

## SETTLEMENT OUTPOSTS: REALITIES AND MYTHS

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*The current Israeli government, like all its predecessors since 2003, has failed to implement its Road Map obligations. In particular, it continues to obfuscate the issue of settlement outposts in an attempt to circumvent its obligation to “immediately dismantle settlement outposts erected since March 2001.”*

*This paper is intended to clarify the realities and dispel the myths surrounding the issue of settlements outposts.*

**Myth: “Outposts” are different from settlements.**

Outposts are nothing more than nascent settlements, typically established by placing trailers or caravans at a particular site and often resulting in the addition of permanent housing and infrastructure. They tend to be located anywhere from several hundred meters to a few kilometers from more established ‘parent’ settlements.<sup>1</sup>

Both Peace Now and OCHA put the number of outposts at about 100,<sup>2</sup> whereas Israel’s Ministry of Defense counts 87.<sup>3</sup> An exact number is difficult to ascertain due to the subjectivity (if not arbitrariness) of distinguishing them from other established settlements and to the fact that some outposts are dismantled and rebuilt and/or moved many times.

Outposts serve an important function for Israel politically and territorially. Since the early 1990s, successive Israeli governments have committed not to build new settlements. However, they have circumvented this commitment by facilitating (and often sponsoring) the creation of new settlement “outposts”, or “neighborhoods” of existing settlements.<sup>4</sup> On the ground, outposts expand the amount of land under the parent settlement’s control,<sup>5</sup> and serve as ‘fillers’ or ‘connectors’ between settlements with the aim of creating contiguity between them.

**Reality: Outposts are not a new phenomenon.**

The establishment of outposts is by no means new. Many, if not most, of today’s ‘veteran’ settlements began as isolated outposts and have since grown into large colonies. Ma’ale

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<sup>1</sup> OCHA, *The Humanitarian Impact on Palestinians of Israeli Settlements and Other Infrastructure in the West Bank* (July 2007) at 36.

<sup>2</sup> *Ibid.* at 35.

<sup>3</sup> Tovah Lazaroff & Yaakov Katz, “10 outposts slated for demolition” in *Jerusalem Post* (25 May 2009).

<sup>4</sup> OCHA, *supra* note 1 at 34.

<sup>5</sup> *Ibid.* at 38.

Adumim settlement (pop. ~34,000), for example, was established in 1975 as a “work camp”, consisting of 22 families and with no government authorization.<sup>6</sup>

However, it was not until the mid-1990s, in the midst of the Oslo process, that the outpost phenomenon truly began to surge. Inspired by calls from then Israeli Foreign Minister Ariel Sharon in 1998 to “move, run, grab more hills, and expand the territory,” the outpost phenomenon reached its peak between 1998 and 2002.

**Myth: Israel is moving against outposts in fulfillment of its Road Map obligation.**

Phase I of the Road Map requires that Israel “immediately dismantles settlement outposts erected since March 2001.” Peace Now estimates that there are currently 51 such outposts.

According to recent media reports,<sup>7</sup> Israel is planning to “deal” with only 26 “unauthorized” outposts. Moreover, of those 26, the Israeli plan reportedly calls for the removal of only some, while retroactively “authorizing” the rest.

Although many in the international community have unwittingly adopted this formulation, the word “unauthorized” does not appear in the Road Map. All outposts established since March 2001 are to be removed. This date marks the collapse of the peace process following the election of Ariel Sharon as Prime Minister. The purpose underlying the obligation as articulated in the Road Map was to nullify attempts to exploit the absence of a peace process and to reverse the prejudicial effects of any additional settlement activity. For this reason, it would be inappropriate to use terms in Israeli laws and administrative procedures to interpret the provisions of the Road Map.

Furthermore, several of the 26 outposts Israel reportedly plans on “dealing” with are in fact “dummy outposts” – uninhabited outposts erected by the settler movement to use as bargaining chips or for public relations purposes.<sup>8</sup> Peace Now has confirmed this practice, affirming that all 11 outposts that were removed in 2002 by then Israeli Prime Minister Ariel Sharon were “dummy” outposts, each consisting of no more than one or two uninhabited

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<sup>6</sup> Geoffrey Aronson, “Grab and Settle: The Story of Ma'ale Adumim” in Foundation for Middle East Peace (FMEP), Report on Israeli Settlement in the Occupied Territories (May-June 2005), Vol. 15, No. 3, online: FMEP <<http://www.fmep.org/reports/archive/vol.-15/no.-3/PDF>> .

<sup>7</sup> See, for example, Tovah Lazaroff & Yaakov Katz, *supra* note 3.

<sup>8</sup> For example, see “MK Hendel Says All Illegal Outposts Evacuated ‘Were Fabricated’” in *Ha'aretz*, (18 July 2002).

containers.<sup>9</sup> More recently, the outposts of Shvut Ami and Maoz Ester, whose removal generated much media attention, consisted of only a few huts.<sup>10</sup>

**Reality: The artificial distinction between “authorized” and “unauthorized” outposts is used to further settlement expansion.**

Israel draws an artificial distinction between “authorized” and “unauthorized” outposts as a way to appear as if it is acting in compliance with its obligation under the Road Map – by moving against “unauthorized” outposts – and to divert international attention away from the *rest* of its settlement activity. Indeed, Israeli governments historically have used the removal of some “unauthorized” outposts as a means to ‘legitimize’ other forms of settlement expansion, usually as part of a ‘trade-off’ negotiated with settler groups. The Israeli government agrees to settler demands to approve planned settlement expansion and to “authorize” some “unauthorized” outposts in exchange for settlers’ agreement to voluntarily evacuate and dismantle some other “unauthorized” outposts.

For example, in 2000, rather than dismantling 42 “unauthorized outposts”, then Prime Minister Ehud Barak’s government agreed to “deal with” 11, in exchange for authorizing the master plan for the Itamar settlement. Of the 11 outposts Barak “dealt with”, four were uninhabited and four others were eventually authorized as “new neighborhoods” of nearby settlements.<sup>11</sup> More recently, in February 2009, current Minister of Defense Ehud Barak reportedly approved the establishment of a new settlement near Adam (Geva’ Binyamin) settlement as part of a plan to relocate Israeli settlers from the outpost of Migron.

**Myth: “Authorized” settlements are legal.**

Israel’s references to “authorized” or “unauthorized” settlements are little more than an attempt to cast an air of legitimacy or legality on a fundamentally illegitimate and unlawful enterprise: Israel’s ongoing colonization of occupied Palestinian territory. The fact remains that all settlements are illegal under international law.

The Fourth Geneva Convention expressly prohibits an Occupying Power from deporting or transferring parts of its own civilian population into the territory it occupies.<sup>12</sup> According to

<sup>9</sup> Interview with Dror Etkes, Peace Now Settlement Watch Coordinator (10 June 2003).

<sup>10</sup> Dan Izenberg, “Security forces clear Shvut Ami outpost” in *Jerusalem Post* (31 May 2009); Efrat Weiss, “Illegal outpost Shvut Ami evacuated” in *Ynet* (31 May 2009); and “Israel dismantles West Bank settlement outpost” in *AFP* (21 May 2009).

<sup>11</sup> “Optical Illusion at Havat Ma’on” in *Ha’aretz* (11 November 1999), cited in Foundation for Middle East Peace (FMEP), *Report on Israeli Settlement in the Occupied Territories* (Jan.-Feb. 2000), Vol. 10, No. 1, online: FMEP <<http://www.fmep.org/reports/archive/vol.-10/no.-1/optical-illusion-at-havat-maon>> .

<sup>12</sup> *Fourth Geneva Convention Relative to Civilian Persons in Time of War of 1949*, 12 August 1949, 75 U.N.T.S. (1950) 287 [*Fourth Geneva Convention*]. Article 49(6) of the Convention provides that: “The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies.”

the Commentary of the Fourth Geneva Convention, the prohibition on the establishment of settlements is “intended to prevent a practice adopted during the Second World War by certain Powers, which transferred portions of their own population to occupied territory for political and racial reasons or in order, as they claimed, to colonize those territories. Such transfers worsened the economic situation of the native population and endangered their separate existence as a race.”<sup>13</sup>

In addition, Israeli settlements violate United Nations Security Council Resolutions, including UNSCR 452 (1979) calling upon “the Government and people of Israel to cease, on an urgent basis, the establishment, construction and planning of settlements in the Arab territories occupied since 1967, including Jerusalem.”<sup>14</sup> This resolution has never been enforced.

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<sup>13</sup> Jean Pictet, ed., *Commentary IV Geneva Convention Relative to the Protection of Civilian Persons in Time of War* (Geneva: International Committee of the Red Cross, 1958) at 283.

<sup>14</sup> U.N. Doc. S/RES/452 (1979).