

Report details Israeli seizure of West Bank land

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Land grab, Israel's settlement policy in the West Bank, the newly released report by B'tselem, the Israeli Center for Human Rights in the Occupied Territories, documents for the first time the full extent of Israel's illegal seizure of land in the West Bank that it has occupied since the 1967 war.

Although the built up areas of the 200 or so settlements constitute only 1.7 percent of West Bank land, their municipal boundaries include more than three times as much land again, 6.8 percent, and regional councils include an additional 35.1 percent—land that may be used for further urban expansion. Thus, in total Israel controls a total 41.9 percent of the West Bank.

Far from returning land to the Palestinians, the so-called peace process based on “land for peace” failed to lead to the evacuation of a single settlement. Instead the number of settlements increased, along with their inhabitants, and the area included within their development zones. When the Oslo Accords were signed in 1993, the population of the settlements in the West Bank, including those in East Jerusalem that Israel refuses to acknowledge as such, totalled 247,000. By the beginning of 2002, the number had risen by more than 50 percent, to 380,000.

While some powers have been transferred to the Palestinian Authority (PA), these powers apply in dozens of disconnected enclaves of towns and villages that contain the majority of the West Bank population but only 42 percent of the land mass. As B'tselem explains, control of the remaining areas, including the control of the roads connecting the enclaves, as well as all exit points from the West Bank to its Arab neighbours and into Israel, remains under Israeli control.

One of the main devices used to seize Palestinian land was to declare it “state land” under a 19th century Ottoman law. Other devices included requisitioning land for military purposes, declaring land as abandoned property and confiscating land for public needs. In addition, Israel also helped its Jewish citizens to purchase land to establish new settlements.

In order to encourage its Jewish citizens and Jews abroad to live in the settlements, the Zionist state developed a sophisticated financial, planning and organisational system that has resulted in the assimilation of Palestinian land into the state of Israel. In so doing, the Israeli government repeatedly breached international law regarding occupied lands, denied the Palestinians their basic human rights, and operated a discriminatory system based on religious and national origin.

Yehezkel Lein, the report's author, said, “In essence, the process of assimilation blurs the fact that the settlement enterprise in the Occupied Territories has created a system of legally sanctioned separation based on discrimination that has, perhaps, no parallel anywhere in the world since the dismantling of the Apartheid regime in South Africa.”

To hide the full extent of its annexation policy, Israel did its best to conceal basic information about the settlements. While information relating to local authorities in Israel is readily available, B'tselem had to fight a year-long battle with the Civil Administration, the euphemism for Israel's illegal regime in the Occupied Territories. It was only after

B'tselem threatened legal action that the Civil Administration provided the information and even then, it was not up to date. A Civil Administration spokesperson claimed that it, “does not currently have updated maps for the regional authorities in Judea and Samaria”, the biblical names for the West Bank that Israel insists on using.

Israel's land grab in pursuit of its Greater Israel policy is a flagrant violation of two primary instruments of international law relating to war and occupation that are binding on Israel: the 1907 Hague Regulations and the 1949 Fourth Geneva Convention. The exclusive use of seized lands to benefit the settlements while excluding the Palestinians is also illegal, irrespective of the method by which the land is acquired.

The Hague Regulations are based upon the fundamental principle that military occupations should be temporary. This is aimed at preventing the occupying power from “creating facts on the ground” that would affect any future political solution. For more than ten years, Israel justified the expropriation of privately owned land for its settlements on security grounds, with the full cooperation of the High Court. It was only after mass protests that the pacifist group, *Peace Now*, was able to launch a successful legal challenge against the Elon Moreh settlement on security grounds which led to the court outlawing the practice.

The government then switched tactics, with Ariel Sharon, then Minister of Agriculture responsible for the control of the Israel Land Administration, playing a crucial role. He simply authorised settlements on land he claimed were “state lands”—that is, those said to have belonged to Jordan. The High Court refused to intervene and ban the new mechanism. But even if the land had been state land, which is highly unlikely, Article 55 of the Hague Regulations makes it very clear that without sovereignty, the Occupying Power can only use “state land” for the purpose of administering the territory. “It must safeguard the capital of these properties” and not change their character and nature, except for security needs and the welfare of the population.” The settlements completely change the character of the state lands.

Article 49 of the Fourth Geneva Convention states, “The Occupying Power shall not deport or *transfer* parts of its own civilian population into the territory it occupies” [emphasis added]. As the International Red Cross explained, it was aimed at preventing a repeat performance of what had happened in World War II, when people were transferred to occupied territory for political or racial reasons, or to colonise those territories. The supposedly voluntary transfer of Israeli citizens could never have been carried out without the government's massive financial and organisational support. Furthermore, the transfer was achieved by creating a separate and discriminatory (physical and legal) system between the settlers and the Palestinians, with the deliberate intention of annexing all or part of the Occupied Territories to Israel.

These breaches of international law also constitute violations of international human rights laws—the rights to self-determination, equality, property, an adequate standard of living, and freedom of movement—enshrined in the Universal Declaration of Human Rights and

contained in two international covenants adopted by the UN in 1966 and ratified by Israel.

The first article, common to both covenants, states: “All people have the right to self-determination. By virtue of that right, they freely determine their political status and freely pursue their economic, social and cultural development. All people may, for their own ends, freely dispose of their natural wealth... In no case may a people be deprived of its own means of subsistence.”

The settlements block the territorial contiguity of Palestinian towns and villages on the West Bank, preventing the establishment of a viable Palestinian state. They not only occupy a significant proportion of the land, but also use the overwhelming majority of the water resources in the West Bank. The settlers have verdant lawns and numerous swimming pools, while the Palestinians are subject to frequent shutoffs on an almost daily basis.

The second article of the two covenants and the Universal Declaration of Human Rights enshrines the right to equality. It states: “Everyone is entitled to the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, self-governing or under any other limitation of sovereignty.”

Israel systematically used its laws, regulations and military orders to carry out an illegal annexation of the settlements into the state of Israel. By virtue of the fact that unique among nations, Israel is not a state made up of its citizens but of the Jewish people throughout the world, the Israeli government not only encouraged Israeli Jews but also Jews in the Diaspora to take up residence in the West Bank. The attractive new homes and facilities in the settlements are not open either to Israeli Palestinians or the Palestinians in the West Bank. Furthermore, despite living in the Occupied Territories, the settlers are subject to the laws of Israel, while the Palestinians are subject to the occupation regime. Even after the Oslo Accords and the establishment of the Palestinian Authority, the settlers remain under Israeli civilian rule.

Thus, one of the direct effects of the settlements is the discriminatory segregation of the Israeli and Palestinian populations living in the same territory and subject to different legal systems based on religion and national origin. This constitutes a gross violation of the right to equality.

B'tselem also notes that Article 17 of the Universal Declaration of Human Rights recognises the right to property. Israel has included it in Section 3 of its Basic Law. Since the settlements were built on privately owned property and were illegal from the outset, much of the land grab infringed the Palestinians' right to property. Furthermore, many of the procedures used to take over the land involved flagrant and arbitrary breaches of due process.

Article 11 of the International Covenant on Economic, Social and Cultural Rights recognises the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. Article 6 of the same covenant recognises the right of everyone to work and make a living through work that he or she freely chooses. The close proximity of many of the settlements to Palestinian towns and villages has constrained their urban development. In some cases, the settlements were deliberately planned to prevent their natural expansion.

As well as constraining their physical development, the Israelis used their military legislation to change the planning regime in favour of the Israeli settlers at the expense of the Palestinians, creating housing shortages and an increase in housing density. The seizure of farming and grazing land for the settlements and the adjoining roads has also disrupted economic life.

Article 12 of the International Covenant of Civil and Political Rights states that everyone should have the right to freedom of movement, without restrictions, in his own country. Most of the settlements established along the central hill region were set up near Road No. 60, the main north-south artery in the West Bank. The Israeli Defence Forces (IDF) set up checkpoints all along the route to ensure the security and freedom of movement of the settlers. Since September 2000, the start of the *intifada*, the IDF have set up hundreds of checkpoints with the result that journeys that once took 15 minutes now take hours if they can be completed at all.

Despite this appalling record against the 3.5 million Palestinians under Israeli control, neither the UN, nor any of the Western powers, nor the Arab regimes has seen fit to enforce international law or even document Israel's crimes against the Palestinians.

The primary objective of B'tselem, whose membership is comprised of liberal lawyers, academics and other professional workers, is to ensure that Israel complies with its obligations under international law and thus ultimately dismantles its settlements, which it sees as detrimental to the long term future of the Zionist state. The report describes how, despite changes in Israeli policy towards the settlements over the 35 years, all governments “have contributed to the strengthening, development and expansion of the settlement enterprise.”

But the B'tselem report views government policy as an ideological choice that can be changed, not as a political response to objective economic and social forces. They thus fail to explain why even those ostensibly committed to reversing these policies did not do so.

The 1967 war, which all political parties saw as an opportunity to expand its unviable borders, initiated the policy of Greater Israel, and spawned a new social layer—particularly amongst the Jewish settlers within the Occupied Territories—committed to an expansionary policy.

Immediately after the war, the Labour-led coalition under Levi Eshkol annexed East Jerusalem and the Old City, as well as extensive areas to the north, east and south of the city, to the Municipality of Jerusalem. The annexations went far beyond the city limits as defined under Jordanian rule prior to the war. The government then set about building settlements in these areas encircling the city, “in order to prevent any challenge to Israel's sovereignty over them and to impede initiatives leading to any withdrawal from these areas.”

The colonisation of the West Bank followed in September 1967 with the establishment of the first settlement at Kfar Etzion, despite declarations from the Labour government that it would exchange the West Bank for peace with its Arab neighbours.

Although the government's Alon Plan, named after the former general who headed the Ministerial Committee on Settlements, went through numerous revisions, its purpose was to redraw and expand Israel's borders to facilitate its military defence. To this end, it proposed to establish a string of settlements to ensure a “Jewish presence” and lead towards the formal annexation of about half of the remaining area of the West Bank. As far as possible, the annexation of areas densely populated by Palestinians was to be avoided. They would become part of a future Jordanian-Palestinian state.

Israel's success in the 1967 war gave vent to a nationalist fervour among some religious right-wing groups, who greeted the victory as the “beginning of Redemption” that offered an opportunity to realise the vision of the “whole land of Israel”. They formed the Gush Emunim, the Block of the Faithful, under the leadership of a religious zealot, to force the Labour government to establish as many settlements as possible in the biblical land of Israel, including the heavily populated Palestinian areas.

They would settle a site without government permission, or contrary to government policy, or under false pretences, to force the government to recognise it later as an accomplished fact. For example, after seven unsuccessful attempts in 1974-75 to establish settlements in the Nablus

area, they reached a compromise with the then Minister of Defence, Shimon Peres, who allowed them to stay at an army base called Qadum, West of Nablus. Two years later the base was officially transformed into the settlement of Qedumim.

By 1977, almost 30 settlements with some 4,500 Israeli inhabitants were built in the West Bank, mostly in areas earmarked for development under the Alon Plan. A further 50,000 Israelis lived within the newly extended city limits of Jerusalem.

Under the Alon Plan, the Labour governments had tried to hermetically seal Palestinians towns and villages inside a wall of Jewish settlements. This changed in 1977, when the even more right-wing Likud government abandoned the plan. Instead it sought to move Jewish settlements into the midst of Palestinian areas with the intention of making life as miserable as possible for the latter so that they would eventually leave.

In September 1977, Sharon unveiled a master plan called, "A Vision of Israel at Century's End", calling for the settlement of two million Jews in the Occupied Territories by the end of the 20th century and a new wave of immigration to Israel. Sharon and his ilk believed that it was just as essential to create a Jewish majority on the West Bank as it had been for the Zionist pioneers to do so along the Mediterranean coast during the 1920s and 30s. Such settlements would impose a Jewish majority on the West Bank and make it impossible for Israel to relinquish it, without expelling hundreds of thousands of Jews and precipitating civil war.

A profile of Sharon in the *Financial Times* of April 6 cites his autobiography, in which Sharon laments Israel's transformation from a pioneering nation into a less exceptional nation. Even more telling, the paper quotes, "But they [Sharon's parents] believed without question that only they [the Jews] had rights over the land. And no one was going to force them out, regardless of terror or anything else. When the land belongs to you physically, when you know every hill and wadi and orchard, when your family is there, that is when you have power, not just physical power but spiritual power."

Although never adopted as official policy, Sharon's plan provided the strategic axis for the ministry of agriculture, which was responsible for the control of the Israel Land Administration and thereby the administration of "state land".

Another plan, drawn up by the leader of the World Zionist Organisation's (WZO) head of Settlement's Division, Matityahu Drobless, constituted a guiding document for the government. It stated, "the civilian presence of Jewish communities is vital for the security of the state... There must not be the slightest doubt regarding our intention to hold areas of Judea and Samaria forever... The best and most effective way to remove any shred of doubt regarding our intention to hold Judea and Samaria for ever is a rapid settlement drive in these areas."

These plans were entirely in line with those of Gush Emunim. Members and supporters of Gush Emunim largely populated the new settlements initiated under the Likud government, but the government made a concerted effort to attract secular Israelis to the settlements. It offered subsidised high standard housing and higher grants to the local municipalities and regional councils, to provide for better amenities including schools and social welfare facilities than were available in Israel proper. In effect, the West Bank would offer a higher standard of living and homes within easy commuting distance of the main coastal cities and towns. According to B'Tselem, by 2000 the Zionist municipalities and regional councils in the West Bank received government grants worth 65 percent and 165 percent more respectively than their counterparts in Israel.

When Sharon, as minister of defence, ended military rule in November 1981, he effectively incorporated the Occupied Territories into a Greater Israel. The government planned to develop the territories and create an infrastructure for factories, particularly sophisticated scientific industries, in the new settlements.

In this way, the Likud government by establishing a large number of new settlements, created a new small but vocal social constituency that by 1986 had reached 51,000. The Likud government of 1988-92 pursued policies aimed at expanding the population of existing settlements, which increased by 60 percent during this period, as opposed to building new ones.

Despite expectations in 1992 that the new Labour government of Yitzhak Rabin, which was pledged to make peace with the Palestinians, and the signing in 1993 of Oslo Accords, would bring a change in Israel's policy, the new government continued the development of the settlements.

The Labour government found it impossible to affect a "land for peace" deal because such an arrangement met with ferocious opposition from the very social forces that the Greater Israel policy had spawned. As Sharon had calculated, the settlement policy, its associated economic and social measures, and the hundreds of thousands of Russian immigrants that came to Israel in the wake of the break up of the Soviet Union, had created an ever-increasing social layer that had no interest in any "land for peace" deal. They refused to countenance any surrender of the settlements and were able, in Israel's fractured political system, to force concessions from the government, and bring an end to the peace talks through the assassination in 1995 of its chief architect, Yitzhak Rabin. In this way they created the political crisis that brought a Likud government to power in 1996 and the talks to a standstill for three years.

In 1999, Ehud Barak's Labour party formed a minority coalition government with right wing and religious forces, who had no real commitment to a deal with the Palestinians. Forced to make further concessions to the right-wing settlers, Barak's best and final offer to the Palestinians was control over discontinuous enclaves that constituted a mere 42 percent of the West Bank.

Between the signing of the Accords and the outbreak of the *intifada* in September 2000, the number of homes built in the West Bank, excluding East Jerusalem and Gaza Strip, rose from 20,400 to 31,480, an increase of 54 percent in just seven years. The sharpest increase was recorded under Barak's Labour government, when in 2000 nearly 4,800 new homes were started. At the end of 1993, the settler population in the West Bank was 100,500. By the end of 2000, it had risen by 90 percent to 191,600. In East Jerusalem, the population rose by 18 percent from 146,800 in 1993 to 173,300 in 2000. In other words, the largest increase in the settler population occurred during the very period and under a government that was supposed to oversee its demise.

Although the authors of the report do not say so explicitly, therefore, their report exposes the cynicism of the Oslo Peace Process and makes abundantly clear the underlying causes of the Palestinian uprising that broke out in September 2000.

The full report can be read at www.btselem.org



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