

BEHIND THE SETTLEMENTS

Israel's West Bank settlements
now sit on the wrong side
of Zionist history.

Daniel Kurtzer



AFP/Getty Images

Ariel Sharon was considered the godfather of the Israeli settlements movement. His ardent support of settlements construction and the legitimacy he lent to the strategic argument for settlements as a means of enhancing Israeli security were vital to the success of the enterprise, particularly in the years after he left the Israeli military for politics. Sharon's basic argument revolved around security. During my time as U.S. Ambassador to Israel, Sharon would often hold forth on the rationale for and his own role in the planning of new settlements.

But Sharon was also a multi-dimensional politician whose political twists and turns confounded even his supporters. One evening in his office he expounded on his role in establishing the Qatif bloc of settlements in the Gaza Strip. Sharon explained to me the security rationale for implanting an Israeli presence there: It would separate the Palestinian population in Gaza from Egypt. He boasted of the political maneuvering he employed to get the project through the Cabinet. Now, what really made this conversation so interesting is *when* it took place: late 2004, namely, *after* Sharon had decided to withdraw all settlements and settlers from Gaza.

Even more interesting was Sharon's decision in 2004 to ask Talya Sasson, an Israeli Justice Ministry official, to investigate the legal status of Israeli settlement outposts. By that time, there were an estimated 87 such outposts that had been set up by settlement activists outside the Israeli government's legal framework for approving such activity. Since the mid-1990s, successive Israeli governments had adhered to a policy of not authorizing the establishment of new settlements. In response, settlement activists had taken to creating their own "facts on the ground", to use an old and well-known Moshe Dayan phrase. Under pressure from the United States on this issue, Sharon promised President George W. Bush at the Aqaba summit meeting in May 2003 that the Israeli government would dismantle

all of the unauthorized outposts that had been established since Sharon became Prime Minister in March 2001.

Sharon's motives in asking Sasson to prepare the report remain unclear. Because Gaza disengagement was his priority, it was widely understood that the government would not want to waste its political capital in dismantling the outposts at the same time. Whatever his motives, however, Sharon must have been shocked when Sasson delivered her report in 2005. After meticulous research, Sasson outlined systematic and systemic illegalities and misconduct on the part of the government in support of settlement outpost activity. Indeed, the Sasson report indicted an array of Israeli official behavior, spread over many years.

Sasson found that the settlers themselves had in some cases made their way into government offices responsible for various aspects of settlement activity, including the housing ministry, or they had found allies ready to circumvent the law, even lawyers to make legal what clearly was not. Budgets were redesigned to divert funds to the outposts. Indeed, the pattern of outpost activity was transparent and patently illegal: Settlers would stake an unauthorized claim to a piece of land and bring in caravans in which to live. Shortly after that, the authorities would establish linkages to electricity and other infrastructure, including paving some roads. In short order, the "illegal" or unauthorized outpost was being treated to essentially the same level of government services and support enjoyed by settlements that had gone through the formal processes of approval. In Sasson's words:

The "engines" behind a decision to establish outposts are probably regional councils in Judea, Samaria and Gaza, settlers and activists, imbued with ideology and motivation to increase Israeli settlement in the Judea, Samaria and Gaza territories. Some of the officials working in the Settlement Division of the World Zionist Organization and in the Ministry of Construction and Housing cooperate with them to promote the unauthorized outposts phenomenon. After the mid nineties, these actions were apparently

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inspired by different Ministers of Housing, either by overlooking or by actual encouragement and support, with additional support from other Ministries, initiated either by officials or by the political echelon of each Ministry.¹

Sasson pulled no punches, delivering a stinging indictment against the legal infrastructure of the state and the army:

Therefore it seems that violation of the law became institutionalized. We face not a felon or a group of felons violating the law. The big picture is a bold violation of laws done by certain State authorities, public authori-

ties, regional councils in Judea, Samaria and Gaza and settlers, while falsely presenting an organized legal system. This sends a message to the IDF [Israeli Defense Forces], its soldiers and commanders, the Israeli police and police officers, the settler community and the public. And the message is that settling in unauthorized outposts, although illegal, is a Zionist deed. Therefore the overlook, the “wink”, the double standard becomes it. This message has a very bad influence—both on the IDF and on the Israeli police.

The establishment of unauthorized outposts violates standard procedure, good governing rules, and is especially an ongoing bold violation of law.²



Talya Sasson arrives at a cabinet meeting after submitting her report on illegal Jewish settlements.

The unpleasantly explosive nature of Sasson’s report and the diversion of the government’s attention to the Gaza disengagement combined to consign the outpost report to a relatively forgotten place in the archives. Nothing was done to address or correct the systemic abuse of power and violations of law. Since 2005, fewer than a handful of outposts have been evacuated—often to be repopulated within days—and an even more pernicious process has begun to “legalize” some of the outposts *ex post facto*. The most noteworthy pending case involves one of the earliest and largest outposts, Migron, which appears headed toward being legalized and integrated into the nearby settlement of Adam.

Sasson’s report and research did not cover those settlements authorized legally by the Israeli governments over the years since the autumn of 1967; that was not her mandate. But there is substantial reason to

believe, and some evidence to prove—as noted below—that similar illegal and unauthorized activities by settlers and their supporters within the bureaucracy have been occurring with regularity in that domain as well.

At about the same time that Sasson had been tasked with writing a report on outposts, Baruch Spiegel, a recently retired IDF brigadier general, was asked by the Israeli government to engage with me in an effort to define the outer “construction line” in settlements; if such a line could be agreed upon, the American government would not object to additional construction there. This effort derived from three previous interactions between the American and Israeli governments on the question of settlements. In 2003, secret talks between then-Deputy National Security Advisor Steven Hadley and Sharon had resulted in a draft set of principles governing future settlement activity: (1) No new settlements would be built; (2) no Palestinian land would be expropriated or otherwise seized for the purpose of settlement; (3) construction within the settlements would be confined to “the existing construction line”; and (4) public funds would not be earmarked for encouraging settlements.³ At this time, May 2003, the meaning of “the existing construction line” was left vague.

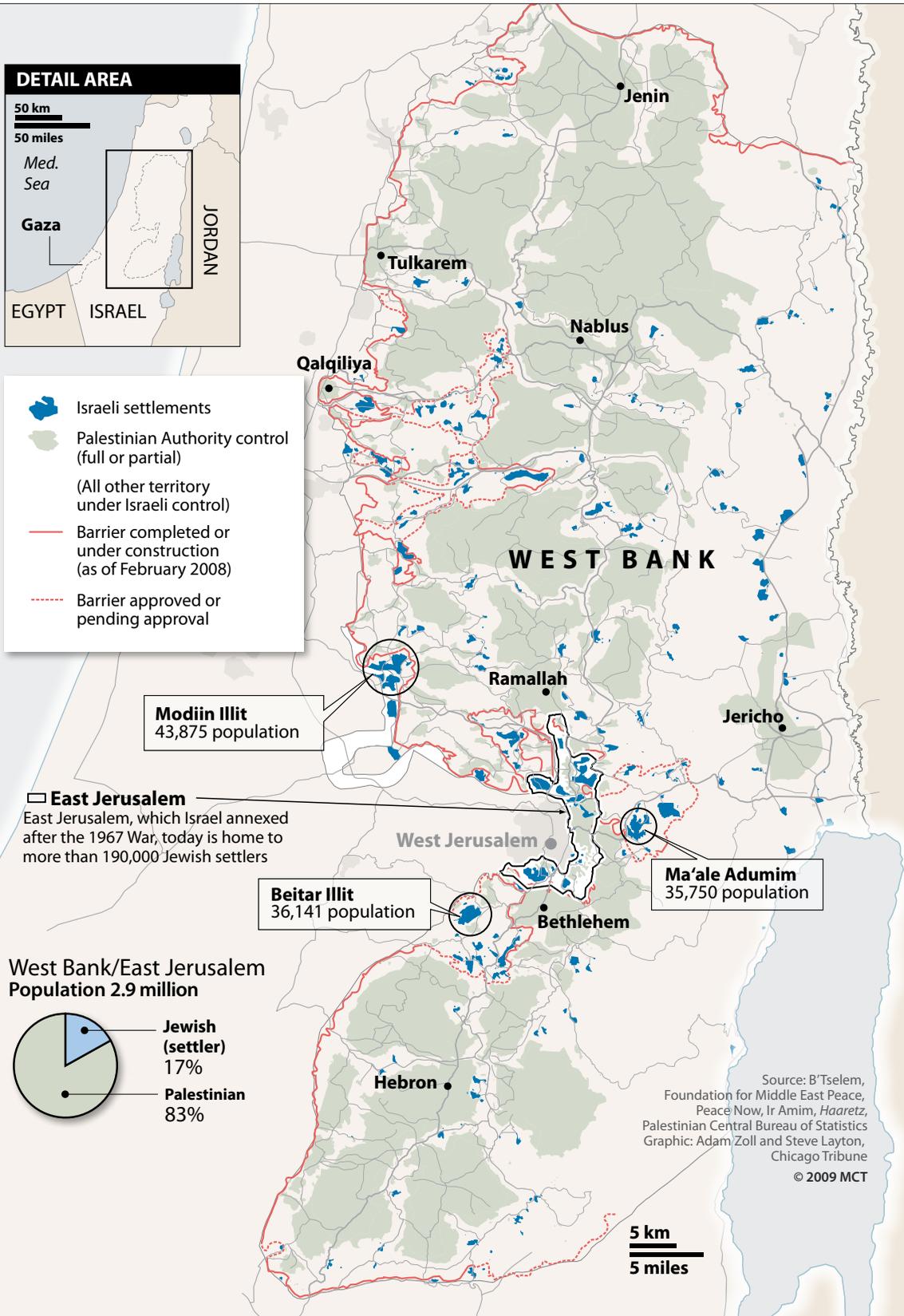
On April 14, 2004, as an expression of U.S. support for Israel’s readiness to evacuate the Gaza settlements, President George W. Bush gave a letter to Sharon that conveyed U.S. support of an agreed outcome of negotiations in which Israel would retain “existing major Israeli population centers” in the West Bank “on the basis of mutually agreed changes.”⁴ This letter left vague what the U.S. government meant by “existing major Israeli population centers.” In an effort to achieve clarity on these points and to convey Israel’s assurance that it would dismantle the unauthorized outposts set up during Sharon’s tenure as Prime Minister, Sharon’s adviser Dov Weissglas gave then-National Security Advisor Condoleezza Rice a letter that read: “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 & Samaria.”⁵ Weissglas specified that the Israeli government would provide me with the timetable of outposts to be evacuated and that Israeli officials of the appropriate level and authority would sit with me to work out an agreement on the outer construction line of settlements.

The Israeli government never produced a list or timetable of outposts to be dismantled. But the Israelis and I did conduct a dialogue over several months whose purpose was to define a line around the built-up areas in each settlement, beyond which Israel would agree not to undertake any further settlement activity. Weissglas and I held many discussions on this issue, both in his office in Jerusalem and at the American Embassy in Tel Aviv. We never reached agreement on anything, even on which settlements should be discussed first. Part of our problem was the absence of agreed data on which to assess activity within settlements. I had classified American information that I could not share with Weissglas or use in negotiations, and Weissglas averred that he did not have authoritative Israeli information on the extent of Israeli settlement activity in the West Bank. It was then that Spiegel was asked by the Israeli government to collect the data so that the government could make decisions on a construction line.

Spiegel and I held numerous meetings even while he embarked on an intensive effort to collect data on the settlements. I should note that Spiegel, in company with Talya Sasson, is one of the most honest, meticulous and hard-working public servants whom I have ever met. Both individuals are people of integrity who worked diligently to gather all the facts before reaching conclusions. Knowing this about Spiegel made it easier for me to accept the long process in which he was engaged to collect information from various Israeli government and military offices, and to conduct aerial and ground surveys so that he would know precisely the details about which we were supposed to negotiate.

Spiegel and I used these months of preparation to try to reach agreement on some ground rules and principles for the negotiations. For example, we discussed whether the construction line around “built-up areas”



should be limited to built-up living areas, or whether it should include the agricultural and industrial buildings within settlements, or even a gas station at the entrance to a settlement on the highway. The implications of these different criteria were enormous. In one case, an agreement to limit construction to the existing built-up living area would leave relatively little room for new construction, while in another case, there would be vast tracts of land on which to build houses and apartments and thus expand the population of the settlements.

My discussions with Spiegel ultimately faded away, with no agreements having been reached on anything, and without the Israeli side ever having produced even the data on which we were supposed to work. I was busy at the time, especially as the target date for Gaza disengagement was nearing, and in any event, Washington (and Jerusalem, presumably) had lost its appetite for the whole exercise. Thus, despite the four-part draft agreement on settlements, the Bush-Sharon letter and the Weissglas-Rice letter, no details were ever concluded or agreed between the United States and Israel on the three most critical elements we had undertaken to discuss, which were necessary to form the basis of a binding agreement—namely, what constituted the “existing major Israeli population centers” in the Bush letter, what outposts would be dismantled and when, and what constituted the “construction line of settlements” within which the U.S. government would not object to continued Israeli settlement activity.

Until recently, it was a mystery to me why Spiegel did not produce the data for our negotiations. In January 2009, *Haaretz* published what it asserted were detailed excerpts from Spiegel’s data base. What the data indicated is that, in many cases, zoning laws were not respected, building permits were not obtained, and construction was sometimes undertaken well beyond even the outer boundaries of settlements. In other words, the data indicated that even with respect to settlements authorized by the Israeli government and supposedly in compliance with Israeli law, there were systematic violations of the law that had gone uncorrected over the years. I met with Spiegel

in Israel this past August and asked about the *Haaretz* report. He confirmed that the reason he had never shared the settlements data with me was that the data showed systematic violations of Israeli laws and regulations—not something he was proud of, but certainly not something his superiors believed ought to be shared with the Ambassador of the United States to Israel.

The underlying question here—regarding the Sasson report and the Spiegel data base—is why? Why would the Israeli government turn a blind eye for decades to activity clearly illegal under Israeli law? Why, indeed, would settlements be allowed to grow as a result of such illegal activity even during Israeli governments, like that led by Ehud Barak, whose policies clearly differed from those of earlier (and later) pro-settlement governments? Even if Israel maintains a legal right under international law to build settlements in the occupied territory—a legal interpretation disputed by almost every other state in the world—why would it allow the settlement process itself to be grounded in systemic legal corruption?⁶ Indeed, the underlying question is not why the U.S. and other governments have demanded that settlement activity stop, but rather why Israel has persisted in activities so infused with illegalities and bureaucratic corruption.

The settlement of the Land of Israel is the essence of Zionism. Without settlement, we will not fulfill Zionism. It's that simple.

—**Yitzhak Shamir,**

Maariv, February 21, 1997

The ideology of settlements is intimately bound up with the ideology of Zionism. With the advent of Zionism in the late 19th century, Zionist leaders preached the need to settle the land, to build and be built as Jews, to reclaim the ancient Jewish homeland of *Eretz Yisrael*, the land of Israel, as a means to normalize Jewish history and society. Until the declaration of Israeli independence in 1948, the cornerstone of the settlements enterprise was the idea of the “Whole Land of Israel”, based on the historical connection between the Jewish people and the land promised to them

in the Bible. Until 1948, settlers were seen as the authentic pioneers of Zionism.⁷

In the pre-state period, settlements activists were mostly educated secular Zionists who drew on the Bible for their historical-cultural approach and who believed that the only way to build a state was to reclaim the land and establish a Jewish presence on it. While pre-state settlements never constituted more than a modest fraction of the land under Zionist control or of the population of the country, they played a vital role in laying out the future lines that the Zionist military wing, the Haganah, and the nascent Israeli Defense Forces were to defend. With statehood, this state-building aspect of settlements came to an end.

The issue did not arise again until after the 1967 War, which left substantial new territory—especially the historically and religiously important West Bank and East Jerusalem—in Israel’s hands. Without a clear idea of what they were doing, successive Israeli governments authorized small groups of Israelis to remain in places they sought to populate. Nearly from the beginning, however, the efforts of settlers were conducted deceptively. For example, the settlement of Jews in Hebron started out as a Passover holiday trip in 1968, after which the vacationers simply stayed on. The Israeli Cabinet—sensitive to the history of Jewish life in Hebron, the 1929 massacre of a substantial number of Jews there, and in deference to the swing votes of the National Religious Party in maintaining coalition stability—allowed the settlers to remain. Shortly thereafter, the government, worried about the volatility of the situation, encouraged the Hebron settlers to take over an abandoned army base outside Hebron and to create the Kiryat Arba settlement. Even so, about ten years later, some Jews moved back into the center of Hebron itself.

In the late 1960s, then-Minister of Defense Yigal Allon developed a concept, later named the Allon Plan, which predicated settlement activity on the basis of security, particularly in the Jordan Valley.⁸ But Allon also supported Jewish settlement in Hebron, thereby fudging the security underpinnings of his concept.

After the 1973 Yom Kippur War, a different kind of settlement enterprise began.

Under the ideological tutelage of ultra-nationalist rabbis, the Gush Emunim (“Bloc of the Faithful”) movement was founded with the idea of claiming title to all of the historic land of Israel. For a religious Zionist community that largely had not participated in the pioneering settlements of the pre-state period, the post-1967 period offered an opportunity to claim a share of history while bringing to life the Bible’s promise of Jewish sovereignty in the ancient homeland. Instead of focusing only on strategic areas, these settlers demanded the right to settle in the heart of the West Bank, and in 1977 the new Likud-led government headed by Menachem Begin agreed.

It was around this time that Ariel Sharon retired from the IDF and entered politics, and his presence on the scene gave the settlements movement the legitimacy of contributing to the security of the state. Years later, when he became Prime Minister, Sharon would tell me that it was imperative for the Arabs to recognize not just the fact of Israel’s existence but also the right of the Jews to build an explicitly Jewish state in their historic homeland—a formulation that current Prime Minister Benjamin Netanyahu has elevated to a matter of national policy.

During the post-1973 settlements boom and in subsequent years, the Israeli government established legal guidelines for approving settlements. These guidelines were refined constantly in light of Israeli Supreme Court decisions, perhaps the most important of which was handed down in October 1979 in the Elon Moreh case, in which the Court ruled that the state could not seize private Palestinian land for the purpose of allowing a settlement to be built. The Court said that, in order to seize land, there needed to be a specific and concrete security reason. Three weeks after the Court’s decision, the Israeli government decided that: the full Cabinet would need to approve the establishment of a new settlement; a settlement could be established only on “state land”; the settlement would need an approved municipal building plan; and the local IDF commander would need to approve the settlement’s municipal boundaries.

The growth of West Bank settlements

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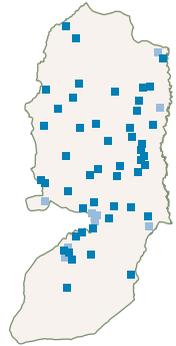
1967

Israel captures the West Bank from Jordan as part of a war with its Arab neighbors; settlement construction begins soon after



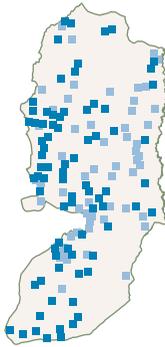
1970s

New settlements are built, some of them near the Jordan River as a security buffer between Israel and Jordan



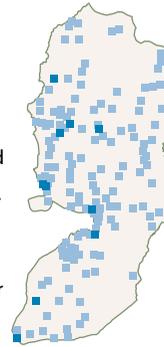
1980s

Two of the most populous settlements are started just inside the West Bank from Israel: Modiin Illit (1981) and Beitar Illit (1985)



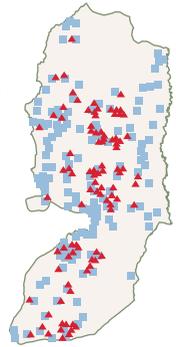
1990s

Negotiations between Israel and the Palestinians yield the Oslo Accords and a freeze on new settlements after 1995; existing settlements continue to expand, however



2000s

Despite the freeze on new West Bank settlements, the settler population grows rapidly, aided by the proliferation of dozens of illegal outposts (shown as triangles)



There is an old adage about lawyers that warns never to ask a lawyer for a legal opinion; rather ask for a legal rationale for doing what you want to do in the first place. In this respect, the late Plia Albeck was the lawyer for the settlers to turn to. Albeck served for many years in the State Attorney's Office, rising to become head of its Civil Division. From this perch, Albeck became essentially the sole arbiter of what constituted "state land." She was not an objective arbiter. She was quoted by one source as saying: "When I visited them [the settlers] I always felt like they were my children. There were more than a hundred settlements that were built because of my legal opinion."⁹

Albeck started from the premise that the onus for proving ownership rested on the Palestinians. This was problematic, for when Israel took over the territories in 1967, the IDF issued an order to stop the process of land registration immediately. By that time, a registration process proceeding under Jordanian aegis had been completed in only 30 percent of the West Bank. Thus, even a Palestinian who

had held his land for many years no longer could register his ownership. Furthermore, Israeli maps showing "state lands" were replete with errors. When Sasson noted this in the report she submitted to the government, the then-head of the Israeli Civil Administration, Brigadier General Ilan Paz, confirmed her information and told the Cabinet that about 30 percent of the lands indicated by Israel as "state lands" were improperly categorized.¹⁰ At least some of this derived from Albeck's decision that land which had not been cultivated for ten years or that had been abandoned for three years would be considered state land. No exceptions were made for Palestinian owners separated from their land because of war or unable to plant their land because of security reasons.

Yet, even with the "law" and the law interpreter (Plia Albeck) supposedly clearing the way for the use of "state land" for settlements,¹¹ a 2006 report issued by Peace Now asserts that 38.8 percent of the land in Israeli settlements in the West Bank is privately owned by Palestinians, in direct violation of the 1979 Israeli



Ariel Sharon

Supreme Court decision in the Elon Moreh case.¹² According to this report, 86.4 percent of Ma'ale Adumim; 35.1 percent of Ariel; 44.3 percent of Givat Zeev; and 44.6 percent of Modiin Illit—four of the largest settlements that Israel claims are covered by President Bush's 2004 letter to Sharon—sit on private land. The Peace Now report defines privately owned land as land “that was registered and recognized as private property before 1968, at a time when the process of land registration was still open and available to Palestinians, or cultivated land which is recognized by Israel as private land according to the Ottoman law.”

The improprieties used to alienate private land for settlements were on display in a 2009 investigatory article on the settlement of Ofra, which found that 58 percent of its land is registered in the Israeli Land Registry to Palestinian owners.¹³ The behind-the-scenes maneuvers are documented further in a 2005 article in *Haaretz*:

Building companies owned and managed by settler leaders and land dealers acquire lands from Palestinian crooks and transfer them to the Custodian of Government Property in the Israel Lands Administration. The custodian “converts” the lands to “state lands”, leases them back to the settler associations that then sell them to building companies. In this way it has been ensured that the Palestinians (under the law in the territories, the onus of proof is on them) will never demand their lands back.¹⁴

In the same article, Sasson is quoted describing the intimate relationship between the Civil Administration and the settlers, a relationship that does not comport with international law:

The Civil Administration was established because under the international law that applies in the territories, the commander of the area is obligated to take care of the “protected” population in the area, that is to say the Palestinians who were there when the IDF entered the territory. Over the years the Civil Administration became the main body that dealt with all the matters of the Israeli settlement in the territories, not mainly the Palestinians, but in fact the Israelis.

Sasson went on to say that the Civil Administration in effect allocates land to the settlements, approves the decision to categorize

these lands as “state lands”, approves permits and licenses for construction, and ensures that the settlements are connected to water, electricity and other utilities. “In effect”, Sasson concludes, “it is the Civil Administration that enables in practice the acts of the Israeli settlements in the territories.”

If the methodology of the unlawful acts associated with settlements lands has been uncovered so easily, and if some of the culprits have been identified—and there is no doubt that large numbers of attentive, newspaper-reading Israelis have known all this for years—then why has nothing been done by Israel to stop these practices, punish those who have broken the law and stop these settlement abuses?

Indeed, even when Israel agreed in the 1990s with an American demand to limit settlement activity in order to support the Oslo peace process, reality proved to be far different. In 1992, the Israeli government adopted Resolution 360 that specified that new construction in existing settlements would take place only within the boundaries of existing settlements, a precursor of the 2003 commitment to limit building to within existing construction lines. However, in 1996, the government authorized a dramatic expansion of settlement boundaries, effectively opening up ever-greater amounts of territory on which to build while remaining within the purview of Resolution 360. The area controlled by Ma’ale Adumim, to take one example, is larger than the municipal area of Tel Aviv. And the number of settlers increased exponentially during this period.

Settlers and their supporters now control much of the bureaucracy and the process involved in the settlements enterprise—many civil servants, employees of the Civil Administration and soldiers in the IDF itself see themselves as protectors of settlements rather than upholders of state laws and interests. In recent months, the IDF has confronted growing protests from soldiers against being asked to evacuate settlements and signs of protest on army bases themselves. In short, the prolonged erosion of the rule of law as it applies to settlements has diminished the state’s authority and the nonpartisan character of military jurisdiction. The government

appears not only unwilling to enforce the law with respect to those who break it in support of settlements, but also afraid to confront the settler movement and its various layers of support in the population. In the meantime, the corrosion of civil and military ethics continues, as the authorities continue to turn a blind eye to illegal settlement activity and the IDF continues to invest heavily in the daily tasks of protecting settlements and settlers. The rationale of settlements as helping the security of the state has been turned on its head; the settlements are now undermining Israeli security by eroding the state’s ability to enforce its own laws.

Ariel Sharon should have been immensely proud to read Talya Sasson’s concluding words in her report to him. Sharon had told me repeatedly that Israel was a “democracy among democracies”, a nation that observes the fundamental tenets of democracy even while in a perpetual state of war since its independence. Thus, Sasson’s words would have resonated with Sharon:

The State of Israel is a democratic state. This is what the Declaration of Independence and the Basic Laws teach us. This is the glue that sticks all its citizens together, allows them to live together in one political entity. Democracy and the rule of law are two inseparables. One cannot exist without the other.¹⁵

Some claim that after all these years, and with so many tens of thousands of settlers throughout the West Bank, ultimately many settlements cannot be evacuated in order to implement a peace treaty with the Palestinians. But they can be, and I believe they must be if a peace settlement is to be reached with the Palestinians. That perspective is gaining ground in Israel. It is exemplified by Israeli writer Gershon Gorenberg, whose recent analysis of the settlement issue has drawn a fair bit of attention. Gorenberg has noted the vital role that settlers and settlements played in the pre-state period, concluding that the success of this Zionist enterprise was the declaration of Israel’s independence in 1948. At that moment, however, the national mission

changed—from building the infrastructure of a state-in-the-making to the protection of that state and the achievement of its recognition and legitimacy.¹⁶ He argues that, by pursuing an unbridled settlement push in 2009, Prime Minister Netanyahu was deconstructing the very state he has sworn to protect, confusing the issue of what Israel is and isn't. Many Israelis agree with him, and Netanyahu's own apparent change of course late last year suggests that the matter is newly open for debate in a way it hasn't been since at least May 1977.

In that light, it was not wrong for President Obama to raise a demand for a settlements freeze, even if the tactics employed to do so did not prove optimal. The issue will not go away, because Israelis themselves increasingly won't let it. The challenge for the United States is how to pursue the issue in a persistent and intelligent manner. It should do so with the confidence that, ultimately, it will end up aligned not only on the right side of history generally, but even on the right side of the history of Zionism. 🇺🇸

¹“Summary of the Opinion Concerning Unauthorized Outposts”, available at www.mfa.gov.il. I want to thank Talya Sasson for her friendship, for educating me on the legal intricacies of settlement activity, and for checking the facts and analysis in this article.

²“Summary of the Opinion Concerning Unauthorized Outposts.”

³Dov Weissglas, “We are allowed to build, on condition”, *Yediot Aharonot*, June 2, 2009.

⁴“Letter from President Bush to Prime Minister Sharon”, available at georgewbush-whitehouse.archives.gov. Israel has contended that this letter allowed it to continue settlement activity in the large settlement blocs of Ariel, Ma'ale Adumim and Gush Etzion, but the letter and the discussions surrounding it did not convey any U.S. support for or understanding of Israeli settlement activities in these particular or other areas in the run-up to a peace agreement.

⁵“Letter from Weissglas, Chief of the PM's Bureau, to National Security Advisor, Dr. Condoleezza Rice”, available at www.mfa.gov.il.

⁶The relevant provisions of international law come from the Fourth Geneva Convention, which

prohibits an occupying power from transferring citizens from its own territory into the occupied territory; and the Hague Regulations, which prohibit an occupying power from undertaking permanent changes in occupied areas unless they are related to military needs or undertaken for the benefit of the local population. See Daniel Kurtzer, “Do Settlements Matter? An American Perspective”, *Israel Journal of Foreign Affairs*, Volume 3, Number 2 (2009).

⁷For background on settlements, see Gershom Gorenberg, *The Accidental Empire: Israel and the Birth of the Settlements, 1967–1977* (Times Books, 2006) and Idith Zertal and Akiva Eldar, *Lords of the Land: The War over Israel's Settlements in the Occupied Territories, 1967–2007* (Nation Books, 2007).

⁸Allon, “The Case for Defensible Borders”, *Foreign Affairs* (October 1976).

⁹Plia Albeck obituary, *The Times* (London), October 5, 2005.

¹⁰Private correspondence with Talya Sasson, November 23, 2009.

¹¹Another problem with the so-called “state land” categorization is that, while the land so designated should have been available for public use, Palestinians were not eligible to use “state lands” to establish Palestinian villages or expand Palestinian towns.

¹²Steven Erlanger, “Israeli Map Says West Bank Posts Sit on Arab Land”, *New York Times*, November 21, 2006 and “Breaking the Law in the West Bank—One Violation Leads to Another: Israeli Settlement Building on Private Palestinian Property”, Peace Now (October 2006).

¹³Stephen Lendman, “Israel's Ofra Settlement on Unauthorized Palestinian Land”, *sjlendman.blogspot.com*, September 28, 2009. Indeed, the Peace Now report charges that 93.2 percent of Ofra is on private land; that Ofra's built-up area is not located in the planning area of the local council; that there are no approved planning documents on file; and that there are no building permits or exemptions from building permits on file for many structures in Ofra.

¹⁴Akiva Eldar, “Turning Palestinian Property into Israel's State Land”, *Haaretz*, December 27, 2005.

¹⁵“Summary of the Opinion Concerning Unauthorized Outposts.”

¹⁶Gorenberg, “Barack the Zionist”, *Slate*, June 17, 2009.