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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 BUSH LEGACY: FREE REIGN FOR ISRAELI SETTLEMENT POLICY

U.S. POLICY FAILS WITH REGARD TO SETTLEMENTS

Originally titled "Where Will the Palestinian State Be Established?" this article was taken from the July–August 2008 Settlement Report.

Israeli president Shimon Peres recently observed, "There is a competition here over staying power, not just over the ability to withstand suffering." Peres was referring to the conflict with Hamas in Gaza, which has just entered a new phase with the joint declaration on 19 June of a *tabdi'a* or "calm." He could point with equal justification, however, to the ongoing campaign of settlement construction in the West Bank and East Jerusalem, which has succeeded, despite Palestinian opposition, in settling almost half a million Israelis in territories captured in June 1967.

Settlements are the most visible, potent, and tangible manifestation of Israel's "staying power" in its ongoing struggle with Palestinians to prevent the creation of a genuine Palestinian state. They represent an existential challenge to Palestinian efforts to establish sovereignty and independence, and thus are understood by Palestinians as the critical benchmark against which the prospect of their liberation from occupation is to be measured.

United States-led diplomacy has failed to address the central challenge that settlements pose to the international consensus supporting an end to Israeli occupation and the creation of a Palestinian state at peace with its neighbors. Indeed, to judge by remarks made by Secretary of State Condoleezza Rice during her June visit to the region, it is not clear that she fully understands that settlements are more than simply one of the generic issues to be negotiated.

Palestinian Authority president Mahmud Abbas was at pains to convey to Rice that

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"Israel fulfill its obligations vis-à-vis colonization, because we consider settlement activity as the most important obstacle facing the political process. And the more there are dates [announcing tenders for new settlement housing] and construction of settlements, the more this will constitute an impediment that will obstruct reaching any peace."

Rice acknowledged that almost eight years into the George W. Bush administration, U.S. remonstrations to Israel about settlement construction go no further than "pressing the case"—the long-standing pro forma effort to convey to Israel that the United States views settlements as problematic and that "it is in Israel's interest to do everything that it can to promote an atmosphere of confidence."

"I think the issue here," Rice explained to reporters on 15 June, "is to try to get back to a place that there's some confidence that [Israel's settlement program] is not an effort, in some way, to dictate or prejudge the final status issue and to prejudice the final status outcome."

Settlements, as Israelis and Palestinians know too well, serve the very purpose—unilaterally determining Israel's border—that Rice wants to discount. Her insistence that this is not the case has been betrayed by the administration's own policy of acknowledging in April 2004 that "in light of new realities on the ground, including already existing major Israeli population centers, it is unrealistic to expect that the outcome of final status negotiations will be a full and complete return to the armistice lines of 1949." (See Special Doc. B in *JPS* 132.)

Recalling this commitment, a reporter asked Rice, "didn't President George Bush's [April 2004] letter to Prime Minister Ariel Sharon acknowledge the facts on the ground?"

"It acknowledged the current realities of 2004," Rice noted. "And of course there are current realities and new realities since 1949 and 1967 for both sides. So what the president's letter said is there are population realities. Look—some of those realities have been recognized in every agreement that never quite made it as well. So this is nothing new, that those realities have been acknowledged. But the president said subject to mutual agreement, and I would remind [you] that the president's letter talked about realities at that time. And there are realities for both sides, which is why they need to draw a map and get it done."

No one but Israel and the United States has formally acknowledged that these settlement realities will determine Israel's border with a Palestinian state. The American acknowledgment of the facts created by settlements is not subject to Palestinian endorsement. The secretary invoked the precedent of the stillborn diplomatic dialogues at Camp David and Taba in order to justify unilateral presidential recognition offered without reference to any diplomatic process. Notwithstanding Rice's demurral, Bush's commitment was indeed new, and it remains, far more than his administration's lukewarm and patently ineffective criticism of Israeli settlement policy, an important legacy of his presidency.

The Bush Administration, Yesterday's Failure

As the *Economist* wryly noted in a recent feature about Bush's foreign policy, the only thing worse than a failure is yesterday's failure. The president's May trip to Israel and the visits of his peripatetic secretary of state lowered the bar of expectations yet again for the diplomatic process inaugurated at Annapolis in November 2007. The United States still hopes for some sort of agreement between the parties before Bush's term ends. Yet it also considers sufficient the creation of the Annapolis process as a platform for the future.

Prime Minister Salam al-Fayyad notes, however, that measured against the standard of ending settlements and occupation—the core Palestinian demands—the Annapolis process has failed. "The change that has taken place on the ground is not qualitative and so far has no significance. It could be labeled as limited change in both quality and quantity," Fayyad explained. "My cause with the Israelis is not a matter of roadblocks. My cause is the occupation. Therefore, with respect to these issues . . . what I am asking the Israeli defense minister to do is to stop the settlements in the first place. . . ."

"I do not see the progress that you are talking about and I do not sense any progress. The track that people see in the road map track is the settlements and this is what people see every day and hear every day about a settlement announcement. For this reason, I cannot assume that things are proceeding in the right way. . . . During the two meetings that were held with Rice and [Israeli defense minister Ehud] Barak, we raised these issues and we asked, 'Where will the state be established under these continuous

settlement activities?' The question in the minds of many, including myself, is, 'Where will the state be established?'

"Even if you believed in the possibility of a solution this year, you must not accept the continuation of these settlement activities, let alone if you have a strong and almost certain feeling [as Fayyad himself has expressed] that the solution will not be achieved this year.

"If the solution is not possible this year, the international effort should at least focus on keeping the possibility of the solution alive, and this necessitates in the first place a halt to the settlements."

Israeli prime minister Ehud Olmert remains deaf to this demand. He made clear to Rice that "construction would continue in the Jewish neighborhoods that are expected to remain Israeli under any agreement." Construction of thousands of units is proceeding in various stages in scores of settlements.

Rice's by-now-familiar litany of complaints about Israel's settlement policy is dismissed by Israelis. As one *Jerusalem Post* columnist noted, "it is likely too late for Rice to reverse the consequences of those policies she pursued in this corner of the world. Nor to prevent Israel from pursuing the same construction policy in Jerusalem that has guided all of its governments, including this one, since 1967."

Little wonder then that Palestinians are, as Bush noted, not only "discouraged by the settlement activity," but also despairing of Bush's commitment to end the occupation, and as the final months of his presidency unfold, casting for a more effective strategy to reach that goal.

BUSH'S "BIGGER PICTURE" DEFINED BY ISRAEL'S SETTLEMENT MAP

From Settlement Report, May-June 2008.

The goal of the Annapolis process, launched by President George W. Bush in November 2007, was to reach an Israeli-Palestinian peace agreement by the end of 2008. As Bush's term nears its end, United States-led diplomacy has failed to provide PLO chairman Mahmud Abbas with any meaningful achievements on the two indivisible issues—settlements and borders—that will define the territory of the Palestinian state intended to be established by mutual agreement.

"Frankly, so far nothing has been achieved. . . . All the files are still open. None of them is concluded. The situation is

still as it was. . . . We demanded the Americans implement the first phase of the road map that talks about the cessation of settlement expansion," Abbas told the Associated Press (AP) after an April 2008 visit to Washington. The AP added that U.S. secretary of state Condoleezza Rice, while discussing what a peace deal would look like, did not mention the Palestinian goal of creating a state based on borders before Israel captured Gaza from Egypt and the West Bank from Jordan during the 1967 war. Meanwhile, Abbas was quoted by the AP as saying angrily: "We demanded that they talk about the 1967 borders. None of them talks about the '67 borders."

Abbas is not alone in his downbeat assessment. President Bush himself no longer talks about shepherding a signed and sealed arrangement to end the occupation. His vision has been reduced to "achieving the definition of a [Palestinian] state," or as Rice explained in a 29 April speech in Washington, the goal is to "reach agreement this year on the basic contours of a peaceful Palestinian state subject to the fulfillment of road map obligations."

Chief Palestinian negotiator Saeb Erekat explained that Bush did not respond directly when Abbas brought up the issue of Palestinian objections to continuing Israeli settlement expansion. "Bush told [Abbas] that 'I'm focusing on the bigger picture,'" Erekat explained.

Rice too appears to view the Palestinians' concern about Israel's settlement policies as an unhelpful distraction. "It is my very strong view," Rice noted in Amman on 31 March 2008, "that the best thing that we can do is to focus on getting this agreement, because then we won't have these discussions about what belongs in Israel and what belongs in Palestine; we will know. That is why we need a Palestinian state."

To break the diplomatic stalemate, Washington could put its own map of a Palestinian state on the table. Or it could endorse the Palestinian demand for almost complete Israeli retreat to the June 1967 border. Otherwise, the borders of the Palestinian state at the heart of Bush's "big picture" will continue to be defined by Israel's security and settlement policies. This latter option recalls the 14 April 2004 Bush letter to Prime Minister Ariel Sharon in which the U.S. president wrote that, "In light of new realities on the ground, including already existing major Israeli population centers, it is unrealistic to expect that the outcome of final status

negotiations will be a full and complete return to the armistice lines of 1949. . . .”

In contrast to the Bush administration, Israelis and Palestinians acknowledge the obvious—settlements are the key to the “big picture.” It is self-evident that Israel views settlement as the most effective instrument in reducing Palestinian territory, and guaranteeing its unrestrained security requirements and claim to sovereignty over a considerable percentage of the West Bank. Abbas, during his Washington visit, described Israeli settlement as “the biggest blight that stands as a big rock in the path of negotiations.”

In late spring, Israel presented maps outlining its permanent territorial demands in the West Bank. The maps are based upon the IDF Security Interests Map prepared during the mid-1990s. They reflect the “Continuous Movement” plan for Palestinian territorial contiguity via roads and tunnels outlined by Israel in late 2004 (see *Settlement Monitor* in *JPS* 140) as well as Olmert’s “convergence” ideas abandoned after the summer 2006 war with Lebanon. These maps confirm wide-ranging Israeli security and settlement intentions throughout the West Bank and East Jerusalem that imperil the creation of a sovereign and independent Palestinian state.

Palestinian and Israeli press reports note that Prime Minister Ehud Olmert has excluded from Palestine “Greater Jerusalem,” which extends from the outskirts of Ramallah to the outskirts of Bethlehem. In East Jerusalem itself, Israel will maintain sovereignty in the Old City and the nearby village of Silwan, while arranging for worshippers’ access to their holy sites under international supervision. Olmert also excludes from Palestine the Latrun region, which along with the settlement blocs will be annexed to Israel with “horizontal expansion” linking them.

The Jordan Valley, according to Olmert’s map, is viewed as a vital security interest and remains under Israeli control, with a West Bank corridor linking Israel to the King Hussein (Allenby) Bridge. To create continuity between the disjointed territories that will comprise the Palestinian state, Olmert supports the road, tunnel, and bridge plan devised by his predecessor Ariel Sharon.

Settlements Matter

There can be no contesting the fact that continuation of Israel’s settlement enterprise as a means of creating Greater Israel and as an instrument to assure Israel’s expansive

security requirements poses an existential challenge not only to Palestinian national life but to the viability of the Palestinian civic community as well.

According to a May 2008 World Bank report, continuing occupation is “undeveloping” the economies of the West Bank and Gaza Strip. “Beyond the impacts of the protracted economic downturn since restrictions were imposed after the Second Intifada, the Palestinian economy faces a more hazardous prospect—a fundamental change in its composition, with GDP increasingly driven by government spending and donor aid, leaving little resources for investment, thus further reducing the productive base for a self-sustaining economy.”

The “Annapolis process,” like those of the Madrid and Oslo eras that preceded it, has failed to constrain Israel’s policy of settlement expansion, the core indicator of Israel’s continuing appetite for territory. Indeed, the opposite is the case. An objective analysis of the period since 1990 would conclude that the diplomatic process has accommodated Israel’s most expansive settlement and security objectives, enfeebling and marginalizing the Fatah leadership of secular Palestinian nationalists willing to reach a peaceful settlement with Israel while empowering Hamas and other Islamist and rejectionist opponents.

Stopping the Settlement Machine

From the outset of Israel’s occupation following the June 1967 war, neither diplomacy nor armed insurrection has stopped the machine of settlement expansion in East Jerusalem and the West Bank.

Severe international criticism of Israel’s settlement policies did not affect the creation from 1967 to 1977 of the settlements infrastructure vital to the subsequent expansion that Menachem Begin and Ariel Sharon inaugurated during the first era of United States-led diplomacy. During the decade from 1983–1993, the settler population of the West Bank (excluding East Jerusalem) increased fivefold, from 22,800 to 111,600. During the next ten years, the Oslo years, notwithstanding episodic settlement restraint, “peace” and settlements co-existed as settlers, enjoying unprecedented government support, increased by 110,000, doubling to 224,669.

The second intifada, which began in late 2000, initiated an era of unprecedented physical insecurity for West Bank settlers. The separation barrier built as a consequence

has marginalized some but by no means all of the settlements on the "Palestinian" side, some of which were failing as new communities in any case. The Palestinian rebellion also produced a marked decline in housing starts in settlements, from 6.6 percent of all starts nationally in 2000 to only 2.5 percent in 2001, with only marginal increases since.

Notwithstanding this "achievement," armed Palestinian insurrection and terror have failed to undermine the West Bank settlement enterprise, which continues to grow and expand with catastrophic consequences for Palestinian political, economic, and civic life. For example, despite the reduction in new housing, the West Bank settler population grew to 282,000 at the end of 2007, an increase of 5.2 percent over the previous year and a rate of growth three times higher than the rate of population increase in Israel. The population in East Jerusalem is almost 200,000.

Israel has gone to extraordinary lengths to restore to settlers a sense of security. The separation barrier is part of a draconian "closure" system that accompanied the direct reoccupation of the West Bank in April 2002. This system is designed not only to free Israel from Palestinian terror attacks but also to reaffirm the IDF's foremost commitment to preserve "normal, everyday life" for the settlers at great and continuing cost to Palestinians.

The End of Settlements in Sinai and Gaza

There are two noteworthy exceptions to the rule of permanent and unchangeable Israeli security and settlement policies. In Egyptian Sinai, where Israel had once famously declared its preference for Sharm al-Shaykh over peace, the "settlements equals security" equation was shattered by the October 1973 war. As part of a peace treaty with its most powerful Arab enemy, Israel retreated to the international border, abandoning an extensive settlement infrastructure that required removing more than 5,000 settlers.

Similarly, in the Gaza Strip, almost two decades of insurrection and terror forced Israel to reassess the "settlement equals security" equation. Prime Minister Ariel Sharon's dramatic decision in 2004 to "disengage" from the Gaza Strip repudiated the conventional diplomatic approach to solving the Israel-Palestinian problem. Sharon had ignored appeals for a settlement freeze of the kind that had been at the center

of United States-led diplomacy for almost three decades. Nor did he condition the destruction of Gaza settlements and the evacuation of their inhabitants upon a negotiated agreement with the PLO, or Gaza's demilitarization.

Sharon's pathbreaking decision to remove settlements owed nothing to the diplomacy of the Oslo-Annapolis era, which had created an environment conducive to settlement expansion. For Gaza, Sharon reluctantly concluded that Israeli security could be enhanced by evacuating all settlements in the Gaza Strip and defending Israel from within its own borders. Where Gaza's settlements had once provided an instrument and a rationale for continuing occupation, there was no place for them in the new security doctrine defined by Sharon.

This dramatic change in Israel's security concept was the product of a sustained Palestinian rebellion against Israeli rule in Gaza that began in December 1987 and has yet to cease. Sharon abandoned Gaza and its settlements when the costs of occupation and settlement became too high. The successful Palestinian effort to force Israel to remove settlements, like Sharon's policy, owed nothing to the stalled diplomatic framework long championed by Washington.

Force and terror rather than diplomacy led Israel out of Gaza. The West Bank, however, is not the Gaza Strip. On this front, Israel is not prepared to defend itself from within its own borders. West Bank settlements were originally created as an instrument of this policy, helping to transform the IDF in the eyes of most Israelis from an occupying army to a force defending the homeland.

Settlement long ago became an end unto itself, complicating and undermining Israeli security. Yet neither diplomacy (sponsored by successive U.S. administrations), nor terror, nor armed or popular rebellion against Israeli rule has prompted a change in Israel's West Bank settlement map. President Bush recently "assured" Abu Mazin "that a Palestinian state's a high priority for me and my administration: a viable state that doesn't look like Swiss cheese, a state that provides hope." There is little prospect, however, that in his remaining months, Bush will challenge Israeli policies meant to prevent the kind of Palestinian state-in-the-making he claims to support. The next president will confront the challenge of reversing this legacy of failure.

TESTING THE LIMITS OF THE LEGAL SYSTEM

A NEW LEGAL CHALLENGE TO ISRAELI SETTLEMENTS (EXCERPTS)

This article by Gershom Gorenberg was originally published online by the American Prospect (at www.prospect.org) on 19 June 2008, the same day on which the Israeli High Court (referred to here as "Supreme Court") issued a temporary order against building the nine new settlement houses. Several days after the High Court's decision, Ha'Aretz reported that the Israeli deputy state prosecutor had frozen the implementation of the court's ruling.

The photo, taken from the air, shows the red roofs of the houses of Ofra, one of the best-known Israeli settlements in the West Bank. Between the existing houses one can make out the shells of nine new homes under construction. Computer-overlaid thin green lines show the division of the land on which the settlement sits—parcels owned by Palestinian residents of the nearby village of 'Ayn Yabrud. The photo is Exhibit A in a lawsuit filed earlier this month by five residents of 'Ayn Yabrud, with the backing of two Israeli human-rights groups. The residents are asking Israel's Supreme Court for an order to demolish the homes being built on their land.

The aerial shot is from February. A new picture of the homes, taken from the ground, appeared this week in the right-wing Israeli newspaper *Makor Risbon*. Red tiles are piled on the as-yet unfinished roofs of the spacious two-story houses. The photo does not show the bloodied face of the photographer, who was punched in the nose by a bystander. Her newspaper's pro-settlement editorial line did not protect her. The settlers of Ofra are grimly unhappy about the Supreme Court case. Through the simple expedient of demanding that the Israeli government enforce the law in occupied territory, the suit threatens not only the nine houses, but all of Ofra and perhaps the entire settlement project in the West Bank.

The suit is the product of dogged research by Dror Etkes, who for years monitored settlement growth for the Israeli left-wing Peace Now movement. Etkes now heads the Land Advocacy Project of Yesh Din, a group working against violation of Palestinians' rights by settlers. (The veteran B'Tselem rights organization joined in the suit.) . . .

Ofra is a fitting arena for this fight. Over 2,700 Israelis now live in the suburban-looking community north of Ramallah. Though not the first settlement in occupied territory, it was the first established by Gush Emmunim, the religious nationalist movement that spearheaded West Bank settlement beginning in the mid-1970s. At its start, Gush Emmunim sought to prevent any withdrawal from occupied territory by settling along the West Bank's mountain ridge north of Jerusalem, an area with a dense Palestinian population. Yitzhak Rabin, then in his first term as prime minister, barred Israeli settlement in the region, hoping to relinquish it for peace.

In April 1975, a couple dozen Gush Emmunim activists moved into an abandoned Jordanian army base near 'Ayn Yabrud. Rather than evict them, Defense Minister Shimon Peres let them stay under the pretext that they had set up a temporary "work camp." Peres was then Rabin's bitter rival and the most hawkish figure in the ruling Labor party. . . . In the months afterward, Peres's ministry helped develop the unofficial settlement. In 1976, according to a document I found in the Ofra archive, settlers began to discuss building houses, acknowledging that they had "no contact with the owner of the land," which they mistakenly thought was the government. According to Yesh Din lawyer Michael Sfar, even the former Jordanian base was on private Palestinian land, apparently seized for military purposes only. There was no legal basis for civilians to settle there—even under local property law, leaving aside the question of international law.

After the right-wing Likud took power in 1977, it granted Ofra the status of a recognized settlement. The government gave financial incentives to Israelis to move there, and still does. The settlement spread beyond the abandoned army base—into land listed in the local registry as belonging to Palestinians. Ofra is a metaphor for the settlement enterprise as a whole: Pushed ahead by a partnership of sympathetic officials and radical nationalists who wanted to keep the West Bank permanently, it is half rogue operation, half national project. "The State of Israel," says Etkes, "has sacrificed the rule of law for the sake of a political agenda." If a modern democracy is a structure of equitable law, then arguably the state sacrificed itself.

The prelude to the current legal battle took place at Amona, an "outpost" consisting

of mobile homes put up illegally in the late 1990s on a mountaintop overlooking Ofra. In 2005, Peace Now asked the Supreme Court to order the demolition of the nine permanent houses being built on privately owned Palestinian land at the site. The suit succeeded. In February 2006 police battled thousands of young pro-settlement protesters to raze the houses. Like the evacuation of Gaza the year before, the Amona affair signified to settlers that they'd lost the support of the Israeli mainstream.

In the meantime, Etkes waged a freedom-of-information struggle against the Israeli Civil Administration, which governs occupied territory. Eventually the Supreme Court ordered the Civil Administration to give Etkes its full database of land ownership in the West Bank. A Peace Now evaluation showed that nearly a third of all land used by settlements is privately owned, most of it by Palestinians. At Ofra, that amount is 85 percent. Next, Peace Now succeeded in getting the Civil Administration's list of orders to demolish illegal structures in settlements. Stunningly, the list included over 3,400 orders—but less than a tenth were ever carried out. Among the settlements, Ofra held the record, with almost 200 demolition orders. On one hand, Israeli inspectors dutifully note that settlement-building violates the law. On the other, the state does virtually nothing to enforce the law in settlements. The government, says Etkes, has a "split personality."

Over the years, Etkes says, Palestinian landowners have complained to the Israeli police about construction at Ofra, to no avail. In April, Etkes began working with Yesh Din and spotted the new houses going up. The organization immediately began working on the suit—making use of the unique Israeli legal system that allows individuals to petition the Supreme Court directly against the executive branch.

At Ofra, the first response was to speed construction. This week the settlement secretariat said people were already living in the nine homes—supposedly rendering moot the petitioners' request for an order against moving in. In a long brief, the settlement claimed that the land had been bought from Palestinians, though the transfer of title was never officially registered. Yehudah Etzion, who organized the original group that settled at Ofra and still lives there, told me that "the funny thing is that there's nothing new" about Ofra's legal status except that Israeli

lawyers decided to take action. Etzion (who served time for anti-Arab terror attacks in the 1980s) said that the settlers had built on "barren land," not fields. If it was registered under someone's name, he said, that was merely its "official status." Etkes says that old aerial photos show the land was farmed. But that's not the point. The point is precisely that the legal status of Palestinian property never interested anyone.

Today, in a preliminary hearing before a single justice, the government confirmed that the houses were illegal, and agreed to a temporary injunction banning further construction or dwelling in the buildings. But the government also said that Defense Minister Ehud Barak—the top official responsible for governing occupied territory—had not yet decided when to demolish the homes, and asked the court not to intervene. Based on past experience, that is a decision that Barak could put off forever. The critical question is whether Israel's highest court will let him, or if it will step in and demand that the law be enforced.

HOW TO LEGALIZE AN OUTPOST (EXCERPTS)

This Jerusalem Post article by Tovab Lazaroff was originally published 14 August 2008.

Without staging a rally or burning a tire, the settler leadership this week appeared to rescue the 101 West Bank outposts from certain destruction. In what has been a two-year process, the Council of Jewish Communities of Judea, Samaria, and the Gaza Strip showed that it had reframed the semantics surrounding the outposts into a winning formula.

So now instead of asking, "When will the outposts be evacuated?" the question has become, "Where in the West Bank can the government 'legally' place 101 small fledgling communities that comprise some 7,000 people?"

To do this, the council has shifted the language from "evacuation," with all the implied visions of IDF [Israel Defense Forces] soldiers forcibly pulling kicking families away from their homes, to a "voluntary removal," to "moving" the outposts, and finally to "legalized construction."

The council's successful ability to do this can be seen in the agreement it reached this week with the Defense Ministry regarding Migron, one of the largest of the West Bank outposts. This deal, which the state submitted to the High Court of Justice on Thursday, has the potential for being the

watershed moment in the history of the outpost movement.

It was given to the court in response to a petition by Peace Now demanding an evacuation. But instead, the state responded by explaining that it would now find a “legal” alternative for the outpost in the West Bank. In short, within a few years, 45 families living on the Migron hilltop outside of Jerusalem will have exchanged their long rectangular “caravans” for new legal stone homes in a West Bank area that is close to their present one.

While the agreement speaks only of Migron, it can be viewed as a prototype of what could happen with the remaining outposts. It is likely that in those deals in which the government speaks of “voluntary evacuation” and the council of “legalized construction,” what all this will boil down to is more settlement building.

It is true that the council has not swayed the government to authorize 101 new settlements, as they would have liked—but that, as the council would say, is an issue of semantics, given that they have created a blueprint by which to legalize additional development in the West Bank.

In some cases, this is likely to mean moving families in small outposts into nearby settlements, probably in exchange for building permits, as happened in Mevo Horon earlier this year. In other, larger cases like Migron, it is likely to mean moving the families as an autonomous community into the boundaries of an already existing settlement.

This is not good news for everyone. For the extreme Right, which believes Israel’s survival ability is weakened when Jews leave an inch of territory in the West Bank, this is a loss. But that is true for the Left as well. The Left had hoped that when the government spoke of removing outposts, it literally meant taking down the homes and making it difficult for the families to relocate in the West Bank. It views a situation in which an outpost gets to exchange an illegal caravan for a legal home anywhere in the West Bank as the equivalent of rewarding the settlers for breaking the law.

But the outpost issue, in some ways, crystallizes the somewhat schizophrenic settlement policy the government continues to hold onto in the West Bank. Much like with the security barrier, when it comes to construction in the West Bank, the government makes an assumption on what

the country’s final borders will be, even though it has not declared them unilaterally. As such, the government sees no reason it cannot build within areas that it believes it would retain in a final-status agreement. It has rejected charges from the Palestinians and the international community that such construction harms the peace process.

Its insistence that limited construction is allowable was evident in the text of the state’s response [to the petition], in which it said its arrangement with the settlers regarding the outpost would be in accordance with its international agreements. But for the Defense Ministry, what is most important here is not the international arena, but the internal problem the outposts pose. For the ministry, the issue of the outposts is not about American or Palestinian opinion, but is a test of the rule of law within Judea and Samaria.

Driven to uphold this law and daunted by the fear of further violent incidents like Amona,* it has been open to the council’s drive to “legalize” the outposts by moving them to acceptable development areas, rather than erasing them from the map altogether.

The council, in turn, after watching the army reduce more than 25 years of development in Gaza to rubble, has learned the importance of standing with the government rather than opposing it. Instead of racing to capture every West Bank hilltop, since the disengagement, the council has looked to expand and cement its current holdings. In the process, it has finally learned how to harness the prevailing government ideology to its own advantage.

It’s not a new tactic for the settler movement. One has only to remember that in 1974, in the Sebastia agreement, the settlement movement gained much when it stopped protesting evacuation and instead worked out a deal to move 25 families from the ruins of a train station to an army camp nearby. It’s an agreement that is often credited with opening the door for the legal development of Judea and Samaria. This deal could have a similar impact.

*More than 200 people were injured in riots when settlers were forcibly evacuated from Amona in February 2006.

SETTLEMENT BUILDING SINCE ANNAPOLIS

REPORT ON SETTLEMENT CONSTRUCTION SINCE ANNAPOLIS (EXCERPTS)

The Peace Now report excerpted here, published in August 2008, covers settlement construction in the period from the Annapolis conference in November 2007 through May 2008.

A. Main Findings

- Over 1,000 new buildings are being constructed in the settlements, in which approximately 2,600 housing units, according to Peace Now's calculations (aerial photographs and field visits). Approximately 55 percent of the new structures are located to the east of the constructed separation barrier.
- According to figures from the Central Bureau of Statistics, construction in the settlements has increased by a factor of 1.8 by comparison to the same period last year. The Housing Ministry initiated 433 new housing units during the period of January–May 2008, compared to just 240 housing units during the period January–May 2007 (construction initiated by the Housing Ministry accounted for 64 percent of all the construction counted in the West Bank by the CBS in recent months).
- 125 new structures have been added to the outposts, including 30 permanent houses.
- The number of tenders for construction in the settlements has increased by 50 percent (417 housing units compared to just 65 in 2007).
- The number of tenders in East Jerusalem has increased by a factor of 38 (1,761 housing units compared to 46 in 2007).

...

C. Continued Construction in the Isolated Settlements

At the same time, Israel is also continuing to build in the isolated settlements. At least 425 new buildings have been constructed over the past six months in isolated settlements and outposts in the heart of the West Bank, including caravans and permanent buildings.

Key sites include:

- Eli: Approximately 59 housing units
- Kiryat Arba: Approximately 50 housing units

- Itzhar: Approximately 14 housing units
- Itamar: Approximately 10 permanent buildings
- Kochav HaShachar: Approximately 16 housing units
- Kefar Tapuach: Approximately 12 housing units
- Nachliel: Approximately 10 housing units
- Talmon and adjacent outposts: Approximately 30 housing units
- Shilo: Approximately 20 housing units
- Dolev: Approximately 17 housing units

D. Intensive Construction in East Jerusalem

The level of government activity relating to construction in East Jerusalem has increased dramatically. In addition to construction underway on the ground, tenders have been published for thousands of housing units, and the planning committees have promoted plans for thousands of new housing units.

The number of tenders in East Jerusalem has increased by a factor of 38 by comparison to 2007 (from 46 housing units to 1,761 units).

Promotion of Construction Plans

The procedure for the approval of a construction plan includes several stages. Among others: the submission of the plan; the approval of the plan by the local committee; deposition for objections; and approval by the regional committee. The number of plans promoted increased four-fold by comparison to 2007.

E. Summary

Despite the Israeli government's renewed commitment during the Annapolis summit to freeze all settlement activity, the construction has continued and almost doubled in all of the settlements and outposts on both sides of the separation barrier. No outpost had been evacuated, and instead, many outposts were expanded. In East Jerusalem the construction increased dramatically. It seems that the government of Israel repeats the mistakes of the past, by on the one hand negotiating an agreement with the Palestinians and in parallel constructing in the settlements. This construction undermines the Palestinian partners and creating facts on the ground that might prevent the possibility of a peace agreement.

**NUMBERS GAME: THE ISRAELI DEBATE
SURROUNDING E-1 (EXCERPTS)**

This Jerusalem Post article by Gail Lichtman, published 16 August 2008, provides background on E-1 and the Ma'ale Adumim settlement.

Mayor Benny Kashriel sits in his office on the top floor of City Hall in Ma'ale Adumim. His window looks out over one of the many flower-lined boulevards and squares that dot this city, located only a seven-minute drive east of Jerusalem on the road to Jericho.

A popular three-term mayor, who is running unopposed for his fourth term this November, Kashriel's name has become synonymous with Ma'ale Adumim. . . . In the 31 years since it was established, Ma'ale Adumim has grown from 23 families to some 34,000 people. During this time, there has hardly been one day when the city was not building new housing and expanding. But all this may end, as Ma'ale Adumim seems poised to run out of land for residential building.

"Today, the land we have for residential building in the new neighborhood of Nofei Hasela is running out," says Kashriel. ". . . The only future land we have for residential building is E-1. There is simply no other land in Ma'ale Adumim for this. In E-1, we can build 3,500 new residential units." . . .

It is difficult, however, to determine just how many housing units have been approved since Annapolis because it all depends on how one defines "approved," from issued tenders to a general go-ahead. According to a recent report on the McClatchy Web site, companies have been asked to start building some 1,700 units over the Green Line since Annapolis. And in April, the Israeli press reported on government plans to build 1,900 units in the area in 2008. These figures do not include building in east Jerusalem. . . .

"I don't know about 1,900 or 1,700 units being approved for Judea and Samaria," says Pinchas Wallerstein, director-general of the Council of Jewish Communities of Judea, Samaria, and the Gaza Strip. "You have to understand that most of what is being reported as approved is building that has been delayed and is now being given the go-ahead. . . ."

The majority of units approved since Annapolis are intended for the haredi community, specifically those close to or affiliated with Shas. These include the units approved for Mod'in Ilit, Beitar

Ilit, and a new haredi neighborhood in Givat Ze'ev.

It has been widely reported that the decision to build in these communities is connected with keeping Shas in the shaky government coalition. Kashriel, as a member of Likud, the opposition, finds himself with limited leverage in the government.

"Shas can play pressure politics on the [Prime Minister Ehud] Olmert government because it is part of the government," explains Likud MK Reuven Rivlin.

"There are two reasons why building has been approved for other areas and not E-1," adds Wallerstein. "One is that the haredim are needed for the government coalition; not building in E-1 is not going to cause the coalition to fall apart. And two, the significance of E-1."

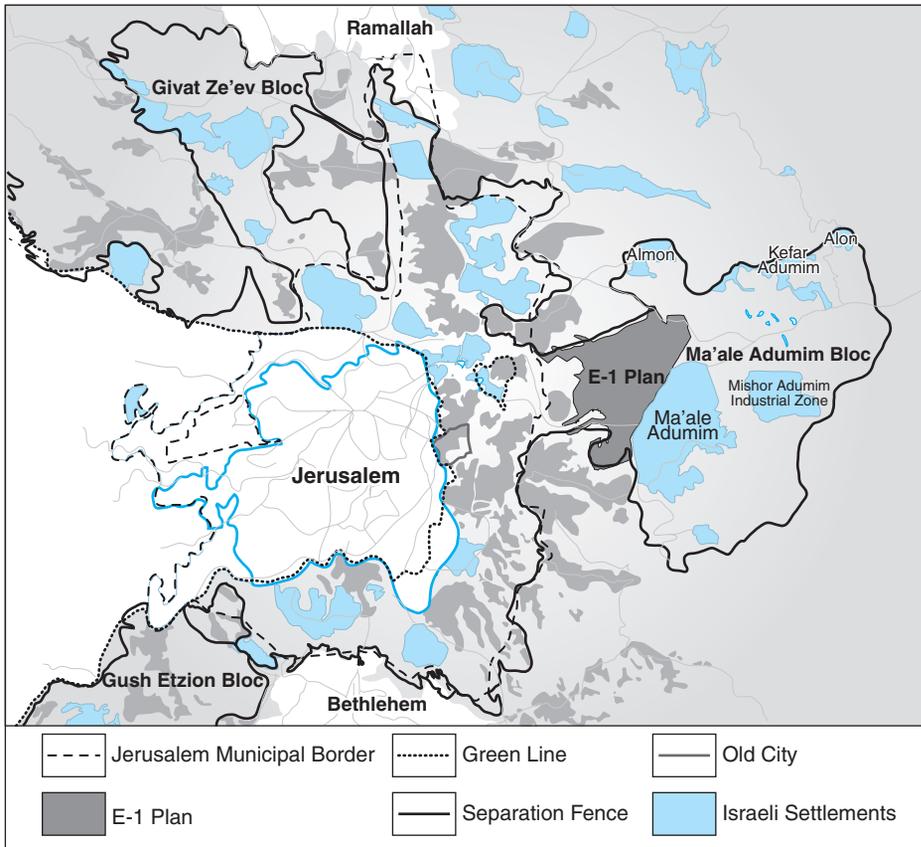
Indeed, both the Palestinians and the United States have consistently opposed building in E-1, arguing that construction in the area would cut a future Palestinian state in two, a claim Kashriel adamantly denies. And of late, more and more Palestinian and left-wing Israeli voices are saying that building in E-1 would be the deal breaker for a two-state solution to the conflict.

E-1, short for East 1 and also known as Mevaseret Adumim, is a nearly 12-square-kilometer (12,000 dunams), mostly empty area located within Ma'ale Adumim's municipal limits, on the opposite side of Road 1 to Jericho from the city's currently developed sections. It is bordered by Jerusalem's French Hill neighborhood to the west, Abu Dis to the southwest, Kedar to the south, the present built-up areas of Ma'ale Adumim to the east, and Almon to the north. The overall plan for E-1, in addition to the housing units (both apartment buildings and villas to be built in three sub-neighborhoods), includes five hotels, a commercial center, and the police headquarters for Judea and Samaria. Some 75 percent of E-1 is to be preserved as a forested park of the Jewish National Fund.

The entire project is supposed to be completed by 2020. To date, only the police headquarters has been completed, with police operations transferred to E-1 this spring. Inauguration of the police headquarters was reportedly postponed twice because of U.S. opposition—once when U.S. president George W. Bush visited Israel in January, and then again when Secretary of State Condoleezza Rice came in March.

Adjacent to E-1, on the territorial strip connecting Ma'ale Adumim to Jerusalem, is envisioned an economic development

Jerusalem, Ma'ale Adumim, and the E-1 Corridor



Peace Now Settlement Watch Team, July 2008—www.peacenow.org.il.

zone: the Ma'ale Adumim Employment and Commerce Center (ECC). A joint venture of the Ma'ale Adumim and Jerusalem municipalities, the ECC would serve as a greater metropolitan industrial and commercial zone serving all communities in the Jerusalem area.

In addition to providing thousands of jobs (to Palestinians as well as Israelis), the ECC would enable Jerusalem to evacuate aging industrial areas within the city (Givat Shaul, Talpiot, Mekor Baruch) and convert the land to much-needed residential housing.

In the wake of the demise of the Safdie Plan to build 20,000 housing units in the hills west of Jerusalem, the idea of an eastward expansion has been bandied about as a possible solution to the capital's housing crunch.

Building plans have been approved for ECC as well, but the project is currently on hold. Kashriel says that the ECC is not

economical at this point, and would like, instead, to concentrate on strengthening the city's existing industrial area, Mishor Adumim.

The Jerusalem Municipality says that the decision to develop the ECC is in the hands of the government, and that the municipality is concentrating on developing industry and commerce in Har Hotzvim, Malha, and Atarot.

E-1 was annexed to the Ma'ale Adumim Municipality in 1994 by the government of Yitzhak Rabin, which also planned and approved the area's general building plan. A more detailed building plan was approved by the Benjamin Netanyahu government. The Ehud Barak government also supported and promoted building in the area, as did Ariel Sharon's government, which pushed for the building of the police headquarters. . . .

According to Haim Erlich, coordinator of policy advocacy for Ir Amim, a nonprofit

organization that works for coexistence in Jerusalem, building in E-1 is designed to create a wedge between east Jerusalem and the rest of the West Bank, and will split the West Bank in two.

"This is not about the innocent building of Ma'ale Adumim or connecting Ma'ale Adumim to Jerusalem," says Erlich. "If we want to create a sustainable Palestinian state with territorial contiguity, we cannot build in E-1. If Benny Kashriel wants a binational state, then building in E-1 is the way to get it. Construction there will make it impossible to divide between Palestine and Israel. Therefore, building in E-1 is not in the interest of the State of Israel."

"We have to ask if our policy will lead to two states or a binational one," he continues. "If Israel wants a binational solution, then Ma'ale Adumim can stretch from Jerusalem to the Jordan. But if we want a two-state solution, then we have to know that building in E-1 is of strategic significance and will effectively end negotiations with the Palestinians for a two-state solution."

His words are echoed by Jihad Abu Zneid, a deputy in the Palestinian Legislative Council and a resident of Shu'fat. "Building in E-1 is against UN resolutions and all agreements between Palestinians and Israelis to date," she says. "We [the Palestinians] believe that this is an attempt at determining facts on the ground and at isolating East Jerusalem from the West Bank."

"Building in E-1 will destroy the link between Jerusalem and the West Bank, both physically and psychologically, and without Jerusalem, there can be no solution to the conflict," she continues. "E-1 construction will destroy any hope for a real, comprehensive solution. The two-state solution will no longer be available and this will lead to a new conflict. Building in E-1 destroys all hope for a Palestinian state."

Kashriel insists that "building in E-1 will not divide a Palestinian state in two. Everyone knows this. What is going on here is disinformation. This is the disinformation that the Palestinians have told the Americans. We [officials of Ma'ale Adumim] have gone to the Americans with detailed maps to show them that this is simply not true. We have also gone to the Foreign Ministry, the

Defense Ministry, and the prime minister's office."

The connection between the Palestinian centers south of Jerusalem (Hebron and Bethlehem) and those north of the city (Ramallah and Samaria) will be provided by a network of separate roads free of Israeli checkpoints and barriers, says Kashriel. This will also be true for the connection between Jerusalem and Jericho in the east, he adds. . . .

"With respect to connecting Jerusalem with Jericho," Kashriel continues, "there is Road 80 now in the planning stages, which will run north of E-1. This will also not have any checkpoints or barriers. Road 80 will cost NIS 60 million and is also being held up because of financing."

But for Erlich "a road is not territorial contiguity, it is transportation contiguity."

Rivlin couldn't agree more, but for opposite reasons. If Ma'ale Adumim is not territorially connected to Jerusalem by E-1, and not a road alone, he envisions it "ending up cut off from the rest of Israel like Mount Scopus was from 1947 to 1967. Everyone who sees Ma'ale Adumim as part of Israel understands the need for territorial contiguity. Ma'ale Adumim cannot continue to exist if all the area connecting it to Jerusalem becomes densely populated with Palestinians. This will only lead to putting the city in danger of terror attacks."

"I see it as a very serious error not to build in E-1," Rivlin continues. "Connecting Ma'ale Adumim to Jerusalem through E-1 is what will give the city the ability to continue to exist under any future agreement. The American position against building there is against Israel's vital national and security interests. This has been the opinion of both Labor and Likud governments. The Americans understand when we stand firm on our vital interests. Unfortunately, the present government is not weighing our vital interests."

"E-1 is the key to Jerusalem's security," insists Wallerstein. "Building in E-1 will create a continuous area from French Hill to Ma'ale Adumim. The minute E-1 is filled with Jewish buildings, then we [will] have closed the corridor from Abu Dis to Ramallah. Not building will endanger parts of Jerusalem."