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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 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.*

**“Madrid’s Legacy—Build Settlements, Weaken the PLO” . . . . . 205**

**Settler Violence, the IDF, and West Bank Expansion**

“The Settlers and the Army Are One” . . . . . 208

“What’s All the Fuss over Migron?” by Peace Now (excerpts) . . . . . 211

Democracy and the “Return” of the Jews to the West Bank,  
by Karin Laub (excerpts) . . . . . 215

**The “Concrete Embrace” of Bethlehem**

“Settlement Expansion Encircling Bethlehem” . . . . . 216

“A New Outpost is to be Established South of Bethlehem,”  
by Peace Now (excerpts) . . . . . 217

**“MADRID’S LEGACY—BUILD SETTLEMENTS, WEAKEN THE PLO”**

*From Settlement Report, November–December 2011.*

The Madrid Peace Conference convened two decades ago in a spirit of great optimism. However it was Prime Minister Yitzhak Shamir, dragged to the meeting by President George H. W. Bush, who offered the most prescient commentary on Madrid’s troubled legacy.

“I would have carried out autonomy talks for ten years,” he remarked in June 1992, “and meanwhile we would have reached one half a million people in Judea and Samaria.”

After twenty years of negotiations the occupation is as firmly entrenched as ever. Settlements have always been a key barometer of Israel’s intentions. According to this standard, Israel’s commanding presence in the West Bank

and East Jerusalem has only gone from strength to strength as the settler population exploded from 231,000 when Madrid convened to more than half a million today. Israel’s “disengagement” from the Gaza Strip in 2005 only highlighted the critical role of complete settlement evacuation as a key element signaling a change in Israeli policy.

American leadership, so critical to bringing hesitant and suspicious leaders to the negotiating table at Madrid, is more notable today for its shortcomings. The initial effort of the Obama administration to end occupation and create a Palestinian state has been abandoned in favor of a “full court press” against UN recognition of a Palestinian state, condemned by Washington as an unacceptable “short-cut to statehood.” (The PLO leadership turned to the United Nations only after Washington’s diplomatic effort to win a settlement freeze collapsed in mid-2009.)

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### ***Palestinians Are Not Finns***

Prime Minister Ariel Sharon's unilateral determination to break with all of Oslo's conventions in 2005 led in Gaza to the first evacuation of settlements since Israel's peace treaty with Egypt in 1979 and the empowerment of the PLO's nemesis, the Islamic Resistance Movement— Hamas. Dov Weisglas negotiated the text of an April 2005 letter from President George W. Bush to Prime Minister Ariel Sharon offering U.S. support for the Gaza withdrawal. He later explained that

we effectively agreed . . . with the Americans . . . that part of the [West Bank and East Jerusalem] settlements [blocs] would not be dealt with at all, and the rest will not be dealt with until the Palestinians turn into Finns. That is the significance of what we did. The significance is the freezing of the political process. . . . This whole package that is called the Palestinian state, with all that it entails, has been removed from our agenda indefinitely. . . . And all this with authority and permission. All with a presidential blessing and the ratification of both houses of Congress. What more could have been anticipated? What more could have been given to the settlers?

Commenting recently on the freezing of the diplomatic process that he did so much to encourage, Weisglas soberly observed that, “the Palestinian street is liable to deduce that violence pays off. Hamas’s approach currently appears to be far more beneficial than the PA’s policy of zero violence and zero terrorism. In addition to other failures by the Palestinian Authority, such as the complications their UN bid has run into, the deadlocked negotiations with the Netanyahu government and continued Israeli construction outside the settlement blocs—it is no wonder that its standing has been so badly degraded.”

### ***Obama's Retreat***

There is no questioning the Obama administration's retreat from active and determined diplomatic engagement to end occupation and create a Palestinian state. U.S. policy has been reduced to half-hearted suggestions from the State Department about “quiet” and “partial” settlement freezes. Bill Burns, the U.S. undersecretary of state, was in Israel during November to promote negotiations and to prevent Fateh from forming

a unity government with Hamas. Quartet envoys come and go without noticeable impact. The president's inadvertently public remarks to President Nicolas Sarkozy betrayed his long-evident frustration with Prime Minister Benjamin Netanyahu. Yet administration officials, not to mention leading figures in Congress, openly convey a desire to “punish” PLO chairman Mahmoud Abbas and the Palestinian Authority for what the State Department derided as an effort to “establish statehood through the backdoor” via the United Nations, rather than confront Netanyahu's opposition to U.S. policy. U.S. funding to Palestinians through the Agency for International Development (AID) has been curtailed or stopped. The U.S.-trained Palestinian security forces have had U.S. funding of \$197 million reluctantly restored after a cut off sparked by Abbas' UN campaign, but continuing budget shortfalls have forced massive cuts in PA police and security budgets.

Washington's disaffection with Netanyahu is shared by Europe's top politicians. After the recent announcement of construction of 1,100 units in the East Jerusalem settlement neighborhood of Gilo, German chancellor Angela Merkel allowed that Netanyahu “is not serious and he does not intend to promote the basic and necessary conditions for renewal of the talks with the Palestinians.” Sarkozy, in inadvertently public remarks to Obama, simply described Netanyahu as a “liar.”

### ***Weaken the PA, Settle the Hilltops***

The PLO, excluded from the Madrid process, stepped onto center stage in September 1993 at Oslo as the recognized representative of the Palestinian people. But Oslo also accommodated Israel's refusal to freeze settlement or to support Palestinian statehood, grievous conditions that have haunted all subsequent diplomacy. Indeed, Oslo played a key role in enabling the expansion of settlement that continues to this day and in subjecting Palestinians to an endless progression of demands that have enfeebled the Palestinian Authority by failing to reduce Israel's grip on the West Bank and East Jerusalem.

International law proscribes all civilian settlement in occupied territory. One

of the enduring myths of Israel's settlement efforts is that private Palestinian land is off limits for settlement. Israel's High Court of Justice in 1979 ruled that privately owned Palestinian lands could be confiscated for security-related purposes but not simply to establish civilian settlements. Nevertheless, private lands continued to be stolen from Palestinian owners by settlers and the IDF after the ruling. Beginning in 1996, the first Netanyahu government embarked on a still-continuing effort to "claim the hilltops" by establishing more than 100 new settlement outposts, many of them on private Palestinian land. In some isolated cases, Israel's High Court, relying on its earlier rulings, has ordered a few of these outposts dismantled.

YESHA [settlers'] Council chairman Danny Dayan has led a campaign to legalize the land theft, most notably in the new settlement outposts. In a letter to government ministers and MKs, Dayan noted that more than 150 dwellings in which 1,000 Israelis, including serving IDF officers, reside, are scheduled for demolition in coming months.

"All of Givat Assaf could be erased by the end of 2011," he warned. "Migron—by March 2012. The Ulpana neighborhood in Beit El, by April 2012. Amona's fate could be sealed in about a month. And the list goes on."

The government is now attempting to remove the prohibition on the theft of private land for settlement in order to "launder" the many settlement outposts, not to mention veteran settlements like Ofra, that are sited on private Palestinian property.

Minister of Culture and Sport Limor Livnat has been charged by the prime minister with implementing this policy. She has noted that, "Beit El and Ofra are built on absentee-owner [Palestinian] land. Are we going to demolish them because that is absentee-owner land? There is no such intention. I remember our current president, Shimon Peres, dancing with a Torah scroll at Kedumim. [Peres as defense minister in the mid-1970s offered critical support to unauthorized settlement near Nablus.] I was there."

#### ***Israel Settles—A Zionist Response***

After the failure of the settlement freeze effort, Netanyahu is no longer

concerned about effective pressure from Washington to constrain settlement expansion. He remains opposed to the discussion of borders and security outlined by the Quartet. Pressed by market forces and public demands to increase housing construction throughout Israel, and ever-present settler demands, he is presiding over a new wave of relentless settlement expansion, particularly along the southern ring of East Jerusalem—Gilo, Har Homa and most notably at Givat Hamatos (Airplane Hill), the first new large-scale settlement in East Jerusalem since the development of Har Homa by the first Netanyahu government in 1996. Political pressure continues to advance large-scale settlement plans at the site of the now defunct Jerusalem airport at Atarot and in the E-1 area.

Settlers feel stronger today than at any time since Madrid. The United Nations has noted that the weekly average of attacks by settlers against Palestinians increased by 40 percent in 2011 compared to 2010, and by 165 percent compared to 2009. Settlers, some of whom during the late 1990s were prepared to consider the creation of a Palestinian state in the West Bank, now call openly to establish a Palestinian state . . . in Jordan.

"The two-state solution," wrote Adi Minz, former head of the YESHA Council, "was based on the existence of a moderate [Arab] axis, which is well and truly dead. They just haven't signed the death certificate yet. The time is now right for a change of direction: sovereignty and security control over Judea and Samaria must remain in Israeli hands, since there is no room for another state between the Mediterranean and Jordan. The answer lies in Palestinian autonomy. A genuine Palestinian state will be established one day in Jordan and the Arab residents of Judea and Samaria will be its citizens."

Settlers easily survived the ten month settlement moratorium during 2010 and enjoy strong support in the cabinet and Knesset. Longtime settler leader Benny Katz dismissed Netanyahu's settlement campaign as insufficient.

"This is a miserable and insulting response. In the face of Arab impudence, the government should have declared

the abrogation of the Oslo Accords and announced the establishment of new settlements.”

### ***Whither the PA***

The November 1 decision to construct 2,000 settlement dwellings in and around Jerusalem was described as a “Zionist response” to “punish” the Palestinians for their admission as a member state to UNESCO, the United Nations Educational, Social and Cultural Organization.

Netanyahu, along with many Israeli leaders, believes that instability in the Arab world has taken peace talks off the table for a “generation.” In an October 31 speech, he declared, “people make peace with the strong, not with the weak.”

His remarks on this subject might well have been directed at Abu Mazen, who was famously dismissed by Sharon as a “chick without feathers.” Netanyahu’s associates are reported to have described Abbas as “a peace rejectionist who is unwilling to return to the negotiating table even in a secret track.”

The PA is under broad assault from powers greater than itself, led by the United States and Israel. Washington, despite its efforts to punish the PA, remains invested in the success of the institutions led by Abu Mazen and Prime Minister Salam Fayyad. Israel’s interests are more opaque. Abbas was reported to have said that Netanyahu wants to “slaughter” him. *Ha’aretz* reported that “in closed meetings Abbas expressed the view that Israel is working . . . to strengthen Hamas and weaken him.” This concern is shared by Jordan’s King Abdullah.

The IDF is today Israel’s key institutional supporter of the PA, arguing against the segregation of tax funds and in favor of modest measures aimed at “strengthening” the PA and at reigning in the excesses of settler attacks against Palestinians and the IDF itself. There is concern that Israel, principally the IDF, will pay the price of a reduction in the PA’s capacity, particularly in areas where Palestinian security forces have assumed most day-to-day security duties and provide helpful intelligence to the IDF.

Netanyahu’s advisors are far more sanguine. Deputy Foreign Minister

Danny Ayalon recently voiced publicly what has only been reported off the record. “If the PLO wants to quit, Israel will look for international or local forces to take charge of the PA, and if they can’t find them and the PA collapses, that will not be the end of the world for Israel. The Palestinians have to know that they can’t scare us by threatening to disband the PA.”

### **SETTLER VIOLENCE, THE IDF, AND WEST BANK EXPANSION**

#### **“THE SETTLERS AND THE ARMY ARE ONE”**

*From Settlement Report January–February 2012.*

The Palestinian Authority (PA) has not ended the occupation, but it has recorded one significant accomplishment. As one Israeli commentator explained, “Today it seems that the biggest threat to the quiet in the territories comes not from the Palestinians, but from irresponsible provocations of the zealous, insane margins of the Israeli right wing.”

Palestinians have long been at the mercy of the twin instruments of occupation—settlers and the Israel Defense Forces (IDF). The former have acted with impunity in what they view as a century-old battle against Palestinians for control of Palestine’s land and resources.

“We’ve been reporting for years about the settlers’ misdeeds, week after week,” wrote *Ha’aretz*’s Gideon Levy recently. “We’ve recounted how they have threatened Palestinians, hit their children on their way to school, thrown garbage at their mothers, turned dogs on elderly Palestinians, abducted shepherds, stolen livestock, embittered their lives day and night, hill and vale, invading and taking over.”

Palestinians are only too well aware that they cannot depend upon their own politicians or security forces to protect them against what many understandably view as the most dangerous and existential threat to their well-being. During the second intifada, the al-Aqsa Martyrs Brigades were formed in part to address the absence of such protection, particularly in small villages abutting

settlements in the West Bank heartland. Palestinian police are not permitted to exercise authority over Israeli citizens, including those who enter areas of the West Bank under their nominal control. Palestinians, in the words of one former al-Aqsa member, “are on their own,” when they or their property are the target of settlers’ “price tag” attacks or “pogroms” (like the one in Hebron in December 2008) or the defacing of a mosque in Salfit in January 2012.

For protection against settlers, PA officials advise Palestinians to rely on their own limited and inferior resources—and the IDF. One top Palestinian security official explained that his forces are handing out the telephone number of the local IDF commander in response to requests by villagers for protection against marauding settlers.

Depending upon the IDF to protect Palestinians from the depredations of settlers is like asking the wolf to assure the safety of Little Red Riding Hood. Safeguarding Palestinians is simply not part of its operational DNA. The IDF’s formal, primary mission in the West Bank is to protect Jews from Arabs, not Arabs from Jews. Assaults upon Arabs and their property by settlers are not viewed by the IDF as its responsibility. Rather, they are the province of the Israeli police, whose capabilities, even if they chose to effectively exercise them in such matters—and as a rule they do not—are widely derided.

The settlements and the IDF, on the other hand, are locked in a symbiotic embrace. The army is duty bound to protect settlements and their residents and to promote their welfare—missions that preclude the effective protection of Palestinians and their property despite being mandated by international law. The mission of protecting settlements and settlers allows the IDF to be seen by Israelis (if not by Palestinians and the international community) as something other than a foreign army of occupation.

The idea that the IDF, let alone Palestinians, needs protection from settlers, turns this well-honed system on its head. In mid-December, 100 young Israelis protesting the impending court-ordered evacuation of the settlement outpost of Ramat Gilad traveled from a

prestigious religious academy in Jerusalem to assault a military base in the West Bank. A crowd of 50 entered the camp, threw rocks, burned tires and otherwise vandalized military vehicles before retreating. There were no arrests.

### *The IDF vs. Settlers*

“The IDF, which defends its people, found itself defending itself against [its people],” observed the IDF chief of staff, Lt. Gen. Benny Gantz. “This is an unimaginable absurdity. It is an unreasonable and dangerous reality.”

Confrontations of various kinds between the army and those settlers it is pledged to protect have been a trademark of the settlement drive almost from its inception. There were more than 200 incidents between settlers and soldiers during 2011, including an attack on a military base at Beit El in midyear. Attempts three decades ago to establish Jewish settlements in areas outside the zones outlined in the Allon Plan were often accompanied by mass rallies, demonstrations, and the physical seizure of settlement locations, including confrontations with the IDF. The group settling in Elon Moreh, near Sebastia, in 1975 for example, was forcefully removed seven times before the government of Yitzhak Rabin agreed to establish a permanent settlement nearby.

Fast forward to the last days of 2011. “No one wants to destroy Migron,” explained a top aide to Prime Minister Benjamin Netanyahu during a visit to the unauthorized “outpost” settlement established in 1996. Migron awaits implementation of a long-ignored court order demanding its evacuation, which the government and settlers alike are working to short-circuit. Elsewhere, an agreement, negotiated by cabinet minister Benny Begin and YESHA council chairman Danny Dayan and modeled on the “patent” long ago formulated for Elon Moreh, provides for the legalization of the outpost of Ramat Gilad, the removal of structures from private Palestinian land and their relocation to “state land,” and the approval of 180 housing units in the newly branded “neighborhood” of the settlement of Karnei Shomron. *Ha’aretz* columnist Zvi Barel described this agreement as

“a game of musical chairs in which everyone wins and no one is left without a chair,” except for Palestinians. “What is going on,” observed Ramadan Shallah, secretary general of the Islamic Jihad movement in a December 24, 2011, interview with *al-Hayat*, “is the liquidation of the [Palestinian] cause as rights are evaporating and the Israelis are imposing the status quo through facts on the ground.”

Settlers have always wanted to expand the margins of the settlement drive beyond the limits set by national institutions, including the military. This has been true since the first settlement was established in the Golan Heights soon after the June 1967 War. Rabin spoke derisively about “political” as opposed to “security” settlements. More than a decade ago, the IDF produced differing “security” and “settlement” interest maps of West Bank settlements. Advocates of Greater Israel have always found patrons in the political establishment—from Yigal Allon (Hebron in 1968) to Shimon Peres (Sebastia in 1975) to Ariel Sharon (1996) and Likud coalition chair MK Ze’ev Elkin today (who reportedly informed settlers of IDF settlement evacuation plans)—to assist them.

Confrontations with the IDF are an integral part of today’s campaign to force a political consensus in favor of continued settlement everywhere. The IDF command is complicit, by virtue of its central role in the occupation, even if it is also frustrated by this strategy, as it has been since the settlement program began. Top military and security officials have even described settler actions as “Jewish terror.” Young conscripts, who have been trained to protect Jews, are confused when settlers spit at them and call them “traitors” and “Nazis.” The generals complain about the failure of Israel’s legal system to restrain or punish settler excesses. They marvel at the “hatred in the eyes” of rampaging young people and warn of the use by settlers of live fire against IDF soldiers. “This is a test for the state and for us,” said one major general. “If it does not end with heavy penalties, it will be a failure not just for us in the security establishment, but as a state.”

The IDF command prefers an orderly occupation, where the PA attends

to the needs of a quiescent Palestinian population, and settlement continues inexorably, but without disruption to the military’s core mission. Settlers and their political patrons have never been satisfied with their place in this fanciful picture, and Israel’s legal and judicial institutions have always treated them benevolently.

Recently, for example, it was reported in *Ha’aretz* that “five suspects were indicted for collecting information and monitoring IDF soldiers, as well as rioting in the Ephraim Regional Brigade. Among other things, the five received information from IDF soldiers regarding troop movements and planned activities. The goal of the five who set up the ‘intelligence department’ was to collect information and operate [as] Trojan horses within the army. In response to an appeal to the Supreme Court, the judge criticized the severity of the actions, but released the suspects to house arrest.”

Settlers, particularly religious zealots who view settlement in Judea and Samaria as a divine expression of God’s will, have long exploited and been exploited by a political system in Israel whose overarching objective remains the settlement of the land by Jews and the enfeeblement of Arab control on the ground. This was the case during the era of the Bloc of the Faithful, or Gush Emmunim, whose activists during the 1970s were instruments in a drive to settle the West Bank heartland in places like Ofra, Shilo, and Itamar, among and between Palestinian villages. It remains true today, as the “hilltop youth”—including not a few of the children of these very same Gush Emmunim activists—constitute the vanguard of what then-Foreign Minister Sharon in 1996 called a campaign to “claim the hilltops.”

Benny Katsover, a veteran Gush Emmunim activist in the 1970s, was head of the Samaria Action Committee in October 2008 when he spoke with a U.S. diplomatic official, whose cable of their conversation was made available by Wikileaks:

Katsover’s committee drafted and published a strategy to create sometimes violent diversions during IDF actions against West Bank settlement

outposts. The strategy has regularly been employed in the past few months, resulting in higher levels of violence. According to Katsover, the committee's "new policy" is designed to "increase the price tag" of IDF action by calling for settlers in groups of ten to block roads, set fires, protest at IDF bases, and march near Palestinian villages. The strategy has led to early-warning cell phone alerts of IDF activity, mobilizing settler groups to respond with diversionary tactics. As Katsover hosted Political off[icer] on October 2, Israeli security forces carried out the evacuation of Shevut Ami B outpost near Kedumim settlement (west of Nablus), sparking the deployment of settlers across the northern West Bank. . . . Some 25 olive trees were [reportedly] burned at Kadum village adjacent to Kedumim settlement during the rampage, resulting in the arrest of two settler youth. Simultaneously . . . a settler was arrested for firing a weapon at Asira al-Qabaliyah village and was released on October 3 after a court hearing. Meanwhile, Katsover's fellow settler pioneer, former Kedumim mayor Daniella Weiss, was arrested for assaulting an officer but was released to house arrest on October. . . . Asked if he was using his committee to encourage settler violence, Katsover told Poloff, "I recommend that kids do not enter Arab villages or use physical violence." With regard to Israeli security forces, Katsover told Poloff, "I don't advocate violence against the army, but the police are different."

Confrontations between settlers and the IDF, whether at Elon Moreh in 1974 or Ramat Gilad in 2011, remain tactical disputes between the principal Israeli agents of settlement and dispossession over the pace and direction of settlement. In contrast, Prime Minister Ariel Sharon's unprecedented mobilization of Israel's security and political establishment in favor of evacuation of all of Gaza's settlements in 2005 humbled even the settlers and enabled the speedy and largely peaceful evacuation of the settlements there, despite settler opposition.

#### **"No One Wants to Destroy Migron"**

The actions at Sebastia and the outposts of today were conceptualized by the author of the first settlement master plan produced by the World Zionist Organization (WZO) in 1977. Matityahu Drobles, then head of the WZO settlement department, wrote, "State land and lands that lie fallow in Judea and Samaria must be taken immediately, in order to settle the areas that are between centers of minority [i.e., Palestinian] population and around them as

well, in an effort to minimize as far as possible the danger of the development of another Arab state in these areas. If divided by Jewish communities, it will be difficult for the minority population to create territorial and political unity and continuity."

These principles continue to inspire Israeli settlement policy, no more so than on the West Bank's "hilltops."

"[T]here is no need to be overly impressed by the orchestrated shouting about the Frankenstein that has gotten out of hand," wrote Yossi Sarid, a former Labor Party Knesset member and onetime leader of Meretz, after the December 2011 settler attack on the IDF, "because the denouncers are the ones who created him. They were warned a thousand times about creating a state within a state, an army within an army, but they didn't want to listen. They were too scared of the settlers and their rabbis. We see them in their disgrace, dancing in front of Zionism's coffin, and despise them."

"He who sowed the wind should not feign horror when the Jewish terror storm comes. He who poured oil on the flames should not pose as a firefighter trying to put it out. He who demands silencing the muezzin should not fake surprise when a mosque is burned."

#### **"WHAT'S ALL THE FUSS OVER MIGRON?" [EXCERPTS]**

*The Q&A excerpted below was originally published by Peace Now on 6 February 2012. The full text is available at [http://peacenow.org/entries/settlements\\_in\\_focus\\_whats\\_all\\_the\\_fuss\\_over\\_migron](http://peacenow.org/entries/settlements_in_focus_whats_all_the_fuss_over_migron).*

. . .

#### **Q: What are the basic facts about Migron and why is it considered illegal?**

**Location:** Migron is located about 3.5 miles east of the Palestinian city of Ramallah, deep inside the West Bank. It is located far to the east of Israel's "separation barrier" and cannot be viewed, by any definition, as part of any "settlement bloc." Migron overlooks Route 60, the main road used by settlers driving between Jerusalem and the settlements

located to its north and northeast. Migron is in an area where, prior to the establishment of the outpost, there was no settlement activity. Migron thus achieves several key goals of the settlers: to establish domination over a main transportation route, to create Israeli “contiguity” between isolated settlements in the heart of the West Bank; and to block any two-state solution based on Israel retaining only “settlement blocs.”

**How it began:** Migron began its life in 2001 as the site of a communications antenna. This antenna was erected by one of Israel’s major cellular phone companies after Israeli settlers complained that they could not get cellular phone reception in part of the West Bank. Since this was deemed necessary for security reasons, Israeli authorities issued a permit for the installation of the antenna at the site. This antenna was the embryo that has grown into the outpost Migron.

**Transformation into a full outpost:** In 2002, settlers placed mobile homes on the hill adjacent to the antenna, without any legal permission to do so. A few months later, they began building a few permanent homes. Since then the outpost has been enlarging and expanding continuously and in all respects, including a number of roads, connection to the electricity and water supplies, and the erecting of a large fence surrounding the outpost, enclosing huge areas of surrounding land for “security purposes.”

**Why it is illegal:** The establishment and expansion of Migron has taken place contrary to Israeli law. The settlers have not received permits for any of their actions, and under law such permits cannot under any circumstances be issued, since all the land is recognized by the Israeli government as privately owned by Palestinians. The Israeli government early on recognized this reality and issued demolition orders against all of the structure in the outpost. Notwithstanding these demolition orders, notwithstanding repeated commitments by Israeli authorities to remove the illegal outpost, Migron has remained in place and continued to grow.

**Current population:** Today Migron is home to forty-five families, making it

one of the largest outposts in the West Bank. Like most other outposts, Migron consists mainly of trailers and containers. Migron also contains five permanent homes constructed by the settlers. The various buildings at the site provide housing as well as a kindergarten, synagogue and other community resources.

***Q: What was the legal procedure regarding Migron?***

**A:** In October 2006, Peace Now, together with the owners of the land on which Migron has been established, filed a petition against Migron with the Israeli High Court of Justice, seeking to force the State of Israel to implement the demolition orders it had previously issued against the illegal outpost. In December 2006, the Israeli government’s response to that petition recognized that Migron was entirely illegal and could not be legalized, since the land is privately owned by Palestinians. The State agreed that Migron must be evacuated; the only question in dispute was when. The State promised the Court that it would seek an agreement with the settlers to evacuate voluntarily. It stated that if such an agreement could not be reached, “the Minister of Defense intends to evacuate Migron within a few months, after having exhausted all other options” and asked the court for an additional 4–5 months to resolve the matter.

Since then, the State of Israel has dragged its feet for more than 5 years, repeatedly promising the Supreme Court that it will take action and asking for additional time. In August 2008, the State declared that it reached an agreement with the settlers to transfer the outpost to a new neighborhood, to be established by the Ministry of Housing in another settlement (Adam). In response, the Court allowed the State to put off the eviction of Migron, consistent with that agreement; however, after three years—during which the only thing that was achieved was, finally, the approval of the plan for the promised new neighborhood—the settlers of Migron declared that they had never agreed to the compromise.

Apparently fed up with the Government’s foot dragging, in August 2, 2011 the High Court gave the State a firm

deadline of March 31, 2012 by which to evacuate Migron. Now, with that date fast approaching, the government of Israel and settler supporters in the Knesset are scrambling to find some way to circumvent the High Court's ruling and enable the Migron settlers to stay.

...

**Q: You say the State of Israel declared that Migron was built on private Palestinian land, but the settlers have offered a range of arguments against this, including arguing that the land was abandoned and is thus State land and that the Palestinians can't prove their ownership. Who is right?**

**A:** The owners of the Migron land are Palestinian residents of the villages of Deir Dibwan and Burka. The land on which the outpost was built was registered in the land registry in the name of the Palestinian owners from before 1967 (two of the land owners who originally petitioned the High Court to stop Migron have since died, with the case now passed on to their heirs). The Civil Administration's land registration division has in its possession all of the relevant ownership papers. Indeed, in response to Peace Now's petition, the state submitted an aerial photo confirming the claims of the landowner map. Peace Now recently released a video introducing the world to these owners.

Israeli officials have repeatedly confirmed, formally and on the record, that the land on which the outpost of Migron is built is legally owned by Palestinians.

...

**Q: The settlers claim that the Israeli government has, from the start, supported Migron. Is this true?**

**A:** The establishment and expansion of Migron could not have taken place without the tacit and often active support of elements within the Israeli government, in particular the Ministry of Housing and Construction, which over the years has provided financial support for the Migron settlers, notwithstanding the illegal nature of their actions. In 2005, the Israeli government-commissioned Sasson Report concluded that more than 4 million NIS of public funds

had (at that point) been invested illegally in the outpost. In the years since, settlers continue to expand the outpost with the assistance of the Mate Binyamin Regional Council (which is funded by the State of Israel), in defiance of the law and of the Israeli High Court of Justice. In addition, Migron settlers have long enjoyed security provided by the IDF, at taxpayer expense.

Nonetheless, the State has stated explicitly and on the record that Migron is illegal and that no government official, at any time, had the authority to in any way approve the outpost.

...

**Q: You mentioned efforts to "legalize" Migron or make a deal with settlers. What are these efforts? And why do you put the word "legalize" inside quotation marks?**

**A:** As noted above, the State has repeatedly and consistently recognized that under Israel's own laws, the land on which Migron is located is privately owned by Palestinians. Under Israel's own laws, there is no possible way to argue that it is "legal" for settlers (or anyone else) to steal land privately owned by another person, even a Palestinian. There is thus no way to "legalize" this land theft—unless the word "legalize" is used to mean "change Israeli law to post-facto authorize certain cases of theft, contrary to all other laws of the land." This is, of course, the very definition of rule by law—a feature of totalitarian regimes—as compared to rule of law, which is considered a central characteristic of civilized, democratic nations.

The government of Israel has for years been trying to come up with some kind of "deal" that will enable it to avoid a fight with the settlers over Migron. The most notable effort (until recently) was in 2008, when the government offered a "compromise" to solve the problem of Migron: it offered to build the Migron settlers a new neighborhood in the settlement of Adam. Writing about that deal in November 2008 in *Ha'aretz*, we noted:

... the government of Israel has announced a "compromise" on the illegal West Bank outpost of Migron. The deal makes a mockery of government pledges to deal seriously with illegal settler

activity. It also challenges the seriousness of Israel's commitment to achieving peace with the Palestinians. . . . The core of the issue: Migron is illegal, by any standards. Under Israeli law, it should be eliminated—not relocated to another site in the West Bank, and certainly not to Adam, where it would become a new obstacle to the two-state solution. Relocating Migron would only reward settlers' illegal acts and encourage further law-breaking. Migron's residents are law-breakers, and any inconvenience their eviction causes them is of their own making.

Regardless of the fact that this “compromise” represented a huge victory for the settlers and that the Yesha Council supported the offer, the Migron settlers rejected it. Since then the settlers have dug-in, literally and figuratively, over Migron, rejecting even the possibility of a compromise.

Now, with the March 2012 deadline drawing near, the government of Israel is scrambling to find a way to appease the settlers. One approach, offered by the Netanyahu government in early 2012, offered the settlers a new and even better “compromise”: the government would build the Migron settlers a new settlement to move to, nearby. In the meantime, the settlers could stay in Migron and continue to try to find a way to “legally” take the land from its Palestinian owners (an effort that has been ongoing and thus far unsuccessful). And, to sweeten the pot, the government of Israel promised the settlers that if and when they have to move from Migron to the new settlement, the site of Migron will be confiscated by Israel (under Israeli law, Israel can seize private Palestinian land for official uses, like a military post). Commenting on this proposed “compromise,” veteran Israeli journalist Zvi Bar'el recently noted:

The proposal whereby we, the taxpayers, will fund a new infrastructure for the trespassers at a site a few hundred meters away from the scene of the crime and only then, two, three or five years from now will the settlers examine the option of moving to the new site—is not a compromise proposal to the settlers. It is a negotiation with the High Court of Justice. A kind of honorable way out for the highest institution of justice in the State of Israel, which will forego its dignity and acknowledge that it is incapable of continuing to fulfill its mandate: of being the High Court of Justice not only for the State of Israel, but also for the inhabitants of the territories, both Jews and Arabs alike.

Ostensibly the compromise contains a threat to the settlers. If they reject it, the houses at Migron will be demolished by March 31, as the High Court of Justice has ordered. However, taking into account the state's behavior until now, that is an empty threat and in any case the settlers and their emissaries in the Knesset are posing a much more meaningful threat: legislation that will legitimize the criminal outpost, with the added fillip of political revenge on Netanyahu. . . .

This compromise, under which the settlers would, in effect, win not once but three times, does not appear to actually satisfy the decision of the Israeli High Court of Justice, but the point is moot, since the settlers once again rejected any compromise.

**Q: Why do the settlers keep rejecting these offers? What is their bottom line?**

**A.** The settlers' refusal to entertain even the most far-reaching “compromise” on Migron reflects their recognition of the fact that Migron is a test case for the entire outpost enterprise. If they accept a “compromise,” they are accepting the fact that Israeli law applies to their actions in the West Bank, and are thus undermining the “legitimacy” of all their illegal actions with respect to settlement expansion and outpost construction.

With this in mind, the settlers and their supporters are now going a different route, seeking to change Israeli law in order to legalize the theft of Palestinian private land by Israeli citizens in the West Bank. This law, entitled the “Outposts Draft Law,” is a dangerous initiative with no precedent in Israel or the world. As of this writing, Prime Minister Netanyahu appears to oppose the Outposts Law, but it has strong support from much of the Likud and parties to Likud's right. In an effort to appease the settlers and his right, on January 30, 2012, Netanyahu appointed a committee whose mission appears to be to find a way to legalize Migron (and other outposts); notably, one member of that committee is a lawyer who lives in a settlement and who was being paid by a settler organization working to legalize the outposts until just days before being appointed to the committee.

**Q: Why is Migron a test of the viability of the two-state solution?**

**A:** Any future peace agreement will require the establishment of a viable, contiguous state of Palestine alongside Israel. A peace agreement that includes land swaps will likely make it possible for the majority of Israeli settlers to remain in their homes. However, even the most optimal agreement (optimal from an Israeli perspective) it will still be necessary for Israel to evacuate a large number of settlements located deep inside the West Bank. The fate of Migron will tell Israelis, Palestinians, and the world whether the Israeli government has the political will and the ability to carry out its side of such an agreement.

This is because, at the most basic level, Migron is located in a place that cannot possibly remain under Israeli sovereignty in any future agreement. If the government won't remove an outpost in such a location, and instead is ready to subvert Israel's character as a nation governed by the rule of law in order to protect Migron, it sends a message. This message is unmistakable: the government isn't serious about getting to any realistic peace agreement that will, by definition, require the evacuation of not only Migron but many more settlements and outposts.

...  
And finally, even if one could argue that a future Israeli government might be more serious about peace than the current one, if Israel finds a way to "kasher" the settlers' land theft in Migron—through a new law, through some new High Court decision, or through some other machination of the occupation—it will signal an end to even the pretense that Israeli settlers are bound by Israeli law. It will give a green light for the settlers to build illegally everywhere in the West Bank, establishing even more obstacles to peace, with the tacit and active approval of the Israeli government.

**DEMOCRACY AND THE "RETURN" OF THE JEWS TO THE WEST BANK [EXCERPTS]**

*The article excerpted below, originally titled "We Didn't Come Here to Establish a Democratic State. We Came Here to Return the Jewish People to Their Land" was written by Karin Laub of*

*the Associated Press, and published 31 January 2012. The full text is available at <http://www.washingtontimes.com/news/2012/jan/31/we-didnt-come-here-to-establish-a-democratic-state>.*

...  
[V]eteran settler leader Benny Katzover . . . has been at the forefront of a religiously inspired movement to take over the West Bank, hilltop by hilltop, helping build a network of settlements over four decades that are now home to hundreds of thousands of Israelis.

Today he argues that democratic principles, such as equality before the law, have become an obstacle to deepening Jewish control over all of the biblical Land of Israel—though he stops short of calling for dismantling Israel's democratic institutions. They are disintegrating on their own, he says, and losing legitimacy in the eyes of the public.

"We didn't come here to establish a democratic state," Mr. Katzover said in an interview with the Associated Press. "We came here to return the Jewish people to their land."

Mr. Katzover's comments appear to reflect a growing radicalization among some right-wing religious groups. They come at a time of a rise in attacks on Palestinians by vigilante settlers and an increase in complaints by liberal Israelis that the country's right-wing parliament and government have launched an unprecedented attack on the pillars of democracy. . . .

Mr. Katzover, 64, led the first group of settlers into the northern West Bank in the 1970s and helped establish the settlement of Elon Moreh in 1980. Like other prominent settlers, he has been a confidant and informal adviser to a string of prime ministers over the years. Mr. Katzover remains influential among hard-core activists and heads the Committee of Samaria Settlers, a group that tries to block government attempts to raze any of the about 100 unauthorized settlement outposts or uproot settlers as part of a future—and for now very remote—partition deal with the Palestinians.

"Across the country, these ideas, that democracy needs dramatic change, if not dismantling then at least dramatic change, these ideas are very

widespread," he said in his modest home in Elon Moreh, a settlement of 2,000 people with a sweeping view of the West Bank hills the Palestinians want as the core of their future state.

The mainstream settlers' umbrella group, the Yesha Council, distanced itself from Mr. Katzover's comments, first made in a small ultra-Orthodox publication and picked up by Israel's liberal *Ha'aretz* daily early last month. The Yesha Council is firmly committed to democratic principles, said its chairman, Dani Dayan. But Mr. Katzover claims he is expressing publicly what many others, including more mainstream settler leaders, think privately.

Yair Sheleg of the Israel Democracy Institute said the radicalization of hard-line settlers accelerated after Israel's 2005 withdrawal from the Gaza Strip. Israel uprooted nearly two dozen settlements, including four in the northern West Bank, and the operation was deeply traumatic for the settler movement. Mr. Sheleg said he was surprised by Mr. Katzover's tough tone, if not the content of his remarks. "We should be very worried," he said. "Benny Katzover was considered to be historically one of the mainstream leaders of the settler movement, and this really illustrates the way, the very far way, those mainstream settler leaders went."

The trend has been accompanied by a sharp rise in settler attacks on Palestinians and their property since 2009, including the torching of mosques, setting fire to fields, cutting down orchards and stoning cars. According to new U.N. figures, there were 412 attacks on property and people in 2011, compared to 168 in 2009. The attacks are part of a tactic called "price tag." They are carried out in response to attempts by the Israeli military to raze even parts of settlement outposts set up since the 1990s to prevent a partition deal. . . . The Israeli daily *Yediot Ahranon*, citing internal documents, alleged recently that Mr. Katzover's group is a key force promoting the price tag policy.

Mr. Katzover denied any involvement, saying he opposes "price tag" attacks as damaging to the settlement cause. But he refused to denounce the practice, arguing he wants to keep an open line to the most radical in hopes

of having a moderating influence. Mr. Katzover is a founder of Gush Emunim, the spearhead of the Jewish settlement movement that sprang up in the 1970s and over the years garnered considerable political clout. . . . Gush Emunim's original vision of hundreds of thousands of Israelis settling in the West Bank has largely come true, mainly because of massive backing by successive Israeli governments.

Mr. Katzover says the accomplishments of the movement, including the establishment of 150 government-sanctioned settlements, "shaped the map" of Israel by preventing a withdrawal to the pre-1967 war frontiers. . . . There's now a critical mass to prevent a withdrawal from the West Bank heartland as well, Mr. Katzover said. "I don't believe there is a government that will take upon itself the responsibility to mark 100,000 people for expulsion," he said.

#### THE "CONCRETE EMBRACE" OF BETHLEHEM

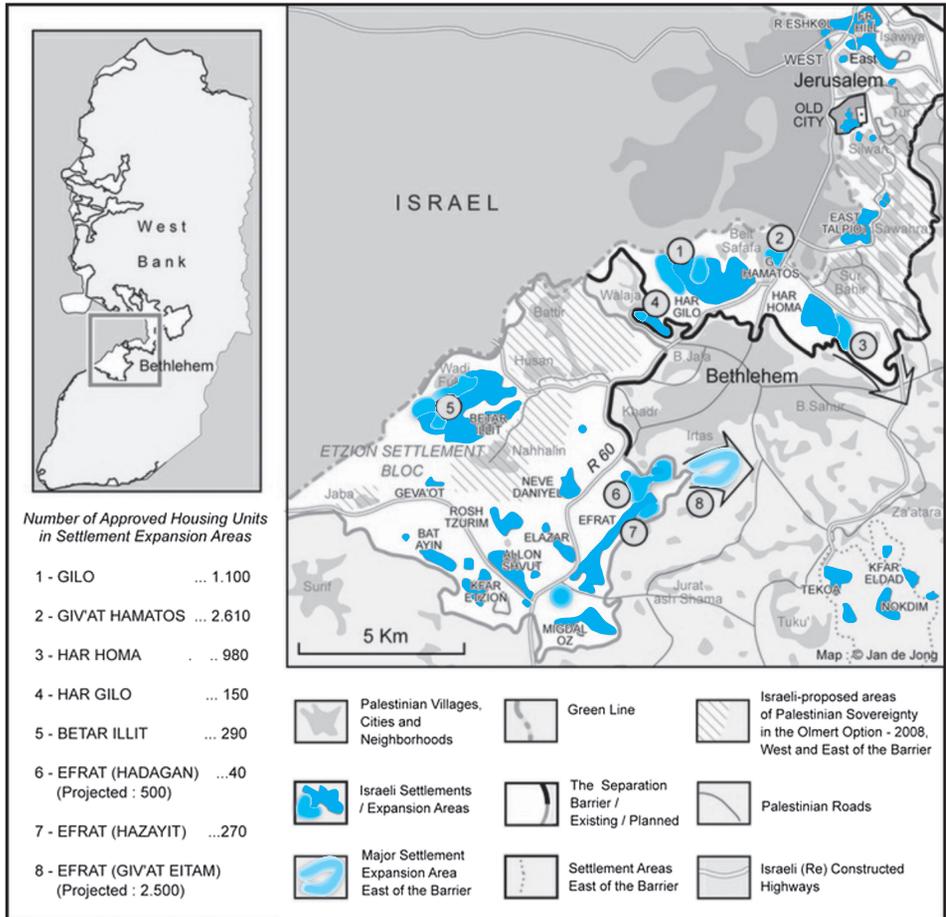
##### "SETTLEMENT EXPANSION ENCIRCLING BETHLEHEM"

*From Settlement Report, January–February 2012.*

On December 12, 2011, Defense Minister Ehud Barak approved construction of 40 dwellings and a farm in two areas long-targeted for the expansion of the settlement of Efrat. In November, 277 units had been approved in Efrat's Givat HaZayit neighborhood. The expansion of Efrat to the northeast tightens the "concrete embrace" of Bethlehem.

The tender for 40 dwellings on Givat HaDagan, where a small number of settlers have been squatting for more than a decade, was issued by the Israel Lands Administration. The site is close to the Deheishe refugee camp and the village of al-Khader.

Givat Eitam (Jebel Abu Zeid)—where the farm was approved and 2,500 units are planned—lies (unlike Givat HaDagan) on the eastern, "Palestinian" side of the separation barrier. This area has long been coveted for settlement and was within the original perimeter of the separation barrier devised by the government of Ariel Sharon. In 2007, for



example, in one of many attempts to establish an “outpost” at the site to assure its settlement before construction of the barrier excluded it, settlers declared, “The establishment of a settlement in Givat Eitam will be the first step in renewing a wave of settlements in Judea and Samaria. This is our response to the ongoing policy of surrendering to the enemy.”

During the Annapolis discussions in 2008, Israeli negotiators suggested that settlement would proceed in this area if no agreement was reached. The government of Benjamin Netanyahu has now determined that the separation barrier is no barrier to settlement expansion, even in those settlements, like Efrat, where the barrier creates a

defined perimeter. According to a report in *Ha'aretz*, “It can be expected that the establishment of the farm will be followed by the construction of an access road and the deployment of IDF soldiers and other security arrangements, to guarantee the area’s future role as part of Efrat.”

**“A NEW OUTPOST IS TO BE ESTABLISHED SOUTH OF BETHLEHEM” [EXCERPTS]**

*The Peace Now statement excerpted below was originally published on 30 November 2011. The full text is available at <http://peacenow.org.il/eng/GivatEitam>.*

...

Established in 1982, [Efrat] started at the southern neighborhood. In the 90's the settlers established an outpost north of Efrat called "Givat Hazayit," with several trailer homes. The government evicted the outpost several times, but eventually approved a construction plan in which today hundreds of housing units are built and thousands of settlers reside. Later, in the early 2000's, the settlers established two more outposts, "Givat Hatamar" and "Givat Hadagan" north of Givat Hazayit, in which few hundreds of settlers are living in trailer homes. In recent years, the government approved a construction plan for permanent homes in those outposts. The plan is awaiting approval for marketing.

The establishment of an outpost in Givat Eitam might be the basis of the expansion of Efrat further to the north and to the east.

***The Location—A Big Obstacle for the Two States Solution***

In previous official and unofficial negotiations between Israelis and Palestinians, the settlement of Efrat was under dispute. According to the Geneva

Initiative model of agreement, Efrat will have to be evicted. Also in the maps that were officially presented by the Palestinians in the negotiations, Efrat was to be evicted.

The settlement of Efrat is located south of Bethlehem, blocking the potential development of the city to the south (the city is already blocked from the north by the East Jerusalem settlements of Gilo and Har Homa, and from the west by the Gush Etzion settlements).

Moreover, the settlement of Efrat is located east of the highway connecting between Hebron and Bethlehem (Road no. 60). If annexed by Israel, there will be no main road to connect the southern parts of the West Bank with the center of the West Bank.

Despite all that, the Israeli government continues to develop the settlement of Efrat. Recently the government approved the construction of 277 housing units in Efrat. The proposed farm is located east of the planned route of the Separation Barrier, and if established and developed it might cause a further expansion of the areas taken by the Fence.