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JOURNALS + DIGITAL PUBLISHING



Settlement Monitor

Author(s): Geoffrey Aronson

Source: *Journal of Palestine Studies*, Vol. 39, No. 1 (Autumn 2009), pp. 142-150

Published by: [University of California Press](#) on behalf of the [Institute for Palestine Studies](#)

Stable URL: <http://www.jstor.org/stable/10.1525/jps.2010.XXXIX.1.142>

Accessed: 26/02/2015 13:01

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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 SETTLEMENT FREEZE

A SETTLEMENT FREEZE . . . OR MORE OF THE SAME (EXCERPTS)

From Settlement Report, July-August 2009.

Never in the forty-two years that Israel has been occupying and settling the West Bank has an Israeli prime minister taken seriously, let alone implemented, U.S. demands for a freeze of settlement expansion. From the administration of Lyndon Johnson, when the United States first noted Israel’s violation of the Fourth Geneva Convention prohibiting the transfer of its civilian population to the occupied territories, to the 4 June 2009 declaration in Cairo by Pres. Barack Obama rejecting “the legitimacy of continued Israeli settlements,” Washington’s opposition to settlements has been variously, and always successfully, ignored, outlived, sidelined, or negotiated away.

Israel has built settlements demonstratively, as a “Zionist response” to Palestinian

attacks or aggressive U.S. diplomacy. The settlements in Hebron fit this category, as do the “Baker settlements,” championed by Secretary of State James Baker’s nemesis Ariel Sharon almost twenty years ago. In one of these, Revava, outside of Nablus, a new neighborhood of fifty-two “villas” is now under construction.

Israel has built settlements quietly, hoping not to excite strenuous international opposition. Until recently, this has been the case with E1, the vast area of the West Bank east of Jerusalem where for many years Israel has been constructing elaborate infrastructure for future settlement that would effectively divide the north and south West Bank and seal off East Jerusalem from its Palestinian hinterland. This project continues despite widespread protest, including a recent, unprecedented public ceremony inaugurating a new national police chief in the imposing police headquarters built in the eastern part of E1.

Prime Ministers Menachem Begin and Yitzhak Shamir trumpeted their settlement

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achievements. Many others, including Yitzhak Rabin, Ehud Barak, and Ehud Olmert “talked left and built right.” Whatever the method, Israel has never stopped building settlements and related transportation and security infrastructure for settlers.

Israel has built settlements without consideration for international opinion, as did Defense Minister Ehud Barak when in June 2009 he authorized the Civil Administration to submit a plan for the construction of three hundred housing units in the unauthorized outpost of Givat Habrecha, near the settlement of Talmon, east of the separation barrier. Palestinian opposition to settlements is invariably ignored or dismissed.

Is this central feature of the occupation about to change? President Obama’s insistent call for a comprehensive end to continued settlement activity is unprecedented in its intensity. Despite the fact that until now all that he has asked of Israel is that it abide by the settlement commitments of George W. Bush’s road map, Obama’s demand rings all the louder in comparison to the more forgiving U.S. policies of the Clinton and Bush administrations.

It is not surprising that when faced with Obama’s demand for a freeze, Israel’s leaders are confident that the new president’s efforts will be neutralized. Once again they are offering a menu of policy compromises—a freeze of limited duration and scope, construction within existing settlement perimeters, no new settlements or special government incentives, “natural growth” to accommodate growing settler families and their everyday needs, and expansion only in settlement blocs. These artifices have succeeded for almost five decades, enabling Israel to settle close to half a million of its citizens in the West Bank, East Jerusalem, and the Golan Heights in the face of virtually unanimous international opposition. This is an astonishing achievement that reflects Israel’s determination, the chronic weakness of U.S. and international diplomacy, and the failure of Palestinian protest and opposition.

“[U.S. special envoy George] Mitchell knows the fraud exactly,” says a former top official in Israel’s Defense Ministry. When Israelis argued that restricting the natural growth of settlements is like the Holocaust, as they did at a 26 May 2009 meeting in London, the Americans sitting opposite remained unmoved.

While Israel’s leaders’ discomfort with Obama’s demand is genuine—like the incredulity of a child when a parent finally says “enough!”—they hope that something will happen to “change the subject” and draw the U.S. spotlight off settlements, as has happened for decades.

As long as the diplomatic focus remains limited to a settlement freeze, Prime Minister Benjamin Netanyahu will remain within his comfort zone. Netanyahu would prefer to discuss and debate ad nauseam the finer points of settlement expansion, construction perimeters, and the like—a contest Israel has always won—than to address the more fundamental issues of borders, settlement evacuation, security measures, Jerusalem, and refugees, which must be resolved to achieve a two-state solution.

Obama’s goals are much broader than a settlement freeze. The appointment of Mitchell is the clearest signal of his intention to work vigorously to end the occupation and to create a Palestinian state at peace with Israel. Yet there will be a diplomatic “opportunity cost” if the settlement freeze debate is prolonged, and the issues of borders, settlement evacuation, and Palestinian sovereignty are deferred. A continuing impasse risks undermining the momentum and credibility of a U.S. diplomatic initiative aimed at ending occupation and creating a Palestinian state.

U.S. STATEMENTS ON A SETTLEMENT FREEZE, 2009

From Settlement Report, July–August 2009.

Pres. Barack Obama: I have said before and I will repeat again that it is, I believe, in the interest not only of the Palestinians, but also the Israelis and the United States and the international community to achieve a two-state solution in which Israelis and Palestinians are living side by side in peace and security. . . . Now, Israel is going to have to take some difficult steps as well, and I shared with the prime minister the fact that, under the road map and under Annapolis, that there’s a clear understanding that we have to make progress on settlements. Settlements have to be stopped in order for us to move forward. That’s a difficult issue. I recognize that, but it’s an important one and it has to be addressed.

PM Benjamin Netanyahu: I want to make it clear that we don't want to govern the Palestinians. We want to live in peace with them. We want them to govern themselves, absent a handful of powers that could endanger the State of Israel. And for this there has to be a clear goal. The goal has to be an end to conflict. There will have to be compromises by Israelis and Palestinians alike. We're ready to do our share. We hope the Palestinians will do their share, as well. If we resume negotiations, as we plan to do, then I think that the Palestinians will have to recognize Israel as a Jewish state; will have to also enable Israel to have the means to defend itself. And if those conditions are met, Israel's security conditions are met, and there's recognition of Israel's legitimacy, its permanent legitimacy, then I think we can envision an arrangement where Palestinians and Israelis live side by side in dignity, in security, and in peace.

Remarks at the White House, 18 May 2009

Secy. of State Hillary Rodham Clinton: With respect to settlements, the president was very clear. . . . He wants to see a stop to settlements—not some settlements, not outposts, not natural growth exceptions. We think it is in the best interests of the effort that we are engaged in that settlement expansion cease. That is our position. That is what we have communicated very clearly, not only to the Israelis but to the Palestinians and others. And we intend to press that point.

Press availability with Egyptian foreign minister Ahmed Ali Aboul Gheit at the Department of State, 27 May 2009

Pres. Barack Obama: From the first week that I arrived in this office, I insisted that this is a critical issue to deal with, in part because it is in the United States's interest to achieve peace; that the absence of peace between Palestinians and Israelis is an impediment to a whole host of other areas of increased cooperation and more stable security for people in the region, as well as the United States. And so I want to see progress made, and we will work very aggressively to achieve that.

I don't want to put an artificial timetable, but I do share Pres. Mahmud Abbas's feelings and I believe that many Israelis share the same view that time is of the essence, that we can't continue with a drift,

with the increased fear and resentments on both sides, the sense of hopelessness around the situation that we've seen for many years now—we need to get this thing back on track. And I will do everything I can, and my administration will do everything it can—my special envoy, George Mitchell, is working as diligently as he can, as is my entire national security team—to make sure that we jumpstart this process and get it moving again.

Remarks during a visit to the White House by Palestinian Authority president Mahmud Abbas, 28 May 2009

Pres. Barack Obama: I do believe that, if you follow the road map approach that has been laid, if Israel abides by its obligations—that includes no settlements—if the Palestinians abide by their obligations, to deal with the security situation, to eliminate incitement, if all this—surrounding Arab states, working with the Quartet, are able to encourage economic development and political development, then I think that we can actually make some progress.

Interview by Justin Webb, BBC World Service, 2 June 2009

STATEMENTS OF U.S. PRESIDENTS ON THE SETTLEMENTS, 1980–2009

These statements were compiled by the Washington Post and originally published on 24 May 2009.

Pres. Jimmy Carter, 12 April 1980: “Our position on the settlements is very clear. We do not think they are legal, and they are obviously an impediment to peace.” *Total settlement population: 61,500.*

Pres. Ronald Reagan, 1 September 1982: “The immediate adoption of a settlements freeze by Israel, more than any other action, could create the confidence needed for wider participation in these talks. Further settlement activity is in no way necessary for the security of Israel.” *Total settlement population (1983): 106,595.*

Pres. George H.W. Bush, 3 March 1990: “My position is that the foreign policy of the United States says we do not believe there should be new settlements in the West Bank or in East Jerusalem. And I will conduct that policy as if it's firm, which it is.” *Total settlement population: 227,500.*

Pres. Bill Clinton, 7 January 2001: "The Israeli people also must understand that . . . the settlement enterprise and building bypass roads in the heart of what they already know will one day be part of a Palestinian state is inconsistent with the Oslo commitment that both sides negotiate a compromise." *Total settlement population: 387,859.*

Pres. George W. Bush, 4 April 2002: "Israeli settlement activity in occupied territories must stop, and the occupation must end through withdrawal to secure and recognized boundaries, consistent with United Nations Resolutions 242 and 338." *Total settlement population: 414,119.*

Pres. Barack Obama, 18 May 2009: "Settlements have to be stopped in order for us to move forward." *Total settlement population (2008; post-Gaza withdrawal): 479,500.*

PROSPECTS FOR CHANGE

THE BLUE VELVET HILLS OF MY YOUTH HAVE BEEN DESTROYED

This essay by Palestinian lawyer and activist Raja Shehadeh was published in the July–August 2009 Settlement Report, having first appeared in the Guardian on 5 July 2009.

I can remember the appearance of the hills around Ramallah in 1979, before any Jewish settlement came to be established there. In the spring of that year I walked north from Ramallah, where I live, to the nearby village of 'Ayn Qenya and up the pine-forested hill. A gazelle leapt ahead of me. When I reached the top I could see hills spread below me like crumpled blue velvet, with the hamlets of Janiya and Dayr Ammar huddled between its folds. On top of the highest hill in the distance stood the village of Ras Karkar with its centuries-old citadel that dominated the area during Ottoman times. I had been following the worrying developments of extensive settlement-building elsewhere in the West Bank and wondered how long it would be before these hills came under the merciless blades of the Israeli bulldozers. I didn't have to wait long. A year later the top of the hill was lopped off and the settlement of Dolev, then a cluster of red-tiled Swiss-style chalets, was established.

Now, more than twenty-five years later, Dolev has expanded and taken over the hills to its north for vineyards. Numerous highways for the exclusive use of its Jewish settlers connect it to the many other settlements in the area and to Israel's coastline. Those settlers travelling to and from Israeli cities where they work can only see road signs indicating other Jewish settlements. They encounter no Palestinian traffic on the roads nor do they see any Palestinian villages. No wonder then that I was once stopped by an armed settler and interrogated as to why I was taking a walk in his hills. When I asked him what right he had to be there, he answered: "I live here." He then pointedly added: "Unlike you, I really live here."

Not a single year has passed since Israel acquired the territories in 1967 in which Jewish settlements were not built. Had it pursued peace as assiduously, surely it would have achieved it by now. Instead, whenever the United States pressed for a peace initiative, the "proper Zionist response" was the creation of a new settlement. The pattern of settling the Ramallah hills illustrates well the workings of this doomed policy. The Jewish settlement of Talmon was established in 1989 on the lands of the Palestinian village of Janiya, when the government of Yitzhak Shamir was being pressured to agree to start negotiations with the Palestinians. Talmon B was established, about two miles away, when the U.S. secretary of state, James Baker, arrived in Israel two years later to broker the first ever peace conference between Israel and Arab countries.

At that time, Shamir dismissed the new settlement as "just a new neighborhood." The signing of the Oslo accords under a Rabin government in 1993 led to the building of a road connecting Dolev to Beit El, running through private Palestinian land. This winding road passed through the beautiful wadi linking Ramallah to 'Ayn Qenya, causing extensive destruction to the ancient rock formations and olive orchards along the way. One rockface that I particularly miss used to be studded with cyclamens during the late winter months, coming down all the way to the spring—which was also destroyed.

The Israeli policy of speeding up settlement construction in the face of U.S. diplomatic pressure shows no sign of changing. Following the latest U.S. administration

declaration that Israel must impose a complete freeze on settlements, the country's defense minister, Ehud Barak, declared last week the decision to establish three hundred housing units in Givat Habrecha (Hebrew for "hill of the blessing"), one of the twelve outposts near the settlement of Talmon in the Ramallah hills. A few days later, on 29 June, he announced a further expansion of the illegal settlement of Adam, where fifty families are to move to a new neighborhood located on a relatively large parcel of land outside the built-up area of the settlement. This also violates the Israeli commitment in the road map agreement not to expand the area of existing settlements.

This demand for a freeze on new settlements—which is not accepted by Israel even temporarily, as one Likud minister underlined today—falls short of what should happen if a viable peace is to be achieved: a complete evacuation of all the settlements built illegally in the territories occupied by Israel in 1967. Some would say this cannot possibly happen, given that there are around half a million Israeli settlers living in the West Bank. But who would have thought in 1962 that it would be possible to evict a million French Algerians who had been living in the country for almost a century and who represented roughly 9% of the population?

Until this happens, we will have a continuation of the present reality where there is a single apartheid Israeli state encompassing pre-1967 borders and the Palestinian occupied territories. The sad truth is that when Israeli illegal settlements come to an end, as they must, Palestinians will not be able to undo the damage caused to the landscape by this massive, politically motivated development.

THE U.S.-ISRAELI 'UNDERSTANDING' ON SETTLEMENTS (EXCERPTS)

This op-ed by former U.S. ambassador to Israel Daniel Kurtzer appeared in the Washington Post on 14 June 2009 under the title "The Settlements Facts."

Faulty analysis of the Israeli settlement issue is being passed off as fact . . . Here are the facts: In 2003, the Israeli government accepted, with some reservations, the "road map" for peace, which imposed two requirements on Israel regarding settlements: "GOI [Government of Israel]

immediately dismantles settlement outposts erected since March 2001. Consistent with the Mitchell Report, GOI freezes all settlement activity (including natural growth of settlements)."

Today, Israel maintains that three events—namely, draft understandings discussed in 2003 between Prime Minister Ariel Sharon and U.S. deputy national security adviser Stephen Hadley; President George W. Bush's 14 April 2004 letter to Sharon; and a 14 April letter from Sharon adviser Dov Weisglass to national security adviser Condoleezza Rice—constitute a formal understanding in which the United States accepted continuing Israeli building within the "construction line" of settlements. The problem is that there was no such understanding.

The first event the Israelis cite is the 2003 discussions on a four-part draft that included the notion that construction within settlements might be permitted if confined to the already built-up areas of the settlements. The idea was to draw a line around the outer perimeter of built-up areas in settlements and to allow building only inside that line. This draft was never codified, and no effort was made then to define the line around the built-up areas of settlements. Nonetheless, Israel began to act largely in accordance with its own reading of these provisions, probably believing that U.S. silence conferred assent.

Second, President Bush's 2004 letter conveyed U.S. support of an agreed outcome of negotiations in which Israel would retain "existing major Israeli population centers" in the West Bank "on the basis of mutually agreed changes . . ." One of the key provisions of this letter was that U.S. support for Israel's retaining some settlements was predicated on there being an "agreed outcome" of negotiations. Despite Israel's contention that this letter allowed it to continue building in the large settlement blocs of Ariel, Ma'ale Adumim, and Gush Etzion, the letter did not convey any U.S. support for or understanding of Israeli settlement activities in these or other areas in the run-up to a peace agreement.

In his 2004 letter to Rice, Weisglass addressed the issue of the "construction line," saying that "within the agreed principles of settlement activities, an effort will be made in the next few days to have a better definition of the construction line of settlements in Judea and Samaria."

However, there never were any “agreed principles of settlement activities.” Moreover, the effort to define the “construction line” was never consummated: Israel and the United States discussed briefly but did not reach agreement on the definition of the construction line of settlements. Weissglass’s letter also promised “continuous action” to remove all the unauthorized outposts, but Israel removed almost none of them.

Throughout this period, the Bush administration did not regularly protest Israel’s continuing settlement activity. But this is very different from arguing that the United States agreed with it. In recent days, former senior Bush administration officials have told journalists on background that no understandings existed with Israel regarding continued settlement activity.

Commentators also focus on the Obama administration’s reiteration that a freeze must include the “natural growth” of settlements. [Charles] Krauthammer says that this “means strangling to death the thriving towns close to the 1949 armistice line . . . It means no increase in population. Which means no babies.” This is nonsense. No one suggests that Israelis stop having babies. Rather, the blessing of a new baby does not translate into a right to build more apartments or houses in settlements. The two issues have nothing to do with each other. Israelis, like Americans, move all the time when life circumstances—children, jobs, housing availability—change.

The pattern of population growth in the territories actually undercuts the natural-growth argument. Since 1993, when Israel signed the Oslo accords, Israel’s West Bank settler population has grown from 116,300 to 289,600. The numbers in East Jerusalem increased from 152,800 to more than 186,000. This goes far beyond the natural increase of families already living in the settlements. Inserting the provision of “natural growth” in official documents started with the 2001 Mitchell Report and the 2003 “road map,” reflecting recognition that the concept was being abused as a justification for expanding settlements. The Obama administration is pursuing policies that every administration since 1967 has articulated—that settlements jeopardize the possibility of achieving peace and thus settlement activity should stop. This does not diminish the Palestinians’ responsibilities, especially their commitment to

stop violence and terrorism and uproot terrorist infrastructure. President Obama emphasized this in his Cairo speech. But Palestinian failures in no way justify Israeli failure to implement their road map commitments with respect to settlements and outposts. It is time for Israel to freeze all settlement activity and dismantle the unauthorized outposts.

WHY ISRAEL WON’T EVACUATE WEST BANK OUTPOSTS

This article by Amos Harel was published in Ha’Aretz on 7 July 2009.

If George Mitchell, America’s special envoy to the Middle East, wants an advance estimate on the reliability of Israeli promises to evacuate outposts, he may find the High Court of Justice discussion on the outpost of Migron helpful.

The state’s request to be granted another yearlong extension before having to evacuate the outpost by law offers a sad glimpse into the situation, and reveals the gaps between the official declarations of the Netanyahu administration and the actual law enforcement in the territories.

On Monday, the justices held yet another discussion on the petition filed by human rights group Peace Now and Arab land owners, seeking to have settlers removed from the area. While the court session was underway, Defense Minister Ehud Barak was meeting with Mitchell in another time zone. Alongside declarations on regional peace, Barak promised that 23 West Bank outposts would be evacuated within “weeks and months, not years.”

But the High Court heard prosecution representative Anar Hellman sing a completely different tune. According to Hellman, the state will require at least a year to prepare for the implementation of a compromise plan jointly devised by the Defense Ministry and the settler council YESHA. The plan calls for 50 new homes to be built in the adjacent settlement Adam for those who will be evacuated from Migron. The prosecution attorney promised that in a year’s time, the state will evacuate by force anyone who will refuse to leave peacefully.

In order to truly understand the state’s foot-dragging on the Migron issue, one must go back and look at the chronology of the case. Migron was established in early 2002, amid the height of a terror wave in the West Bank, on land that has always

been under undisputed private Palestinian ownership. In October 2006, a petition was filed with the High Court seeking to compel the state to evacuate Migron. The state agreed that the outpost was in fact illegal, and that it would be evacuated, but did not specify a date for the evacuation.

Six months ago, Barak came to an understanding with the settlement council over the alternative housing in Adam. However, even if the state abides by the new timetable (and that would certainly be a precedent when it comes to outpost evacuation), Migron won't be evacuated until the summer of 2010 at the earliest, eight and a half years after the land was taken from its rightful owners.

Even this eventuality depends on two things: One, it is unlikely that all the residents of the outpost will agree to evacuate their homes willingly, and it is even more unlikely that the YESHA Council heads will agree to enforce a peaceful evacuation. Two, it is not certain that the Obama administration will agree to the compromise plan under which the Migron residents will be transferred to a settlement located east of the fence, in an area beyond the lines of the existing settlement border, in violation of old Israeli commitments to the United States.

Maybe that is what Chief Justice Dorit Beinisch meant when she asked the attorney Hellman whether he thought the plan was feasible. The state's representative answered optimistically, but it is not clear if he has good reason to be optimistic.

"The High Court is starting to bare its teeth—as well it should," said a senior legal official in regard to a separate security-related case that was recently discussed by the High Court of Justice. It may be that the justices are finally beginning to lose their patience in the face of the foot-dragging.

About a week ago the state was faced with the High Court's skepticism, this time in regard to the route of the West Bank separation fence. A third petition is also currently on the agenda, also filed by Peace Now, seeking to compel the state to demolish permanent housing in various outposts. The case, filed in the summer 2005, is still under discussion.

Not just in the courts, but also on the ground, it is hard to see any real indication that the settlement enterprise is headed toward a freeze. Dror Etkes, the man behind

the petitions, photographed construction in the outpost of Ali this week. In March, the court outlawed the continued paving of a road connecting Ali and the adjacent outpost Yuval, because it runs through private Palestinian land. The Civil Administration blocked the access to the unfinished road with mounds of rocks. But Etkes discovered that the settlers were one step ahead of the Civil Administration, and simply continued paving the road about half a kilometer from there, at the other end.

Inside Ali, where construction is illegal right now, a new lot has been discovered being prepared for the erection of caravan homes. The Civil Administration has recently cracked down on the transport of caravan homes, but the settlers found a solution: now they transport the caravans in pieces, and then assemble them at the designated outpost under the noses of the authorities.

WANT TO STOP ISRAELI SETTLEMENTS? FOLLOW THE DOLLARS (EXCERPTS)

This article by Ronit Avni was published in the Washington Post on 25 June 2009.

This month, both at Cairo University and from the Oval Office, President Obama has called on the Israeli government to stop the expansion of settlements in the occupied Palestinian territories. He should send the same message to the Americans who are funding and fueling them.

There are more than 450,000 settlers in the West Bank and East Jerusalem, according to Peace Now, an Israeli organization that opposes the settlements. Some of them are Americans. And some of the most influential, militant figures in the settler movement have been Americans, too. Among them were Baruch Goldstein, the doctor from Brooklyn who fired 100 shots at worshipping Muslims in Hebron in 1994, killing 29; Rabbi Meir Kahane, the founder of the Kach party, which was banned in Israel in 1988 on the grounds that it was racist; and convicted terrorist Era Rapaport, a member of the Land Redemption Fund, which coordinates the acquisition of Palestinian land in areas targeted for settlement expansion. . . .

Evangelical Christians in the United States also support the settlements, raising millions of dollars for them, according to a recent National Public Radio (NPR) report.

The Colorado-based Christian Friends of Israeli Communities, for example, encourages churches and ministries to connect with “the pioneers of Biblical Israel” through the “adopt-a-settlement program.” Sondra Oster Baras, director of the organization’s Israeli office, estimates that more than half of the West Bank settlements receive direct or indirect support from Christians, according to the NPR report.

A handful of wealthy businessmen, including American casino magnate Irving Moskowitz, are widely reported to have donated to groups such as the Brooklyn-based not-for-profit Hebron Fund, which raises money to support residents in the West Bank city of Hebron. According to the donation page on its Web site, the organization aims to “keep Hebron Jewish for the Jewish people.” Friends of Itamar, also based in Brooklyn, engages in domestic, tax-deductible fundraising for the West Bank settlement of Itamar. All this comes at the expense of the U.S. government, which loses tax revenue by allowing these groups to operate as not-for-profit entities.

Not all support for the settlements comes through charitable organizations. The Israeli newspaper *Ha’Aretz* has reported that in 2007, the settler organization Amana held “housing fairs” in New York and New Jersey to encourage American Jews to buy property in the West Bank. According to the Jewish Voice and Opinion, a self-described “politically conservative Jewish publication” in New Jersey, approximately 250 people attended and as many as 10 properties were slated for purchase.

Last year the Palestinian village of Bil’in filed suit in Canada against two Quebec-based companies that built and sold residential units in a West Bank settlement. The case is still pending, but it demonstrates that people are beginning to pay attention to non-Israeli influences on settlement growth.

If the courts can’t find a way to dissuade settlement expansion, perhaps the Treasury Department’s Office of Foreign Assets Control should intervene. The U.S. government has already designated Kahane’s movement a foreign terrorist organization for reasons unrelated to settlement financing, but in doing so, it has prohibited U.S. citizens from providing financial support to this group.

The First Amendment protects the right of the settlement advocates to express their views, and so it should. I am not suggesting that nonprofits should lose their tax advantages simply because they are at odds with American foreign policy. But the settlements are widely considered a violation of international law. Thirty years ago, a U.S. State Department legal adviser issued an opinion that called the settlements “inconsistent” with the Fourth Geneva Convention. In recent weeks, officials at State and in the White House have declined to say whether the 1979 opinion reflects official government policy, but President Obama’s comments have hardly been ambiguous. “The United States does not accept the legitimacy of continued Israeli settlements,” he said in Cairo. “It is time for these settlements to stop.”

Maybe it’s also time for Americans to stop supporting them.

PROPERTY IN JERUSALEM

These excerpts are from a Nir Hasson article in Ha’Aretz titled “Most Arabs Can’t Buy Most Homes in West Jerusalem,” originally published on 21 July 2009. See Doc. C2 in this issue for important changes to the Israel Land Administration (ILA).

Prime Minister Benjamin Netanyahu claimed this week that Jerusalem is an “open city” that permits all its inhabitants, Jewish and Palestinian, to purchase homes in both its eastern and western parts.

“Our policy is that Jerusalem residents can purchase apartments anywhere in the city. There is no ban on Arabs buying apartments in the west of the city, and there is no ban on Jews building or buying in the city’s east,” Netanyahu said in response to the U.S. request to halt a Jewish construction project in East Jerusalem.

An examination by *Ha’Aretz*, however, presented a rather different situation on the ground. According to ILA rules, residents of East Jerusalem cannot take ownership of the vast majority of Jerusalem homes.

When an Israeli citizen purchases an apartment or house, ownership of the land remains with the ILA, which leases it to the purchaser for a period of 49 years, making possible the registration of the home (“tabu”). Article 19 of the ILA lease

specifies that a foreign national cannot lease—much less own—ILA land.

. . . If a foreign national purchases an apartment they must show the ILA proof of eligibility to immigrate to Israel in accordance with the Law of Return. Non-Jewish foreigners cannot purchase apartments. This group includes Palestinians from the east of the city, who have Israeli identity cards but are residents rather than citizens of Israel.

Most residences in West Jerusalem and in the Jewish neighborhoods of East Jerusalem are built on ILA land. All the neighborhoods built after 1967—Gilo, Pisgat Ze'ev, Ramot, French Hill, and Armon Hanatziv—are built on ILA land.¹ Even in the older neighborhoods of Kiryat Hayovel, Katamonim, and Beit Hakerem, tens of thousands of apartments are built on ILA land and cannot be sold to Palestinians.² In the ultra-Orthodox central Jerusalem neighborhoods of Geula and Mea Shearim, as well as in Rehavia and Talbieh, there are homes built on private land—mainly owned by

one of the churches or purchased in the past by Jews.

It goes without saying that a Palestinian seeking to purchase an apartment in a Haredi area would be rejected out of hand, and Rehavia or Talbieh would in any event be out of the range of most East Jerusalemites' budget.

Nevertheless, dozens of Palestinian families have moved into Jewish neighborhoods, mainly French Hill and Pisgat Ze'ev. Most are renting, while a few buy apartments without registering them. Lawyers in the field say the law is not always applied, and that if a resident of East Jerusalem were to apply to register the apartment at the ILA, they would not have problems doing so.

If the amendment to the Israel Land Administration Law is passed—the bill is in an advanced stage—an Israeli apartment owner would be able to take ownership of the land and could then sell it to anyone, including foreign nationals and Palestinians.

¹*Ed. Note*—Gilo, Pisgat Ze'ev, Ramot, French Hill, and Armon Hanatziv were all built on land seized by the government in 1967, which passed to the control of the ILA, created in 1960.

²*Ed. Note*—These are neighborhoods that became part of Israel in 1948. The Arab houses and buildings in those neighborhoods, most of which are still standing and are now inhabited by Jewish residents, were seized by the new state and later fell under control of the ILA. The Arab-owned land seized in what became known as West Jerusalem, on which new apartment buildings were constructed, similarly came to be administered by the ILA.