

# 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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## ISRAEL'S FATEFUL CHOICE—"IRON WALL" OR ACCOMMODATION

*Originally from Settlement Report, March-April 2011.*

The diplomatic effort to end Israel's occupation and establish a Palestinian state is in free fall. The U.S. veto in February of a UN Security Council resolution supporting a settlement freeze—the signature element of the Barack Obama administration's policy—marked an ignominious end to its initiative. Having failed to win a settlement freeze and now focused on the extraordinary developments throughout the Arab world, Washington has apparently exhausted its ability to direct the Israel-Palestine diplomatic process. Even so, as Washington's UN vote demonstrated, Obama is not prepared to empower an international coalition that is plainly fed up with Israel's continuing settlement drive.

Others are trying to fill the leadership vacuum. The Palestinian Authority has despaired of Obama's effectiveness and is looking ever more intently to September, when it threatens it will make Palestine's case to the United Nations for recognition as a sovereign

state within the June 1967 lines. Some EU countries are suggesting that now is the time for Europe to step out of Washington's shadow and put a peace plan on the table.

"The deadline is September," British foreign secretary William Hague said on 31 March. "The U.K., France, and Germany have set out our views on what those principles should be: two states for two peoples based on 1967 borders with equivalent land swaps, security arrangements that protect Israel whilst respecting Palestinian sovereignty by ending the occupation; a fair, realistic, and agreed solution for refugees; and Jerusalem as the capital of both states." Hague called on the Quartet and the United States to embrace these principles.

### *Let Them Call It a State*

There are two views in the government of Prime Minister Benjamin Netanyahu about Israel's next move. Proponents of the "Iron Wall" option argue that there is no need to do anything except more of the same—to build and settle in the face of consistent but ever-ineffective international opposition and implacable but equally ineffective Arab resistance—and to trust in the future.

As Deputy Prime Minister Moshe Ya'alon explained in a 3 March interview in the magazine *Besheva*, "Our intention is to leave the situation as it is: autonomous management of civil affairs, and if they want to call it a state, let them call it that. If they want to call it an empire, by all means. We intend to keep what exists now and let them call it whatever they want. . . . Our approach is steadfastness, development, construction, strengthening, and so on. This is our approach and this is what we do as a government."

"Construction must be resumed immediately," said Minister of Transportation Yisrael Katz soon after the U.S. veto. Deputy Prime Minister and Regional Development Minister Silvan Shalom added, "The time has come to resume construction in practice." Finance Minister Yuval Steinitz asserted, "The freeze is over; we must resume building," and Diaspora Affairs and Information Minister Yuli Edelstein said, "It is unthinkable that a Likud government, of all governments, should not build in the settlement blocs." The YESHA settlers' council is planning to use these statements in a campaign whose goal is to pressure Netanyahu to continue building.

### ***"They Shoot, We Build"***

Despite international commitments to the contrary, in March Israel "legalized" the creation of scores of new settlement "outposts" constructed since 1996, officially recognizing and approving those built on "state lands." Adoption of this standard would enable unrestricted settlement on all parts of the West Bank that Israel has unilaterally designated as state land, which amounts to more than 50 percent of the territory.

Almost one thousand new apartments have been approved for construction in the East Jerusalem settlement neighborhood of Gilo. Thirteen new settlement dwellings have been approved in East Jerusalem's Shaykh Jarrah neighborhood, where the eviction of twenty Palestinian families to make way for settlers is also proceeding. A new road to the East Jerusalem settlement of Har Homa has been approved. In the neighborhood of Ras al-Amud, fourteen dwellings were approved for construction on the site of a former police station, which relocated some years ago to a new building in E-1, an area just east of the Mount of Olives that successive

Israeli leaders have promised Washington not to develop for settlement. The Israeli construction company Dona will market this year forty-eight new dwellings in Givat Ze'ev north of Jerusalem, eighteen units in Ma'ale Adumim, and a similar number in East Jerusalem's Neve Ya'acov.

On 3 March, the settler community organized a "day of rage" in response to a violent confrontation between settlers and the IDF in which troops used rubber bullets during an attempted evacuation of a settlement outpost. "At the height of rush hour, along Israel's main traffic arteries and for a lengthy period of time, extreme right-wing activists blocked Israel's major roads and succeeded in provoking the rage of the drivers who found themselves trapped in the traffic jam," reported *Yedi'ot Abaronot* the next day. "Settler youth blocked roads and carried out 'price tag' operations in Palestinian villages. They apparently shattered the windows of Palestinian vehicles in Hebron and threw a firebomb at a house in Hawara."

Revenge attacks against Palestinians and their property prompted criticism from an unlikely source. MK Uri Orbach, from the rightist Jewish Home party, commented on his Facebook page, "The Kahanist march in Jaffa, the blocking of roads in this morning's 'day of rage,' and the entire violent and menacing price tag culture constitutes a dangerous savagery that could bring disaster to both the State of Israel and the settlements."

On 11 March, a family of five was murdered by as yet unidentified assailants in the settlement of Itamar. Relations between the settlement and its Palestinian neighbors have long been particularly tense. In the wake of the killings, Israeli forces made large-scale arrests and imposed a closure upon the nearby village of Awarta.

The murders at Itamar reenergized the all-too-familiar narrative of murder, retaliation, and settlement expansion. "They shoot, we build. We will build our land," Netanyahu declared during a visit to the bereaved family. In a decision that recalled previous "Zionist responses" to terror during the early 1980s, the government approved 500 new dwellings in the settlements of Kefar Eldad in the Etzion Bloc (48 units), Ma'ale Adumim (100 units), as well as large-scale developments in Kiryat Sefer and Ariel.

Netanyahu's heart and soul favor the Iron Wall, the strategy of state building that the then weak and embattled Jewish Yishuv originally adopted in the 1920s. However, Netanyahu must also take a broader view of Israel's interests, one that reflects Israel's contemporary status as a regional heavyweight and the unprejudiced Arab and Islamic interest in a negotiated peace agreement.

On 1 March, Netanyahu cautioned those advocating demonstrative settlement efforts: "We are engaged in efforts to protect existing construction, but it needs to be understood that we are in a very difficult international reality. It is possible to hit your head against the wall, but I will not behave in that manner. The American veto was achieved with great effort. We can try to hide from everything but I have an overall responsibility."

### *Israel "Needs To Do Something"*

U.S. officials are convinced that Netanyahu is prepared to accept the creation of a Palestinian state. In the wake of the fiasco at the Security Council, it was reported that Washington is expecting "payment" from Netanyahu in the form of a diplomatic initiative.

Netanyahu may not need much American prodding to take command of the diplomatic agenda in the coming months, if only to forestall other, even less welcome initiatives. Many Israeli leaders have concluded that a Palestinian state is a clear *Israeli* interest. The critical issue Netanyahu confronts is how to create a Palestinian state that accommodates Israel's expansive settlement and security demands. Deputy Prime Minister Dan Meridor is prominent among those advising Netanyahu to in effect impose Israel's vision of Palestinian statehood, with Palestinian agreement if possible, but unilaterally if necessary. He believes that Israel should transfer more territory from Area C, currently under full Israeli control, to the Palestinian Authority (Area A). "This is an Israeli interest of the highest order. If we don't make a diplomatic initiative, the entire world is going to recognize a Palestinian state in the 1967 border[s]," Meridor explained in an interview with Israel's Army Radio on 7 March.

We have to be proactive, before calamity hits, before we are isolated. There are more than a few measures we could push forward if we really do [intend to create a] Palestinian state, it will need

area, space for it to exist. We must define our goal quickly. There is a danger that if we leave things unclear we will reach a situation that we've seen recently at the UN Security Council. It will all suffer the same fate—the Jewish Quarter [in East Jerusalem's Old City] together with [the isolated settlements of] Elon Moreh and Brakha.

Foreign Minister Avigdor Lieberman and Defense Minister Ehud Barak both believe that the creation of a Palestinian state is a price that Israel needs to pay to consolidate international support for its territorial and security demands in the West Bank and East Jerusalem. Barak recently explained that "we have no choice; we need to separate from the Palestinians for our own interests."

Lieberman acknowledges that Israel "needs to do something." He has proposed a Palestinian state with "temporary borders" on 50 percent of the West Bank. Areas A and B of the West Bank currently comprise 40 percent of the territory. Lieberman, like former minister of defense Shaul Mofaz, supports the transfer of additional territory now under Israeli control—without dismantling any settlements or changing the status of East Jerusalem.

Netanyahu has already begun staking out Israel's redlines. Speaking to reporters on 9 March, Netanyahu said,

Our security border is here on the Jordan and our defense line begins here. If that line is breached they will be able to infiltrate terrorists, rockets, and missiles all the way to Tel Aviv, Jerusalem, Haifa, and Beersheba and throughout the country. There is no alternative to the IDF's line of defense. Therefore, in any future situation, and I say in any future arrangement as well, the IDF must stay here, i.e., along the Jordan River. This is the State of Israel's insurance policy. If this was true before the major unrest now shaking the Middle East and the entire region, it is doubly true today. The IDF must remain along the Jordan River.

After two years of defying U.S. diplomatic efforts, Netanyahu has been asked by the Obama administration to draw his own picture of the future and how the next stage of diplomatic engagement should unfold. This offer is certainly a challenge for an Israeli government that rejects the dramatic changes in its territorial and settlement policies essential to ending the occupation and establishing a Palestinian state at peace with Israel. Netanyahu is expected to unveil his ideas during a May visit to Washington. He sees no reason to forsake the Iron Wall strategy, but prefers

to make the case for a Palestinian vassal state, an option that postpones rather than advances a durable solution to the conflict.

## RUNNING IN PLACE: U.S. POLICY RUNS OUT OF STEAM

*Originally from Settlement Report, May-June 2011.*

It is a measure of the stalemate now defining the Israeli-Palestinian peace process that the mere reassertion by U.S. and Israeli leaders of long held, if conflicting, views is counted as news. In a series of speeches in late May, President Barack Obama and Prime Minister Benjamin Netanyahu each sought to make his case before an international audience whose frustration with U.S. leadership and Israeli rejectionism has increased the prospect of support for UN action on the creation of a Palestinian state in September.

On the eve of a visit to Washington, Netanyahu, in a 16 May speech before the Knesset, outlined his response to what Defense Minister Ehud Barak evocatively termed the “diplomatic tsunami” due to crest in September. Just as the Palestinians have agreed upon an uneasy and untested reconciliation, Netanyahu sought to unify Israeli ranks in anticipation of an upcoming visit to Washington, where officials awaited his views on the political process in the aftermath of Obama’s failed effort to premise negotiations on a settlement freeze. Each leader in his own way, and each for his own reasons, appears determined to move in a direction that the U.S. president opposes.

Netanyahu’s views are somewhere to the right of Prime Minister Ehud Barak at Camp David in July 2000, where the idea of annexing settlement blocs and establishing a military presence—without settlements—in the Jordan Valley was mooted. “Most people,” Netanyahu declared,

are [also] united in regard to my viewpoints on the issue that seems to be in dispute, the political process with the Palestinians. The citizens of Israel are much more united than is commonly believed, and much more united than the political parties that are supposed to represent them here in this house. There are consensuses regarding the basic issues:

First, about my demand that the Palestinians recognize the State of Israel as the national homeland of the Jewish people.

Second, about my view, which is shared by many here, that the agreement between us must end the conflict and end the demands from the State of Israel.

Third, that the problem of the Palestinian refugees will be resolved outside of Israel and not within its borders.

Fourth, that a Palestinian state only be established under a peace treaty that will not compromise the safety of Israel. I believe there is agreement on this, and I stress that this state must be demilitarized, with practical security arrangements, including long-term IDF presence along the Jordan River.

Fifth, we agree that we must maintain the settlement blocs. Many of us agree that the settlement blocs must remain inside the borders of the State of Israel.

Sixth, that Jerusalem remain the united and sovereign capital of the State of Israel.

These are the principles that guide my path, our path.

After the speech, complaints by right-wing and settler organizations prompted Netanyahu to clarify that his definition of settlement blocs was “broad.” The settler-run web site Arutz Sheva observed that the Knesset speech was “less defensive and more confident on this [settlement] issue [than his Bar Ilan speech one year ago], raising the ante and announcing that Israel would insist on keeping the large settlement blocs in its possession.”

Netanyahu reprised these themes in a speech before a rapturous joint session of U.S. Congress on 24 May, where he acknowledged that not every settlement could be annexed to Israel. He noted that

the status of the settlements will be decided only in negotiations. But we must also be honest. So I am saying today something that should be said publicly by anyone serious about peace. In any peace agreement that ends the conflict, some settlements will end up beyond Israel’s borders. The precise delineation of those borders must be negotiated. We will be very generous on the size of a future Palestinian state. But as President Obama said, the border will be different than the one that existed on June 4, 1967. Israel will not return to the indefensible lines of 1967.

There is a consensus in Israel that, as former Mossad chief Ephraim Halevy explained, “[Israel’s] room for maneuver is narrowing and the Quartet’s ability to affect peace talks is diminishing.” The response of the right wing, including government ministers from the Likud, is to raise the specter of unilateral annexation of Area C, most likely by extending Israeli

law and jurisdiction over the 59 percent of the West Bank that comprises the area, along with all the settlements.

"If these two processes—the unity between Fatah and Hamas and the September declaration—become united, and a Palestinian state is established unilaterally and in a joint Hamas-Fatah regime, that will force Israel to take measures to administer Israeli sovereignty over the C areas," explained Transportation Minister Israel Katz in a 17 May interview in *Makor Rishon*. "At the same time, we will have to provide answers in the spheres of security and [Israeli presence], and strengthen the settlements."

On the eve of Netanyahu's departure for Washington, the government announced plans for the construction of 1,550 new housing units in Har Homa in southern Jerusalem and in Pisgat Ze'ev. Defense Minister Ehud Barak has signed documents approving construction of 294 new homes in the settlement of Beitar Ilit west of Bethlehem. A new outpost, one of many, was established in the E-1 area east of Jerusalem, violating promises made to Washington. A long familiar game of cat-and-mouse between settlers and the IDF is underway at the site. The IDF has removed settler tents. Settlers have vowed to rebuild. These actions, of a kind that one year ago sparked a major clash with Washington, passed without comment. Washington's silence regarding an issue that it had formally placed at the heart of its diplomatic strategy did not go unnoticed in Israel, where the settlement movement is feeling stronger and more confident, in practical terms regarding settlement expansion in existing settlements as well as in new settlement "outposts" and politically in the wake of Netanyahu's "victory" in the battle over a settlement freeze.

In two speeches in May, Obama stepped warily into a diplomatic arena increasingly resistant to American ideas. The 20 May 2011 resignation of special envoy George Mitchell highlighted the failure of Obama's peacemaking efforts until now. Washington's veto in February of a UN Security Council resolution decrying settlements highlighted its isolation from its European and international allies in the Quartet, the international address for Israel-Palestinian diplomacy since the adoption of the road map in 2003. For example, Russian foreign minister Sergei Lavrov

after meeting with Fatah and Hamas representatives in Moscow on 23 May, praised the reconciliation agreement, a deal that Obama called an "enormous obstacle to peace" in the Middle East. A Hamas official said Lavrov repeated Moscow's support for a Palestinian declaration of statehood in the United Nations in September.

Against this background of disappointment and unrealized aspirations, the growing credibility of the PLO's intention to turn away from Washington and to look to the United Nations for leadership in its demand for ending the occupation and creating a state poses the most immediate and pressing challenge to Washington.

Most of the attention paid to Obama's remarks at the Department of State and before the American Israel Public Affairs Committee (AIPAC) focused on his public support for explaining that the United States "believe[s] the borders of Israel and Palestine should be based on the 1967 lines with mutually agreed swaps," the first such public declaration of his presidency. The president's unequivocal dismissal of the PLO UN strategy, however, represents the more noteworthy policy announcement, and the most relevant to the diplomatic calendar.

"What America and the international community can do," declared the president in his 19 May speech at the Department of State, "is to state frankly what everyone knows—a lasting peace will involve two states for two peoples: Israel as a Jewish state and the homeland for the Jewish people, and the state of Palestine as the homeland for the Palestinian people, each state enjoying self-determination, mutual recognition, and peace." He continued:

So while the core issues of the conflict must be negotiated, the basis of those negotiations is clear: a viable Palestine, a secure Israel. The United States believes that negotiations should result in two states, with permanent Palestinian borders with Israel, Jordan, and Egypt, and permanent Israeli borders with Palestine. We believe the borders of Israel and Palestine should be based on the 1967 lines with mutually agreed swaps, so that secure and recognized borders are established for both states. The Palestinian people must have the right to govern themselves, and reach their full potential, in a sovereign and contiguous state. . . .

These principles provide a foundation for negotiations. Palestinians should know the territorial outlines of their state; Israelis should know that their basic security concerns will be met. I'm aware

that these steps alone will not resolve the conflict, because two wrenching and emotional issues will remain: the future of Jerusalem and the fate of Palestinian refugees. But moving forward now on the basis of territory and security provides a foundation to resolve those two issues in a way that is just and fair, and that respects the rights and aspirations of both Israelis and Palestinians.

Obama left no doubt that he opposes the two main pillars of the current Palestinian strategy—reconciliation and the UN option, the latter of which he decisively rejected as a “symbolic action” that will not advance the cause of Palestinian statehood. Obama’s announcement of the principles upon which negotiations should be based marked not only a repudiation of his previous effort to anchor diplomacy to a settlement freeze but, more importantly, it also lacked any operational context. There was, for example, no call for a summit or international conference based upon the ideas he endorsed, no suggestion as to how these ideas could be turned into an effective diplomatic effort. “The administration’s hope,” reported Nahum Barnea and Shimon Shiffer in *Yedi’ot Abaranot* on 22 May, “is that if we make it through September in one piece, Abu Mazin will return to the negotiating table even without a moratorium on settlement construction.”

Efforts during Clinton and Bush administrations to reach a final status agreement followed the prescription Obama outlined—both in terms of substance and in terms of sequencing the issues to be addressed. During the discussions that followed in the wake of the Annapolis summit of November 2007 in particular, Secretary of State Condoleezza Rice noted that all parties, including the United States and Israel, agreed that:

- The 1967 line was the baseline for determining the border between Israel and Palestine, and
- The 1967 border would be modified by land swaps of an undetermined percentage, somewhere between the Palestinian proposal of 1.9 percent and the Israeli proposal of 8.5 percent of West Bank territory.

The critical difference between the Annapolis discussions in 2008 and Washington in 2011 is that Rice won agreement to these principals after much debate with Israeli leaders as part of what turned out to be a serious diplomatic process in which

these elements featured prominently. In contrast, during two years of discussions with Palestinian and Israeli leaders, Obama administration officials did not reaffirm U.S. support for the language regarding the 1967 border similar to that used by Rice until the president’s recent public remarks. The context today is also entirely different. As the president himself noted, “There is impatience with the peace process, or the absence of one.” Obama’s remarks on borders, settlements, and land swap, as welcome as they might be, offered no hint as to how he plans to transform ideas into deeds.

“We want to see negotiations,” explained Secretary of State Hillary Clinton in a television interview on 19 May, “but we’re not able to make those negotiations happen. But we know that without negotiations, there will be no end to the conflict, no end to the claims, and no two-state solution.”

#### DISAPPEARING PALESTINIAN EAST JERUSALEM

**EAST JERUSALEM: KEY HUMANITARIAN CONCERNS, SETTLEMENTS IN EAST JERUSALEM, MARCH 2011 (EXCERPTS).**

*This is an excerpted chapter from the report East Jerusalem, Key Humanitarian Concerns by the UN Office for the Coordination of Humanitarian Affairs (OCHA), published in March of 2011. It contains a considerable overview of settlement activity in East Jerusalem in relation to Israeli law, land appropriation, public space, incidents of violence, and forced displacement. Footnotes have been omitted for space considerations. The full report is available at [www.ochaopt.org](http://www.ochaopt.org).*

Following the 1967 occupation and subsequent annexation of East Jerusalem and its hinterland, an area of approximately 70-kilometers squared, the government of Israel has confiscated approximately 35 percent of the territory, primarily from private Palestinian owners. Twelve settlements have been constructed on this expropriated land, in contravention of international law. These constitute some of the largest settlements in the occupied Palestinian territory, with a population of approximately 200,000. All of these settlements have been incorporated onto the

"Jerusalem" side of the [separation wall] barrier.

In addition to the settlements located within the Israeli-defined municipal boundary, another layer has been constructed in the wider metropolitan area of Jerusalem, encompassing, among others, the Ma'ale Adumim, Givat Ze'ev and Gush Etzion blocs. Although located outside the Israeli-defined municipal boundary, a series of bypass roads, tunnels, and other infrastructure provides access between these settlements and the urban center, at the same time that entry into East Jerusalem is increasingly constrained for West Bank and Gaza Strip residents by permit restrictions and barrier checkpoints. If the barrier is constructed as planned, it will also encircle the majority of the "metropolitan settlements," together with significant reserves of Palestinian land, to which Palestinian farmers face increasing problems of access. An estimated 80 percent of the settler population in the West Bank now lives within a 25-kilometer radius of Jerusalem.

The large amount of territory expropriated for settlement construction in the Jerusalem area results in a corresponding reduction in the land and resources available for Palestinian residential and commercial growth. The settlements, both "municipal" and "metropolitan," have been integrated into the urban fabric, provided with modern infrastructure and services, and supported by a planning and zoning framework which allows for their residential expansion. This is in contrast to Palestinian neighborhoods of East Jerusalem where municipal services do not meet the requirements of the residents and where a serious housing shortage exists as a result of the failure to provide these communities with adequate planning, as detailed in the chapter "Planning, Zoning, and Demolitions in East Jerusalem."

In addition to the "municipal" and "metropolitan" settlement layers, there exists an "inner" layer of settlements in East Jerusalem, which is the main focus of this chapter, given the particular humanitarian impact on Palestinian residents. These settlements are concentrated in the midst of densely populated Palestinian residential areas, in the so-called Holy Basin area—comprising the Muslim and Christian quarters of the Old City, Silwan, Shaykh Jarrah, al-Tur (Mount of Olives), Wadi al-Juz, Ras al-Amud, and Jabal Mukabir. An

estimated 2,000 settlers reside in these areas, in houses which have been expropriated by means of the Absentee Property Law; on the basis of alleged prior Jewish ownership; in buildings purchased from Palestinian owners; and in residences custom built and financed by settler organizations. Although supported by the state, settler activity in Palestinian areas is spearheaded by well-financed settler organizations, in particular Ateret Cohanim in the Muslim Quarter of the Old City, Elad in Silwan, and Nahlat Shimon in Shaykh Jarrah. These groups subscribe to an ultranationalistic objective whose "primary goal is to redeem the land in East Jerusalem and hand it back to the Jewish people." An additional aim is to preempt a negotiated resolution to the question of Jerusalem by creating irreversible "facts on the ground" in the Old City and its environs: "They are aware that controlling strategic points in the east of the city will thwart any option of dividing it, and without a divided Jerusalem there will be no diplomatic arrangement, and any peace process will be doomed to failure."

Given this ideological context, in addition to residential buildings, settlement in Palestinian areas is also characterized by the presence of educational and religious institutions, and by archaeological excavations and visitor centers. Such institutions emphasize Jewish historical connections and traditions to the exclusion of alternative or complementary Christian and Islamic narratives. As detailed below, there also exists a government-backed initiative to link the "inner" settlements together with an "open spaces" plan by creating a series of contiguous parks around the "Holy Basin" and the eastern slopes of Mount Scopus, which will further constrain Palestinian construction and space in East Jerusalem.

## ***2. Settler Activity in Palestinian Residential Areas: Means of Expropriation and Control***

In the decades following the annexation of East Jerusalem, land expropriation and settlement construction was concentrated within the expanded municipal boundary and in the metropolitan hinterland: Palestinian residential areas were not initially targeted, with the exception of the Old City. This changed following the ascent to power of the Likud party in 1977. In 1982,

the government set up a special committee “to locate Arab properties in Jerusalem that could be purchased by the state or acquired under the Absentee Property Law (1950) and then transferred to settlement groups, such as Ateret Cohanim.”

### *2.1 The Absentee Property Law*

When Israel captured East Jerusalem in 1967, it became possible to apply the Absentee Property Law to the newly occupied part of the city. “Use of this law in East Jerusalem could affect tens of thousands of dunums—perhaps up to 50 percent—of Palestinian private lands in the city. In many cases, these lands were owned by people living just over the Jerusalem municipal line—in Bethlehem, Abu Dis, Bayt Jala, or Ramallah.” In 1968, then attorney general Meir Shamgar ruled against applying the law. However, the law was never formally canceled and in the 1980s, under the Likud government, it was used clandestinely to expropriate properties in Silwan and the Muslim Quarter of the Old City from Palestinian owners, which were transferred to the custodian of absentee property and thereafter to settler organizations.

This lasted until 1992 when the Labor party came to power and set up a commission of inquiry into the activities of its predecessor in supporting settler activity in Palestinian areas in East Jerusalem. The Klugman Report “revealed that the previous Likud government secretly funneled funds to the East Jerusalem settlers, at times using what appeared to be illegal means.” According to the report, approximately twenty-eight properties in the Muslim and Christian quarters of the Old City were transferred to Ateret Cohanim, and approximately twenty-three properties in Silwan were transferred to Elad. Following publication of the report, use of the Absentee Property Law to expropriate Palestinian property ceased. However, none of the expropriated property was returned to its Palestinian owners: “To this day, most of the Jewish families in [Silwan] are living in these properties.”

### **The Absentee Property Law in Shaykh Jarrah**

Two adjacent sites in Shaykh Jarrah, where land and property has been expropriated by the custodian of absentee property, are the locations for projected

settlement expansion in the heart of this Palestinian residential neighborhood. The Shepherd Hotel, which was formerly owned by the Husayni family, was transferred in 1985 to a settler organization, funded by Irving Moskowitz, a U.S. national who is a major donor to settlement projects in East Jerusalem. According to plans submitted to the Jerusalem municipality, the intention is to build some ninety housing units on the site. At least twenty residential units have already been given formal approval by the Jerusalem municipality.

Opposite the Shepherd Hotel is the Karm al-Mufti, an olive grove of approximately 40 dunums, named after its former owner, the grand mufti of Jerusalem. Expropriated by the Israeli custodian of absentee property in 1967, the land was subsequently leased to the Ateret Cohanim settler association, which intends to build 250 housing units in the area. According to zoning regulations, the land is currently designated as a “green area” on which all construction should be prohibited.

On 9 January 2011, part of the Shepherd Hotel was demolished, in preparation for settlement construction. This action was widely condemned by the international community, including by United Nations Secretary-General Ban Ki Moon, who deplored “the destruction of the Shepherd Hotel in occupied East Jerusalem to make way for new settlement units in the heart of a Palestinian neighborhood, which only serves to heighten tensions.” The Secretary-General added: “It is deeply regrettable that growing international concern at unilateral expansion of illegal Israeli settlements is not being heeded. Such actions seriously prejudice the possibility of a negotiated solution to the Israeli-Palestinian conflict.”

### *2.2 Appropriation of Alleged Pre-1948 Jewish Property from Palestinian Residents*

In addition to applying the Absentee Property Law, settler organizations also make use of the Israeli legal system to lay claim to land or property allegedly owned by Jewish individuals or communities in East Jerusalem prior to 1948. Israeli law recognizes such claims while denying Palestinians the reciprocal right to reclaim land and property in what is now Israel.



This method was initially applied in Silwan, the location of a Yemenite Jewish community prior to 1948, and entailed the eviction of the Palestinian residents from these properties. More recently, it has been used in Shaykh Jarrah, where more than sixty Palestinians, including twenty-four children, have been forcibly evicted from their homes by the Israeli authorities since 2008. According to plans submitted to the Jerusalem municipality, the settlers intend to demolish the entire area, including twenty-eight Palestinian homes, to make way for a new Israeli settlement. The plans threaten to displace over 300 Palestinian residents, most of whom are Palestinian refugees who moved to the area under an UNRWA-sponsored housing scheme in 1956.

### *2.3 Purchase from Palestinian Owners*

Settler organizations have also purchased land and property directly from Palestinian owners. Given the large sums of money and resources at their disposal and the economically depressed situation in the Palestinian neighborhoods, direct purchase has met with some success. . . . In Silwan, given the large number of outstanding demolition orders, residents “say that representatives of the settlers approach them and promise that if they sell their real estate to Jews, the legal procedures against them will be dropped.” In addition, in some cases such acquisitions have involved dubious purchase “through a process which involve, according to witnesses and accomplices—and according to Israeli court rulings—threats, false depositions, forged documents, and posthumous witness signatures.”

### *2.4 Appropriation of Public Space and Historical Narrative*

In addition to establishing a residential presence, settlement activity in Palestinian areas of East Jerusalem is also characterized by archaeological excavations, the creation of tourist sites and visitor centers and—as described below—plans to encircle the “Holy Basin” with a ring of open spaces and national parks. Archaeological activity is currently concentrated in the Wadi Hilwa area of Silwan, in the City of David National Park. The Israel Lands Authority has handed over “guardianship and maintenance” of the park to Elad. . . .

### *2.5 The Open Spaces Project*

In August of 2005, the Israeli cabinet adopted Resolution 4090 entitled “Prioritizing: Bolstering the City of Jerusalem.” The project, to be administered by the Jerusalem Development Authority has among its main aims “to strengthen the status of Jerusalem as the capital of the State of Israel and to allocate NIS 60 million in each of the budgetary years of 2006–13 for the renovation, development, and maintenance of the Old City basin and the Mount of Olives.” The plan contains the Open Spaces project, a plan for renovation and the maintenance of the Jewish cemetery on the Mount of Olives, and a comprehensive plan for the Old City, including renovation of its infrastructure and gardening around the walls.

The Open Spaces project includes a plan to create a “sequence of gardens that will adorn the Old City”—a series of contiguous parks around the Holy Basin and the eastern slopes of Mount Scopus, to be linked together by terraces and trails. The plan covers Shaykh Jarrah, Wadi al-Juz, Suwwana, al-Tur (Mount of Olives), Silwan, and Ras al-Amud—the Palestinian neighborhoods which are the focus of settler activity. The project envisages activities which are already being undertaken by settler organizations in these areas, including a plan to establish an information center on the Mount of Olives—which already exists and is run by Elad—and the creation of an “archaeological experience” in the Tsurim Valley Park, which resembles the Elad sifting center already operating in that location. As with Elad’s ongoing activities in Silwan, the Open Spaces project, although almost exclusively focused on East Jerusalem, emphasizes the Jewish connection to the area while not referencing Muslim connections and with few references to Christian sites.

Completion of the plan will further constrain Palestinian construction and space in East Jerusalem, from the demolitions necessary for creating the King’s Garden in Silwan—incorporated into Open Spaces plan—to establishing “a biblical park that tells the story of Jewish pilgrims” in an open area between Shaykh Jarrah and Wadi al-Juz. Conversely, the plan provides a contiguous linkage between the existing settlements in the Holy Basin, from Shaykh Jarrah to Silwan: “Those sites match and complement the plan on the one hand,

while the plan completes the Israeli territorial contiguity and dominance they presently lack on the other.” Indeed the project’s ambitions transcend the territory covered by the “inner” settlements, for it also includes the Mount Scopus slope, “the site of a proposed, yet-to-be approved national park overlooking the Judean Desert . . . which will create a physical link [between] its visual basin and the E-1/ Ma’ale Adumim settlement bloc to the east of the city.”

### ***3. Impact of Settlements and Related Infrastructure on Palestinians***

#### ***3.1 Restrictions on Public Space and Residential Growth***

As with the “municipal” and “metropolitan” layers, the “inner” settlements in East Jerusalem have a negative impact on local residents in terms of restrictions on public space and residential growth. Silwan, which together with neighboring Ras al-Amud, is home to 32,000 Palestinians, suffers from severe overcrowding, a lack of housing constructed with the necessary building permits, and inadequate services. While the majority of the Elad activity is permitted on the grounds of “salvage excavations,” local residents “are not allowed to develop anything in their neighborhood, not even public institutions, under the pretext that they live on a historic and archaeological site.”

In addition . . . municipality plans to create the “King’s Garden” in the adjoining Bustan neighborhood of Silwan, will result in the mass demolition of Palestinian homes in the neighborhood to make way for an archaeological park. The “Open Spaces” project will further restrict available space in the wider “Holy Basin” area: “All the open spaces that could potentially serve the development of Palestinian neighborhoods are listed in the plan.”

#### ***3.2 Restrictions on Freedom of Movement and Intrusion on Private Space***

One of the first, and most enduring, consequences of a settler presence on Palestinians is restriction on their access and movement: “Residents testify that roadblocks are put in place frequently when mass events take place in the Jewish settlements in Palestinian neighborhoods, including private events. Police prevent

Palestinian passage while allowing settlers and their guests to go through.”

...

#### ***3.3 Friction and Violence***

In both Silwan and Shaykh Jarrah, the added security attendant on a sustained settler presence restricts the freedom of movement of residents and their visitors, particularly on Jewish holidays. The situation in Shaykh Jarrah, in particular, has deteriorated sharply since the forced evictions in August 2009. . . .

In Silwan, tensions are more long running, often sparked by the pervasive presence of armed private security guards, who are contracted by the Ministry of Construction and Housing: “Each settler receives comprehensive and broad personal protection: settlers are provided twenty-four-hour close bodyguard accompaniment, whether by foot or by vehicle, and in some locations they are provided transport in heavily armored cars.”

In 2010, human rights organizations reported a sharp increase in the number of children arrested by the Israeli authorities in Silwan, in particular following the killing in September of a Palestinian resident by a security guard. In November, a group of sixty prominent Israeli educators, doctors, writers, judges, social workers, and legislators addressed the issue with a letter to the Israeli prime minister, the Israeli president, and the attorney general, as well as other political leaders. They called into question the legality of the current police procedures in Silwan and voiced concerns about the reported mistreatment of children held in Israeli custody and the use of harsh interrogation techniques during police questioning.

#### ***3.4 Forced Displacement***

In the most severe cases, in the Old City, Silwan, and most recently Shaykh Jarrah, settler expropriation of Palestinian property—whether through the Absentee Property Law, court orders, direct purchase, or unilateral measures by the settlers themselves—has resulted in the loss of property and the eviction of the long-term Palestinian residents. Such forced displacement has grave physical, social, economic, and emotional impact on the Palestinian families concerned. In addition to depriving the family of a home—its main asset and source of physical and

economic security—displacement frequently results in disruption in livelihoods, increased poverty, and a reduced standard of living, as well as limited access to basic services, such as water, education, and health care. Families may also be obliged to refund the municipality for the expenses related to their own eviction. The high legal fees families incur when defending their case in court add another financial burden to their already impoverished situation. The impact on children is particularly devastating, including posttraumatic stress disorder, depression, anxiety, and reduced academic achievement.

**NEW TAX RULE IN EAST JERUSALEM MAY THREATEN RESIDENCY RIGHTS**

*Originally from Settlement Report, March–April 2011.*

The Jerusalem municipality has halted the collection of city property taxes (*arnona*) from Palestinian holders of Jerusalem ID cards who live in areas of East Jerusalem outside the separation barrier. While no one likes to pay taxes, elimination of this requirement may well signal the latest unilateral Israeli effort to reduce Israel's obligations toward Palestinians long considered to be residents of Jerusalem and which may imperil their access to the city.

For the Palestinian population, payment of the *arnona* tax has been used by the Israeli-controlled Jerusalem municipality

as a test for maintaining residency rights in the city. This “center of life” policy was introduced in 1995. Palestinians with Jerusalem IDs were required to prove continuous residency in Jerusalem by submitting documents to demonstrate that they had actually resided in the city for the previous seven years. According to the Jerusalem Center for Social and Economic Rights (JC-SER), “To maintain their residency rights in Jerusalem, Palestinians are required to provide [the] office of the Israeli Interior Ministry with the following documents: *arnona* residency tax [forms] for the previous two to seven years, electricity bills for the previous two to seven years, telephone bills for the previous two to seven years, school certificates of all children to show that the school is located inside the municipal borders, and work certificates.”

JCSER warns that “such a policy could be a beginning of a major Israeli initiative to revoke the residency rights of thousands of Palestinian holders of Jerusalem IDs who are currently living outside the wall.”

Approximately 125,000 Palestinian holders of Jerusalem ID cards are affected by the new policy, residing principally in the neighborhoods of Kufr Aqab, al-Ram, Dahiyat al-Barid, Shu'fat refugee camp, Dahiyat al-Salam, Abu Dis, Azariyya, and Bir Nabala.

Since the construction of the separation barrier, many of these neighborhoods have been all but abandoned by the municipality, from street maintenance to police protection.