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Settlement Monitor

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SETTLEMENT MONITOR

EDITED BY GEOFFREY ARONSON

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

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THE U.S.-ISRAELI SETTLEMENT DISPUTE AND THE ROAD TO PROXIMITY TALKS

THE OBAMA ADMINISTRATION TALKS TOUGH

From Settlement Report, March–April 2010.

When then secretary of state Condoleezza Rice was set to visit Israel almost two years ago, Prime Minister Ehud Olmert decided to postpone the festive opening of the new border police station in E1 east of Jerusalem in order not to embarrass the U.S. envoy, who, like her predecessors, had been promised that a decision to settle E1 would not be realized for years.

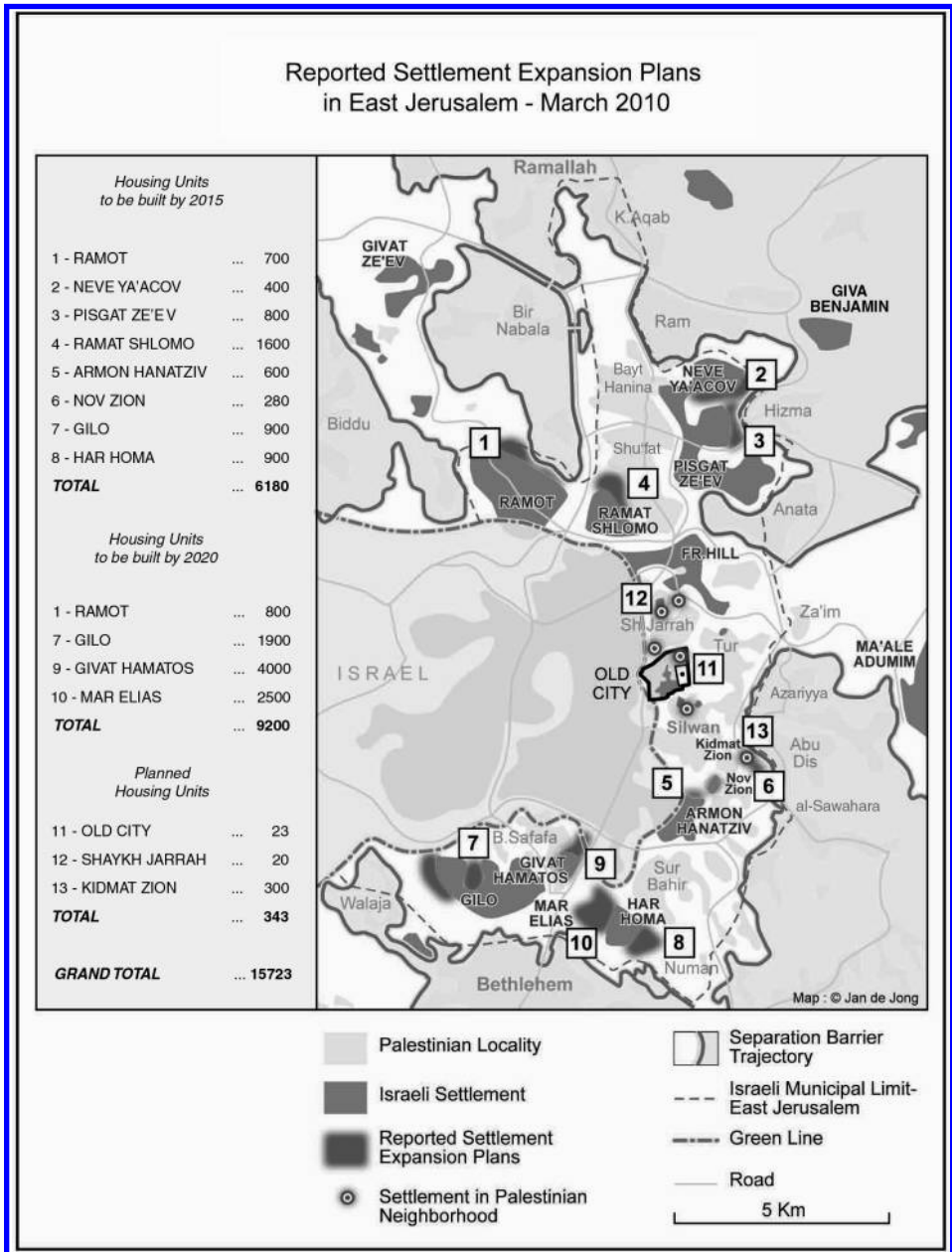
Prime Minister Benjamin Netanyahu saw no need to be as sensitive to U.S. concerns about settlement in East Jerusalem during the recent visit of Vice President Joe Biden. The announcement of a routine planning approval for 1,600 dwellings in the East Jerusalem settlement neighborhood of Ramat Shlomo precipitated a crisis in relations that highlights not only Israel's intention to expand settlements—in East Jerusalem and elsewhere—but also the

need for a more effective U.S. effort to rescue President Barack Obama's troubled diplomatic initiative.

The Obama administration's interest in resuming formal negotiations has been stymied for months by Palestine Liberation Organization (PLO) Chairman Mahmud Abbas's refusal to open direct negotiations with Israel, a central feature of diplomacy for the last two decades, in the absence of a commitment by Prime Minister Benjamin Netanyahu to a "quiet" settlement freeze in East Jerusalem. In place of direct talks, special envoy George Mitchell won the agreement of all parties to "proximity talks," thus formalizing the U.S. effort as it has evolved during the first year of Obama's presidency.

The fragility of this understanding was exposed by Israel's decision to advance the planning of 1,600 units for approximately 10,000 new residents, in the East Jerusalem settlement of Ramat Shlomo, a fast growing ultra-orthodox neighborhood of close to 18,000. PLO Chairman Mahmud Abbas suspended Palestinian participation in the yet-to-begin talks and Biden "condemned" the Israeli move. Tensions

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increased throughout the West Bank, but particularly in East Jerusalem, threatening to overwhelm the stalled diplomatic agenda promoted by Washington. The Arab League suspended its endorsement of the proximity talks, which may begin only if the Arab League reconfirms its grudging support at its summit in Libya.

American anger continued to grow. Secretary of State Hillary Clinton had the first of many difficult conversations with Netanyahu in a long telephone conversation. She announced in a subsequent television interview that the decision to advance settlement planning in East Jerusalem was “insulting” to the United States. During

talks with Netanyahu in Washington, administration officials demanded that Israel reverse its approval for construction in Ramat Shlomo, make a “substantial gesture” toward the Palestinians, reportedly including transfer of areas A and B to Palestinian security control, and publicly declare that all of the “core issues” in the Israeli-Palestinian conflict, including the status of Jerusalem, be included in upcoming talks.

The loss of confidence between the two capitals fueled by Netanyahu’s settlement program has been highlighted by an unprecedented statement by CENTCOM commander Gen. David Petraeus, suggesting that the diplomatic impasse threatens the safety of U.S. forces in the region and impacts negatively on Washington’s ability to meet regional challenges. After a hiatus of many months, U.S. officials are once again declaring that resolution of the Israeli-Palestinian conflict is an American national interest.

George Mitchell is continuing separate discussions with Israeli and Palestinian delegations pending commencement of formal proximity talks. The U.S. goal remains the same as it has been for the past year, first and foremost to establish an agreed upon formula, described during late 2010 as “terms of reference,” that will enable the resumption of direct Israeli-Palestinian negotiations.

Palestinians remain intent upon winning U.S. and Israeli agreement to a territorial framework for talks based upon the 4 June 1967 line dividing Israel from the West Bank, including East Jerusalem.

“If [Israel] accepts the framework of a two-state solution based on the 1967 borders and an end to occupation, with time lines and mechanisms, then there will be progress,” Abbas said. Abbas also said he would be prepared to resume full face-to-face peace negotiations if Israel froze all settlement construction for three months and accepted the June 1967 borders as the basis for land swaps. “These are not pre-conditions. They are requirements in the road map. If they are not prepared to do that, it means they don’t want a political solution.”

Netanyahu does not share longstanding Palestinian and the more recent U.S. support for opening negotiations with a focus on determining the border between Israel and Palestine, in part as a way to resolve the settlement and Jerusalem issues. “It is

a trap,” asserted a senior minister in the Israeli cabinet to *Ha’Aretz*. “We will only give and will not receive anything.”

Netanyahu, like his predecessor Ehud Olmert, seeks Washington’s endorsement of a security framework in which Israeli-defined security requirements would implicitly if not explicitly define the final status issues of settlements, territory, and security, and form the basis of subsequent talks with the PLO. This effort not only reflects Israel’s desire to dominate the diplomatic agenda. It is also good domestic politics, because it establishes security-oriented redlines popular beyond Netanyahu’s core constituency on the right.

In recent months, the Israeli leader has been highlighting the expansive security requirements that Israel will demand if talks with the Palestinians proceed, including control of the Jordan Valley—“an Israeli presence on the eastern side of the Palestinian state”—and its access routes. “We must continue nurturing and strengthening our military force,” declared Netanyahu on 3 February 2010. “The weak do not survive in the geographically difficult space we live in, nor is peace made with the weak. The state of Israel is strong and can guarantee both our existence and peace with our neighbors. However, I want to be clear: our security needs can and will increase over the next decade, and even over the next two decades.”

As Secretary of State Rice’s special envoy, now National Security Council advisor General Jim Jones wrote a draft report that attempted to reconcile an end to occupation and Israeli withdrawal from the West Bank with Israeli security needs. It raised the option of deploying NATO forces in territories evacuated by Israel. The paper was never publicized, but it aroused Israeli opposition and was quietly shelved by Rice. The paper nevertheless remains the point of departure for an updated American assessment of competing Israeli and Palestinian requirements.

Israeli security demands were presented to Washington during the term of Ehud Olmert as the “Eight Point Paper” and were passed on to the Obama administration last year. The points include “effective” Israeli supervision of Palestine’s border crossings, unhindered access to Palestinian airspace, Israeli control of the electromagnetic spectrum, demilitarization except for policing capabilities, and permanent Israeli

intelligence gathering facilities east of Ramallah and north of Nablus.

These requirements attest to the yawning gap that separates the Palestinian and Israeli views of Palestinian sovereignty in areas that Israel will evacuate. "A [peace] agreement will rise and fall on day-to-day life, on security arrangements," explained an Israeli veteran of previous negotiations. "The real problem is that their concept of [Palestinian] independence is absolutely different from ours," *Ha'Aretz* correspondent Aluf Benn noted. "The Palestinian state that Netanyahu, [Defense Minister Ehud] Barak, and also Ehud Olmert and [Kadima leader] Tzipi Livni envision will be much less sovereign and independent than even Lebanon. What Israel sees as legitimate security demands, the Palestinians consider as a continuation of occupation and Israeli rule."

Netanyahu seems to regard the adoption of the phrase "taking into account subsequent developments" in the U.S. terms of reference for the proximity talks as a reaffirmation of U.S. support for the concept of settlement blocs originally conveyed by President George W. Bush to former prime minister Ariel Sharon on 14 April 2004. Despite countervailing U.S. references to "the 1967 lines" and "agreed swaps," Netanyahu believes he is winning U.S. support for his sweeping security and territorial demands.

Netanyahu made veiled reference to this achievement during a tree-planting ceremony in the settlement of Kefar Etzion on 24 January 2010, soon after ending a round of discussions with Mitchell. "The message is clear. . . . We are here and will remain here. The settlement blocs are part of Israel forever. This is acceptable to the great majority of Israel's citizens and is gradually being instilled in international consciousness. Actions are important in determining psychological reality, as in the actions you take every day in building, planting, and raising children." Netanyahu planted the tree with the children of the settlements and said to them: "Your children and grandchildren will grow up in the shade of this tree."

He made a similar promise to the children of Ma'ale Adumim, where he later planted a tree as well. "I wish for you that here, under the shade of the tree that I am planting, your great-grandchildren will enjoy the cool," said the prime minister. "We are here, and we will remain here and build here," he declared.

By the end of Netanyahu's March visit to Washington it appeared that a serious

rift had opened with the United States, precipitated by Netanyahu's misjudgment of Obama's forbearance over settlement expansion. In White House conversations, Obama reportedly insisted upon specific Israeli actions that Netanyahu refused to meet, and Netanyahu left Washington under a cloud of disapproval.

If the United States is satisfied with Israeli responses to demands put forward in the wake of Biden's disastrous visit, and Abbas agrees to proximity talks, Mitchell hopes to introduce bridging proposals on all final status issues. The gaps between the two sides are so profound, however, that this patient process may founder without a more assertive U.S. definition of the "endgame."

LETTER TO U.S. SECRETARY OF STATE HILLARY CLINTON

This letter by the YESHA Council of Jewish Communities in Judea, Samaria & Gaza, the body operating as the de facto government of settlers, is dated 15 March 2010.

In response to your and President Obama's recent statements concerning Israel's right to plan and build in the Jerusalem neighborhood known as Ramat Shlomo, we, the leaders of the Council of Jewish Communities in Judea and Samaria—"The Yesha Council"—wish to share with you the sentiment and consensus among the Israeli public.

We Israelis believe in the integrity of a strong, unified, and undivided capital for our nation—Jerusalem, the Holy City. We Jews are the descendants of King David and a hundred generations of Jews who built and glorified Jerusalem as our capital, beginning over three thousand years ago. From time immemorial the Jews have worshipped Jerusalem and the Temple—and prayed for Jerusalem since the dawn of our civilization.

Neither Romans nor Greeks, Crusaders, nor Arabs, Ottomans, nor British ever succeeded in shaking our bonds to Jerusalem. All tried, and ultimately failed. It is we Jews who triumphed and re-created Jewish sovereignty in 1948 and proclaimed Jerusalem our capital.

So we ask you and President Obama to see in perspective our three-thousand-year-old bond with Jerusalem. Thus, when you demand that we not build housing in our capital, or that we divide our capital and surrender parts of it [to] others, you must

realize that this is unacceptable to Jews everywhere and to us Israelis.

We will not negotiate on the issue of Jerusalem. We will never divide Jerusalem.

The Jewish People worldwide support Prime Minister Netanyahu's action, and stand firmly behind him on this important issue of Israel's right to defend itself as a sovereign nation.

We deeply appreciate America's friendship, but it must be clearly understood: we are a free and sovereign people, and we have the right to determine our destiny.

SETTLEMENT MYTHS

THE LESSER KNOWN SETTLEMENT FREEZE DEAL (EXCERPTS)

This article by Israeli human rights lawyer Michael Sfard was published on Foreign Policy's Web site on 10 May 2010.

Almost five months after the declaration of the moratorium, it is now clear: the Netanyahu-Barak government is compensating the settlers generously for introducing this (partial) construction freeze. The reward is huge and expensive, and it is paid in the most precious currency Israeli leaders have: *outpost legalization* and *planning approval*. The settlers, ideological and patient in a manner that only messianic communities are, understand that while the construction moratorium is temporary, legalization of outposts and approval of construction plans will have long-term effects. They see the attraction in this barter for the long run and act accordingly. They play their role in the freeze game: They demonstrate against it, they send their young hooligans to clash with the Israeli army and police, they violate it publicly, but they do not declare the current government as their enemy, as they did when late Prime Minister Yitzhak Rabin declared a narrower construction moratorium—one that applied only to state-funded construction in settlements. The planning-and-outpost-legalization-for-temporary-moratorium deal has never been announced publicly or ever officially confirmed. We may only infer its existence by reviewing the evidence revealed in the last five months. And the evidence is ample and compelling.

First, in three Israeli High Court petitions brought by Palestinian landowners, as well as [by] Israeli human rights organizations and peace groups, demanding to

enforce demolition orders issued against illegal houses built in four outposts, the government has altered its position significantly [since] the moratorium was declared. While its pre-moratorium position was that the demolition orders must indeed be carried out but that the court should leave it to the government to choose the timing, its post-moratorium position [has been] that a survey of property rights should be carried out so that it may consider a retroactive legalization of the illegal houses. This new position was presented in the cases of *Derech Ha'avot*, *Rachelim*, *Haresha*, and *Hayovel*—all outposts built illegally (even by Israel's own definition of what constitutes illegality in the occupied territories) and without official governmental approval.

Second, in about a dozen other petitions pending in the Israeli High Court of Justice, where demolition orders against illegal [Jewish] construction on private Palestinian land are at stake, and therefore legalization of those buildings is not an option, the government also made a significant position change. Its pre-moratorium position was that demolitions should be carried out according to prioritization yet to be set. It took the government more than three years to present before the High Court the demolition enforcement priority principles it adopted. However, shortly afterward, the moratorium was declared and the government announced that during the moratorium period the priority document is suspended. Why? Because "all energy, resources and manpower is dedicated to the enforcement of the moratorium." Making sure the settlers do not build in violation of the moratorium, the government told the High Court, makes it impossible for us to deal with old illegal construction.

And finally, since the construction freeze was introduced, several major neighborhood plans for settlement [were] either approved or advanced in the relevant planning committees. Those plans include together thousands of housing units in extremely sensitive places, and some of them were pending for years while consecutive governments avoided advancing them. When negotiating the construction freeze, the U.S. administration did not listen to Israeli voices who repeatedly warned of the shortcomings in a construction freeze that did not include a planning freeze. The result, as anticipated, is severe, and its first signal arrived less than a week after the

moratorium was declared: the West Bank planning committee approved a plan for a new neighborhood of 360 housing units in the Talmon settlement, deep in the West Bank. The plan retroactively Koshered 60 illegal houses already built and allowed the erection of hundreds of new ones. The plan [had been] pending for years and the settlers [had] failed time and again to have it approved. In the same way, other plans were advanced since the moratorium was declared, most of them far from the 1967 line and others in East Jerusalem.

The settlers are preparing for the day after the construction freeze; the day of the de-freeze. And when that day comes, they are certain a construction boom of significant scale will commence. Unfortunately, unless something dramatically changes, the freeze might be seen in retrospect as a bad deal for the peace process.

TOP TEN MYTHS LIKELY TO BE HEARD FROM JERUSALEM MAYOR NIR BARKAT IN WASHINGTON THIS WEEK (EXCERPTS)

This report by Americans for Peace Now was published on 27 April 2010. The full report is available at www.peacenow.org.

Myth #1: “Arabs can build and live anywhere in Jerusalem, so Jews must be allowed to build and live anywhere, too.”

Fact: While Israelis and Jews living abroad may purchase real estate anywhere in both East and West Jerusalem, this is not the case for the 270,000 Palestinian residents of the city. Most of West Jerusalem, like most of Israel, is “State Land” (in all, 93% of land in Israel is “state land”¹). Under

1. *Ed. Note*—“State Land” includes the land and properties expropriated by the Israeli state under the 1950 “Absentee Properties Law.” Land ownership within the municipal boundaries of West Jerusalem occupied by Israel during the 1948 war was as follows: 33.69% Palestinian, 30.04% Jewish, 18.59% roads and railroads, 15.21% Christian churches, and 2.47% municipal and government. The elite pre-1948 West Jerusalem neighborhoods of Qatamon, the Greek Colony, the Germany Colony, Upper and Lower Baqa, and Talbiya were predominantly Palestinian. After the 1948 war, West Jerusalem’s municipal boundaries were extended westward to encompass the extensive lands of Arab villages such as Lifta, Bayt Safafa, Ayn Karim, Maliha, and Dayr Yasin, which would have brought Palestinian ownership in pre-1967 West Jerusalem to well over 50%.

Israeli law, to qualify to purchase property that is “state land” the purchaser must either be a citizen of Israel (Palestinian Jerusalemites are legal residents of the city, not citizens of Israel) or legally entitled to citizenship under the law of return (i.e., Jewish). **This means an Israeli or a Jew from anywhere in the world can purchase such property in West Jerusalem, but not a Palestinian resident of the city.** (Technically, by the way, these are actually not purchases but long-term leases.)

This ban on purchase of property on “State Land” by Palestinian residents of Jerusalem extends to East Jerusalem. Not only are Palestinian Jerusalemites barred from purchasing property in most of West Jerusalem, but they are also barred from purchasing property in the 35% of East Jerusalem that Israel has expropriated as “State Land” since 1967, and on which Israel’s East Jerusalem settlements have been built. This means that in more than 1/3 of East Jerusalem, Israelis and Jews from anywhere in the world have a right to buy property, but not Palestinian residents of Jerusalem, including the very residents whose land was expropriated to build these settlements.

With respect to private land in West Jerusalem, there are no legal limitations on purchases by Palestinian residents of East Jerusalem. Similarly, there are no legal limitations on Palestinian residents of East Jerusalem renting in West Jerusalem. However, so few Palestinians actually reside in West Jerusalem, either through purchase or rental of property, that experts on the issue could not come up with a single example of a Palestinian doing so. The reasons for this are social, cultural, and economic. There is also anecdotal evidence of discrimination, indicating that Israelis prefer not to rent or sell to Palestinians. (This is distinct from Arab citizens of Israel, who by virtue of their citizenship have the right to buy property that is “State Land” or private property, and a small number of whom do live in West Jerusalem).

A small number of Palestinian residents of East Jerusalem have rented apartments in some East Jerusalem settlements (principally French Hill, Pisgat Ze’ev, and Neve Ya’acov—all settlements that are so far “east” that they are increasingly less attractive to Israelis). This does not appear to reflect any political agenda to move to

these areas, but rather is a byproduct of the severe housing shortage that exists in Palestinian neighborhoods of East Jerusalem. And it should be noted that these are short-term rentals from their Israeli owners (as opposed to formal leases by the titular land owner, the government of Israel, to Palestinians).

Myth #2: “We are not targeting Palestinian homes for demolition in Jerusalem—we go after all illegal construction.”

Fact: In 1967, there were 12,600 residential units in East Jerusalem, for a population of 70,000 Palestinians. Today that population has grown to 270,000, with an accompanying need for more housing—and the number of units has grown to in excess of 43,000. However, since 1967, Israel has granted fewer than 4,000 building permits—allowing for the construction of only around 8,000 units—to Palestinians in East Jerusalem. Consequently, well over 50% of the homes in East Jerusalem were built without permits, for the simple reason that Israel did not allow such permits. This refusal to grant permits was part of a well-documented policy seeking to artificially cap Palestinian growth and maintaining an Israeli majority in “unified” Jerusalem. Thus, most of the Palestinian homes in East Jerusalem are vulnerable to demolition.

While most (about 66%) of the building violations documented by Israeli authorities are located in the Israeli sector, generally 66–70% of demolitions are in the Palestinian sector. Municipal officials will respond, with some justification, that the violations in the Israeli sector are usually “minor” (e.g., an illegal extension), while the Palestinian violations are “major” (e.g., entire buildings) and therefore cannot be overlooked. However, this argument ignores the fact that while the town plans in Israeli neighborhoods of the city are geared to accommodate or even accelerate development, the town plans in East Jerusalem (to the extent that they even exist) are geared to contain or even prevent any reasonable development. The nature and scope of violations reflects this discrepancy.

Moreover, while in the past demolitions in East Jerusalem were random, following no particular pattern, in recent years demolitions have clearly focused on specific neighborhoods. These are the neighborhoods that are, not coincidentally, the

focus of the most intensive ideological settlement activity—Silwan, Ras al-Amud, Shaykh Jarrah, etc. In this way not only are Palestinians as a whole being targeted by the municipality for home demolitions, but home demolitions have been transformed into a blunt political tool to further the right-wing settlement agenda in East Jerusalem. The most glaring example is the Bustan neighborhood of Silwan—an area long-coveted by the settlers, who now enjoy the close support of Mayor Barkat on the issue. Legal proceedings have now been instituted against 57 of the 88 homes in this area—demonstrating how the previously random crime of punitive demolitions is morphing into pattern crime.

Finally, it is worth noting that the number of home demolitions in East Jerusalem in 2008 rose by about 32% in comparison to 2007, and by about 217% in comparison to the multi-year average between 1992 and 2006 (the number of demolitions in the first two months of 2009 is 16% higher, annually, than in 2008). However, the municipality has proudly asserted that in the last few years, the scope of building violations in East Jerusalem has dropped by as much as 70%. Thus, as illegal Palestinian construction plummets, the number of demolitions has increased in recent years.

Myth #3: “Palestinians can build legally in Jerusalem if they want to.”

Fact: Since 1967, Israeli planning in East Jerusalem has almost invariably been driven by the calculus of national struggle, the goal of which is to maintain a large Israeli majority in the city. One way Israel has tried to achieve this is by artificially putting a cap on Palestinian development. Since 1967, Israel has expropriated 35% of the land of East Jerusalem—upwards of 24 sq. km.—for the purposes of constructing new Israeli neighborhoods/settlements. On these lands the government sponsored the construction of almost 50,000 residential units for Israelis only—and none for Palestinians. In contrast, since 1967, less than 600 government-sponsored residential units have been built in the Palestinian sector, the last of which was built more than 30 years ago.

Most of the land that remains in Palestinian hands subsequent to these expropriations—approximately 45 sq. km.—cannot be built on, either because Israeli authorities have approved no town plans at all (and no permits can be issued without a

valid town plan), or because large swathes of these lands have been designated “open spaces” where no legal construction can take place. Thus, only a fraction of the land of East Jerusalem is even theoretically available for construction, and even this theoretically available space is largely limited to the existing built-up areas of Palestinian neighborhoods, where the construction potential has been virtually exhausted.

Over the past forty-two years, the Palestinian population of East Jerusalem has almost quadrupled, rising from 70,000 in 1967 to approximately 270,000 today. The existing town plans that have been approved throughout the years subsequent to 1967 accommodate only a small fraction of the housing needs of this additional population.

For those few Palestinians who are lucky enough to own land in Jerusalem that is located in an area that does have an approved town plan and where the land is zoned for construction, a building permit is still a remote possibility at best. If these Palestinians do apply, they encounter a process geared to accommodate the Israeli sector, meaning extraordinary legal, financial, and bureaucratic obstacles for a Palestinian applicant. In sum, today there is little incentive for Palestinians to even begin the costly, time-consuming process of applying for a permit when they know in advance they will have rather questionable chances of success.

Myth #4: “Demolitions are about respecting the rule of law, not politics. I have no authority to stop them and trying to do so would be disrespecting the rule of law.”

Fact: The authority to carry out, suspend, or freeze home demolitions is vested in the courts and an independent state prosecution—not with politicians, such as Mayor Barkat. In spite of this, Mayor Barkat has intervened in the judicial process, acting to spare the illegally built settler house called Beit Yehonatan, and attempting to accelerate the pace and scope of demolitions of Palestinian homes in Silwan. He has done so in defiance of the attorney general and the municipality’s own legal adviser.

Allowed to fulfill their independent discretion, the courts and the state prosecutors have at times exercised their authority to suspend or freeze home demolitions. In 2000 the number of home demolitions in

East Jerusalem dropped to 9, demonstrating that if the genuine public interest is considered—a public that includes the Palestinians—home demolitions have been and can be kept to a bare minimum. The same mechanisms and methodology that allowed the authorities to virtually suspend demolitions in 2000—and additional methods as well—are still available to the authorities today.

Myth #5: “My development plans in East Jerusalem are for the benefit of everyone—Israelis and Palestinians. Palestinians would support them if radical left-wing agitators weren’t causing trouble.”

Fact: Jerusalem Mayor Nir Barkat is pushing a major development plan for part of Silwan. Under the plan, tens of Palestinian homes would be demolished, others would be legitimized, and the area would be turned into a settler-inspired, settler-run biblical park. The plan would also legalize an illegally built settler high-rise known as Beit Yehonatan (named for Jonathan Pollard) in an adjacent area of Silwan.

...
Barkat’s plans have nothing to do with the needs of the Palestinians, but are a transparent effort to accommodate the aspirations of the settlers: to place the settlers above the law, “legalizing” an illegal outpost not on some isolated hilltop in the West Bank but a settler high-rise located close to the Old City, and reducing the Palestinian presence so they do not get “under foot” while the settlers create their pseudo-biblical domain. Indeed, the two major plans commissioned by the municipality for this area are being carried out by town planners who are also employed, separately, by the Silwan settlers. Indeed, it has been documented that representatives of the settlers have regularly participated in the municipality’s internal planning deliberations. The municipality’s own legal adviser has concluded that both of these constitute a grave conflict of interest.

Myth #6: “There is nothing controversial about what we are doing in East Jerusalem—everybody knows these areas will always remain part of Israel.”

Fact: In 1993, when the peace process was taking off, the settlement of Ramat Shlomo—which recently caused such a headache for Vice President Biden—didn’t exist. If in 1993 you had asked what areas “everybody knows” would stay part of Israel under any future agreement, the area

that is today Ramat Shlomo—territorially distinct from any other settlement and contiguous with the Palestinian neighborhood of Shu'fat—would not have been mentioned.

The same can be said of the massive settlement of Har Homa. Here, again, the argument is that “everybody knows” this area will forever be part of Israel. But again, this is an area that at the outset of the peace process was empty land—devoid of Israelis, belonging mainly to Palestinians, and contiguous entirely with Palestinian areas—that anybody drawing a logical border would have placed on the Palestinian side.

...

It is only in this context that one can grasp the logic in the Palestinian Authority's rejection of Netanyahu's proposal to negotiate a Palestinian state in temporary borders without also freezing settlement activity in East Jerusalem. Acceptance of such a position would allow Israel to use the negotiations as an opportunity to create additional facts on the ground that would make any political agreement in Jerusalem impossible.

Myth #7: “The planning and approval process is so convoluted that there is no way the government of Israel could keep track of, let alone stop, East Jerusalem settlement plans—even if it wanted to do so.”

Fact: The planning and approval process for East Jerusalem settlements is long and convoluted, but that does not mean it is impenetrable or impossible to oversee. Indeed, notwithstanding the flow charts that Netanyahu has gleefully shown to officials in Washington, the fact is that outside parties with no access to internal government information have still been able to track and predict virtually every plan that has come up, not only since Netanyahu came to office but in the years before that.

The planning/approval process has clear and well-known “bottlenecks”—hurdles through which plans must pass and at which they can be stopped. By monitoring activity in 5 of these “bottlenecks” (the Local Committee and its Licensing Subcommittee; the Jerusalem Municipality and Ministry of Interior Web sites; and the Regional Committee and its Objections Subcommittee), there should be zero surprises.

While Netanyahu and Barkat may be justified in arguing that the process is so

complex that it calls for legislative reform, it is patently false to use this argument in an effort to absolve themselves of responsibility for knowing about planning and construction activities in East Jerusalem. If motivated outside groups can track these by simply monitoring what is on the public record, the government of Israel can certainly be expected to do no less, and indeed should be expected to do far more.

Myth #8: “The land we are building on in East Jerusalem wasn't being used by anyone until Israel built on it.”

Fact: This argument rests on the assumption that it is permissible to confiscate someone else's property—not for public domain but for commercial development that does not benefit the existing community—based solely on the argument that the owner doesn't really need it or isn't using it.

Moreover, this argument rests on the false assumption that Palestinian non-use of property is voluntary. This is patently not the case. Shortly after the 1967 war, Israel expanded Jerusalem municipal boundaries to include not only Jordanian East Jerusalem but much of its West Bank hinterland. Shortly thereafter, Israel expropriated much the open land in East Jerusalem, designating it for settlement construction and placing it off-limits for Palestinian development.

It is misleading to assume that East Jerusalem's Palestinians—whose population since 1967 has grown at a much higher rate than Israel's Jewish population—didn't need or weren't interested in developing their land, when the fact is that Israel barred them from ever doing so.

Moreover, it is a fact that there is massive overcrowding in Palestinian neighborhoods of East Jerusalem. Yet, while the government of Israel has planned and built more than 50,000 units for Israelis in East Jerusalem settlements since 1967, fewer than 600 residential units have been built for Palestinians in East Jerusalem with any kind of government support, the last of which was more than 35 years ago.

Similarly, while the government of Israel has been generous in approving planning and permits for private Jewish construction in East Jerusalem, including in the heart of Palestinian neighborhoods, it is well-documented that since 1967, East Jerusalem's Palestinian residents have had a difficult and sometimes impossible time

getting permits to build on their own, privately owned land, and the government of Israel has refused to approve new neighborhood plans that would allow for any systematic expansion.

Myth #9: “East Jerusalem settlements have never bothered Palestinians and don’t impact their lives negatively in any way.”

Fact: East Jerusalem settlements are a bone in the throat of Palestinian East Jerusalem. Almost invariably they are built on land that prior to expropriation had belonged to Palestinians, and that under normal circumstances would have been the natural sites for Palestinian development. They cut off access to the West Bank and between Palestinian neighborhoods. The infrastructure to serve them is built at the further expense of Palestinian land and generally designed to suit the needs of the settlers, while infrastructure for East Jerusalem Palestinian neighborhoods resembles that of third-world villages. The claim that the Palestinians “didn’t mind” losing one-third of the privately owned property in East Jerusalem—for the clear purpose of Israel marginalizing their community—is reminiscent of colonial double-speak of a bygone and shameful era.

Myth #10: “Israeli construction in East Jerusalem is not an obstacle to peace.”

Fact: Jerusalem is the epicenter of the bitter national conflict between Israel and the Palestinians. It is the place where the conflict is at its peak and also the place where the conflict will come to an end. There can be no Israeli-Palestinian peace agreement and no two-state solution without an agreement—agreeable to both sides—on the future status of Jerusalem. Furthermore, any notion that Palestinian aspirations regarding Jerusalem can be satisfied by permitting them to call some outlying area in the West Bank “Jerusalem” and making that the Palestinian capital must be recognized as pure fantasy.

Should current settlement trends in East Jerusalem continue, the day will come sooner rather than later when the two-state solution will be irrevocably lost. This will be because the demography and geography of Jerusalem have become so Balkanized that no reasonable, viable solution in Jerusalem will be possible. And if there is no solution in Jerusalem, there is no two-state, conflict-ending resolution. In short, we are hanging on by our fingernails to the two-state solution itself. And contrary to those who would argue otherwise, there is no other solution. The loss of the two-state solution does not create alternative solutions.