaliation for the murder of the three yeshiva students in [the] West Bank, but pulled back at the very last moment. Those tenders are ready for publication on a day’s notice.
- Given strong Government support for Givat Hamatos, and given the departure of the Obama Administration, issuance of tenders and the commencement of construction could take place in short order.

Key implications of building Givat Hamatos are the following:

- If plans to build Givat Hamatos are implemented, this will be the first new Israeli settlement neighborhood established by the government in East Jerusalem since construction commenced at Har Homa in the late 1990s.
- If Givat Hamatos is built, it will result—for the first time since 1967—in a Palestinian neighborhood of East Jerusalem being completely surrounded by Israeli construction. This would have dire implications for the possibility of any peace agreement. It is still possible today to implement an agreement based on the principle that Arab neighborhoods of the city will fall under Palestinian sovereignty, and Jewish neighborhoods under Israeli sovereignty. If Givat

Hamatos is built, it will no longer be possible to implement an agreement along these lines without the relocation of tens of thousands of Israelis.

- In short, Givat Hamatos is not just another detrimental settlement; it is a game-changer. While it is a smaller project, its implications are no less problematic than those of E-1 (discussed below)—something very much recognized by the Palestinians. The key difference is this: while global opposition has been rallied against E-1, far less attention and opposition has been devoted to Givat Hamatos. Most importantly, with E-1 there is a tripwire. Should Netanyahu decide to proceed on E-1, there will be up to a year to stop him. With Givat Hamatos there will be no warning, and the damage will be mostly immediate. [. . .]

**E-1:** E-1 is a major West Bank settlement planned for a large area of land on East Jerusalem's northeastern flank (outside the city's municipal borders). E-1 is designed to complete the settlement "buffer" around East Jerusalem, cementing a contiguous block of settlements from Maale Adumim to the city's east, through Neve Yaacov and Pisgat Zeev to the north, and extending to Givat Zeev, to the northwest (a map can be viewed/downloaded [here](#)).

Key facts about implementation of the E-1 plan are the following:

- The Master Plan for E-1 was approved in the 1990's, during Netanyahu's first term as prime minister. In 2005, specific plans were approved by the Maale Adumim Municipality. These specific plans provide for the construction of high-rise dwellings, low-density residential units, and the police station in E-1. However, following direct intervention by then-U.S. President George W. Bush, then-Prime Minister Sharon agreed to remove all of the residential units from the plans.
- Every U.S. President since President Clinton has elicited a commitment from every Israeli Prime Minister, including Netanyahu, not to act on E-1.
- In 2012, in retaliation for the extension of non-member status to the Palestinians in the UN, Netanyahu violated that commitment. He announced that the plan would move ahead and instructed the High Planning Committee of the West Bank to deposit the plans for public review. Such publication would have started a process for final approval by publishing the plan for public review (the entire process taking 9 months to a year), after which tenders could be published, permits issued, and construction commence. However, Netanyahu balked, and the plan was never published. [. . .]
- The main obstacle preventing a green light for E-1 has, until now, been wall-to-wall opposition from the international community, led by the United States (dating back to the era of President Clinton).
- Notably, since 2005, continuing through the present day, the government of Israel has been methodically preparing to implement E-1. Construction (based on the approved Master Plan) has been completed on much of the infrastructure of E-1, including a six-lane road, large interchanges linking a non-existent neighborhood to the national road grid, electricity, lighting, water, drainage, and terracing (indeed, more streetlights have been installed in E-1 than in all of East Jerusalem). Moreover, the Israeli government is engaged in efforts to clear the area connecting Maale Adumim and E-1 of Bedouins who have lived there since the 1950s, including systematically destroying their property (for more see [here](#) and [here](#)). The government has also prepared a

plan (similar to the Prawer plan for the Negev) to forcibly [relocate](#) these Bedouin communities, as part of its effort to prepare the ground for E-1's construction.

- What will happen now with E-1 may be linked, in large part, to pending legislation in the Knesset seeking to annex Maale Adumim (a vote on which was scheduled for January 22, but was [postponed](#) at the request of Netanyahu). This bill could have a direct impact on E-1 for two reasons. First, the bill by definition includes E-1, because E-1 is technically located within the municipal boundaries of Maale Adumim. Second, because if Netanyahu moves to block the bill based on his analysis that it would be “too much, too soon” to ask of the Trump Administration, he may be tempted to “compensate” the Jewish Home party (which initiated the annexation bill) by advancing E-1. For background on the bill see [here](#) and [here](#).

Key implications of building E-1 are the following:

- If built, E-1 would—by design—dismember a potential future Palestinian state into two non-contiguous cantons and seal off East Jerusalem from its environs in the West Bank.
- Some argue that E-1 doesn't actually bisect a future Palestinian state, because a series of tunnels and bridges could be constructed that together create an efficient version of “transportational continuity” between the northern and southern West Bank. Indeed, a sealed road, like the autobahn to Berlin pre-1989, already exists through the E-1 area for Palestinians, whose “state” under this formula would be exactly 16 yards wide.
- But this “solution” is dependent on the goodwill of Israel (which can close off the road anytime), and in no way compensates for the kind of territorial contiguity which is necessary for a cohesive, viable state in which the fabric of life—political and economic activity and things like education and health services—functions normally. [. . .]
- Moreover, neither of these Rube Goldberg-like solutions addresses the problem of cutting off East Jerusalem from the West Bank, and it is simply a fact that there will be no two-state solution to the Israeli-Palestinian conflict that doesn't establish a viable capital for the state of Palestine in East Jerusalem. [. . .]

**E-2 (aka a-Nahla, aka Givat Eitam)**: The plan for new West Bank settlement construction deals with an area located east of the settlement of Efrat and southeast of Bethlehem. While this plan is well outside the municipal borders of Jerusalem, its potential impact with respect to Jerusalem and the two-state solution is enormous, akin to that of the construction of E-1 on Jerusalem's northeastern flank (this is why it is being called “E-2”).

Key facts about implementation of the E-2 are the following:

- Planning has not started yet and therefore the potential dangerous impact of this project is still, unlike E-1 or Givat Hamatos, more theoretical than practical.
- However, given Netanyahu's recent statement indicating a readiness to open the settlement flood-gates to a degree not seen over the past 8 years, advancement of E-2 has become a much more real possibility.

Key implications of building E-2 are the following:

- As we have noted previously ([here](#) and [here](#)), this plan, if implemented, would significantly pre-judge the border between Israel and Palestine. It would also contribute to the urban suffocation of

Bethlehem, preventing one of the few remaining areas in which Bethlehem can develop. And, in conjunction with other existing and planned settlements, it would dismember the southern West Bank in a manner similar to the way E-1 would divide the northern and southern halves of the West Bank. [. . .]

## 2. Expansion of Existing Settlement Neighborhoods

Smaller-scale construction continues in settlements throughout East Jerusalem. While there do not appear to be any significant new plans in East Jerusalem that are pending or proceeding towards approval (with the exception of those discussed above), we will likely witness new settlement approvals and construction through the issuance of building permits and the publication of residual tenders in areas already approved for construction. The most important settlement neighborhoods of East Jerusalem in which there are construction permits that are pending are Mordot Gilo and Ramat Shlomo (others are also discussed below). Some of this construction is on the edges of the current outline of settlements, in effect “welding” settlement neighborhoods to adjacent Palestinian areas, and thereby making the creation of a viable border in East Jerusalem more difficult.

**Mordot Gilo:** Two plans for expansion of Mordot Gilo are currently being implemented or are in their final stages prior to construction: Mordot Gilo West (Town Plan 11357) and Mordot Gilo South (Town Plan 175505).

- Mordot Gilo West has been fully approved and tenders have been issued and awarded for approximately 708 units. Building permits are already being granted.
- Mordot Gilo South has also been fully approved. However, since this is a plan involving mainly privately-owned property (as opposed to State Land), no tenders are required. Building permits could be issued at any time; we will only know about them when the application for a permit is made to the Jerusalem Municipality (at which point issuance is a forgone conclusion).
- These plans will expand the current footprint of the settlement of Gilo, to the west in the direction of Beit Jala and to the south, past the limits of the lands expropriated by Israel in August 1970. [. . .]

**Ramat Shlomo:** There are two pending plans in Ramat Shlomo; in one case construction is imminent, in the other, we are in the early stage of statutory planning.

- Building permits are already being granted to start construction on approximately 1500 units in Ramat Shlomo, under Town Plan 11085 (dubbed “the Biden Plan,” since it was published during the 2010 visit of Vice President Biden) on the southern and western flanks of the neighborhood. We are already witnessing the issuance of building permits inside this plan.
- On December 28, 2016, the Jerusalem Planning Committee was scheduled to grant building permits for 174 units under that same plan. At the last minute that plan was removed from the Committee’s agenda and the vote postponed, as Secretary of State John Kerry was set to deliver his Israel-Palestine speech later that same day.
- The announcement made on January 22, 2017 of the approval of 566 units (in Pisgat Zeev, Ramat Shlomo and Ramot) in all likelihood includes these 174 units (specific information about the approved units has not yet been published).
- An additional plan, Town Plan 11094, providing for expansion on the northeastern flank of Ramat Shlomo, has begun to work its way through the statutory planning process. It is com-

prised of privately owned land (including land owned by Palestinians). The plan, which would ultimately allow for the construction of an additional 500 units, was approved on November 23, 2016. It is set to go to the Regional Planning Committee to be deposited for public review.

**Ramot:** The December 28, 2016 session of the Jerusalem Planning Committee was also set to approve 216 units in Ramot.

- These units are also likely to be among the permits granted on January 22, 2017.
- In all likelihood, most of these permits are located on the western flank of Ramot, in the area dubbed the Ramot Country Club, and are governed by Town Plan 6576.
- Some may also be for construction within the contours of the existing neighborhood, under Town Plan 4820B.

### **Expansion of Settlement Enclaves in Palestinian Neighborhoods**

The government of Israel consistently denies that it has any authority over or responsibility for the establishment of settlement enclaves in Palestinian neighborhoods, since such enclaves are the result of “private” purchases and construction. The reality is that none of the settler activities that have taken place since 1967 in Palestinian neighborhoods—including the surge in such activities in the past decade that have focused on Sheikh Jarrah and Silwan—would have been possible without the systematic backing of the government.

Settler organizations and entrepreneurs will no doubt feel encouraged and emboldened by the rise of Trump and by Netanyahu’s declaration in support of East Jerusalem settlement expansion, and will likely seek to capitalize on this new era to move even more aggressively in these (and possibly other) neighborhoods.

Three areas are likely to continue to be the target of settler activities in Palestinian neighborhoods:

- Silwan (Batan al Hawah)
- The Old City’s Muslim Quarter
- Sheikh Jarrah [ . . . ]

### **“BATAN AL-HAWA NEIGHBORHOOD, SILWAN: THE NEXT TARGET FOR ‘JUDAIZATION’ OF EAST JERUSALEM”**

*On 11 December 2016, the Israeli human rights organization B’Tselem published a report documenting the takeover of Batan al-Hawa, a Palestinian neighborhood in the Silwan area of East Jerusalem. B’Tselem conducted a neighborhood survey and mapped the areas of Batan al-Hawa that have been handed over to Ateret Cohanim, the far-right messianic organization heavily involved in settlement activity to Judaize East Jerusalem. The settler group, which now controls 9 of Batan al-Hawa’s 50 land parcels, has filed eviction claims against 81 Palestinian families under the Absentee Property Law. The legislation entitles the Israeli government to confiscate land from Palestinians who lived in what is now Israel prior to 1948 but were subsequently expelled to the West Bank, Gaza, or abroad. In 2016, the Israeli Supreme Court extended this law to apply to Palestinian-owned land in Jerusalem, which had hitherto been exempt from legal confiscation.*

*Presented below is B’Tselem’s analysis of the Batan al-Hawa land confiscation. It is available at [www.btselem.org](http://www.btselem.org).*

The Batan al-Hawa neighborhood, in the heart of Silwan, is the setting for the most extensive expulsion in recent years in East Jerusalem. To date, eviction claims have been filed against 81 Palestinian families that have been living in Batan al-Hawa for decades. According to the UN Office for the Coordination of Humanitarian Affairs, this number reflects a third of all families under threat of dispossession on the basis of ethnicity in the city.

Ever since Israel annexed East Jerusalem, Israeli authorities have employed discriminatory policies against the city's Palestinian residents, and have worked in different ways toward decreasing their number while increasing the number of Jewish residents, with a view to achieving demographic and geographic conditions that would obstruct any future attempts to question Israeli sovereignty over East Jerusalem. As part of these efforts, Israeli authorities have confiscated hundreds of hectares of land from the Palestinian population and built 12 neighborhoods designed exclusively for the Jewish population in the occupied area that was annexed to Israel. In terms of international law, the status of these neighborhoods is no different than that of the settlements elsewhere in the West Bank.

In recent years, in addition to the housing shortage, poor or lacking infrastructure, services and government funding that affect all East Jerusalem residents, various government ministries and the Jerusalem Municipality have mobilized to help the settler organization Ateret Cohanim dispossess Palestinian families living in the neighborhood of Batan al-Hawa, and hand over their homes to Jewish settlers. Israel's courts have given the seal of approval to every aspect of this process, despite its being a legal justification for organized state violence in pursuit of an unlawful end—the forcible transfer of protected persons from their homes in an occupied territory.

B'Tselem has undertaken a neighborhood survey, and mapped the processes underway in Batan al-Hawa. According to the survey, the neighborhood is divided into some 50 parcels, nine of which have been handed over to Ateret Cohanim, including five that are already in use by settlers. To date, Ateret Cohanim has filed eviction claims against 81 families, all living in Parcel 96, which covers 0.26 hectares in the center of the neighborhood. Most of the claims were filed over the course of 2015. The municipality has fined two more families, who live in Parcel No. 84, and issued demolition orders for parts of their homes on the grounds that they had encroached on land that belongs to the settler association. Ateret Cohanim already has possession of six buildings in the neighborhood, containing 27 housing units, most of which had been home to Palestinian families. The expulsion of these families from homes they had lived in for decades, purportedly as a measure of law enforcement, as the houses had been Jewish-owned prior to the 1948 War, would make some of the neighborhood's residents refugees for a second time, after having already been expelled from their homes in that war.

### ***The Government Dispossession Apparatus in Action***

The Ateret Cohanim association began efforts to seize properties and establish a Jewish settlement in Batan al-Hawa in 2001. Its modus operandi rests on manipulating a combination of three laws passed by Israel since 1948, which allow Jews, and Jews only, to demand that the Custodian of Absentee Property hand over ownership rights to property in the annexed area that had been owned by Jews prior to 1948, but ended up beyond the country's borders after the war. Settlers sometimes purchase ownership rights from the Jewish heirs to the land. In other cases,



aided by the state, they are given permission to manage the trusts that owned the property before 1948. They then contact the Custodian of Absentee Property who hands over the property to them. Another avenue pursued by the settlers is to have the Custodian sell them property in the neighborhoods directly. These are usually properties where Palestinians live, and the settlers file actions to have them evicted. In stark contrast to the significant efforts Israel makes to restore property to Jewish ownership, the state does not even allow Palestinians to demand restoration of property they owned in West Jerusalem prior to 1948.

In 2001, the Jerusalem District Court sanctioned the decision made by the Custodian of Absentee Property to hand over to Ateret Cohanim the management of the Benvenisti Trust, a Jewish trust that operated in the late nineteenth and early twentieth Centuries. In 2002, the Custodian released to the Trust Parcels 95 and 96, where the families now facing eviction live. In 2005, the Custodian sold the association another 0.3-hectare area (Parcels 73, 75, 84 and 97), where ten more Palestinian families live.

The pressure on families who live in a property the settlers want for themselves often puts them in a cruel dilemma—agree to leave in return for significant sums of money, or refuse and still risk losing the property (a very real possibility given the expulsion of other families in the neighborhood), accruing serious debt and suffering harassment.

### ***Tension and Violence—An Everyday Reality***

The settler presence has changed the neighborhood. In addition to the hardships that come with the settlers—lawsuits, invasion of privacy, economic duress, daily harassment of residents and the resulting clashes between local youths and the settlers, often involving stone throwing—there is now an added presence of the Israel Police, the Border Police and private security guards paid for by the Ministry of Housing. They too use violence against Palestinian residents, threaten them, arrest minors and disrupt life. The stronger the hold settlers have in the neighborhood of Batan al-Hawa, the greater the number of Palestinians directly impacted by the settler security apparatus, even without being expelled from their homes.

### ***The End Goal: “Judaization” of Jerusalem***

The settlement in Batan al-Hawa, advanced by Ateret Cohanim, is part and parcel of the efforts made by the authorities and settler associations to increase and cement Jewish presence in Jerusalem’s Old City Basin: in the Old City’s Muslim Quarter and the Palestinian neighborhoods that surround it. There are currently about 2,800 settlers living in some 140 buildings located in the heart of Palestinian neighborhoods in and around the Old City—an area that is home to about 100,000 Palestinians.

According to figures by the NGOs Peace Now and Ir Amim, the number of settlers living in Palestinian neighborhoods in the Old City Basin has seen a 70% spike between 2009 and 2016. An increase of 39% in the number of new construction sites designated for Jews in Palestinian neighborhoods in East Jerusalem has also been recorded. During this time, 68 Palestinian families were evicted in Sheikh Jarrah, Silwan and the Muslim Quarter, 55 of them over the last two years. According to UN figures, settler organizations have filed eviction actions against at least 180 Palestinian families throughout East Jerusalem, usually based on claims of ownership over the

building and loss of protected tenant status by the Palestinian families. As a result, 818 Palestinians throughout the city, including 372 children, are facing expulsion from their homes.

## ANNEXING THE WEST BANK

### *THE GRAND LAND ROBBERY: ANOTHER STEP TOWARD ANNEXATION (EXCERPTS)*

*On 6 February 2017, Israel's Knesset passed the Regulation Law, a measure that legalizes 4,000 settlement units built on private Palestinian land in Area C by retroactively approving pertinent expropriation, planning, and zoning regulations. The legislation emerged as an attempt to appease Israeli settlers living in the unauthorized Amona outpost after the High Court of Justice mandated their evacuation by 25 December 2016. In the wake of the Israeli government's decision not to appeal the High Court's evacuation order, right-wing politicians drafted the retroactive legislation in order to legalize other settlements in the surrounding area to which the Amona settlers could relocate. Authorizing the expropriation of Palestinian-owned lands, the law provides a measure of financial compensation to Palestinian landowners as well as "alternative land" in lieu of their confiscated property but it bars appeals (see Doc. C1 in JPS 46 [3] for the law).*

*On 29 November 2016, the Israeli group Peace Now released a report documenting the 55 illegal outposts and 4,000 housing units that would be retroactively legalized under the law and their locations. Peace Now concludes that the new legislation would also enable the future expropriation of another 3,000 units on private Palestinian-owned lands. Excerpts from Peace Now's report are presented below. The document is available in full, including maps and aerial photographs, at [peacenow.org](http://peacenow.org).*

According to a Peace Now count, the regulation law will result in the retroactive legalization of 55 illegal outposts and of approximately 4,000 housing units in settlements and illegal outposts through the expropriation of over 8,000 dunams of private Palestinian lands.

#### Key Findings:

1. If passed, the regulation law will legalize 3,921 housing units by expropriating 8,183 dunams of private Palestinian lands in settlements and outposts.
2. Fifty-five (55) illegal outposts, which are located deep in the West Bank and include 797 housing units built on 3,067 dunams of private Palestinian lands, will become official settlements with official plans which will most likely also be expanded. Thus, the possibility to reach a two-state solution will be severely hindered.
3. In addition to outpost legalization, the regulation law will allow the legalization of 3,125 housing units inside existing settlements, by expropriating 5,014 dunams of private Palestinian lands.
4. The regulation law will allow for the future expropriation of another 3,043 housing units on 3,173 dunams of private Palestinian lands, on which settlements were established during the 1970s through military seizure orders. The law will deem these seizure orders unnecessary while ignoring the Alon Moreh High Court verdict from 1979.

5. The data presented in this report is an underestimation, as it does not include private lands in settlements and illegal outposts on which infrastructure was constructed. It also does not include areas of private Palestinian lands inside settlements on which no structures were built.

### ***The Regulation Law in Numbers:***

- Total number of housing units on private Palestinian lands to be legalized in settlements and outposts: 3,921.
- Out of which:
  - 2,744 are permanent structures and 1,177 are mobile homes.
  - 3,125 are in settlements (2,490 permanent structures and 634 mobile homes).
  - 797 are in illegal Outposts (254 permanent structures and 543 mobile homes).
- Total number of dunams to be expropriated: 8,183.
- Out of which:
  - 5,015 dunams are private Palestinian lands in settlements.
  - 149 dunams are private Palestinian lands in industrial parks.
  - 3,019 dunams are private Palestinian lands in illegal outposts.
- Total number of settlements and outposts east of the planned route of the barrier where land could be expropriated and housing units could be legalized: 104.
- Total number of settlements and outposts within the planned route of the barrier where land could be expropriated and housing units could be legalized: 23.
- Total number of illegal outposts on private Palestinian lands that could be legalized: 55.
- Total number of housing units in the settlements on private Palestinian lands under military seizure orders: 3,043.
- Total number of Dunams of private Palestinian lands in settlements under military seizure orders: 3,173.

### ***The Significance of the Law***

A Peace Now analysis on the potential implications of the regulation law reveals that the law will lead to the legalization of 3,921 housing units in settlements and illegal outposts, located on approximately 8,183 dunams of private Palestinian lands. It is important to note that the scope of private Palestinian lands which is included inside the jurisdiction of settlements is much larger than that examined in the report. The report refers only to the built-up areas of settlements, where housing units, public structures as well as industry and farming structures are located. For more information on private lands in the settlements see a previous Peace Now report.

If passed, the regulation law could lead to the legalization of 55 illegal outposts built illegally either partly or entirely on private Palestinian lands, and located deep in the West Bank. Hence, the passing of the bill into law will not only lead to a moral deterioration by approving the theft of private lands, but will also be a devastating blow to the two state solution as it will allow the establishment and expansion of new settlements, far from the Green Line.

For example, the illegal outpost of Givat Harel, located south of Nablus on 102 dunams of private Palestinian lands, on which 61 housing units were built. Or the illegal outpost of Bat Ayin West,

located south of Bethlehem, where 30 housing units were built on over 211 dunams of private Palestinian lands. Similarly, the illegal outpost of Givat Hahish, where 40 housing units were established on almost 40 dunams of private Palestinian lands. Likewise, in the illegal outpost of Amona located east of Ramallah, which according to a High Court ruling will be evacuated by December 25, 45 housing units were built on approximately 272 dunams of private Palestinian lands. All but one of the outposts to be legalized through the regulation law are deep in the West Bank and beyond the separation barrier. They were built on 3,067 dunams of private Palestinian lands and they include 797 housing units.

It is important to note that outpost legalization is not just an act of retroactive approval of facts on the ground but it also serves as a green light for future illegal construction, out of the understanding that the government will retroactively legalize illegal construction. Additionally, once an outpost is “legalized” it is also likely to be expanded through new plans, and to turn into an actual settlement for all intents and purposes.

Nonetheless, the law will affect not only illegal outposts but also 72 settlements, in which structures exist on private Palestinian lands and will now be legalized. If passed the regulation law will lead to the official addition of these lands to the jurisdiction of each of these settlements.

For example, in the settlement of Elon Moreh, located south of Nablus, 124 housing units were built on 269 dunams of private Palestinian land. In Ofra, located east of Ramallah, it will be possible to legalize 392 housing units, located on 537 dunams. The same for Mevo Horon, which is located entirely on nearly 1000 dunams (981) of private Palestinian lands and where 365 housing units could be legalized. In Ma’ale Michmash it will be possible to legalize 172 housing units, located on 216 [dunams] of private Palestinian lands and in the settlement of Eli it will be possible to legalize 207 housing units, located on 159 dunams of private Palestinian lands. Overall the law will allow for the legalization of 3,125 housing units, located on 5,014 dunams of private lands in 72 different settlements. Only 12 of these settlements are located west of the built separation barrier. 10 of them are located within the planned route of the barrier but outside the built barrier. The remaining 50 settlements are located east of the separation barrier, deep in the West Bank, and will never be a part of Israel in the framework of an agreement.

Furthermore, if the regulation bill passes into law and legalizes all of the above, it is possible that the law will also be applied towards thousands of additional housing units, located on private Palestinian lands which are under military seizure orders since the 1970s. During that time, settlements were established under the pretense of a “security need” despite the fact that they were home to Israeli civilians. In 1979, the High Court verdict of Alon Moreh stopped this policy, as the High Court justices ruled that settlements are not considered a security need and therefore, that military seizure orders on private Palestinian lands cannot be issued for the purpose of settlements. Yet, if the Knesset approves the regulation bill, private lands could be seized permanently and thus they will deem the temporary military seizures unnecessary. Today, 3,043 housing units in the settlements are built on 3,174 dunams of private Palestinian lands seized through military orders for the purpose of settlement.

An example for this is the settlement of Beit El, located northeast of Ramallah, which was built mainly on private Palestinian lands seized through military orders. In Beit El, 670 housing units were built on 506 dunams of private Palestinian lands. The expansion of Beit El northbound,

outside of the area of the military seizure orders and towards the neighborhood of Giv'at Ha'ulpana and the illegal outpost of Jabel Artis is also on private Palestinian lands, where 134 housing units were built (108 in Giv'at Ha'ulpana and 26 in Jabel Artis) on 119 dunams (972 and 22 accordingly). Other examples include Kiryat Arba (810 housing units on 353 dunams), Kohav Hashahar (319 housing units on 361 dunams), and Ma'ale Efraim (311 housing units on 665 dunams). [ . . . ]

## SETTLEMENTS IN THE POLICY REALM

### "WILL SETTLEMENT LAWSUIT SET LEGAL PRECEDENT?"

*In this piece published by the Electronic Intifada on 25 January 2017, Charlotte Silver discusses the case of Aqraba, a Palestinian village near Nablus where the Israeli military seized 50 square miles of farmland in 1972 for ostensibly military purposes. The seizure left dozens of Palestinian families with no source of income, and the land was then turned into a civilian settlement. Israeli researcher Dror Etkes is now suing the Israeli government on behalf of the Palestinians who lost their land in Aqraba, and the case has the potential to set a new precedent for the use of a declared military or security zone as the site of Israeli civilian residency in the West Bank. The article is presented below and is available at [electronicintifada.net](http://electronicintifada.net).*

A lawsuit filed with Israel's high court might open a new legal course for scores of Palestinians in the occupied West Bank who have had their land seized by the military over the last 50 years. Though Israel's high court has a history of ruling favorably on expanding settlements, Dror Etkes, a longtime Israeli settlement researcher, promises the new lawsuit is a first of its kind that could trigger dozens more like it.

When Israel occupied the West Bank in 1967, its military proceeded to seize huge swathes of land under various pretexts. By 1987, the military had seized 40 percent of the land in the West Bank, along with its major water resources. To confiscate such vast tracts of Palestinian farmland, Israel frequently invoked temporary "military" or "security" reasons. The Hague Regulations, the set of international laws that pertain to war and occupation, allow an occupying power to take temporary possession of land for military use. And once taken, access to the land was blocked to its Palestinian owners.

How that land was ultimately used varied, but it frequently passed through the military's hands and became an Israeli civilian settlement. That is what happened just outside Hebron, where Israel founded Kiryat Arba, one of its first settlements in the West Bank, on a military base in 1968, and further north in al-Bireh and Dura al-Qar, where the military seized Palestinian land for military purposes only to use it to establish the Bet El settlement. And that is the [case](#) of Aqraba, a village in the north of the occupied West Bank, near Nablus. Now the village is suing the Israeli state in what some hope could be a precedent-setting lawsuit.

In 1972, Israel expropriated about 90 percent of Aqraba's farmland, or 50 square miles, said Etkes, who has researched the history of the village. The huge expropriation left dozens of families who once cultivated the fertile valley with no source of livelihoods. Aerial photographs taken on the eve of the seizure show the area was filled with cultivated plots of land.

Focusing on just one parcel of the seized land—3,200 dunums or about 790 acres—Etkes has helped organize the lawsuit against the Israeli state, settlers and quarry companies, to give the land back to the original owners. This land was originally taken under the auspices of temporary military necessity, Etkes said, but it eventually formed the cornerstone of the civilian settlement of Gitit.

The petition, filed on behalf of the Aqraba municipality and the families of the original owners of the land in October last year, calls on the Israeli government to cancel the seizure order made in 1972, Etkes said, because there is no longer any security or military grounds to justify the confiscation.

As of now, the government has not fully replied to the petition. “They are biding their time,” Etkes told the Electronic Intifada. “They understand this could be the beginning of other similar claims: they [the Israeli military] could find themselves under a flood of similar petitions.”

In the first 12 years of the occupation, Israel seized around 47,000 dunums, or 12,000 acres, for temporary military use. Nearly a half-century later, the “essential and urgent military needs” for the land once argued by Israel have been clearly exposed as a means to settle Jews in the occupied territories. The Geneva Conventions, which regulate humanitarian conduct and obligations in conflict, prohibit an occupying power from transferring its civilian population to the occupied territory.

According to Etkes, after 1975, settlers took over cultivating the land that once belonged to Palestinian families. At the outbreak of the Palestinian uprising in 2000, the land fell into disuse, before settlers began subletting it to Palestinians. Etkes noted the irony in Palestinians paying settlers to access their historic land. Over time, Etkes said, large-scale farms run by settlers have pushed out smaller Palestinian farms, and today, Aqraba’s land is mostly cultivated by a few Israeli settler operations.

### *A New Quarry*

In the process of researching how the land has been used, Etkes discovered that a portion of the 3,200 dunum parcel was given over to open an Israeli quarry in 2001. It operated for just a few months, Etkes said, and was shut down by 2002. “You can see a scar in the mountain today,” Etkes said. “But no operation.” The Shafir corporation plans to resume mining on the location, as was [revealed](#) in the course of the petition. The village’s petition argues that this violates the state’s promise that it would not open any new Israeli quarries in the West Bank per the high court [recommendation](#) in 2011.

At the time of the ruling, there were some 10 Israeli quarries operating in the West Bank. These deliver almost all their material over the 1949 Armistice Line separating the occupied West Bank from present-day Israel, violating international laws of occupation and human rights law. The high court [ruled](#) that those quarries may still operate—[stating](#) Israel had “the right to utilize natural resources in a reasonable manner”—but recommended no new sites be opened. The Shafir company and the Civil Administration, Israel’s occupying authority, say the 2011 ruling does not apply to the quarry in Aqraba because it was licensed before the ruling.

Furthermore, Shafir claims it intends to sell most of what is mined there to Palestinians, according to Etkes. Last year, Human Rights Watch [reported](#) that Israeli quarries sell 94 percent

of the materials they produce to Israel or Israeli settlements and pay fees to settlement municipalities and the Civil Administration, “which cannot be said to benefit the Palestinian people.” The Hague Regulations prohibit an occupying power from using the resources of the occupied territory for domestic purposes.

### ***Legal Precedent***

The Aqraba petition is not the first time Israel’s high court will review the military’s “security” rationalization for settlements in the occupied territories. Over the decades, the high court has avoided issuing rulings that have far-reaching implications for the government’s settler-colonial project in the West Bank, in effect [greenlighting it](#).

In 1979, for example, the high court agreed with the military that a civilian settlement—this in Beit El—built on land requisitioned for “military needs” can in fact serve a military purpose. However, shortly after, the court mitigated this ruling with a new decision on the Elon Moreh settlement. In this case, the military had tried to argue the Elon Moreh settlement served a military purpose *after* settlers had established an unauthorized colony on private Palestinian land.

The high court ruled this settlement did not clearly serve military purposes, leading the Israeli government to focus on seizing and declaring Palestinian land as “state land” for its settlements. The high court has maintained that its decisions will be made on a case by case basis. “This case will be important in terms of the legal strategy which we will be able to use in the coming years regarding similar cases,” said Etkes, who expects a reply from the government before the next court session, scheduled for March. “And there are many of them.”