

Israeli West Bank Settlements: Perversion of Realism and Obstacle to Peace

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(ABSTRACT)

In the Israeli – Palestinian conflict, peace conferences and agreements come and go. Public and political discourse about the conflict waxes and wanes. Meanwhile, new and expanded Israeli settlements in the West Bank continue to grow unabated. The history of settlements in the West Bank began with the conclusion of the 1967 war during which Israel successfully took over the West Bank Palestinian territory. According to international law, building settlements in the West Bank is illegal. Israel contends that such settlements are not illegal because the West Bank is disputed territory, not occupied territory. The possibility of a Palestinian state is likely preempted because Israeli settlements comprise close to 40% of the landmass in the occupied territory. The occupation of the West Bank (and Gaza) and the continuing growth of settlements are a perversion of classic political realism because these actions create an increased threat to the long-term national security of Israel and to the safety of the global Jewish community.

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Chapter I

Israeli West Bank Settlements: Introduction and Overview

The conflict between Israel and the Palestinians has been long and enduring, and fraught with a range of issues and difficulties. It has included violence and outbreaks of war, two intifadas (uprisings), cross border attacks on both sides, and numerous major efforts to find peace and finally settle the conflict. Certainly many problems have stood in the way of realizing a permanent peace agreement: settlements, borders, the international status of Jerusalem, access to the holy sites, and the right of return of refugees. However, a primary roadblock to finding a peaceful resolution to the conflict is the growing number of Israeli settlements in the West Bank and East Jerusalem. This growth has resulted in an incremental take-over of the West Bank through the creation of “facts on the ground” even as Israel has an official position to the contrary. Although the Israeli leadership knew such actions in the West Bank were illegal, settlements began almost immediately after the 1967 war. The central argument of this paper is two fold. First, the growth and expansion of Israeli settlements has been, and continues to be, the major obstacle to peace between Israel and the Palestinians. Secondly, in continuing the occupation and especially the growth of settlements, Israel is contravening its basic national security interest. The settlements and the occupation represent a perversion of classical realism. Realism argues that states pursue their national interest first and foremost. The continuing growth of Israeli West Bank settlements is actually creating more threats to Israel’s national security rather than satisfying their national interest.

There are four critical elements of the problem of Israeli settlements in the West Bank that will be highlighted throughout the discussion.

- First is the recognition that the growth of settlements continues regardless of any other factors. Settlements have become a natural part of Israel’s strategy for growth and development.
- Secondly, Israeli West Bank settlements are a subterfuge that is omitted from important conversations and negotiations. Peace talks come and go, treaties and protocols are agreed upon, violence and conflict wax and

wane. Settlements do not receive an accurate portrayal in the media and many in the public are simply unaware of the extent of their existence. Meanwhile, the growth of settlements continues. Even though Israeli settlements in the West Bank represent an illegal intrusion into Palestinian territory that brings with it a massive security regime, settlements are generally overlooked as an element of the conflict.

- Third, the presence and growth of settlements is a major physical and symbolic intrusion into the West Bank Palestinian territory. It is also an imposition upon the quality of life of the Palestinians. It is a large part of the cause of the deprivation and suffering experienced by the Palestinians.
- Fourth, the continuing growth of settlements and the occupation represent a flawed or perverted practice of political realism. Both the settlements and occupation reveal a number of inherent contradictions or perversions of political realism by Israel. Critical for this discussion is the recognition that in its preoccupation with an excessive emphasis on security, Israel is sabotaging its own long-term security interest, and it is violating some of the principles of international morality articulated in classical realism.

Questions may be raised about why settlements are identified as the primary obstacle to peace, as opposed to the other final status issues: Jerusalem, borders, refugees, Israel and relations and cooperation with neighboring countries, and other issues. The answer is simple. Although they are pressing concerns, the other issues are pending and can be more easily addressed as part of the final status talks. On the other hand, settlements continue to grow unabated and the U.S. or Israel does not even officially recognize their obvious physical permanence.

Using earlier material that documents the history of Israeli settlements in the West Bank, and recent major studies that illustrate the extent of the current problem, this work argues that settlements are not only a major obstacle to peace, but they also threaten to effectively preempt the possibility of the creation of a state for the Palestinian people.

The question surrounding the original settlement of Jews in Palestine, especially in the American Jewish community, has been the belief that when Jews first settled in

Palestine in the early part of the 20th century, and following World War II, that Palestine was essentially a barren land with only a small number of scattered Arab communities with Jerusalem at the center. There is a lack of clarity about this question even within Israel. Long-standing research, investigation of land use histories, and personal accounts refute this claim. The land of Palestine was well populated with Arabs. The Zionist movement engaged in the systematic depopulation and displacement of long established Arab Muslim communities. Israeli Historians Benny Morris and Ilan Pappé have documented that the Israelis engaged in atrocities against the Palestinians and confiscated Palestinian land during the war that resulted in the displacement of the Palestinian population in 1947 – 48 and created the Palestinian refugee problem. Most historians of the region have recognized that reality in the past 15 – 20 years.¹

Land confiscations continue today, both within Israel (Arab – Israeli citizens in East Jerusalem) and in the occupied territories. However, a more critical problem associated with land confiscations, is the building of Israeli Settlements in the West Bank. Once the land is claimed through a variety of means, it is available for placement of settlements, or the creation of other manifestations of the Israeli presence in the West Bank.

The following discussion presents some background information of issues that are discussed in this paper.

Historical Background of the Conflict

The major turning point for the modern Israeli-Palestinian conflict occurred with the 1967 Six-Day War in which Israel gained control over the West Bank, East Jerusalem and the Golan Heights. At that point, other forces with roots in the Merkaz Harav Yeshiva in Jerusalem were poised to get momentum to gain access to the West Bank territory. The movements with a vision of greater Israel were engaged in their own way to further the cause of creating a Jewish presence in the occupied territory. Under the leadership of Zionists factions, Israel initiated the process of the settlement of the West

¹ Benny Morris, *The Birth of the Palestinian Refugee Problem, 1947-1949* (Cambridge: Cambridge University Press, 1989). Benny Morris, *The Birth of the Palestinian Problem Revisited* (Cambridge: Cambridge University Press, 2004). Ilan Pappé, *The Ethnic Cleansing of Palestine* (Oxford: Oxford University Press, 2006).

Bank and the Gaza Strip. Technically, the government of Israel was not establishing settlements; it was the Zionist visionaries who wanted to create “facts on the ground,” ultimately in defiance of their government. Prime Minister Levi Eshkol (1963-69) was quietly complicit in the events. Rabbi Moshe Levinger, considered by some to have been the founder or “father” of the West Bank settlement movement, adopted the “commandment...that the Land of Israel must be in the hands of the Jewish people---not just by having settlements, but that it’s under Jewish sovereignty.”² Levinger says that his thinking about the territory stems from his experience at Merkaz Harav. The yeshiva, led by Rabbi Avraham Yitzhak Kook (1865-1935), emphasized religious nationalism. Kook believed that Zionism was part of God’s divine plan and taught, “the Jewish return to Israel and the flowering of the land heralds the beginning of the Messianic Age.”³

On April 12, 1968 the settlement process began in defiance of the government when 32 families moved into the Park Hotel in Hebron. This action provided only a glimpse of what was to come. Gorenberg tells a fuller story of the interaction between Levinger and government officials, including Yigal Allon and Prime Minister Levi Eshkol. Allon was the former army general who filled a number of positions in the government around the time of the 1967 war, and put forth his own version of how the West Bank territories ought to be apportioned. The Allon plan was a proposal to annex all of the Hebron hills (the West Bank south of Jerusalem) or perhaps only the desolate lowland next to the Dead Sea. This kind of ambivalence was characteristic of Allon. His intention was to annex Bethlehem, including Rachel’s Tomb; and Hebron, where the Tomb of the Patriarchs is located. He also proposed that the Arabs would be allowed to remain as an enclave and would be given autonomy or “home rule.” The annexed land would be “camouflaged as military strong points” until annexation was complete.⁴ A critical insight in the period right after the 1967 war is the recognition that the West Bank settlement acquired a surreptitious character, what might be referred to as a “stealth” campaign. Although the Allon plan was never formally adopted, it is reflected in the settlement growth that has developed.

² Gershom Gorenberg, *The Accidental Empire: Israel and the Birth of Settlements, 1967 – 1977* (New York: Times Books, Henry Holt and Company, LLC, 2006) 106 - 07.

³ Robert I. Friedman, *Zealots for Zion: Inside Israel’s West Bank Settlement Movement* (New York: Random House, 1992) 12.

⁴ Gorenberg, *The Accidental Empire*, 80 - 83.

Meanwhile, as the Hebron settlement was being realized, Prime Minister Eshkol was also involved in implementing his own version of the settlements. Specifically, in East Jerusalem, he recognized the need for additional space for the development of housing projects and the future campus of Hebrew University. According to Gorenberg, the prime minister won approval for the appropriation of 800 acres of land that would reconnect Jerusalem to Mount Scopus. One of his aides then sent a secret memo to other governmental officials, including Jerusalem Mayor Theodor (“Teddy”) Kollek. The memo reportedly said, “Since our desire is to develop the east city rather than talk about it, they should avoid publicity and keep working.”⁵ Further discussion of the history of the Israeli settlement movement demonstrates extensive amounts of complicity, deception, and illegality by a number of different players including the Israel Defense Forces, the government bureaucracy, and the settlers. In fact, the evidence strongly suggests that Israel never intended to consider a Palestinian state, and only wanted to rid itself of the Palestinian problem. The evidence gathered here suggests that the settlement movement has “taken on a life of its own” as the result of the convergence of a number of forces at work in the Israeli culture and political system.

Religious nationalism is one of the primary forces to consider in the analysis of the continued growth of settlements despite their illegality, and the difficulty they create for Israel. Other forces are surely at work, including the need for additional land for housing and political nationalist motivations. Three factors strongly suggest that the occupation of the West Bank and the settlement project are driven primarily by Zionist religious nationalism. First is the recognition that Israel regards the occupied West Bank territory as Judea and Samaria, the ancient Hebrew Bible names for that area. Secondly, on most official Israeli travel maps, the West Bank does not exist; it is not identified as a separate territory, but is included as part of Israel proper. Third, the purpose of Israel is, and always has been, the creation of a *Jewish* state. The presence of Palestinians in the territory exacerbates the demographic problem that threatens Israel’s aspiration to be a majority Jewish homeland.

⁵ Ibid. 141

Settlements and Modern Discourses

The critical theoretical framework for discussing the problem of Israeli settlements in the West Bank is classical political realism. The argument here is that the growth of settlements is a basic violation of the principles of political realism as a tool for assessing and evaluating state behavior. Using the work of realist theorists John Mearsheimer and Hans Morgenthau this topic is explored extensively in chapter 3 and at various points throughout this discussion.

Meanwhile, an important background for understanding the plight of the Palestinians is revealed in the work of Edward Said, a Palestinian, and faculty member at Columbia University for many years, who has written extensively in this area. Said provides an important perspective on the Palestinian situation, and the ability of Israel, with the complicity of the U.S., to continue the occupation and the growth of settlements in the West Bank. Said's analysis of the historic Western (Occidental) discourse about the Arab Near East and how that discourse has contributed to the diminishment of the Palestinians is critical. *Orientalism*, Said's landmark publication (1978), is his explication of the mischaracterization and misrepresentation of Muslims and Arabs through the ages. According to Said, Orientalism is the historic study of the culture of the Orient. Anyone who studies and teaches about the Orient, whether an anthropologist, sociologist, historian or philologist... "either in its specific or its general aspects, is an Orientalist, and what he or she does is Orientalism." It is an academic approach to the Oriental world, and it has its deepest roots in Europe.⁶ Orientalism is also a style of thought based on the ontological and epistemological distinction between the Orient and the Occident, (East and the West). It involves poetry, economics, literature and social descriptions dealing with the people of the Orient and their customs. The third area of Orientalism is the movement between these two worlds, and more precisely, the ways in which the West rules over the East by dominating, restructuring and having authority over the Orient.⁷

This narrative about the Orient includes the Near East, Islam, the Arabs, and of course, the Palestinians. The consequence of Orientalism is the creation of a dominant

⁶ Edward W. Said, *Orientalism* (New York: Vintage Books Edition, 1979), 2.

⁷ Ibid. 3.

stereotype of Arabs and Islam that turns the simplest perceptions of the Near East into what Said identifies as “a highly politicized, almost raucous matter.” Anti-Islam and anti-Arab prejudice is widespread in the West. The conflict between Arabs and Israeli Zionism and its effects upon American Jews is highly politicized, and consequently, it is almost impossible to identify with or speak dispassionately about Arabs or Islam. Said refers to this situation as a “web of racism“ and a “dehumanizing ideology” in which the Palestinians are at the center. In this case, Said is speaking out of his own experience to illustrate the plight of the Arab Palestinians in the West where there is widespread “liberal American identification with Zionism.”⁸ Still, this characterization can be applied to the Palestinians’ effort to realize national sovereignty in the face of overwhelming cultural forces that essentially deny their existence. The Palestinian is “the Oriental” who has been created by “the nexus of knowledge and power” that has effectively obliterated him as a human being. This is the background, the historic discursive force that further puts the West Bank Palestinians at a severe disadvantage as they simultaneously defend their territorial integrity in the occupied West Bank and Gaza territory.

Said has demonstrated graphically the dilemma of the Arabs, and thus the Palestinians, as characterized by the Orientalist mode of academic, cultural and pictorial representation: “In the films and television the Arab is associated either with lechery or bloodthirsty dishonesty. He appears as an oversexed degenerate, capable, it is true, of cleverly devious intrigues, but essentially sadistic, treacherous, low.”⁹

These same Palestinian Arabs are faced with the massive intrusion of Israeli settlements into their West Bank territory. In terms of broad public discourse, the problem of West Bank settlements is relatively new to the discussion. It has only recently been researched and discussed fully, with all of the implications presented for consideration. Other observers who have long been invested in the Israeli – Palestinian conflict addressed this developing problem much earlier. In addition to his discourse analysis, Edward Said has been a long- time activist for the cause of Palestinian rights, working to stop the growth of settlements, and bring an end of the Israeli occupation.

⁸ Ibid. 27.

⁹ Ibid. 286 – 287.

Said has been a keen observer of the situation and he was a recognized authority on the Israeli – Palestinian conflict until his death in September of 2003. He also addressed the dilemma created by the Oslo Accords peace treaty, an important background to the discussion of the occupation and the growth of settlements.

Said expressed many insights about the forces and interests at work in the Israeli – Palestinian conflict surrounding the issue of the settlements. He has been engaged in the peace process intimately and he has been bold and forthright in his assessment of the situation. Said views the peace process (and the long public discourse) as a betrayal of Palestinian interests, and he was highly critical of the outcome of the Oslo Accords. In a presentation at Columbia University, Said contended that the Accords increased Palestinian poverty and unemployment, lessened Palestinian freedom and autonomy, and essentially endorsed and sustained the longest military occupation of the 20th century. Oslo allowed the continuation of land expropriations and the expansion of settlements.¹⁰

In a presentation given at the Burkle Center for International relations at UCLA, Said reiterated his concern about the barrier to peace created by the continuing growth of settlements (Feb. 2003). Reporting on this event on a university web page, the writer summarizes the presentation by Said.

Said, author of the path-breaking work *Orientalism*, argued that the construction of Israeli settlements in the West Bank and Gaza strip after the 1967 war, in which these territories came under Israeli control, made unrealistic the construction of a Palestinian state on the many small isolated pieces of land remaining to the Palestinians. He held that this was the cause of the failure of the Oslo Peace Accords in 1993 and underlay the current Palestinian resistance to the Israeli occupation.¹¹

Said named the problem of settlement growth before it had become popularized by new research and writing.

The other point of clarity for Said is the recognition of the imbalance of power between Israel and the Palestinians. They are not equal partners at the bargaining table.

¹⁰ Edward W. Said, *The End of the Peace Process: Oslo and Afterward* (New York: Vintage Books, 2001) 3 – 5.

¹¹ Leslie Evans, “1,800 Fill Royce Hall for Edward Said Talk on Palestinian Rights,” Burkle Center for International Relations, UCLA, February 25, 2003.
<http://www.international.ucla.edu/burkle/article.asp?parentid=3266>

The Palestinian people represent the “lifting of the veil” on the hidden dimensions and contradictions of this conflict. Said often characterized the Palestinians as “the victims of the victims.” Jews, who are victims and refugees of the Holocaust, have now turned the Palestinians into their victims. He is unequivocal that Palestinians suffer as victims at the hands of Israelis with the backing of the United States.¹² Edward Said’s writings, including work that he has collected and edited, are discussed again in the 5th chapter.

The question remains as to why and how this state of affairs persists in the modern, post-colonial era, especially with the complicity of the United States, which continues to give unconditional support to Israel. The occupation and the continuing imposition of settlements in the territory of the Palestinian people represent the worse kind of political realism practiced by the Israeli government. It has become a zero-sum game between the sides, with increasing shares of territory and rights going to the Israelis, as decreasing shares of territory and rights go to the Palestinians. Israel has persisted in doing what it wants to do under the veil of religious righteousness, nationalism and a sense of victim-hood resulting primarily from the Holocaust.

Meanwhile, according to the dominant historical narrative, Palestinians are viewed as the aliens encroaching on the land, on the Israelis, and on the right of Israel to exist. This is not only Israel’s claim, but it also reflects an attitude that is widespread in the contemporary public discourse about the situation. The settlement movement is very powerful, exercising an inordinate amount of power and influence with the Israeli military and the governmental bureaucracy. Despite what Israel says officially, that settlements are only temporary until peace is realized, settlements continue to grow and expand, with the support of other power players. The continuing occupation of the West Bank (and Gaza, which is a separate topic for discussion) is a contradiction of classical realism. This occupation is a violation of the rights, dignity and well being of the Palestinian people, and it makes Israel, and the global Jewish community, more vulnerable to attack, which is a direct challenge to their national security interest. This theme is developed more fully, with the assistance of John Mearsheimer and Hans Morgenthau, in Chapter 3, and at other points throughout the paper.

¹² Edward W Said, “Introduction,” in *Blaming the Victims: Spurious Scholarship and the Palestinian Question*, ed. Edward W. Said and Christopher Hitchens (London: Verso, 2001) 1-19.

Settlements, Occupation, Domestic and International Law

There are a number of aspects to the legal dimensions of the Israeli settlements in the West Bank that need to be considered in order to gain an understanding of the role of law in this situation. First is the question of how Israeli domestic law has been applied to settlements and to the confiscation of Palestinian land as part of the settlement process. Critical to this discussion is the intriguing way in which the Israeli Supreme Court ruled on the most important case, which is the Elon Moreh settlement that was challenged in the courts by Palestinian landowners with the assistance of the Israeli human rights group Peace Now. This case marks a turning point in how land in the occupied West Bank was claimed for settlements. The Israeli Supreme Court opinion on this case will be discussed. There is also a brief discussion of the politics of the Elon Moreh case in the chapter on the history of settlements.

The other important legal dimension of settlements is the application of international humanitarian law, especially the Geneva Conventions, to the occupation of the West Bank, the building of settlements and the demolition of Palestinian homes. The international consensus is that many of Israel's practices are illegal, a position which Israel disputes. How the government of Israel arrived at its conclusions about settlements and international law is another intriguing prospect for discussion.

Stakeholders and Advocates for Israel and the Settlements

Clearly, the settlers themselves are the most powerful force at work in promoting the cause of settlements. They have long been a force to contend with in Israel. According to some sources, the settlers as a political force are a major roadblock to addressing the legitimacy of West Bank settlements. Writing for the United States Institute of Peace Special Report of September 2005, Yossi Alpher says the following about the settler movement:

One key factor in the foundering of Israeli politics over the Palestinian issue that bears emphasis is the influence of the settlement movement. The religious-ideological settlers of the West Bank and Gaza have proved over recent decades to be the most dynamic, highly motivated, and astute political lobby in Israel. Even prime ministers intent on far-reaching territorial compromise, such as Rabin and Barak, preferred to co-opt the settlers and enable settlement expansion, thereby not only postponing

confrontation with them over the territorial issue but rendering the ultimate confrontation with this minority sector that much worse in quantitative terms.¹³

Another important factor to consider is the role of the Israeli lobby, the American Israeli Public Affairs Committee—AIPAC, a topic explored thoroughly by John Mearsheimer and Stephen Walt in their recent publication *The Israeli Lobby and U.S. Foreign Policy*.¹⁴ These authors' work will be referenced periodically as a source for documenting a variety of issues relating to settlements and the relationship between the United States and Israel.

The work of Christian Zionists is an area of further critical investigation. Christian Zionists are clear and uncompromising about their understanding of Israel. They believe that the land, Eretz Israel (meaning all of Palestine), was given to the Jews by God and should be fully restored to them because the establishment of Israel fulfills Biblical prophecy. John Hagee, pastor of the 8,000-member Cornerstone Church in San Antonio, Texas is perhaps the most “famous” in the Christian Zionist movement. He is the spokesman and leader for what some would consider a dangerous, apocalyptic foreign policy that calls for a confrontation of biblical proportions between Israel and Arab forces as a step toward Armageddon. Armageddon is actually Mount Megiddo in Israel, which is understood in fundamentalist Christianity as the place of the final battle between God and Satan. Christian Zionists argue that this event will precipitate the second coming of Christ. Hagee and others are able to rally followers on Capitol Hill to lobby in support of Israel. Critical to this discussion is the recognition that Christian Zionists regularly raise millions of dollars to support the expansion and growth of Israeli settlements in the West Bank. Because of the financial support provided by American Christian Zionists, and their political clout, they are major stakeholders on the question of West Bank settlements and the long-term prospects for the realization of a viable state for the Palestinians. Mark Penn, (Chief Adviser to Hillary Clinton's 2007-'08 presidential campaign) in his book *Microtrends: The Small Forces Behind Tomorrow's Big Changes* reports that more U.S.

¹³ Yossi Alpher, “The Future of the Israeli-Palestinian Conflict: Critical Trends Affecting Israel.” United States Institute for Peace. Special Report No. 149. September, 2005.

¹⁴ John Mearsheimer and Stephen M. Walt, *The Israeli Lobby and U.S. Foreign Policy* (New York:Farrar, Straus and Giroux, 2007).

Christian Zionists support Israel than do American Jews.¹⁵ The influence of Christian Zionists on the growth of settlements in terms of their political and policy impact, and the financial resources that they bring to bear on the growth of settlements, is discussed further in Chapter 5.

There is an extensive propaganda infrastructure in place in support of Israel, especially in the United States. To gain a clearer understanding of the occupation and settlements in the West Bank, it is important to look closely at some of the different dimensions of this public discourse and advocacy for Israel.

The Plight of the Palestinian People

According to the United Nations report *The Humanitarian Impact on Palestinians of Israeli Settlements and Other Infrastructure in the West Bank* (July, 2007), settlements in the West Bank are growing at an average rate of approximately 5.5% per year. More than 38% of the West Bank is now taken up by Israeli settlements, outposts and military bases, closed military areas, and nature preserves that are either tightly controlled or off limits to Palestinians.¹⁶ As this growth continues, it will eventually make it virtually impossible to create a Palestinian state in the West Bank territory, which is already highly fragmented between Israeli and Palestinian population centers. Meanwhile, the settlements, and the infrastructure that has developed to provide transportation and security for the settlers, has become part of an oppressive regime and a source of consternation and discontent for average West Bank Palestinian residents.

The Israeli population in the West Bank continues to grow in highly subsidized and highly favored settlements. A separate set of roads, tunnels and bridges that exclude Palestinians allow settlers to commute into Jerusalem. Israeli Defense Forces West Bank military outposts provide extra security for settlers. At the same time, the Palestinian population continues to grow more desperate. A 2003 post intifada World Bank study of poverty in the Palestinian territory indicated that about 60% of the Palestinian population in the West Bank and Gaza live under the poverty line of \$2.00 per day. The study,

¹⁵ Mark Penn and E. Kinny Zelesne, *Microtrends: The Small Forces Behind Tomorrow's Big Changes* (New York: Twelve/Hachett Book Group USA, 2007) 58.

¹⁶ United Nations Office for the Coordination of Humanitarian Affairs – OCHA, *UN Report on the Humanitarian Impact of Israeli Settlements*, July 2007, 8.
http://www.ochaopt.org/documents/TheHumanitarianImpactOfIsraeliInfrastructureTheWestBank_Intro.pdf

which adjusted for population growth, reports “the numbers of the poor have tripled from 637,000 in September 2000 to nearly 2 million today.”¹⁷ The significant amount of detail in this study points toward Israeli policies of closure and control of the occupied territory as the primary factor in the worsening fate of the Palestinian people.

As the result of the intifada, and the incidents of more recent Palestinian attacks, Israel has relied increasingly upon extraordinary security measures to keep the Palestinian population in check. Key to these measures is the placement of the security or separation barrier/wall/fence along the border between the West Bank and Israel (which also separates some parts of the West Bank from each other to protect settlers) and an increasingly harsh military regime which includes the widespread use of roaming security check points in the West Bank – “flying” checkpoints. As of November 2008, the IDF had 63 permanent checkpoints inside the West Bank that were not close to the Green Line. Eighteen of the checkpoints were in Hebron. Palestinians are subjected regularly to checkpoint stops that often cause extended delays in their routine travel.¹⁸ These kinds of extra security measures that infringe on the rights of Palestinians will continue as long as Israeli West Bank settlements are a priority for Israel.

In addition to these kinds of routine restrictions, there are thousands of examples of land confiscation, destruction of property, and the bulldozing of crops including olive trees and vineyards. B’Tselem, and the organizations Peace Now and Rabbis for Human Rights all maintain tallies of human rights abuses and atrocities committed against Palestinians by both settlers and the IDF. It is a curious dichotomy that Israel argues on one hand that the settlements are a temporary privilege that could easily be revoked by the state, and yet, the state continues to protect, promote and support the settlement movement almost at any cost. The biggest cost, of course, is to the Palestinian people, and to the possibility of ever realizing a viable, sovereign Palestinian state.

It is one thing for one country to occupy another people’s land. It is another thing still for a country to occupy a territory and to continue to confiscate property and expand

¹⁷ The World Bank, *Two Years of Intifada, Closures and Palestinian Economic Crisis An Assessment*, March 5, 2003, 3. <http://siteresources.worldbank.org/NEWS/Resources/pr030503-report.pdf>

¹⁸ B’Tselem The Israeli Center for Human Rights in the Occupied Territory, *restrictions on Movement, Information on Checkpoints and Roadblocks*, Nov. 15, 2008. B’Tselem reports these numbers from their own sources. They also use information from the Office for the Coordination of Humanitarian Affairs with attribution to OCHA for some of their other reports. http://www.btselem.org/english/Freedom_of_Movement/Statistics.asp

its presence, and to develop a massive and exclusive infrastructure for the sake of an unofficial occupying population. At some point, such hegemonic behavior begins to equate with empire. Israel has already passed that point in its exploitation of the Palestinian land and people. The settlers are at the center of this project as agitators and instigators. Some might say the settlers are holding Israel hostage to their aims and desires. The question must also be raised as to whether the settlers' aims and desires are camouflage for the intentions of many in the Israeli governmental hierarchy, including a number of prominent prime ministers dating to David Ben Gurion. Is the long-term goal of Israel to fulfill the vision of Greater Israel, and in the process, simply remove the Palestinians from the land? There is evidence to suggest that this is precisely the intention of many in Israeli leadership. If events continue on their present track, Israel will preempt the possibility of a two-state solution via the settlement process and thus, negate the creation of a viable and sovereign Palestinian state.

Others have indeed referred to this situation as an empire project that is not sustainable without the support of the United States. Anecdotally, Israel has been referred to as the 51st state of the United States because of close personal ties between Israelis and Americans, the number of Americans who live in the West Bank settlements, and the massive amount of military and financial aid that Israel receives from the United States. Mearsheimer and Walt, in their *London Review of Books* article that was the precursor to their recent book on the U.S. Israeli lobby, report that Israel has been the largest single recipient of U.S. aid since World War II.¹⁹ The Israeli occupation of the West Bank, including the proliferation of Israeli settlements are a major violation of the legal rights and dignity of the Palestinian people does not bode well for the possibility of a Palestinian state. In addition, the continuous occupation of the West Bank would not likely be possible without the complicity of the United States.

Conclusion

Are there any solutions? Many have tried to solve the dilemma. There are shortcomings to all of the peace talks and proposals that have been promoted.

¹⁹ John Mearsheimer and Stephen Walt, "The Israel Lobby," *London Review of Books*, March 23, 2006. <http://www.lrb.co.uk/v28/n06/mear01.html>

Nevertheless, those efforts represent a way forward, even if other forces press to undermine progress. If peace and the process toward the establishment of a Palestinian state are to be realized, the growth of West Bank settlements must stop and a resolution should become part of serious negotiations toward the realization of a two – state solution.

The argument of this paper is presented in the following sequence. Chapter 2 is an overview of the history of the Israeli West Bank settlement project that began in 1967 following the Six Day war when Israel gained control over the West Bank, East Jerusalem and Gaza. Chapter 3 addresses one of the core arguments of this work, which is that Israel is engaged in a distorted form of classical realism in its approach to dealing with the occupation of the West Bank territory. The primary concern is the continuing growth of settlements and the attendant security regime that is necessitated by the presence of Israelis in the West Bank. That situation results in policies and actions by Israel that are inconsistent with the basic parameters of a rational realism that would benefit both the Palestinians and Israel. Chapter 4 explicates the legal dimensions of this situation. The elements for discussion include: the ability of Palestinians to bring cases to the Israeli Supreme Court; a brief excursus on how the high court has responded to the Palestinians; and an extensive discussion of the occupation, West Bank settlements and international humanitarian law. Chapter 5 deals with stakeholders and advocates for Israel in the political process and public discourse, and illustrates the degree to which Palestinians are greatly disadvantaged in these arenas. It also provides some history of the attempt to marginalize the Palestinians as a people. Chapter 6 illustrates the growing humanitarian crisis experienced by the Palestinians in terms of the growth of poverty and unemployment, and the suppression of their political rights that is a routine part of the occupation and the Israeli presence in the West Bank.

Chapter 2

A Brief History of the Settlements: Creating Facts on the Ground

Settlements have been the primary means by which Israel has continued the process of claiming land in the Palestinian territory following the 1967 war. Settlers are driven by a combination of Jewish fundamentalism, Zionist and religious nationalism, and a desire to secure a strong measure of security in an otherwise alien land, the occupied West Bank territory. From the beginning, the settlement movement has embodied the natural instinct toward the pursuit of self-interest, that is, the drive for power, position, and land. Self-interest, in this case, is cloaked in the veil of religious nationalism, the desire on the part of the first settlers to stake a claim in the land they identify as sacred in order to carry out the rituals associated with the Jewish Passover. From there the original settlers proceeded to make themselves permanent residents in the West Bank territory. With the first steps in the establishment of the West Bank settlement in Hebron, Israel initiated the process of contravening the fundamental principles of realism and created the mechanism for violating its core self-interest.

There are two primary actors to consider when discussing the beginning of the West Bank settlement process. One is Yigal Allon, a native of the pre-Israel Palestinian territory who had a distinguished military career as a commander in the Palmach, the fighting force of the Haganah that invaded, razed and destroyed Palestinian villages in the areas of Tel Aviv, Jaffa and Haifa, along the coast of Israel. He is known as one who pushed for even more vigorous actions against the Palestinian villages.²⁰ He later held various governmental positions including Deputy Prime Minister and a brief stint as Interim Prime Minister upon the death of Prime Minister Eshkol in 1969. Allon was an “official player” in the first act of the settlement drama in Hebron because he was a governmental official. He had already given considerable thought to the question of the West Bank territory, and had even formulated his thinking into a settlement policy initiative, the so-called “Allon Plan.”

²⁰ Ilan Pappé, *The Ethnic Cleansing of Palestine* (Oxford: Oneworld Publications Limited, 2007) 64-65.

However, the person who set the stage for the settlement movement by his unrelenting push to get his way in the West Bank occupied territory is Rabbi Moshe Levinger, considered by many to be the founding father of the settlement movement. Characterized as a person with a strong sense of self, and a very large ego, according to Gorenberg, “he regarded himself as small only before God.”²¹ His reaction to the war of 1967 was to claim that Jews should settle in the West Bank to ensure sovereignty over all the land of Israel. The wholeness of the land was the article of faith for him and for his movement, which has its roots in the Merkaz Harav yashiva or seminary founded in Jerusalem in 1924. The wholeness of the land was to be achieved in whatever fashion necessary, whether by the domination of the land through the creation of facts on the ground, or by the spilling of blood.

Levinger was the first settler in Hebron. In the spring of 1968, less than a year - after the '67 War, he led a group there to celebrate the Passover Seder and asked the military governor of that area, General Uzi Narkiss, for permission of spend the night. At that time, Israelis were not allowed to be in the West Bank after nightfall.²² The grant of an overnight stay was the first step of what has become a long played game of subtle, but, persistent defiance of the Israeli military and the government. The signs were there that Levinger and his followers had no intention of leaving Hebron after the Passover Seder and the overnight visit. The historic burial place of the patriarchs and matriarchs of the Jewish people was theirs to claim. Before going into Hebron, there were paid announcements in newspapers encouraging believers in the settling of Hebron to contact a post office box in Tel Aviv. According to Zertal and Eldar, Levinger’s people also tried openly to purchase apartments in the town, and when that effort proved to be unsuccessful, they rented rooms in the Park Hotel. The renting of rooms was taken as evidence by the mayor of Hebron, Sheikh Muhammad Ali Jabari, of the intention by the Jews to leave Hebron as they had promised following the celebration of the Passover Seder. However, that proved to be a deception because the following day the celebrants

²¹ Gorenberg, *The Accidental Empire*, 107.

²² Idith Zertal and Akiva Eldar, *Lords of the Lands: The War Over Israel’s Settlements in the Occupied Territories, 1967 – 2007* (New York: Nation Books, 2007) 19.

announced that they were “the first group of settlers that has come to renew the Jewish settlement in Hebron.”²³

Not long after, Yigal Allon honored the Hebron settlers with a ministerial visit, in defiance of the Israeli government’s decisions. Allon also provided them with armament brought from the Etzion Bloc, and gave them a small car and other items. Soon other government officials were stopping by to visit, and thus was established the foundation for conflict between Jews and Palestinians. According to Zertal and Eldar this activity represents “the beginning of the violent conflict between Jews and Palestinians in Hebron.”²⁴ Because of his early critical role in thinking about settlements in the West Bank, and his formulation of the Allon Plan for dealing with the West Bank territory the main north south highway in the West Bank is named after Allon by Israel.

Interviewed 11 years after the Hebron incident, when he was being accused of promoting defiance of the Israeli government, Allon said that he did not know why Levinger and his followers turned to him. He told the interviewer that he agreed to help them on two conditions: 1. that the seder would be held only with the agreement of the military governor; and 2. that if the government or the prime minister did not approve the settlement, they would accept the agreement.²⁵

Allon was clearly captivated by a vision of a Greater Israel, which includes ultimate assimilation of the West Bank into Israel. Yet, he presents himself as one who is cautious in realizing this dream, and even resistant to the efforts of the settlement movement to prevail. Allon was apparently dreaming about a plan for the West Bank, even before the 1967 war. Immediately after the war Israeli leadership was already meeting to discuss what to do about the newly acquired territory of the West Bank. Allon said Israel should move quickly to establish a Palestinian Arab entity, preferably a state. It should be realized in an enclave along the mountain ridge in the West Bank north of Jerusalem. Meanwhile, the desert lowlands on the Jordan River and the shore of the Dead Sea, the Hebron hills south of Jerusalem should all be annexed by Israel. According to this scheme, the Palestinian state would be surrounded by Israel. In this annexed territory, Allon argued that Israel should build settlements quickly, because “We have never held

²³ Zertal and Eldar, *Lords of the Land*, 19.

²⁴ *Ibid.* 19.

²⁵ Gorenberg, *The Accidental Empire*, 144.

territory without settling it.”²⁶ He also wanted to annex the 6 – 9 mile strip along the Jordan River as a security consideration since that area represented the front with both Jordan and Syria. He wanted to include Bethlehem and Hebron. Bethlehem was important because it was the site of Rachel’s tomb, and Hebron, because it was the place of the Tomb of the Patriarchs. Allon understood these areas as having great value as both traditional and national symbols. He was also willing to give Israeli citizenship to the estimated 80,000 Arab residents who populated that area. But, another option was to leave the two cities as Arab enclaves that would be surrounded by Israeli land. These kinds of land configurations embodied in Allon’s thinking allowed him to retain the idea of the Whole Land of Israel strategically, and a Jewish state demographically.²⁷ The Arabs could stay without being a direct threat because they would be geographically contained. Israel would still retain the Whole Land.

Allon’s thinking, along with the rest of the leadership, was done under the pressure of this dramatically changed situation. Israel now had possession of the West Bank as the result of the ’67 war, and they also had the responsibility of an Arab population of over a million persons. The Israeli leadership was now faced with both a new opportunity—the additional land which had a sacred and traditional connotation; but they also had a new responsibility—the people who already lived there. It was in this new situation that Allon concluded a plan and submitted it to the cabinet for consideration. This is the background that put Allon in an awkward role in relation to the Hebron Passover settlement. As a government official he was expected to oppose the activity. Yet, he not only went along with the deception of the movement, which portrayed itself as only a temporary incursion into the area, but even visited and extended hospitality to the entourage.

Although, the Allon Plan was never accepted or rejected by the cabinet, it nevertheless became a framework for moving ahead with settlements and the shaping of Israel’s approach to the West Bank. The prime minister, Levi Eshkol appreciated the Plan’s emphasis on the Jordan River as Israel’s line of defense. But, his government was divided and could not come to a decision on that or on any particular policy. According

²⁶ Ibid. 51.

²⁷ Ibid. 81.

to Gorenberg, the logic of the Allon plan “dictated that Israel should give up Hebron and its Arab population,” but the ties to that area were very strong with Allon, and presumably with Eshkol as well. Eshkol eventually took on a role similar to that of Labor Zionism, which was “to redraw the map one settlement at a time.” Rather than a reluctant leader who was being pushed by the settlers to reestablish the Kfar Etzion settlement, the real Eshkol actually took on a strong leadership role and soon was personally directing the settlement project in the occupied territory.²⁸

There was a strong element of politics, transcendent vision, and a sense of religious and national fervor that drove the initial settlement movement. As discussed earlier, religious nationalism is a force that comes into play in the settlement movement. Part of the background for this is the core idea that the Jews are a chosen people and this particular strip of land, filled with religious antiquities and holy sites was also chosen for them even if they had not been there for almost 2000 years in a communal sense. Instead, they were just coming back, striving to reestablish themselves in the land that had been given to them according to the Hebrew Bible narrative.

Players in this movement, which was suffused with a dramatic sense of history, included the Israeli cabinet, the Orthodox Jewish movement, and even the Israeli Defense Force (to the extent that they were reluctant to enforce the laws against Jews and settlements in the West Bank). Once the first steps had been taken, the process was in motion for the development and spread of illegal Israeli settlements in the West Bank. The political structure was essentially complicit in what was happening. It did not take long before the numbers of settlements and settlers in the West Bank began to grow.

The government was not only supportive by its studied inattentiveness to what was happening, but at another level it also became directly involved by its overt support of the settlement movement. Especially notable is the amount of money the government extended to the settlers, despite Israel’s claim that it did not officially support the settlers’ movement nor the on-going settlement project.

Clearly, financial backing is a contradiction of Israeli policy regarding the settlement movement. The government early on provided subsidies for Israeli settlers in the West Bank. Thorpe identifies a number of subsidies and grants that were available to

²⁸ Ibid. 118.

Israelis as early as the 1970s. Land was given to developers at a nominal cost. Buyers received interest-free, non-indexed loans and grants. According to Thorpe “Israelis in effect were “bribed” to settle by offering housing as a fraction of its cost to Israel.” Thorpe provides some very specific information on the types of subsidies that are available. But, he also acknowledges that the costs of settlements and subsidies are difficult to determine because the components are hidden in the budgets of several governmental ministries. Still, he does offer some very general numbers on costs of settlements which is between \$120,000 and \$150,000 for settling a family (a 1983 Peace Now study); gross expenditures of \$1.5 billion to \$4.5 billion estimated by Hirsch Goodman writing in the Jerusalem Post, 1983; and settlement budget for 1983 — ‘84 that proposes \$470 million separate from \$80 to \$100 million of settlement subsidies.²⁹

Israeli support of settlement development and growth seems confusing and contradictory at times. It is illegal and not sanctioned officially. Nevertheless, it receives government subsidies and the settlements continue to grow. The information from Thorpe is from 1983. Not much in this regard has changed since then. In a 2005 USA Today discussion about the costs involved in the pending withdrawal of settlements from Gaza, the writer notes the following in response to the rhetorical question about how much the Israeli government actually spends on the settlement projects:

Vice Premier Shimon Peres estimates Israel has spent about \$50 billion since 1977, when the hard-line Likud government took over from his Labor party. Other former finance ministers and government officials don't discount a price tag — commonly floated but never documented — of \$60 billion.

The writer goes on to note that it is impossible to calculate the cost because much of the settlement building was financed:

through winks and nods, an opaque state budget and secret military spending that in some cases violated Israel's laws and undercut international peacemaking efforts, according to official Israeli inquiries as

²⁹ Merle Thorpe, Jr. *Prescription for Conflict: Israel's West Bank Settlement Policy* (Washington: Foundation for Middle East Peace, 1984) 36.

well as Associated Press interviews with past and present officials, settlers and their opponents.³⁰

Gershon Gorenberg offers additional perspective on this question in an interview with Linda Gradstein, National Public Radio's correspondent in Israel. Gorenberg, commenting about the internal politics of settlements says that:

The government has seen settlers as acting in defiance of government policy, sometimes acting illegally. And at the same time, there's always been at least a few people inside of the cabinet who are in one way or another sympathetic with the settlers.³¹

Original sources that specify the amount of money spent by the Israeli government, and the levels of subsidies extended to families who are settling in the West Bank is difficult, if not impossible to find. It does not seem to be available in government documents, and as the narrative above indicates, there is a lot of ambiguity about the level of financial support that Israel gives to the settlers. Geoffrey Aronson, writing in 1987, makes reference to a \$300 million annual settlement budget in the early 1980s. However, he does not provide a source for it.³² Otherwise, the budget and finance numbers on settlements are very large and essentially anecdotal, and are not readily broken down into smaller units to facilitate a more detailed analysis. This circumstance represents another important element of the settlement project. In addition to being illegal according to international law, a distortion of core realist principles, and a humanitarian disaster for the Palestinians, the funding and subsidy question about settlements imply that it is a purposeful enigma. The lack of forthcoming information about the public costs of settlements suggests that all of the players in this drama, including the Israeli government and the settlers themselves, are complicit in an

³⁰ "No one knows the costs of Israel's settlement ambitions," *USA Today*. August 14, 2005.

http://www.usatoday.com/news/world/2005-08-14-israelsettlercosts_x.htm

³¹ Morning Edition, NPR. "Jewish Settlers Ruffle Feathers with Hebron Move," April 27, 2007.

<http://www.npr.org/templates/transcript/transcript.php?storyId=9870481>

³² Geoffrey Aronson, *Creating Facts: Israel, Palestinians & the West Bank* (Washington, D.C. Institute for Palestine Studies, 1987) 268.

unspoken agreement to continue settlements despite the government's official statements to the contrary.

This mystery begins to address the other question that is raised about the ideology behind the settlement project. Do Israeli settlements in the West Bank represent a religious compulsion or is this the exercise of raw unconstrained Israeli national interest. Ultimately it is both. Religious nationalism resident in the fundamentalist and settlement community is clearly a force that is pushing the settlement process. The religious dimension underlying the push for Israeli settlements in the West Bank is the Zionist concept of redemption of the land (geulat haqarqa), which was the symbolic and ideological force that was at work. The Zionist enterprise understood itself as a people who represented the legitimate collective engaged in a serious conflict to occupy the land in contention with what they viewed as Palestinian “squatters” from whom the land had to be liberated.³³

The government, in a curious and ambivalent fashion, also sanctions, supports and allows the settlement process to continue. There is strong national interest at work if for no other reason than that settlements in the West Bank satisfy the Israeli need and desire for more land.

As early as 1984 it was already projected that Israel was in the process of gaining absolute control and use of as much as 40 percent of the West Bank land mass. The battle for land was already raging in the 1970s and early '80s and in 1984. According to Benvenisti, the Palestinians would be able to retain at least limited control over 3.2 million dunams (800,000 acres: divide dunams by 4 to get acres) in the West Bank.³⁴ To put this in perspective, Benvenisti notes that in 1947, 37 years before his study project, the Jews possessed less than 10% of the total land of Mandatory Palestine. “In 1983 they (the Jews) possessed 85 percent of the land area (as the result of the post '67 war occupation), and the Palestinians (including Israeli Arabs) controlled less than 15 percent.”³⁵ In 1984 there was no comprehensive planning process for use of the land in the Palestinian territory except that which was exercised by Israel. According to

³³ Meron Benvenisti, *The West Bank Data Project: A Survey of Israel's Policies* (Washington, D.C. American Enterprise Institute for Public Policy Research, 1984) 19.

³⁴ *Ibid.* 19.

³⁵ *Ibid.* 19.

Benvenisti, it was necessary to cull information from various sources in order to complete his West Bank data project. His “various sources” include government and military documents, Zionist planning documents, and maps and agricultural and water planning proposal documents. His study is highly detailed because as a former deputy mayor of Jerusalem, and previously chairman of the Planning and Building Commission, this work represents his area of professional expertise. His PhD is in political science. The results of his 1983 study indicate that the process was well underway by that time for Israel to be heavily into dominating and controlling the land of the West Bank territory. According to his analysis, the total built-up area in the West Bank is designed to accommodate a Jewish population of 600,000 to 800,000 by 2010. The major planning underway in 1983 was directed at a relatively small amount of space in the West Bank, 6.6 percent of the total area that was under the control of Israel. That is a low figure, but it reflects the Israeli settlement strategy of high-density urban and suburban housing.³⁶

Arab resistance to the Israeli establishment of high-density urban and suburban developments, and to the possibility of Israeli land seizure was included in their building projects. To avoid land seizures in the rural settings, Arabs engaged in ribbon development consisting of long, narrow strips of land with single-family homes interspersed with tracts of orchards and farmsteads. As a consequence, in certain areas of the West Bank, the Arab population density is low compared to that of the Jews who are settling there. But, they entangle larger expanses of land with ribbon development making it less susceptible to being confiscated for Israeli settlement development. This kind of building in the ‘70s and 80’s put Palestinians at somewhat of a disadvantage because the low population density did not encourage the kind of communal services or the planning of an efficient physical and social infrastructure that would have made life more convenient. However, this is not a priority for the Palestinians compared to the larger goal of forestalling the expropriation of land. The Palestinians also lacked a central planning authority which would have helped to counter the intentional efforts of Israeli planning that was coordinated by the government and the military. Palestinian

³⁶ Ibid. 19 – 20.

building and development, as Benvenisti describes it, seems to be somewhat ad hoc and reactive as part of a resistance movement to Israeli land confiscations.³⁷

A big part of the rationale for the Israeli building effort in the West Bank was military security, which expressed itself in the development of roads and restricted military areas. As noted earlier, although the Allon plan was never officially adopted, it nevertheless served as a guiding principle underlying West Bank planning. The Allon plan imagined a series of north – south roadways between the Jordan Valley and Israel and they were developed after the '67 war. In the 1970s the Israeli government shifted its emphasis and began to develop roads that went perpendicular to the original set (east to west). Benvenisti attributes this change to the Likud government's geo-strategic plan of "annexing the whole area" and thus the need for "the complete integration of the West Bank road system into the Israeli system."³⁸

Benvenisti identifies a master plan that defines 6 principles for the integration of West Bank roads and the Israeli system. Those principles (in order of declining priority) are:

1. the integration of the Israeli national road network with that of the West Bank;
2. the opening up of areas for suburban demand by creating road axes from urban centers to these areas;
3. the enhancement of new areas by improving road standards and by "bypassing local population areas;"
4. the interconnection of new settlement blocks;
5. the bypassing of main Arab urban centers;
6. the connection of Arab settlements to the road network.³⁹

Like any well-planned community development project, the building of roads clearly had a larger purpose. They were, according to Benvenisti's research, part of a long-term plan for the establishment of Israeli settlements in the West Bank territory. Access roads, integration of Israeli and West Bank road networks, and the bypassing of local population areas were all factors that have manifested themselves in the current day settlement problem. In other words, it was not by accident that Israeli citizens, and Jews from the

³⁷ Ibid. 20 – 22

³⁸ Ibid. 23.

³⁹ Ibid. 23.

Diaspora, including from the US, have ended up settling the occupied territory. A developing road system that connects early Jewish settlements and intentionally avoids, or bypasses Arab communities, hardly reflects a desire to integrate Jewish and Arab populations, nor does it presume to serve the needs and interests of the indigenous Arab population. Rather, those roads reflect a primarily Zionist interest, which is to establish control over the occupied territory. The separate Israeli road system that is fully realized in the West Bank today was being planned and developed in the early 1980s. Benvenisti referred to it as a “dual system.” The new “Jewish roads served the settlements, and the Arab Roads consisted of older pre-1976 network that continued to serve Arab towns and villages.”⁴⁰

Roads are not the only means of assuring Israeli occupational intentions. The other means available to Israel for dominating the territory and furthering its own interests is giving definition to the land according to its particular strategic military and security use. One strategic definition that has facilitated the taking of land has been the security threat of a possible invasion of Israel by Jordan and/or Syria. This style of taking land for military purposes, as explained by Benvenisti, is referred to as the requisition method and gets its title from Article 52 of the Hague regulations which reads as follows: “Requisition in kind and services shall not be demanded from local authorities or inhabitants except for the need of the army of occupation.”⁴¹ The High Court of Justice gave further assent to this interpretation. They accepted the Israeli military statements that “all Israeli settlements in the administered territories are an integral part of the Territorial Defense System of the IDF” and that the continued use of these areas by civilian settlements does constitute “urgent military needs.” The question arose, according to Benvenisti, as to how a permanent settlement can be established on an area that is temporarily requisitioned. The Attorney General’s answer, which was accepted by the High Court of Justice read as follows:

The civilian settlements (in question) can only exist in that place as long as the army occupies the area by virtue of the Requisition Order. This occupation can itself come to an end someday as a result of international negotiations leading to a new arrangement which will take effect under

⁴⁰ Ibid. 23.

⁴¹ Ibid. 31.

international law and determine the face of the settlement as of other settlements existing in the Administered Territories.⁴²

Benevenisti claims that the taking of land in the 1970s for military and security purposes under the Labor government was really a façade for the eventual establishment of settlements. However, that situation changed when the Likud government, elected in 1977 after 3 decades of Labor rule, refused to hide behind the military security argument of taking land for other purposes including the establishment of settlements. The 'Peace & Security' chapter of the current Likud platform, which forbids the unilateral declaration by the Palestinians of the formation of a state, also declares the following about settlements:

The Jewish communities in Judea, Samaria and Gaza are the realization of Zionist values. Settlement of the land is a clear expression of the unassailable right of the Jewish people to the Land of Israel and constitutes an important asset in the defense of the vital interests of the State of Israel. The Likud will continue to strengthen and develop these communities and will prevent their uprooting.⁴³

This is a good indication of the Likud predisposition toward settlements. The immediate and urgent military needs were not important in their view. Rather, it was a broader understanding of national and nationalist security needs that prevailed. In the Likud era, the immediate need for military bases and outposts in the West Bank for security became passé. The test case in the process of taking land and creating settlements was the Elon Moreh settlement established in 1979 on land originally acquired for military purposes. The taking of Palestinian land allegedly for military purposes, but ultimately for settlement development, ended up in the Israeli High Court of Justice. In the simplest of terms, the driving force behind this particular settlement was Jewish religious nationalism and the aspirations for Greater Israel, that is, all of Palestine. In response to a question on Meet the Press about the perception that Israel was “moving unmistakably to annex the West Bank.....” Menachem Begin is quoted as saying “you can annex foreign land. You can’t annex your own country. Judea and

⁴² Ibid 31

⁴³ Government of Israel, Likud Platform, Peace and Security chapter.
http://www.knesset.gov.il/elections/knesset15/elikud_m.htm

Samaria are parts of the Land of Israel, or in foreign languages, Palestine, where the nation was born.” Then in an interesting contradiction, he went on to note that they had this Camp David Agreement, which they wanted to keep, and that there would be a withdrawal in 5 years.⁴⁴ Of course, the withdrawal never happened, but these statements reflect the curious nature of Israel’s approach to the West Bank. It is their land to do with as they see fit, but in time they will leave, recalling the tactic of temporariness, which Israel has used to forestall taking any immediate action on ending the occupation.

Meanwhile, Elon Moreh, which was located in the area of the Palestinian town of Nablus, was a center of Palestinian life in the northern West Bank. But, Elon Moreh was also considered by Jews to be a sacred place. According to Genesis 12:7 in the Hebrew Bible, Elon Moreh or Schechem, was the first stop for Abram in the land of Israel and the place where God promised the land to him and his descendants. It is not without significance. In fact, when it was first settled, one of the key leaders of the movement was Ariel Sharon, who at the time was Minister of Agriculture.

This settlement was highly contested in a number of ways. The fact that the area was densely populated with Palestinians, the settlement action precipitated a political firestorm in both Israel and abroad. It was identified by the settlers as the stabbing of “a knife in the heart of Palestinianism,” and it was also broadly perceived as destructive to the fragile peace process. In other words, putting the Israeli settlement in the midst of a large Palestinian population was an act of political defiance towards the Palestinians. It also damaged the peace process.⁴⁵

All of this prompted the Israeli activist group Peace Now, to engage in serious protests of the settlement at Elon Moreh. Robert Friedman paints an even more graphic picture of contention and division. He identifies the Elon Moreh settlement area as one of intense Palestinian nationalism. According to his report, Peace Now was able to gather over three thousand demonstrators at the settlement site in June of 1979, only a week before the settlement was founded. A week later, forty thousand people gathered in Tel Aviv to protest Begin’s expansionist settlement policy. Friedman quotes a speaker at

⁴⁴ Government of Israel, Israeli Ministry of Foreign Affairs, 118. Interview with Prime Minister Begin on N.B.C. Television, 25 April 1982, Meet the Press.

<http://www.mfa.gov.il/MFA/Foreign%20Relations/Israels%20Foreign%20Relations%20since%201947/1981-1982/118%20Interview%20with%20Prime%20Minister%20Begin%20on%20NBC%20Tel>

⁴⁵ Zertal and Eldar, *Lords of the Land*, 356.

the event saying, “we are not protesting one Elon Moreh, but the whole policy of occupation, eviction and coercion.”⁴⁶

The legal action in the Israeli Supreme Court (also discussed briefly in the chapter on domestic and international law) that finally came about involved seventeen Palestinian landowners, represented by Elias Khoury, the Arab Israeli attorney who specializes in real property law. Two Israeli lawyers accompanied him. Together, they took the matter to the High Court of Justice against the State of Israel, the defense minister, and the military commanders.⁴⁷ The Palestinian plaintiffs also came with statements from the former Israeli Chief of Staff Haim Bar-Lev who was ready to come down on the side of the Palestinians; and Major General (Res.) Matityahu Peled. Bar Lev asserted that the Elon Moreh settlement “does not contribute to Israel’s security” as the Israeli government and the settlers argued. Furthermore, he maintained that the existence of a Jewish settlement in this area only increased the security risk to Israelis. He said about it “...a desert island in the midst of territory that is densely populated by Arab inhabitants is liable to make attempted terror attacks easier. The securing of movement to and from Elon Moreh and guarding the settlements will disengage security forces from essential missions.”⁴⁸ When the argument was concluded, the Israeli High Court ruled against the Israeli settlement, stating strongly that it did not satisfy the requirements of military security saying specifically, “article 52 cannot include on any reasonable interpretation, national security needs in the broad sense.” The court went on to demand that the requisition of the land be rescinded because the implication was clear to the court that the intention from the outset was to establish and maintain a permanent settlement. The High Court of Justice identified this as an “insurmountable legal obstacle” because the military could not persist in that area “when the fate of the area after the termination of military rule is still unknown.”⁴⁹ Once this ruling was handed down, the old requisition method of taking land was effectively concluded.

From the start, the Israeli settlers were not settling there for security reasons, but “because of the divine command to inherit the land of the patriarchs.” This was testified

⁴⁶ Friedman, *Zealots for Zion*, 210.

⁴⁷ Zertal and Eldar, *Lords of the Land*, 355.

⁴⁸ *Ibid.* 357.

⁴⁹ Benvenisti, *The West Bank Data Project*, 31. Quoted from the High Court opinion.

to by Menachem Felix, “an honest and above board man admired by his peers” who was one of the respondents to the Palestinian plaint.⁵⁰

Win in the Courts – Lose on the Ground

If this looked like a victory for the Palestinians, and for Peace Now who had participated in the process, it was only a temporary respite. Another plan was already being formulated that would turn the tables on any effort to halt, or at least temper the growth of Israeli settlements in the West Bank. Once the ruling was released, the organized settlers, known as Gush Emunim, meaning in Hebrew “block of the faithful, quickly convened to address the situation. It was Agricultural Minister Ariel Sharon who led the way in the desire to immunize the settlements against the High Court of Justice intervention. Their document “The Land’s Trap: The Legal Situation” acknowledged the legal security fiction of settlements in the West Bank, since it had been unmasked in the High Courts proceedings and subsequent decision. It went on to lay the foundation for a new approach to taking land, which was to turn the responsibility over to State Prosecutor’s Office, and redefine the basis for claiming land for the establishment of settlements.⁵¹

Curiously, even though Israel has consistently refused to acknowledge the international rule of law and the application of the Geneva conventions regarding occupation and settlements, the fallback replacement for the failed security rationale became the historic Ottoman law, what Benvenisti identifies as “the medieval law of conquest and on Moslem principle.”⁵² According to this feudal system, there are three classes of land. One is Miri, land that can be claimed for cultivation and must be continuously cultivated in order for the holders of the land to continue possession. The other two classes are Matrouk which is land for public use such as road, commons and pasture; and third, Mawat which is defined as vacant and/or wasteland.⁵³

Resorting to the old Ottoman land code, in 1980 Israel introduced a new principle for taking of land. “By virtue of the sultan’s ultimate (but theoretical) ownership, all

⁵⁰ Zertal and Eldar, *Lords of the Land*, 358.

⁵¹ Ibid. 361-363.

⁵² Benvenisti, *The West Bank Data Project*, 33.

⁵³ Ibid. 33.

unregistered and uncultivated land is claimed as state land.”⁵⁴ In the government of Manachem Begin, this became the basis for the taking of land through the State Prosecutor’s Office under the leadership of Plia Albek, who has been identified as the mother of the settlement project. Referred to as the Albek Decade in the State Prosecutor’s Office, for 10 years Albek conducted an operation that consisted of touring West Bank territory, often as part of a military entourage, and sometimes by helicopter. Although she knew little about navigation, maps, or aerial photography, Albek used the new criteria, essentially whether or not a parcel of land was cultivated, as the means for annexing thousands of dunams of West Bank territory for use in the process of establishing settlements. If a parcel of land was not cultivated, it was arbitrarily identified as “state land” and subject to being taken for use by Israel. Under this system, the clear definition of military security for the taking of land no longer had to be satisfied.⁵⁵

The Palestinians and Peace Now had won in the courts. But, the ideology of nationalism and religious fervor won on the ground. The blanketing of the West Bank with Jewish settlements was done in fulfillment of the vision and ideology of Greater Israel, and in order to make the domination of the land and Jewish settlement on it as irreversible.⁵⁶ Albek’s work on this project continued into the Sharon Administration and until she retired, and in the process Israel established as many as a hundred settlements. Interviewed by Haaretz in 2004, Albek said of the settlements “they are like my children.” The article asserts that “Today, she is ready to evacuate settlements - but only as part of an overall peace agreement.” At the same time she says about the much-contested border between the West Bank and Israel “I have never believed the Green Line was sacred. I didn't find it in the Bible” thus revealing a basic adherence to the fundamentalist vision of Greater Israel or Eretz Israel. According to the article, her work “provided the legal basis that enabled Israel to declare hundreds of thousand of dunams as “state lands” to be allocated to Jewish settlers.”⁵⁷

⁵⁴ Ibid. 34.

⁵⁵ Zertal and Eldar, *Lords of the Land*, 364-371.

⁵⁶ Ibid. 362-365.

⁵⁷ Aluf Ben, “This legal eagle would let her chicks go,” *Haaretz*, July 4, 2004

<http://www.haaretz.com/hasen/pages/ShArt.jhtml?itemNo=412555&contrassID=1&subContrassID=1&subContrassID=0&listSrc=Y>

Hans Morgenthau characterizes this kind of understanding as a “victory of nationalism over internationalism.” He argues that the ethics of nationalism have been on the ascendancy for the last century and a half, so this is not unique to Israel. Increasingly, countries exert moral compulsion upon their people in a way that each country claims their particular set of beliefs and values as superior. Thus they become captivated by the national ethic and ethos at the expense of the universal ethic.⁵⁸ In this case, Albek, as agent of the state, is able to summarily dismiss the rights and aspirations of the Palestinians who have been placed at considerable disadvantage because of her actions based on misappropriated religious conviction. Obviously, the other force at work is Jewish religious nationalism. Religious fervor is the overriding consideration. This interpretation by Albek is an example of religious idealism at work to thwart or undermine the larger Israeli national security concerns. Albek worked furiously for 10 years, driven by a religious passion, to establish settlements all over the West Bank territory. Meanwhile, the growth of settlements creates more problems for Israel in relationship to its Arab neighbors, and in its security concerns with the Palestinians.

Facts on the Ground – Outcomes and Implications

This long history of the development and growth of the settlements has now evolved into a current day crisis over land and the potential sovereignty of a people whose aspirations for a place of their own is stymied by this huge infringement into their geographical space. Settlements and their history continue to exist under the radar, so to speak. The settlement movement found its way to realizing success in creating facts on the ground, and the reality it has created is not even a significant part of the geopolitical public discourse surrounding the Israeli – Palestinian conflict.

As demonstrated, the settlement movement is a storied drama that has played itself out over 40+ years as of 2008. It is only getting worse rather than better because over the decades the settlements continue to grow consuming more and more land that might otherwise be available for use in the creation of a Palestinian state. The Foundation for Middle East Peace has studied and tracked the growth of settlements and the population of settlers in the West Bank. According to their chart, which draws on

⁵⁸ Hans J. Morgenthau, *Politics Among Nations: The Struggle for Power and Peace*, Fifth Edition, Revised (New York: Alfred A. Knopf, 1973), 257 – 259.

data from the Central Bureau of Statistics, from 1999 to 2006 the settlement population has grown from 177,411 to 263,837. They count 140 settlements ranging in size from a population of 50, Nirin in the Jordan Valley, to as large as 34,482 at Modi 'in Ilit. Modi 'in Ilit is the largest settlement in the West Bank. It is located just inside the Green Line to the northwest of Jerusalem approximately midway between Jerusalem and Tel Aviv. The Israeli security wall surrounds it on three sides, and the Green Line is on the west side.⁵⁹ In 2007 its population is reported at 40,000. The general settlement population has grown to 275,156, which reflects a 5.45% annual growth rate.⁶⁰

To reiterate what was mentioned in the opening chapter, another official report on settlement growth and land occupation from the United Nations - Office for the Coordination of Humanitarian Affairs (OCHA) July 2007 provides similar numbers about settlement growth. According to "The Humanitarian Impact on Palestinians of Israeli Settlements and Other Infrastructure in the West Bank," settlement growth is around 5.5% annually, and the settlement population count as of 2004, which expands to include Israelis in Arab East Jerusalem, is approximately 421,000.⁶¹ These numbers reflect the problem that has been developing in the West Bank for the past 40 years, which is the continuous growth of Israeli presence through the expansion of settlements, outposts, military bases and closed military areas, nature reserves and related infrastructure, and the taking of more than 38% of the land. So much land is now under the control of Israel that it is becoming increasingly difficult to think about the possibility of a two-state solution. If this is an intractable conflict, one of the primary reasons is because Israel continues not to just occupy, dominate and control the West Bank, but it also continues to create facts on the ground that make it prohibitive to talk about a Palestinian state. This assessment is widespread amongst a lot of people who have been following the growth of settlements over the years. Writing for the Foundation for Middle East Peace, the president of the organization, Ambassador Philip Wilcox, says about the settlements and the prospect for a Palestinian state:

⁵⁹ Foundations for Middle East Peace, "Settlements in the West Bank."

http://www.fmep.org/settlement_info/settlement-info-and-tables/stats-data/settlements-in-the-west-bank-1

⁶⁰ Nadav Shragai, "Haredim Deliver Population Boom to West Bank," *Haaretz*, August 14, 2007.

<http://www.haaretz.com/hasen/spages/893048.html>

⁶¹ UN Office for the Coordination of Humanitarian Affairs-OCHA, *Report on the Humanitarian Impact of Israeli Settlements*, 8, 16, 20.

http://www.ochaopt.org/documents/TheHumanitarianImpactOfIsraeliInfrastructureTheWestBank_Intro.pdf

At best, Israel now offers the Palestinians a truncated statelet and no part of Jerusalem. At worst, it would cede only fragmented, scattered West Bank enclaves. Either option forecloses a viable Palestinian state and promises periodic violent Palestinian rebellion. Israeli leaders' claims that security needs compel them to act unilaterally and that Palestinians have not shown that they can be trusted often conceal a higher priority: continued control and settlement of the land."⁶²

Settlements continue to grow. New ones are currently being established as of 2008, and those on the ground continue to expand in size. It must be clarified too, these are not shantytowns, portable housing units, prefab homes or trailer courts, an impression often conveyed by the media's inadequate coverage of what is happening. What is often seen in the media are typically so-called outposts of which there are approximately 100. An outpost is an attempt by a renegade settlement group to claim another parcel of land in the West Bank. Outposts are illegal even by Israel's definition. Settlements, as depicted in the photographs 1, 2 and 3, are elaborate Western suburban style developments.

In 1984 Benvenisti defined the nature of Israeli West Bank settlements and the process that was set in motion from the beginning. The only thing that has changed since Benvenisti's 1984 publication is the reality of more settlements, and the exercise of more control over the land and the people in the West Bank Palestinian territory by Israel. Simultaneous to the growth of settlements, Israel has also continued to redefine and defy the international legal dimensions and sanctions that apply to this situation, which is the discussion topic of chapter four.

⁶² Philip C. Wilcox, Jr., Foundations for Middle East Peace, "Settlement Report," Vol. 18 No. 2, February-March 2008, "To Our Readers." <http://www.fmep.org/reports/archive/vol.-18/v18n2/PDF>

Chapter 3

Settlements and Political Theory: Perversions and Contradictions

To gain some insight and perspective regarding what is happening with Israel and occupation of the West Bank (and Gaza) and the continuing growth of settlements, it is helpful to analyze the situation through the application of political theory. A critical tool for viewing the situation is classical realism. There are two dimensions to realism that provide some perspective. One is the simple recognition that states engage in the exercise of raw power in the pursuit of their self-interest. Israel is a classic example of this basic precept. In the promotion and protection of their national interest, Israel successfully engaged the Palestinian Arabs in the 1948 war for independence. They have also prevailed against aggressors in 1967 and 1973.

The other consideration in realist theory is the recognition that morality is a legitimate constraint on the exercise of power by states. Hans Morgenthau, considered by many to be the architect of classical realism, provides a number of core concepts for the modification on the use of power by one country over another. The exercise of foreign policy, he says.....

.... is relative and conditional: To bend, not to break the will of the other side as far as necessary in order to safeguard one's own vital interests without hurting those of the other side. The methods of foreign policy are relative and conditional: not to advance by destroying the obstacles in ones way, but to retreat before them, to circumvent them, to maneuver around them, to soften and dissolve them slowly by means of persuasion, negotiation, and pressure.⁶³

Morgenthau also notes that the “objective of war is simple and unconditional: to break the will of the enemy.....to bring the greatest amount of violence to bear upon the most vulnerable spot in the enemy's armor.”⁶⁴ This contrast reflects Israel's dilemma. The Israeli – Palestinian conflict is not an all out war, but an interminable conflict, and Israel cannot afford to engage in all out war as defined by Morgenthau. As it is, Israel and the global Jewish community already face serious threats to their safety and security. An all out war against the Palestinians would only exacerbate the threat from neighboring Arab

⁶³ Morgenthau, *Politics Among Nations*, 557.

⁶⁴ *Ibid.* 557.

states and global Islam and contribute immeasurable damage to the long term security concerns of Israel and the global Jewish community.

Instead, in the exercise of foreign policy Morgenthau acknowledges the need for a state to be deliberate, calculating, and prudent in the exercise of power, to not overreach. The exercise of prudential realism by a state includes consideration of the ethical dimension as a way of safeguarding its own interest. It is grounded in national self-interest as the customary motif. In a larger sense, Morgenthau provides a framework for thinking about the place of morality and ethical considerations in the nation-state system. The subtitle of his classic study that has persisted through numerous editions is “the struggle for power and peace.” By the title of his classic study, he argues for the balancing of these two competing interests, the exercise of power and the search for peace.

The other theorist who is equally important in making judgments about the exercise of power in international relations is John Mearsheimer. He states unequivocally that realism is about the struggle for power and position. Great powers, in the language of John Mearsheimer, are not satisfied with the status quo and seek to change it. Israel does not fit into a strict definition of great powers. In fact, Israel is an anomaly, in some ways a very different kind of actor than most states. It is a nuclear state with access to the best military technology and the unqualified financial assistance and support of the United States. Effectively, Israel is a great power and a balancing force in the Middle East with unusual leverage and position because of its relationship with the United States. Many of the principles in Mearsheimer’s discussion of great powers vying for position in the world are applicable to Israel in the Middle East, and especially in relation to the Palestinians.

Israel’s creation is the consequence of the 19th century European Zionist movement whose purpose was to restore the Jewish people to their historic homeland of Palestine. The problem for this movement was the status quo. A Zionist phrase that has been used often to depict the Jewish return to Palestine is “A land without a people for a

people without a land.”⁶⁵ As many historical studies have documented, the land was already populated by Palestinian Arabs. The Jews waged war against these people and proceeded to remove them from the land, thus creating as many as 700,000 refugees.⁶⁶ The presence of the Palestinian people was an unacceptable “status quo” at the creation of the state of Israel, and that continues to be the problem today.

John Mearsheimer’s framework for understanding great power struggles articulates classical realist assumptions, the first of which is that anarchy is an ordering principle in the way of the world. There is no central authority, no agency or power capable of tempering the competition for security and dominance. Anarchy is not a prescription, but a description of how relations among nation – states work. In that sense, it is a truth statement, which then provides some parameters for how to operate in an anarchic environment. Sovereignty and self-sufficiency is the rule of the day in the international arena. It prevails because there is no higher power, no “government over governments.” Nations seek power, and will strive to seek even more power because the underlying view is that more power is better.⁶⁷

Another of the assumptions Mearsheimer identifies is the recognition that great powers are rational actors. They calculate their strategic interests within the context of the environment and determine how to survive in it. Critical to this understanding, is the recognition that a great power takes into consideration how its behavior might affect the behavior of other states, and how the behavior of those other states might affect its survival strategy. According to Mearsheimer states also pay close attention to the long-term consequences of their actions, as well as more immediate outcomes.⁶⁸ The key motivating factor with any state is long-term security and survival.

The Israeli occupation of the West Bank territory, the continuing growth of settlements, the disregard for international law, and the domination of the Palestinian people demonstrate an element of political realism. Israel is pursuing its national interest, which it has defined as the continuing occupation and the growth of settlements in the

⁶⁵ Ibrahim Abu-Lughod, “Territorially-based Nationalism and the Politics of Negation” in *Blaming the Victim: Spurious Scholarship and the Palestinian Question*, ed. Edward W. Said and Christopher Hitchens, 200. This statement is attributed to Chaim Weizman at a Zionist conference in Paris in 1914.

⁶⁶ Benny Morris, *The Birth of the Palestinian Problem Revisited*, 1.

⁶⁷ John J. Mearsheimer, *The Tragedy of Great Power Politics* (New York: W.W. Norton and Company, 2003) 30.

⁶⁸ *Ibid.* 31.

West Bank. Realism is one reasonable framework through which to interpret Israel's behavior. But, realism comes up short because what Israel is doing in this case is a perversion of realism in the classic sense. Israel's approach to dealing with the West Bank is consistent with some of the assumptions of great power politics. The continuing growth of settlements is a reflection of its refusal to accept the status quo and to continue to work to gain more territory, to exercise even more power despite the disapproval of international institutions and the consensus of the community of nation-states. The perversion of realism is the recognition that by continuing on this track of expanding settlements and gaining more land, Israel is greatly increasing its safety and security risks with its neighboring Arab states, with the non state actors including Hamas and Hezbollah, and with global fundamentalist Islam. Arguably, by this behavior, Israel is increasing the risk of terrorism in its own territory, and raising the level of threat to its citizens, and to Jews around the world.

Realism recognizes that nation-states pursue their interests even to the point of using military options, something that Israel does with regularity in the West Bank providing security for the settlers. Such action is sometimes a necessary requirement when the condition of the world is anarchy and a nation-state is compelled by circumstances to protect its national interest. The problem is that Israel has created the circumstances that make it necessary to deploy the military to protect their population in the West Bank.

Realism pits one state against the other, and offers a framework for understanding conflict for land, position and resources. Realism implies a balance of power among states. The Palestinians do not balance Israel. However, Israel is a balancing force in the Middle East. Israel's control of the West Bank represents the unrestrained exercise of power by one state over another people. Given the long occupation, and the recognition that Israel is in defiance of a number of provisions of international law, questions are naturally raised over the definition and the legitimacy of the differences between Israel and the Palestinians for land, position and resources. The Palestinians are clearly heavily disadvantaged in this competition for land and resources and are essentially losing the long-term battle. Despite Israel's strategic advantage, it is necessary to regularly maintain a military presence in the occupied territory.

The growth of settlements and the enclosure of the West Bank territory by the security fence, which is actually a massive 20+ foot wall in some areas; the continuing presence of the Israeli Defense Forces in the occupied territory and the extensive network of security checkpoints in the West Bank represent the convergence of forces that are slowly breaking the economy and the people of the Palestinian territory. There are a variety of ways to measure the quality of life and well being in the West Bank. Another assessments to consider is the CIA's World Fact Book (entry revised Oct. 9, 2008) which provides a stark glimpse of how much the quality of life has deteriorated in recent years. According to the CIA report, the West Bank has experienced a general decline in economic conditions since the beginning of the second intifada in September 2000. The downturn is a consequence of Israeli closure policies that have disrupted labor and trading relationships. In 2001 and 2002, Israeli military measures have resulted in the destruction of capital, the disruption of administrative structures and widespread closures of businesses. According to the World Fact Book the infusion of at least \$1.14 billion of international aid into the West Bank (and Gaza Strip) economy in 2004 has prevented the complete collapse of the Palestinian economy. The unemployment rate in 2006 was 18.6%; the population below the poverty line (2007 est.) is 46%.⁶⁹ A visit to the Christian holy sites in Bethlehem, including the Church of the Nativity, the place identified by tradition as the birthplace of Jesus, serves as a stark illustration of the economic desperation that is rampant in the West Bank. An area once teeming with tourists on religious pilgrimages from Europe and North America is now virtually empty of such activity today on a daily basis (2007 – '08). Many of the Bethlehem vendors of religious items related to the Church of the Nativity and the Christmas story wait dejectedly in their shops as they are desperate for business.

This raises another curious contradiction of realism. The West Bank (pop. 2.4 million) and the average Palestinians do not pose a direct and immediate threat to Israel's national interests. Yet, Israel has continued to strengthen its security regime in the occupied territory with the expansion of an extensive network of checkpoints that serve as a daily hindrance to the movement of Palestinians within the West Bank. The Israelis

⁶⁹ Central Intelligence Agency, World Fact Book, West Bank, October 9, 2008. <https://www.cia.gov/library/publications/the-world-factbook/geos/we.html>

have also constructed the security wall or fence, (depending on where it is viewed), which gives more control over the threat of Palestinian terrorists and suicide bombers. These security measures are actually viewed as further provocation by Israel toward the West Bank Palestinian population. The extra security in the West Bank (i.e. check points and the presence of the Israeli Defense Forces) is necessary because of the Israelis settlers in the West Bank, who now need protection allegedly from the Palestinians. If there were no settlements, there would be no need for extreme security measures in the West Bank. The security wall/fence also stretches the definition of security, and therefore of realism. Rather than working to resolve the overall conflict through serious diplomacy, Israel is compelled by the pursuit of more land to take extraordinary measures to protect their civilian population, the settlers, from the possibility of “terrorist attacks.”

There are two organized forces that really do threaten the long-term security of Israel. One threat is Arab states that claim to represent the interests of the Palestinian people. Their grievances are directed toward the long history of Israel’s treatment of the Palestinians including: the creation of a significant refugee population, the continuing occupation of the West Bank, human rights violations, the continuing subjugation of the Palestinian people, and the growth of settlements (which could eventually preempt the possibility for the creation of a Palestinian state.) Continuing the occupation of the West Bank, the growth of settlements, and the imposition of extreme hardship on the Palestinians is clearly a perversion of Israel’s long-term security interests. Mearsheimer says that states are rational actors who calculate the long-term consequences of their actions. To continue to expand settlements, and create more hardships for the Palestinians does not serve Israel’s long-term interest when this activity is a major source of consternation with Israel’s neighboring Arab states, and the non-state actors that have adopted the Palestinian cause.

External Threats and the Election of Hamas

The other entities that claim a similar set of grievances are the non-state actors of Hamas and Hezbollah. Hezbollah, based in Lebanon, was organized originally as a Shiite response to Israel’s 1982 invasion of Lebanon. Hezbollah has its own history of differences with Israel, but also claims concern for the welfare of the Palestinians.

Hamas, as a political force in the West Bank and Gaza, creates a more immediate threat to Israeli security. That threat was heightened when Hamas took power in the 2006 election by winning 76 of 132 parliamentary seats and obtained the right to form the next cabinet under the Palestinian Authority's president, Mahmoud Abbas, the leader of Fatah.

Israel also missed the opportunity to temper the influence of Hamas, and could possibly have preempted Hamas' victory in the 2006 election. Ariel Sharon refused to negotiate with Abbas in the period following Arafat's death on Nov. 11, 2004. Yet, Abbas was the perfect candidate for negotiations since he recognized Israel and renounced terrorism, and was eager to work for a negotiated solution. Abbas needed to demonstrate tangible benefits to the Palestinian people, something he could not do absent negotiations with Sharon.⁷⁰ Bradley Burson, writing in the Israeli newspaper Haaretz, just prior to the election, argued that Israel, by refusing to acknowledge the levels of desperation in the West Bank (and in Gaza) and acting to address it, and by discounting the legitimacy of Hamas, could not have done better at promoting Hamas' election than if they were Hamas' campaign manager.⁷¹

Israel has a long history of being dismissive and disrespectful of Palestinian leaders. The animosity between the two sides is intense as demonstrated on September 13, 1993 when Prime Minister Yitzhak Rabin and PLO leader Yassar Arrafat, to mark the signing of the Declaration of Principles, shook hands on the lawn of the White House. This handshake was hailed as "the first ever in public between the two former arch enemies."⁷² It was also not well received by some in Israel's camp.

In failing to engage in some reasonable measure of diplomatic protocol in this long-standing relationship, in this case with Abbas, Israel sabotaged its self-interest. The reality is that Abbas is the designated representative of the Palestinian people, the one to engage if they expect to make progress in resolving differences. More importantly, the "arch enemy" Arrafat was no longer part of the picture. A much more willing and acceptable negotiating partner had replaced him, and Sharon dismissed him. Diplomacy

⁷⁰ John J. Mearsheimer and Stephen M. Walt, *The Israeli Lobby and U.S. Foreign Policy* (New York: Farrar, Straus and Giroux, 2007) 219.

⁷¹ Bradley R. Burson, "Hamas R Us," *Haaretz*, January 18, 2006.
<http://www.haaretz.com/hasen/pages/ShArt.jhtml?itemNo=671878&contrassID=2>

⁷² BBC, On This Day, 1993: "Rabin and Arafat shake on peace deal."
http://news.bbc.co.uk/onthisday/hi/dates/stories/september/13/newsid_3053000/3053733.stm

grounded in realism readily acknowledges the interests of the other party. Abbas has a constituency to whom he is responsible, namely the Palestinian people, who were in desperate straits. The pressure was on him to address the needs of his constituency. Israel missed an opportunity to advance its own interest and to preempt a future threat to their security.

Hamas was successful in the election for a variety of reasons. The party provided social services and effectively met the needs of the people, especially low-income Palestinians. Hamas did not bend easily to the will of the occupation, which was the accusation leveled at Fatah by many Palestinians. Hamas also reclaimed to some degree the older language of Palestinian national liberation from the 1960s and '70s. That language and posture had been dropped by Fatah and the Palestinian Authority and was replaced with the American and Israeli language of the peace process, Oslo and the Road Map, which in the view of many Palestinians only validated the continuing occupation. Following the 2006 electoral victory, Khaled Meshaal, the head of the Hamas political bureau, made the following public statement:

Our message to the Palestinians is this- Our people are not only those who live under siege in the West Bank and the Gaza Strip but also the millions languishing in refugee camps in Lebanon, Jordan and Syria and the millions spread around the world unable to return home. We promise you that nothing in the world will deter us from pursuing our goal of liberation and return. We shall spare no effort to work with all factions and institutions in order to put our Palestinian house in order. Having won the parliamentary elections, our medium-term objective is to reform the PLO in order to revive its role as a true representative of all the Palestinian people, without exception or discrimination. Hamas is immune to bribery, intimidation and blackmail. While we are keen on having friendly relations with all nations, we shall not seek friendships at the expense of our legitimate rights. We have seen how other nations, including the peoples of Vietnam and South Africa, persisted in their struggle until their quest for freedom and justice was accomplished. We are no different, our cause is no less worthy, our determination is no less profound and our patience is no less abundant.⁷³

This is the language of liberation that reflects the Palestinian concern about living in a state of siege. The election of Hamas was not recognized by Israel or by the United

⁷³ Saree Makdisi, *Palestine Inside Out: An Everyday Occupation* (New York: W.W. Norton & Company, Inc. 2008) 272.

States. But, the threat posed by Hamas might have been avoided in the first place, had Israel engaged in the exercise of political realism in a way that acknowledged the legitimacy of Palestinian grievances and aspirations.

Ignoring the humanitarian plight of the Palestinians puts Israel in an untenable position in a couple of ways. Morgenthau reminded us earlier that the exercise of foreign policy is relative and conditional, not intent on breaking the will of the adversary. Morgenthau's realism is not a winner take all approach to the world. Rather it acknowledges the dignity and sovereignty of the other players in the global community. In other words, his version of realism is invested with a strong ethical dimension that also gives precedence to the exercise of power and self-interest. The evidence is strong that Israel is determined to break the Palestinians, to literally drive them out of the land. One could argue for Israel to assume a moral posture and turn its attention to a concern for what is happening to their neighbors. That would be consistent with Morgenthau's realist appeal to morality. All that is necessary is for Israel to recognize that it is in their long-term best interest to attend to the welfare of the Palestinians to make them less vulnerable to the encroachment of more extreme parties that create more problems for Israel, in this case Hamas. This is the irony of realism at its best. For Israel to address the humanitarian crisis of the Palestinians also serves Israel's long-term security interests.

Instead, the party with a platform that calls for the destruction of Israel has come to power, and must now be dealt with as another legitimate power broker on behalf of the people in the occupied territory. Arguably, Israel has sabotaged its long-term security interest by failing to address the humanitarian plight of the Palestinians and by attempting to de-legitimize the significance of Hamas as a political actor in the occupied territory. This is a reflection of one of the contradictions of realism as practiced by Israel. The evidence suggests that a realist approach to this election would have compelled Israel to be much more engaged in negotiations and discussions with the Palestinians prior to the election in order to realize an outcome more favorable to their long-term interest. In the process, they could have found ways to improve the situation for Israel, even if only marginally.

The statement above by Khaled Meshaal sums up quite well the grievance that Palestinians and Hamas have with Israel. His statement does not mention settlements.

But, the continuing growth of settlements in the West Bank, coupled with the political and economic subjugation of the Palestinian people, do not serve Israel's long-term national security interests. It is just the opposite. This behavior provokes threats to Israel, not only by the Palestinian people, but also by the surrounding Arab countries and by Hezbollah, who holds Israel accountable for perpetuating an unjust situation. Hamas has now become a new threat that is in immediate proximity.

Realism in Action: Talking to Hamas

Daniel Levy, writing for The New American Foundation, argues that Israel is compromising its own interest simply by not adopting a realist approach to the conflict, whereas the argument in this study is that Israel is engaged in a perversion of realism. Levy makes the point that a realist strategy would serve Israel's security interest much more effectively by working to: avoid an "Al-Qaida-like" presence in the adjoining territory; isolate the Amadinejhad wing of Iran's leadership; end the occupation; and recognize legitimate borders on all fronts. According to Levy, ending the occupation includes dealing with Hamas as a legitimate broker of Palestinian interests. Single party Fatah rule is gone for good, and Hamas is not going away he argues. This conflict is not an absolute rejection of the "other" by the Palestinians and Hamas, or a clash of civilizations, but is grievance-driven. On the other hand, Israel does appear to be engaged in "an absolute rejection of the other." The conflict can be resolved by ending the occupation. Framing the conflict as a clash of civilizations serves Al-Qaida's interest because it is poised to offer another outlet for Palestinian grievance. Levy says that Israel needs to learn to live and work with the Middle East the way it is, and not how Israel would like it to be.⁷⁴

While Levy's reasoning does not reflect realism in its true form, this is a bold and important statement from an analyst who has dual citizenship in Great Britain and in Israel. Levy argues for Israel to inject realism into its thinking, and to put it into practice.

⁷⁴ Daniel Levy, "Wanted: An Israeli school of realism," The New American Foundation, posted June 29, 2007. Originally published in Haaretz by Levy, this article has appeared on number of web pages of organizations working on the Israeli – Palestinian conflict.
http://www.newamerica.net/publications/articles/2007/wanted_israeli_school_realism_5605

The argument in this paper is that Israel is practicing a perversion of realism in which immediate security concerns are highly overstated and exercised at any cost, even to the point of damaging Israel's own long-term self-interest, while obviously serving as a destructive force in the lives of the Palestinian people. Daniel Levy also notes that any effort to crush Hamas will be extremely painful for Israel, and runs the risk of increasing the threat of disorder and violence against Israel by the emergence of organizations like Al-Qaida. Instead, Levy is in favor of engaging in conversation with Hamas. He is not alone.

Just prior to the Annapolis Summit, a letter was published in the *New York Review of Books* on Nov. 8, 2007 that called for the inclusion of Hamas in the conversation. The letter said "As to Hamas, we believe that a genuine dialogue with the organization is far preferable to its isolation; it could be conducted, for example, by the UN and Quartet Middle East envoys. Promoting a cease-fire between Israel and Gaza would be a good starting point." This letter, a project of the New American Foundation, the American Strategy Program, the International Crisis Group, and the US/Middle East Project, Inc. was signed by a long list of foreign policy experts including: Zbigniew Brzezinski, former Congressman Lee H. Hamilton Co-Chair of the Iraq Study Group, Thomas R. Pickering, Former Under Secretary of State under President Bill Clinton, Brent Scowcroft, Former National Security Adviser to Presidents Gerald Ford, and George H.W. Bush. This letter is a strong reflection of realism that recognizes the necessity of engaging the world diplomatically, especially those with whom we may have the strongest disagreement. In realist terms, Hamas should be engaged diplomatically precisely because it represents a terrorist and strategic threat to Israel.⁷⁵

There is general agreement across the political spectrum that terrorism as a tool against Israel and other western targets emerging from Islamic fundamentalism is a legitimate concern. Terrorism seems to be almost an obsession in U.S. conservative political circles and in the current U.S. Administration of George W. Bush. Even on the left, progressive organizations such as the National Security Network in Washington,

⁷⁵ Zbigniew Brzezinski, Lee Hamilton, Carla Hills, Nancy Kassebaum – Baker, Thomas R. Pickering, Brent Scowcroft et al. 'Failure Risks Devastating Consequences,' Letter to the Editor, *The New York Review of Books*, Volume 54, Number 17, November 8, 2007. <http://www.nybooks.com/articles/20750>

D.C.⁷⁶ identify terrorism as a serious threat and offer strategies to address it. Peter Beinart, editor at large for the New Republic, makes the case, that like communism in earlier years, terrorism is the imminent threat of the day, and liberalism is the only school of thought capable of addressing terrorism.⁷⁷ Clearly, this is acknowledgment that a concern over the threat of terrorism is not the exclusive province of American conservatives or of Israel.

The Security Threat: Overstating the Case

The problem with terrorism for Israel is that no distinction is made between the legitimate Islamic fundamentalist and Al-Qaida terrorist threat, and terrorism that is bred out of the serious grievances that the Palestinians have with Israel. A misnomer often applied to the conflict by supporters of Israel is the Israeli – Arab conflict when it is first and foremost the Israeli – Palestinian conflict, an important clarification for understanding the different forces at work. Such language is often by intention. Charles Jacobs, director of the David Project, a Boston based American Israeli advocacy operation, speaking of their educational collaboration with Christian Zionists is quoted in the Jerusalem Post saying “We will teach them how to respond so that they can say more than just God gave Israel the land. We will teach them how to understand the conflict, not as a border war, but as a regional conflict between Arabs and Jews, as the centerpiece of a global war.”⁷⁸ The evidence is strong that a motivating factor for Osama bin Laden and his actions toward the United States, including the 9/11 attack, grows out of a long held sympathy for the plight of the Palestinians. According to Mearsheimer and Walt, Bin Laden and Al Qaida are acting out a broad-form grievance against the US that includes a concern for the Palestinians.⁷⁹

For Israel however, Palestinians have become a caricature of all terrorists acting out of an ideology of religious nationalism. At least that is the impression left when one considers the security infrastructure that has been imposed on the West Bank. An

⁷⁶ National Security Network, Washington, D.C. is a liberal or progressive grass roots and community based organization that addresses contemporary foreign policy issues. <http://www.nsnetwork.org/>

⁷⁷ Peter Beinart, *The Good Fight: Why Liberals—and only Liberals---Can Win the War on Terror and Make American Great Again* (New York: Harper Collins Publisher, 2006).

⁷⁸ Michael Lando, “Christians to Train in Israel Advocacy,” *The Jerusalem Post*, May 14, 2007.

⁷⁹ Mearsheimer and Walt, *The Israel Lobby*, 66-68.

extensive network of checkpoints, a security wall, and a separate road system for Israeli settlers is not about protecting Israel from terrorist threats; it is not about national security; but it is about ensuring Israel's control over the occupied territory. It is also not realism in the classic sense that requires a give-and-take relationship with an adversary. Rather, it is the extension of control over the occupied West Bank territory for the sake of Israeli settler security.

Israel's vital interest is not primarily different from other states, which is to maintain the safety and security of the people and to work to promote their best economic and political interests. In this regard, Israel has done quite well. Zionism, in the simplest terms, is the political movement that was intent on creating a homeland for the Jewish Diaspora where Jews could be safe and secure from centuries of persecution and mistreatment. Israel is that homeland; the realization of a sovereign and relatively secure nation-state established in 1948. There is no question that Jews have been victimized through the ages. This history is not fully appreciated today as we become chronologically further removed from the reality of the Holocaust. Today we see a Jewish homeland that is relatively prosperous. Israel is readily identified as having one of the more powerful militaries in the world. It has compulsory military service for all eligible men and women at the age of 18. In Mearsheimer and Walt's publication, challenged by many in the Jewish community, *The Israeli Lobby and US Foreign Policy*, the case is made that not only is Israel a strong military state, but that through its relationship with the United States, Israel is the beneficiary of some of the best military technology. Likewise, Israel also benefits from massive amounts of U.S. military and financial aid. As of 2005, Israel has received nearly \$154 billion dollars (in 2005 dollars) from the US in economic and military assistance comprised of outright grants rather than loans.⁸⁰ Israel is well positioned as a strong presence in the Middle East, and in the world. These actions and circumstances are further evidence that the question of Israel's right to exist is not really a question. It is an established fact. It is a country with tremendous military, economic and political power.

Yet, Israel's long-term security and survival is a legitimate concern. It is surrounded by hostile Arab states including Saudi Arabia, Iran, Syria, Lebanon and

⁸⁰ Ibid. 24.

Egypt. They have been at war before, most notably in 1967 and 1973. Ironically, Israel's security is under even more threat because it continues to contravene the international order and the rules of the game. In an anarchical environment, one of Israel's goals is to deter aggression, to persuade hostile neighbors that they have nothing to gain by threatening or attacking Israel. One way Israel does that is by the demonstration of military power and the threat of retaliation. It is more difficult for Israel to do that when their enemy infiltrates the land that they occupy and uses terrorism, i.e. surreptitious attacks upon civilian population centers as a form of political coercion. Another way to lessen the incentive for terrorist's aggression is by diminishing part of the grievance that hostile states and non-state actors have with Israel, namely the occupation and the growth of settlements.

One of the most noted advocates for Israel is Alan Dershowitz, professor of law at Harvard. In his popular publication *The Case for Israel* he argues that settlements are ultimately not a barrier to peace because the offer stands to dismantle settlements when a peace agreement is finally realized. The real barrier, he says is the refusal of Palestinians and Palestinian terrorists groups (which are supported by neighboring Arab states) to recognize Israel's right to exist.⁸¹ His point is reasonable. The opposition to Israel's existence in Palestine and the Arab states goes back to 1948. Just as the birth or independence of Israel is celebrated each year in May, the Palestinian exodus from the land is also commemorated with Nakba, the Arabic term for disaster, catastrophe or cataclysm. Dershowitz is correct in noting that Palestinians and terrorist groups (and neighboring Arab states) do not appreciate the existence of Israel. Their grievance over the loss of Palestine is long. But, Dershowitz's argument that Israeli public opinion is in favor of dismantling settlements and the promise is there to begin the process once peace is realized is disingenuous as long as Israel continues to build settlements.

Israel is in violation of international law on the question of occupation of the West Bank, and on the continuing growth of settlements. Israel interprets their possession of the West Bank not as occupied territory but as contested territory in defiance of international law, and the consensus of international legal scholars. (The next chapter addresses this question more fully.) Recently, the International Court of Justice has

⁸¹ Alan Dershowitz, *The Case for Israel* (Hoboken, NJ: John Wiley & Sons, Inc., 2003) 176-177.

declared the Israeli security fence illegal, but Israel, claiming that the security fence works by stemming the incidence of terrorist attacks, continues to build in defiance of that ruling. International legal scholar Richard Falk points out that Israel's continuing refusal to comply with the law justifies the Palestinian right of resistance (although not through illegitimate forms of violence against civilians).⁸²

As already noted in the discussion of Alan Dershowitz's argument, one of the biggest obstacles to peace in the Israel advocacy narrative centers on the question of Israel's right to exist. The prominence of that question makes it useful for public diplomacy. But, the fact remains that Israel does exist, and is not likely to disband or cease to exist, and the U.S. will also readily defend it when its existence is seriously threatened. Still, the failure of some countries, and of some Palestinian groups to officially recognize or to accord nation state status to Israel has become another part of the narrative that allows Israel to avoid diplomatic relations that might lead to a peaceful resolution of the conflict. But, the other side of that question is whether the Palestinians have a right to exist in the West Bank territory (and Gaza). Increasingly, the evidence suggests that they do not, at least according to Israel's behavior toward the people and the occupied territory. Following a realist interpretation, if anarchy is the ordering principle as the way of the world, then the Palestinian people who aspire to having their own state, an outcome that has been endorsed by all of the major political forces including Israel, the US and the United Nations, it naturally follows that they are to be accorded the same status as Israel in the resolution of conflict. At this point, the Palestinian people represent only a prospective state. But, the acknowledgment of a two – state solution as the expected outcome makes the Palestinians more than simply non-state actors. Anyone who has relations with Israel is expected by both Israel and by the United States to acknowledge Israel's right to exist. It becomes a kind of litmus test for negotiations. The same standard is not applied to the Palestinians. A good example of this reality is evident in the U.S. electoral process. A litmus test for candidates for national office is whether they support Israel. On the other hand, candidates dare not even mention a concern for the Palestinians lest they become identified as "pro-Palestinian" which is an electoral liability in many parts of the country.

⁸² Makdisi, *Palestine Inside Out*, 88.

Meanwhile, the growth of Israeli settlements in the West Bank continues unabated and land continues to be confiscated from Palestinians. The growth of settlements is really only a sidebar to the larger political and diplomatic discourse, and yet it is critical to prospects for a Palestinian state and a resolution to the conflict. Sometimes the topic is mentioned; often it is simply omitted from the public discussion. Israel also appears to have a habit of announcing the construction of new settlements in conjunction with peace talks and negotiations. Following the November peace talks in Annapolis, Prime Minister Olmert announced the re-launching of settlements in Givat Zeev, located just north of Jerusalem.⁸³

This action was denounced as detrimental to the peace process, but it is not inconsistent with past Israeli behavior. The Har Homa settlement in East Jerusalem was the subject of similar controversy in 1997 during the Oslo interim period prior to the settlement of final status agreement. Arafat was told by Dennis Ross, the U.S. Middle East envoy, while waiting for his plane at Andrews Air Force Base, that Netanyahu would not freeze the settlement construction at Har Homa. Dr. Saeb Erekat, the Palestinian liaison to the Netanyahu government, said that the peace process would be crushed under the treads of the bulldozers.⁸⁴ Kadura Fares, senior member of the Fatah movement and a member of the Palestinian peace coalition, says of the Givat Ze'ev settlement project to Housing Minister Ze'ev Boim, "We got the message. Will anyone in Israel yet accuse you of incitement to rebellion and resistance?"⁸⁵ The appearance is that settlements can often become an Israeli tool for provocation and incitement when the prospect of peace begins to loom on the horizon.

The official Israeli position on settlements (an on the security fence) is that they are temporary. Once peace between Israel and the Palestinians is realized, the settlements will be removed. That holds little promise for those who have lost land or for those whose routine daily travel is disrupted by checkpoints and the military security apparatus, which is in place to protect the settlers. The possibility of disbanding settlements is

⁸³ "Israel Okays Expansion of West Bank Settlements," *Agence France Presse*, March 9, 2008. <http://www.commondreams.org/archive/2008/03/09/7573> (accessed at CommonDreams.org News Center, 22 November 2008).

⁸⁴ Zertal and Erdal, *Lords of the Land*, 166-167.

⁸⁵ Kadura Fares, "We Heard you Mr. Boim," *Haaretz*, updated March 26, 2008. <http://www.haaretz.co.il/hasen/spages/968434.html>

becoming an increasingly formidable task. Requesting or demanding for one or two hundred thousand Israeli settlers to uproot from their well-established homes and very nice communities and find other places to live in Israel proper seems unlikely. It would not be popular to give up 30 to 40% of the West Bank land, and water rights in some areas. The political cost alone of major domestic opposition would be very high for the Israeli government and society, not to mention the financial cost of relocating displaced settlers. Israel has created a bind for itself, caught between the domestic pressures of settlers and their supporters, and the external threats of the Palestinians and neighboring Arab states. The creation and perpetuation of this dilemma does not reflect the kind of rational calculation of Israel's long-term security interest that Mearsheimer ascribes to a realist approach to the world.

Palestinians have no recourse when their land is occupied and it is progressively and systematically taken from them. In effect, this becomes a zero sum game in that Israel continues to get its way with the on-going expansion of its living space at the expense of Palestinian people and their national aspirations. Israeli gains in territory and living space represent loss for the Palestinians. As we have discussed, the settlement movement, a routine aspect of Israeli activity, is outside the bounds of traditional international relations and diplomacy. The growth of settlements is not about security competition. Israel gains nothing other than more space by continuing the settlement movement, but at the cost of their long-term security, and at an even greater cost to the Palestinians.

Obviously, the Palestinian people do not have leverage or bargaining power to confront the growth of settlements because the Palestinian territory is not a nation – state but an occupied territory, and the Palestinians do not have the resources or the power necessary to challenge this activity. Instead, their security and well-being are very much subject to the determinations of Israel, which has become a unilateral actor. There is nothing to balance Israel in relation to the Palestinians. The power in the region is highly concentrated with Israel because of the lack of countervailing forces and, because of the uncritical support the United States gives to Israel.

If Israel cannot be effectively balanced in defense of the Palestinian interest, the other recourse is submission to a higher power. The closest we can come to that is the

International Court of Justice, international humanitarian law, and the United Nations. But, consistent with realism, there is no higher power over the sovereign state. These institutions have no final authority, only a final say, which they have exercised through various resolutions and pronouncements. The question really is a matter of when Israel determines that its national interest is best served by the cessation of the growth and expansion of settlements, and at what point might steps be taken to seriously minimize the impact of settlements on the Palestinian population. Realism recognizes nation-states as rational actors that calculate their long-term strategic interests giving consideration to how their behavior might affect the behavior of other states, and how the behavior of those other states might affect their strategy for survival. If a two-state solution is the desired outcome, then continued support and promotion of settlements is a contradiction of Israel's long-term interest, and is certainly detrimental to the Palestinian people.

The threat to Israel's security by neighboring Arab states is a reality. Their military capacity is not likely equal to Israel's. They do not represent the Goliath that is often used to characterize the threat to Israel of the Arab Middle East countries. Nevertheless, they are a threat, especially when they resort to terrorist attacks on the civilian population. The evidence suggests that stopping the growth of settlements and ending the occupation will be a step toward creating a less threatening environment for Israel. It will defuse the outstanding grievance that many in the Middle East have toward Israel, which is the continuing occupation and domination of the Palestinian people.

Separate from that, the only other external or higher force that could make a difference in this situation is the United States because of the amount of support regularly extended to Israel. Progress might be realized when Congress and the President begin to demand that the problem of settlements be fixed as a contingency for further foreign aid. Until then, Israel will likely continue a pattern of behavior that contradicts Israel's long-term interest and some of the principles of realism.

Perverved realism – Historical Precedent at the Creation of Israel

The other problem with attempts to restrain Israel's exercise of power and perversion of realism is the historical precedent for this kind of behavior, which is revealed by a glimpse at the history of the establishment of the state of Israel.

If Israel is practicing a distorted form of realism in the continuing growth of settlements in the West Bank, and the refusal to acknowledge the basic human dignity and national sovereignty aspirations of the Palestinian people, this is not without precedent. Israeli historian Benny Morris discusses extensively his discovery that the idea of “transfer” of the Arab – Palestinian population out of the territory was present in early Zionist thinking and writing. He has documented it thoroughly in his study of the first Arab - Israeli war that resulted in statehood for Israel. His conclusion is that while near -consensus on the idea of transfer emerged in the 1930s and early 1940s, it did not necessarily translate into a master plan to remove the Arab population from Palestine during the war. Nevertheless, he says, “by 1948 transfer was in the air.” The idea of transfer of the Palestinian Arabs had prepared the hearts and minds of the bulk of the Jewish population and it was eventually accepted as inevitable.⁸⁶

In his massive study, Morris has characterized the exodus of the Palestinian population in 4 waves in specific timeframes. During the second wave of the war, April – June 1948, brigades were given instructions for dealing with the Palestinian population under a plan produced by the Haganah chiefs called Tochnit Dalet or plan D:

In the conquest of villages in your area, you will determine – whether to cleanse or destroy them – in consultation with your Arab affairs advisers and HIS officers... You are permitted to restrict -- insofar as your able -- cleansing, conquest and destruction of enemy villages in your area.

This instruction gave commanders the freedom to engage in expulsions if necessary. However, Morris reports that inhabitants of many villages fled before action needed to be taken by the Haganah brigades.⁸⁷

Morris’s study is massive and filled with detail. This brief excerpt provides a glimpse of the type of offensive realism that underlay the formation of the state of Israel. The consequence of their actions in the first Arab war that resulted in the Israeli declaration of independence in May of 1948 was the creation of 700,000 Palestinian refugees. The number of Palestinian refugees today totals over 4 million.⁸⁸ Benny Morris

⁸⁶ Morris, *The Birth of the Palestinian Refugee Problem Revisited*, 60.

⁸⁷ Ibid. 163 – 165.

⁸⁸ McGill University. “Palestinian Refugee Research Net,” Inter-University Consortium for Arab and Middle Eastern Studies. http://www.arts.mcgill.ca/mepp/new_prm/background/index.htm

has provided an extensive overview of the development of the Palestinian refugee problem, one that is somewhat sympathetic to the pressures that were on the Zionist and the Holocaust refugees at that point in history. Ilan Pappé, another Israeli historian, says that 531 Palestinian villages were destroyed and 11 urban areas were emptied of their inhabitants during the war. The title of his study, *The Ethnic Cleansing of Palestine*, is a graphic indictment of the foreign policy of the pre-Israel Zionist movement.⁸⁹ It also reflects the zero sum approach to the West Bank (and Gaza) that seems to be driving Israeli policy toward the Palestinian territory today.

This history does not bode well for the possibility of Israel assuming a more calculated and rational approach to living in relative peace with its neighbors by resolving the problem of occupation and settlements. It cannot be said too many times that by continuing to rely primarily on military power, and the domination of the occupied territory and the Palestinian people, Israel is also increasing the threat to the safety and security of Israel and of the global Jewish community. Ironically, this is not an example of realpolitik at work, but precisely the opposite because the result of this behavior raises the costs for Israel.

⁸⁹ Pappé, *The Ethnic Cleansing of Palestine*, xiii.

Chapter 4

Occupation, Settlements, Domestic and International Law

The West Bank as an occupied territory has been under the control of Israel since the 1967 war. It represents the battleground of two competing interests, the Palestinians who live there with official legal status according to international convention, and the Israelis who are there as an occupying force. There are at least two manifestations of the Israeli presence in the occupied territory. The Israeli military is there to maintain and enforce the occupation and Israeli civilians are there as settlers. There are two primary systems and bodies of law that apply to this situation that must be considered.

One system is international law and questions about how it applies according to international consensus and the international court, and about how Israel understands it. The other law that is applicable to the Palestinian situation is the legal system of the occupying state, primarily through the Israeli high court or Supreme Court. The questions in the case of Israeli law have to do with the degree to which Palestinians have standing in the Israeli legal system, and how those laws are applied to the Palestinians, particularly in relation to the question of Israel settlements. Palestinians do have standing, and they have brought cases, most notably the Elon Moreh case which was discussed earlier as part of the history of the settlements because the Israeli Supreme Court's ruling on that case marked a turning point in how Palestinian land was confiscated for settlements. Given the significance of the Elon Moreh case on taking land and planting settlements, it is worth noting briefly the evolution of the Israeli Supreme Courts opinions on this topic.

According to Quigley, the Israeli Supreme Court has generally acquiesced to the demands of settlers regarding property and territory in the West Bank. The Israeli Supreme Court originally defended settlements in the West Bank on the basis of security needs. In a case decided by Supreme Court Judge Alfred Witkon, the Court originally justified settlements on confiscated West Bank Palestinian land. Witkon argued that terrorists were less likely to operate openly and with ease in a land inhabited by people who are watchful and will report suspicious movement, so it was appropriate and necessary to have Israeli settlers in the West Bank.⁹⁰ A subsequent ruling by the high

⁹⁰ John Quigley, *The Case for Palestine: An International Law Perspective* (Durham, NC: Duke University Press, 2005) 175-176.

court set a much more precise standard. In 1979, the case of Elon Moreh concluded that private West Bank and Gaza land could not be confiscated without clear security justification. Military needs had to be more than the general security interests of the occupying power. Instead, military actions must be based on “a rational, military/strategic analysis of the dangers the state faces, and the measures needed to counter them.”⁹¹ Following the Elon Moreh ruling, Israel resorted to taking land that was nominally identified as state-owned, that is, land that was lying fallow according to the earlier Ottoman law.

International Humanitarian Law

“Belligerent occupation” is the label the United Nations has placed on the fact of settlements in the West Bank and the Gaza Strip. It is the same language that Israel used when the government argued before the Israeli Supreme Court that settlements in the Gaza Strip must be dismantled. The settlers should have known, the Israeli government argued, that they were in violation of the law, that the authority to remove the settlements was in the hands of the government and/or Knesset to end the occupation of the territory.⁹²

The primary document that comes into play in judging the legal dimensions of Israeli occupation and the matter of settlements is the 4th Geneva Convention that addresses the responsibility of an occupying power to the population in the territory that is occupied. Israel is party to the Geneva Conventions having signed it on December 8, 1949. It is not party to the Hague Conventions. John Quigley, professor at the Ohio State University Moritz College of Law, has summed up Israel’s dilemma with the Geneva Convention succinctly in *The Case for Palestine: An International Law Perspective*. Article 49, he notes, specifies that the occupying power is required to change the existing order of things as little as possible. Specifically, the occupying power is not permitted to populate the territory with its own people. Article 49 states “the Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies.” The international community has repeatedly criticized Israel under Article 49 for establishing settlements in the West Bank. Israel’s response has been to say that it is not

⁹¹ David Kretzmer, *The Occupation of Justice: The Supreme Court of Israel and the Occupied Territories* (Albany, NY: State University of New York Press, 2002) 87.

⁹² Gorenberg, *The Accidental Empire*, 363.

the government that has established settlements, but the settlers themselves voluntarily establish their own settlements. The international community responds that Israel funds the settlements, and utilizes the Israeli Defense Forces (IDF) to provide security for the settlers, which belies the claim that settlements are simply a voluntary initiative. Israel has also argued consistently that the Geneva Convention does not apply to Israel because Article 2 refers to the territory of a High Contracting Party and therefore applies only to territory lawfully held by a contracting party. Since Jordan did not have good title to the West Bank and Egypt did not have good title to the Gaza Strip, the Geneva Convention does not apply. Nevertheless, Israel indicated a willingness to follow the humanitarian provisions of the Convention. However, the Israeli Supreme Court did not find Article 49 to be a humanitarian provision.⁹³

The important distinction here is the difference between “occupied territory” and “disputed territory.” Israel claims that the West Bank is disputed territory, therefore Geneva does not apply. There are other reasons why Israel claims that Geneva does not apply. An important aspect of this discussion appears in the Israeli Foreign Ministry Web page. Israel reiterates the basis for the conflict about the settlements and the humanitarian aspects of the Geneva Conventions, and presents its argument refuting the law.⁹⁴

The most significant element of international law addressing the Israeli occupation of the Palestinian territory is the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War that was adopted on August 12th by the Diplomatic Conference for the Establishment of International Conventions for the Protection of Victims of War, held in Geneva from 21 April to 12 August 1949. It went into force 21 October 1950. This is the law of belligerent occupation, known categorically as humanitarian law. This law provides a variety of protections for an occupied population, yet also cedes to the occupying power the right to protect its temporary tenure. Both Israel and the neighboring Arab states are parties to this treaty.

According to the Convention, the occupying power is required to change the existing order as little as possible during its tenure. The occupying power must leave the territory to the population that is already there, and it may not bring its own people in to

⁹³ Quigley, *The Case for Palestine*, 177-178.

⁹⁴ Israeli Ministry of Foreign Affairs, “Israeli Settlements and International Law, May 2001.” <http://www.mfa.gov.il/MFA/Peace+Process/Guide+to+the+Peace+Process/Israeli+Settlements+and+International+Law.htm>

populate the occupied territory.⁹⁵ This is the essence of Article 49, which states specifically “The Occupying Power shall not deport or transfer parts of its own civilian population into territory it occupies.” This provision is a problem for Israel in the international community because of the presence of the settlements. The general consensus of the international community is that Israel is in violation of this law.

Israel does not agree with the consensus. The official Israeli position today is that the law of the Geneva Convention is not violated because the West Bank is not occupied territory, but disputed territory. This is a position that evolved over the years from an earlier awareness of the possibility that Israel’s settlement activity in the West Bank is encumbered by provisions of the Geneva Convention.

The first substantial discussion of the Fourth Geneva Convention and its application to settlements took place in September of 1967 in a top-secret memo from Israeli foreign affairs legal council Theodore Meron. Gershom Gorenberg has addressed the concern raised by the memo in *The Accidental Empire*. The memorandum identified as “Top Secret,” was directed to Mr. Adi Yafeh, the political secretary of the Prime Minister, in which Meron states explicitly his conclusion that “civilian settlement in the administered territories contravenes the explicit provision of the Fourth Geneva Convention.” The memo says:

At your request...I hereby provide you a copy of my memorandum of September 14, 1967, which I presented to the Foreign Ministry. My conclusion is that civilian settlement in the administered territories contravenes the explicit provisions of the Fourth Geneva Convention.⁹⁶

This is evidence enough that Eshkol was aware of the legal difficulties of allowing Israelis to move into the West Bank and establish settlements. Nevertheless, he was already exploring the option of undertaking settlements in the newly conquered territory.

Theodore Meron was not a casual observer of this series of events. Not only was he legal council for the Israeli Foreign Ministry at the time, he is also distinguished in his ability to address this situation. Coming to Palestine as a teenager fleeing a Nazi labor camp at Czestochowa, he earned a law degree from Hebrew University, a doctorate from Harvard, and continued studying international law at Cambridge. Gorenberg identifies

⁹⁵ Quigley, *The Case for Palestine*, 177.

⁹⁶ Gorenberg, *The Accidental Empire*, 99.

him as a person who received his first education in “war crimes as a victim.....on his way to becoming one of the world’s most prominent experts on the limits that nations put on the conduct of war.” He further notes that a subsequent distinguished career in international human rights law, including service as a law professor at New York University has added historical weight to Meron’s opinion.⁹⁷ Meron affirmed the validity and importance of his “unpopular” 1967 opinion in a lecture in Pittsburgh, PA on May 9, 2008. The lecture has been archived by the American Society of International Law.⁹⁸ Meron’s opinion was addressed to Foreign Minister Eban, Mr. Yafeh’s superior. In it he noted that the clause which states “Occupying Power shall not deport or transfer parts of its own civilian population in the territory it occupies” was a response to the situation in World War II where certain powers transferred portions of their own population for political and racial reasons in order to colonize the territory. The prohibition on transporting populations into the occupied territory, says Meron, as he is quoted in *The Accidental Empire*, is “categorical and is not conditional on the motives or purposes of the transfer, and is aimed at preventing colonization of conquered territory by citizens of the conquering state.”⁹⁹

The international consensus is strong that the Israeli occupation of the West Bank, and the presence of the settlements is a violation of international law. As part of their legal response to the establishment of the Israeli security fence, the International Court of Justice also ruled ““Israel’s policy and practices of settling parts of its population and new immigrants in [the occupied] territories” as a “flagrant violation” of the Fourth Geneva Convention. The Court concludes that the Israeli settlements in the Occupied Palestinian Territory (including East Jerusalem) have been established in breach of international law.”¹⁰⁰

⁹⁷ Ibid. 100.

⁹⁸ Theodore Meron, HASKINS PRIZE LECTURE, American Council of Learned Societies, May 9, 2008, 4. American Society of International Law archive.
<http://www.asil.org/pdfs/meronspeech.pdf>

⁹⁹ Gorenberg, *The Accidental Empire*, 101.

¹⁰⁰ Global Policy Forum. International Court of Justice, Year 2004. “Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory,” July 4, 2005. para. 121, 47.
<http://www.globalpolicy.org/security/issues/israel-palestine/document/icj070904.pdf> GPF maintains a collection of documents and resources relating to the Israeli – Palestinian conflict.

Israel has a very different interpretation of the occupation. Initially it acknowledged and accepted the general principles of international law that applied to belligerent possession and occupation. But gradually, according to Zertal and Eldar, Israel began to change the nature of the discourse. The purpose, these writers maintain, was to foster a closer connection of the territories to Israel and to do away with the term “occupation.” The idea was to claim a historical right to the occupied territory.

There are two key points for the change in definition from occupied to disputed or administered territory. One is Israel’s understanding of Jordan’s administration of the West Bank territory from 1948 to 1967. Jordan interpreted their possession of the land under the rules of belligerent seizure. Their possession of the land was contrary to international law, which does not allow annexation of occupied territories without the agreement of the sovereign. Only Britain and Pakistan agreed with Jordan’s interpretation. The rest of the international community, including the Arab League disagreed with this interpretation. The Jordanian interpretation was based upon the rules of the 1939 Mandatory Trading with the Enemy Ordinance, passed by the British government right before the outbreak of World War II.¹⁰¹ Article 9 of the Ordinance gave the High Commissioner authority to appoint a custodian of enemy property including, that which was owned by the enemy’s subjects. Article 5 directed the custodian to retain the assets until the end of the war at which time they must be dealt with according to instructions from the High Commissioner.¹⁰² The Jordanians did oversee Jewish property in the West Bank and managed it in order to keep local inhabitants from taking possession of the assets until such time as a peace treaty would provide a framework for resolving property disputes. The Jordanian custodianship of Jewish land was generally seen as a successful undertaking by Israeli legal scholars. In other words, Jordan fulfilled its obligation to oversee the property in the West Bank. That has not been the case for Israel. Rather, it has consistently used its position as the occupying power to take land from Palestinians and dedicate it for the settlement of Jews in the territory.¹⁰³

¹⁰¹ Zertal and Eldar, *Lords of the Land*, 334-337.

¹⁰² *Ibid.* 492, footnote 13.

¹⁰³ *Ibid.* 334.

The change in Israel's understanding of the legal dimensions of the occupation resulted from the writings of Yehudah Blum, a law professor in Jerusalem and eventual ambassador to the United Nations. He published a series of articles arguing that since Jordan's annexation of the West Bank territories in 1950 did not receive broad international recognition, they were not sovereign territories when Israel seized them in 1967, and therefore, the belligerent occupation provisions of the Geneva Convention did not apply.¹⁰⁴

In this instance Israel was quick to defer to international consensus on the status of the West Bank Palestinian territory when it suited their needs while the current situation of redefining the status of the occupation as contested or administered is clearly in defiance of international consensus and the decisions of various international institutions, including the Court of Justice and the United Nations.

Zertal and Eldar note that with the April 1950 annexation, Israel recognized the Jordanian law in the West Bank as a matter of convenience to satisfy its own political purposes which was the much desired land necessary for an expanded Israel. This meant that there were effectively three levels of law in the territories that Israel occupied. There was Ottoman law that established land rights, the so-called 1858 Land Law; the second level of law was British Mandatory which did not change the rules of the Ottoman law; the third level was Jordanian law. These laws combined became the means for expropriating land from Palestinians.¹⁰⁵ Especially important was the 1858 Land Law which included the definition of miri, that is land which is vacant and available for seizure by the state if it is left to lie fallow, or uncultivated.

The definition of the occupation gradually shifted to an understanding of administered territories and Israel refused to acknowledge the application of the Fourth Geneva Convention for the protection of civilians, which was understood by international legal scholars to apply very broadly to all cases of occupation. According to Zertal and Eldar, Israel's refusal to acknowledge the Geneva Convention as applicable to their situation also reflected the concern that doing so would be an implicit

¹⁰⁴ Ibid. 336.

¹⁰⁵ Ibid. 339.

acknowledgement that the territories actually belonged to Jordan and Egypt.¹⁰⁶ In other words, according to Adam Roberts, Jordan and Egypt could be understood as the ousted sovereigns and would presumably have recourse to reclaim the territory.¹⁰⁷

Occupation and International Law: Israel's official position

The definition of this understanding is both political and legal and has been a source of contention and disagreement since the '67 war. Regardless of the disagreement, the reality is that the definition of the Israeli presence in the West Bank territory as "administrative" or "contested" is Israeli policy, and is the preferred position taken by most organizations that advocate for Israel. The clearest statement of the Israeli understanding and intentions in the West Bank is found on the Israeli Foreign Ministry web page.

Israeli Settlements and International Law May 2001 International Humanitarian Law in the West Bank and Gaza Strip

1. International humanitarian law prohibits the forcible transfer of segments of the population of a state to the territory of another state, which it has occupied as a result of the resort to armed force. This principle, which is reflected in Article 49 of the Fourth Geneva Convention, was drafted immediately following the Second World War. As International Red Cross' authoritative commentary to the Convention confirms, the principle was intended to protect the local population from displacement, including endangering its separate existence as a race, as occurred with respect to the forced population transfers in Czechoslovakia, Poland and Hungary before and during the war. This is clearly not the case with regard to the West Bank and Gaza.
2. The attempt to present Israeli settlements as a violation of this principle is clearly untenable. As Professor Eugene Rostow, former Under-Secretary of State for Political Affairs has written: "the Jewish right of settlement in the area is equivalent in every way to the right of the local population to live there" (*AJIL*, 1990, vol. 84, p.72).
3. The provisions of the Geneva Convention regarding forced population transfer to occupied sovereign territory cannot be viewed as prohibiting the voluntary return of individuals to the towns and villages from which they, or their ancestors, had been ousted. Nor does it prohibit the

¹⁰⁶ Ibid. 337-338.

¹⁰⁷ Adam Roberts, "Prolonged Military Occupation: The Israeli-Occupied Territories Since 1967," *The American Journal of International Law* Vol. 84, No. 1, (January, 1990): 64.

movement of individuals to land which was not under the legitimate sovereignty of any state and which is not subject to private ownership. In this regard, Israeli settlements have been established only after an exhaustive investigation process, under the supervision of the Supreme Court of Israel, designed to ensure that no communities are established on private Arab land.

4. It should be emphasized that the movement of individuals to the territory is entirely voluntary, while the settlements themselves are not intended to displace Arab inhabitants, nor do they do so in practice.

5. Repeated charges regarding the illegality of Israeli settlements must therefore be regarded as politically motivated, without foundation in international law. Similarly, as Israeli settlements cannot be considered illegal, they cannot constitute a "grave violation" of the Geneva Convention, and hence any claim that they constitute a "war crime" is without any legal basis. Such political charges cannot justify in any way Palestinian acts of terrorism and violence against innocent Israelis.

6. Politically, the West Bank and Gaza Strip is best regarded as territory over which there are competing claims, which should be resolved in peace process negotiations. Israel has valid claims to title in this territory based not only on its historic and religious connection to the land, and its recognized security needs, but also on the fact that the territory was not under the sovereignty of any state and came under Israeli control in a war of self-defense, imposed upon Israel. At the same time, Israel recognizes that the Palestinians also entertain legitimate claims to the area. Indeed, the very fact that the parties have agreed to conduct negotiations on settlements indicated that they envisage a compromise on this issue.¹⁰⁸

One can quibble endlessly over definitions of the situation in the West Bank and cite numerous international legal scholars who disagree with Israel's policy and position on the application of the provisions of the Geneva Convention. The international community through the International Court of Justice and the United Nations has met and passed judgment upon the situation, condemning the occupation and the failure to adhere to the Geneva Conventions as illegal. But, in the end, Israel has clarified its position in no uncertain terms. This policy position is evidence again of a strong unilateralism on Israel's part. Israel has effectively changed the terms of the argument to suit its particular

¹⁰⁸ Government of Israel, Israeli Ministry of Foreign Affairs, May, 2001. *Israeli Settlements and International Law*, May 2001, International Humanitarian Law in the West Bank and Gaza Strip. <http://www.mfa.gov.il/MFA/Peace+Process/Guide+to+the+Peace+Process/Israeli+Settlements+and+International+Law.htm>

needs and interests, even in the face of overwhelming international and legal opposition. Israel acknowledges the legitimacy of Article 49 and explains its original intent in paragraph 1 by arguing that this is not a parallel to the situation right after World War II, which involved the forced population transfers in Czechoslovakia, Poland and Hungary. Why is it not a parallel? Because, Israel has asserted, it is not the case with regard to the West Bank and Gaza that Israel will displace the Palestinian population. That, of course, is part of the argument of this paper that even if Israel does not intend to displace the local population, nevertheless the trajectory of settlement growth will likely result in such an outcome and the possibility of a Palestinian state will be effectively precluded because of the lack of contiguous land to form a state.

The second paragraph, citing Eugene Rostow as their authority, reflects the preemptive line of argument, which is that “the Jewish right of settlement in the territory is equivalent in every way to the right of the local population to live there” which is a quote from Rostow’s article in the American Journal of International Law. Rostow, former Yale law professor and Under Secretary for Political Affairs in the Johnson Administration knows from where he speaks on this topic. Noted for his distinguished political and legal work at Yale and in the Johnson Administration and his background as the son of Russian Jewish and socialist immigrants, his view is a reflection of the Israeli Labor party that started the settlement movement.

The third paragraph of the Foreign Ministry statement returns to the question of historic sovereignty over the land, Israel’s argument for why it is “contested” and not “occupied” territory. Here, the claim is also made that land is settled only after an exhaustive investigation process is undertaken to ensure that communities are not established on private Arab land. That line of reasoning is not consistent with the practices acknowledged by Plia Albek, working in the state prosecutor’s office and claiming land randomly if it is lying fallow and not being cultivated. Likewise, it is inconsistent with the defiance of settlers who simply claim land randomly, particularly hilltops, and create what is known as outposts that are subsequently turned into settlements. It is true that Israel sometimes declares certain outposts to be illegal, and on rare occasions will even remove settlers from the land. But, there is inconsistency in how

this problem is addressed by the Israeli government because they do not necessarily recognize such “illegal” settlement activity as a problem.

As of this writing, there are approximately 100 “illegal” outposts in the West Bank. In the Israeli – Palestinian meeting in Annapolis in November of 2007, Israel pledged to freeze settlement growth and remove those that have been established since 2001. Only a few have been dismantled since that agreement.¹⁰⁹ This is partly the result of the resistance from settlers and the constant turmoil provoked by them whenever they are challenged. The failure to address the problem of outposts is a reflection of governmental inertia. It is easier for Israel to acquiesce to pressure from right wing settlers than it is to stand with the agreements that have made in the arena of international negotiations. This is another manifestation of the perversion of realism that is rampant with Israel. Their security and standing in the international arena is partly dependent upon the degree to which they can be counted on to adhere to the agreements they have made with the Palestinians and with other states. The failure to comply suggests to their adversaries that they are not to be trusted. Therefore, it is better to not engage in diplomacy and agreements with Israel. Clearly, that puts Israel at a disadvantage if other countries perceive that Israel is not a good partner in international agreements, even those as seemingly small as addressing the problem of illegal outposts in the West Bank.¹¹⁰

More critical, beginning in paragraph 3 and enunciated even more strongly in paragraph 4 is the disingenuous argument that the return of individuals to West Bank towns and villages from which they or their ancestors have been ousted is voluntary. In paragraph 4 it is stated unequivocally “the movement of individuals to the territory is entirely voluntary.” This assertion is totally inconsistent with the simple recognition that Israel has both subsidized and encouraged the development of settlements. The notion that it is defensible because it is “voluntary” is completely contradicted by the massive highway infrastructure exclusively for settlers that Israel has put in place to support the settlements and give them easy access to Jerusalem by highways, tunnels and bridges. In

¹⁰⁹ Isabel Kershner, “Radical Settlers Take on Israel” *New York Times*, Sept. 25, 2008.

¹¹⁰ The occasional dismantling of outposts and the accompanying media coverage creates the general impression that Israel is taking care of the settlement problem. The media coverage also conveys images of the dismantling of portable or modular housing units, thus confusing the distinction between outposts and settlements.

fact, when settlers do go out and take over land by setting up a portable home, in effect becoming squatters, Israel identifies this presence as illegal by Israeli law. Such activity is, in any case, illegal according to the Geneva Conventions.

As to Israel's claim that the settlers' voluntary return to "the towns and villages from which they, or their ancestors, had been ousted," this history is addressed in a previous section of the Foreign Affairs web page entitled "The Historical Context." Their understanding is that "Jewish settlement in the West Bank and in the Gaza territory has existed from time immemorial and was expressly recognized as legitimate in the Mandate for Palestine adopted by the League of Nations, which provided for the establishment of a Jewish state in the Jewish people's ancient homeland." Further down, the Israeli Foreign Ministry identifies other settlements as additional evidence for their argument that their right to be there is well grounded in history. Included is the Hebron settlement which "existed through out the centuries of Ottoman rule" and before. They also claim that Israeli settlements have been established on sites which were home to Jewish communities in previous generations, in an expression of the Jewish people's deep historic and religious connection with the land."¹¹¹

It is true that Jews have lived in and out of the territory for centuries. There is some question about the historical continuity of some of the settlements, and for that matter whether or not Jewish deeds to certain West Bank land and property even exist. That aside, the settlement of Hebron is a good example of religious claims overriding the human rights of the Palestinian people that have been defined under international humanitarian law, which Israel rejects as not being applicable to this situation.

There is no doubt that Hebron is a site of great religious and historical significance to Judaism, a site that is invested with tremendous sentimental attachment. The claim is that it is the oldest Jewish community in the world dating back to Biblical times, some 3700 years ago. The Tomb of the Patriarchs, identified in Judaism as the

¹¹¹ Government of Israel, Israeli Foreign Ministry. May, 2001. *Israeli Settlements and International Law*, May 2001, International Humanitarian Law in the West Bank and Gaza Strip, The Historical Context. <http://www.mfa.gov.il/MFA/Peace+Process/Guide+to+the+Peace+Process/Israeli+Settlements+and+International+Law.htm>

burial place for the biblical figures of Abraham, Isaac, Jacob, Sarah, Rebecca and Leah is located in Hebron.¹¹²

The historic, religious significance of this site to Judaism is not to be dismissed. But, neither is the human rights claim of the modern day Palestinians who live there to be superceded and summarily dismissed by religious history.

Palestinians also have some historical claims to the same area going back to 688 A.D. when the Islamic Caliphate was established in Hebron. The Jewish settlement in Hebron is a small, well-armed and well protected enclave surrounded by tens of thousands of Palestinians. The population difference, confirmed in a couple of sources, is dramatic, with 130,000 Palestinians and approximately 500 Jewish settlers. This is a classic model of neo-colonialism, with a very small dominant population reigning over the majority population with the assistance of the military deployed from afar, in this case, the Israeli Defense Forces which is actually headquartered much closer at hand and is charged with the protection of the very small Jewish population. But, the application of international humanitarian law is rejected for all the reasons cited, and because this is disputed or administered territory according to Israel's interpretation.

The Israeli government has taken their stand on the matter of article 49 of the Geneva Convention IV which states that "Individuals or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power, or to that of any other country, occupied or not, are prohibited, regardless of their motive." Even more significant is the last line of Article 49 "The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies." This is a direct legal prohibition against colonization, that is, Israeli settlements in the occupied territory.

A prevailing question concerns the rights of Palestinians in the Israeli judicial system. According to Kretzmer, the Israeli Supreme Court is notoriously rights-minded when it comes to Israel. It created a judicial bill of rights prior to the enactment of the Basic Law: Human Dignity and Liberty, which is a strong affirmation of the rights of

¹¹² Jewish Virtual Library: A Division of the American – Israeli Cooperative Enterprise, Hebron. This entry in the Jewish Virtual Library provides a concise and picturesque overview of Hebron. <http://www.jewishvirtuallibrary.org/jsource/History/hebron.html>

individuals in Israel.¹¹³ All of this provided a good degree of protection of individuals against governmental arbitrariness. Kretzmer says that a principle at work with the court's jurisprudence has been an interpretation in favor of human rights, that the Court must adopt the interpretation that is least restrictive of the rights and freedoms of individuals. If the Court is strong in this regard with Israel proper, "the rights minded approach is generally conspicuous by its absence in decisions relating to the Occupied Territory." The court, in its treatment of the occupied territory, is strongly government minded, exercising an interpretation that is "least invasive of state sovereignty."¹¹⁴

There are many other issues that could be addressed under the topic of Israel and international humanitarian law. Israel, according to international consensus, is in violation of a number of provisions of the Geneva Conventions and the Hague Conventions, most of which are disputed by Israel and its supporters. Included are house demolitions for security reasons when terrorists and suicide bombings occur, and for military reasons when Israel claims the land for military purposes. Deportations of residents of the occupied territories for security reasons is another regular Israeli practice that is also prohibited by international humanitarian law. But, the most insidious and troubling violation is the demolition of Palestinian homes for administrative reasons. Palestinians are desperate for housing in the occupied territories of the West Bank (Gaza) and East Jerusalem; and it is necessary to apply for permits to build. This is a fairly standard procedure in most western democracies. However when desperation encounters bureaucratic intransigence, the Palestinian people are losers. When they cannot produce building permits for their residence, the state of Israel proceeds to demolish their home. According to B'Tselem, the Israeli human rights organization, although the numbers are inexact, from 1987 to 2008 Israel had demolished over 3,400 Palestinian homes and other structures in the West Bank and East Jerusalem.¹¹⁵

¹¹³ Government of Israel, Knesset, *Basic Law: Human Dignity and Liberty*, 2002.

http://www.knesset.gov.il/laws/special/eng/basic3_eng.htm

¹¹⁴ Kretzmer, *The Occupation of Justice*, 188.

¹¹⁵ B'Tselem, The Israeli Information Center for Human Rights in the Occupied Territories, Planning and Building, Statistics on demolition of houses built without permits in the West Bank http://www.btselem.org/english/Planning_and_Building/Statistics.asp B'Tselem report their numbers as coming mostly from official governmental sources including the Interior Ministry and the Civil Administration through the Israeli Freedom of Information Act. However, it is difficult to find this information independently when searching government sources.

Demolition of Palestinian homes and property for lack of building permits, although it is a blatant violation of the Geneva Conventions, is not directly related to the question of the growth of settlements. It does, however reflect the inverse side of the issue. Israel faces a demographic problem as a result of the desire to maintain a majority Jewish state. On this question, Saree Makdisi in *Palestine Inside Out* cites the work of the late Israeli sociologist Baruch Kimmerling, a Zionist who was a critic of Israeli policy. Kimmerling identified two contradictory impulses in Zionism: one was to possess as much sacred land as possible; the other was to ensure a large Jewish majority in the land that is preferably free of Arabs. The Arab Palestinians have always been in the majority, since the start of the Zionist project at the beginning of the 20th century. At that time, Palestinian Arabs constituted 93 percent of the population in the land that Zionist had claimed for settlement. Even with Israeli growth and development, and extensive Jewish immigration over the century, Jews are still greatly outnumbered by the Arabs, thus presenting what is often identified as the “demographic problem.”¹¹⁶

Israel’s desire is to realize and maintain a Jewish state. For some parties (e.g. Moledet, Israel’s foremost right-wing political party, founded in 1988) and interest groups in Israel, the goal is still a Jewish state that includes all of the occupied West Bank Palestinian territory, the so called “Greater Israel.” Makdisi contends that a variety of pressures on the Palestinian population including house demolitions, checkpoints, tighter borders, the “security fence,” and other regulations and abuses routinely imposed are all designed to force Palestinians to simply leave, to emigrate from the Palestinian territory. Makdisi reports that by the end of October, 2006 foreign consulates had received almost 50,000 applications from Palestinians wishing to emigrate permanently from the West Bank.¹¹⁷ According to the Jerusalem Post, within a four-month period ending around Nov. 1, 2006, foreign and Arab diplomats in the area had authorized 10,000 Palestinians to enter their countries. Ahmed Suboh, an official in the Palestinian Foreign Ministry, said in a press conference in Ramallah that an additional 45,000 emigration requests were currently under consideration.¹¹⁸

¹¹⁶ Makdisi, *Palestine Inside Out*, 9-13.

¹¹⁷ Ibid. 8.

¹¹⁸ JPOST.COM STAFF, “Palestinian emigration on the rise,” *The Jerusalem Post*, Nov. 1, 2006.

It is generally well known in specialized Middle East peace advocacy circles that the Palestinian Christian population is in serious decline through emigration because of economic conditions and lack of opportunity in the West Bank.¹¹⁹ The global Christian population also has a claim on religious sites in the West Bank, most notably, the Church of the Nativity in Bethlehem, the place identified by scripture as the birthplace of Jesus. On the question of access to religious antiquities by Christians, and by Muslims, Israel is again contradicting its own national interest by creating ill feelings with so many people who would otherwise be coming to Jerusalem and Bethlehem on religious pilgrimages and to tourism. Although still open, these areas are much less accessible because of the extreme security regime and the security barrier that is now in place.

¹¹⁹ U.S. Senators Christopher “Kit” Bond (R-MO) and John D. Rockefeller (D-WV) released a letter to their colleagues addressed to President Bush on Dec. 25th 2007 raising an alarm about the declining Palestinian Christian population and the impact this was going to have on “the health and viability of the community” of the West Bank. http://www.cmep.org/Legislative_Issues/Bond-Rockefeller-letter.pdf

Chapter 5

Stakeholders and Advocates for Israel and the Settlements

Israel clearly has the upper hand as a military power and occupying force in the West Bank Palestinian territory. It is also well positioned to dominate the public discourse on the Israeli – Palestinian conflict. The public discussion is most critical in the United States because of the strong ties between Israel and the US, and because of the role that the US plays in supporting Israel. As demonstrated by Mearsheimer and Walt in their study of the Israeli lobby, the relationship between Israel and the United States is a highly complex alliance. It involves American interests in the Middle East, as well as Israeli and the American Jewish community's interests. It is important to understand the institutional aggregation that is in place to promote Israel's interests, and generally at the expense of the Palestinians. The degree to which Israel and the Jewish community are engaged in public advocacy on behalf of Israel's interest is another recognition that Israel is being promoted at the expense of the Palestinians. This public relations campaign is carried out in a way that contributes further to the perversion of Israel's national interest. This advocacy infrastructure seems unaware of the negative dimension of their activities, which is the creation of further resentment and enmity toward Israel for their refusal to acknowledge the credibility of the Palestinian cause.

The most well known expression of this relationship is the American Israeli Public Affairs Committee, AIPAC. AIPAC hails itself as America's Pro – Israel Lobby, and it is often identified as one of the most successful lobbying organization in Washington alongside AARP, the American Association of Retired Persons and the National Rifle Association, the NRA. Not only is AIPAC involved in the regular work of lobbying on Capitol Hill, it is also integral to the political life of the organized American Jewish community educating their constituency on legislative issues critical to Israel's well being, and generally serving as facilitator of Jewish public life at the geopolitical level. AIPAC conducts a number of regional training events, briefings and seminars in Jewish communities around the country each year, as well as conducting an annual gathering and lobby day in Washington, D.C. Arnaud de Borchgrave, international journalist and senior advisor at the Center for Strategic and International Studies sums up the role of AIPAC in an article in Middle East Times when he states the following:

If Social Security is the third rail of US politics, Israel is the third rail of US geopolitics. For most of Israel's short life as an independent state, the American Israel Public Affairs Committee (AIPAC) has played the role of a political action committee defending and advocating Israeli interests in both houses of the US Congress. It is the single most important organization affecting the relationship with Israel.

Over the past 50 years, AIPAC has nursed through Congress scores of pro-Israel legislative initiatives, blocking at the same time pro-Arab measures Israel deemed dangerous to its security.¹²⁰

Arnaud de Borchgrave has characterized the situation quite well. The only distinction or elaboration necessary might be on his use of the colloquial political expression “the third rail” of US geopolitics. As argued in the discussion of political theory, any expression of concern for the Palestinians is anathema in the American electoral process. Perhaps it works both ways. One does not readily speak ill of Israel or favorably of the Palestinians in US geopolitical discourse.

There are numerous other examples of the special relationship between the American public, the U.S. political process, and Israeli national interest. All of these organizations, some working in close coordination with one another, represent a significant advocacy effort on behalf of Israel. The overall collective message of these various institutions is attuned to uncritical support for Israel, and it does not address the problem of occupation and settlements. The consequence is a rather skewed view of the conflict. The general American public sees the Israeli – Palestinian conflict as only a difference between two people who happen to have a long history of dislike and distrust. The public does not typically comprehend the reality of Israel’s imposition upon the Palestinian people through settlements and the Israeli settlers living there, whose security is ensured by the Israeli Defense Forces. That is a mischaracterization and distortion of the situation that results in further marginalizing the interests of the Palestinians. It also continues to pervert a realist approach to resolving this conflict. There are two sets of interests at stake in this conflict, those of Israel and those of the Palestinians. The general American public strongly favors Israel in this conflict and the Palestinian interest seems to have little merit. According to polling data at the Pew Research Center, the US public

¹²⁰ Arnaud de Borchgrave, “AIPAC the unstoppable,” *Middle East Times*, June 1, 2005. http://www.metimes.com/Opinion/2005/06/01/opinion_aipac_the_unstoppable/2833/

is consistently pro-Israel. The Pew Research Center’s Global Attitudes Project demonstrates a strong plurality of opinion in favor of Israel, while support for the Palestinians is consistently in the low teens.

In the dispute between Israel and the Palestinians, which side do you sympathize with more, Israel or the Palestinians?					
	<u>Israel</u>	<u>Palestinians</u>	<u>Both (VOL.)</u>	<u>Neither (VOL.)</u>	<u>Don't know Refused</u>
May, 2006	48	13	4	14	21
October, 2005	43	17	5	16	19
July, 2005	37	12	5	19	27
July, 2004	40	13	7	18	22
February, 2004	46	12	8	15	19
July, 2003	41	13	8	18	20
April, 2002	41	13	6	21	19
October, 2001	47	10	8	18	17
September, 2001	40	17	6	23	14
September, 1997	48	13	5	16	18
September, 1993	45	21	3	18	12

Source: Pew Research Center for the People & the Press/Pew Global Attitudes Project

In contrast, their polling data indicates significantly higher support for the Palestinians in other countries, and lower support for Israel. For example, France splits the difference with 38% for each side while Great Britain indicates higher support for the Palestinians than for Israel with 29% indicating sympathy for the Palestinians in contrast to 24% for Israel.¹²¹

Polling numbers like these suggest that it is very difficult to make a case for the Palestinians, for the concern over the growth of settlements, and for the continuing domination of their territory, at least in the United States where much of the Jewish-Israeli power resides. While it is true that various administrations have at least raised concerns over the continuing growth of settlements, they have gotten no results either with the U.S. Congress or the Israeli government. Israel continues to get grants of unconditional financial and military aid, and Israel continues to build settlements and

¹²¹ Jodie T. Allen and Alec Tyson, “The U.S. Public’s Pro – Israel History: In Mid East Conflicts, Americans Consistently Side with Israel,” The Pew Research Center Publications, July 19, 2006. <http://pewresearch.org/pubs/39/the-us-publics-pro-israel-history>

expand their presence in the West Bank. The lack of sympathy for the Palestinians, and strong support for Israel is not by accident. In addition to AIPAC and the broader pro-Israel lobby, there is a whole range of other organizations and operations that work to rally support for Israel, and generally at the expense of the Palestinians.

Religious Feud: Mainline Denominations and Israel

One hotly contested arena on the question of Israel, the occupation and settlements is within the US religious community. Most so-called mainline denominations including Protestant (Lutheran, Presbyterian, Methodists etc), Roman Catholic and Orthodox churches have been involved in the work of reconciliation between Christianity and Judaism because of historic anti-Semitism and the Holocaust. These same denominations have become highly critical of Israel and the American Jewish community over the treatment of Palestinians including the demolition of homes, the continuing occupation, and the expansion of settlements. All of these denominations have organized in the legislative arena through the association called Churches for Middle East Peace--CMEP. Some have also taken their own individual actions against Israel including the passage in assembly of resolutions on financial actions related to Israel. One such action was taken by the Presbyterian Church (USA) calling for selective divestment in multinational corporations engaged in business that supports violence in Israel and Palestine. One of those companies, for example, is Caterpillar, which makes heavy equipment that is used in the demolition of Palestinian homes.

One of the lead organizations involved in advocacy for Israel is United Jewish Communities – the Jewish Council for Public Affairs (JCPA). A critical area for the JCPA is working to influence the North American religious community. An internal JCPA document entitled “Israel Advocacy with Mainline Protestant Influentials” published in March of 2005 spells out a strategy for addressing mainline denominations and their poor response to traditional advocacy methods and messages on Israel. The advocacy project of the Israel Advocacy Initiative (IAI) and the Jewish Council for Public Affairs is an effort “to tell Israel’s side of the story.” In this document they have singled out the Presbyterian Church (USA) because of its previous ratification in General Assembly of the divestment initiative, which according to the JCPA document arose from

the experience of a person who had been to Israel and upon return made an emotional plea about Palestinian suffering. The document explains the importance of using a new language and a new approach to Presbyterians and other Mainline Protestant influentials. It is a rather sophisticated effort to contend with positions taken by mainline influentials. Jewish influentials, according to the document, need to argue that peace will not be realized until there is an end to terrorism, the violence that is perpetrated by Palestinians, which they see as the obstacle to peace. This places the burden of proof on Palestinians, not Israel. Meanwhile, the document asserts, Protestant influentials argue that Israeli occupation of Palestinian territory has resulted in great suffering of Palestinians, that the occupation must end, and that terrorism is a secondary or co-equal cause of the conflict. According to the JCPA in this document, Protestants assert that both sides are responsible for violence and must stop their actions. In communicating about the conflict, Jewish influentials are encouraged to exercise strong opinions and even engage in confrontation, which the document claims will demonstrate their strength of convictions about Israel and illustrate the deep differences that exist. In contrast, Protestant influentials emphasize that engagement will take place best in an atmosphere of calm. The most critical difference in this series of contrasting positions is the matter of strength and weakness regarding the Middle East setting. Jewish influentials are encouraged to argue that Israel is a vulnerable state under siege by hostile Arab neighbors and under constant threat of attack by Palestinians. The security measures in place for dealing with the Palestinian threat are the same that any nation would undertake to protect its citizens. On the other hand, Protestant influentials will argue that Israel is incredibly strong, one of the more powerful military forces, with the capacity to overwhelm the Palestinians. One of the counterpoints in the document presents the Jewish claim that for Israel to be secure there must be a track record of Palestinians policing their own people in order to insure non-violence, and that Israel must have defensible borders. The Protestant argument, according to the documents, is that mutual assurances can be realized by agreement with the other side, not simply by enhanced security measures.¹²²

¹²² Jewish Council for Public Affairs, "Israel Advocacy with Mainline Protestant Influentials," March 2005. Unpublished internal document.

At least two critical issues are raised for consideration by the language of the JCPA document. One argument implies that Israel is weak and always vulnerable to attack. In contrast, the Protestant vision, as it is characterized in the document, is demonstrating undue favoritism toward Palestinians. This is the message throughout the teaching or advocacy document designed for use by the American Jewish community in its interactions with Protestant groups. Occupation is dismissed. There is no mention of settlements. Accordingly, it is up to Palestinians to change their ways before any progress in resolving this conflict can be realized. Secondly, this document is one element of a much larger American Jewish community advocacy strategy on behalf of Israel. Because the document addresses relations with the Protestant community, it is partly a reflection of what Jewish theologian Marc Ellis refers to as the ecumenical deal. Today the Jewish and Christian stories are now understood, at least by mainline Protestants and Roman Catholics, as inextricably intertwined through covenantal theology and by Christian acknowledgement of their complicity in anti-Semitism and the Holocaust. This set of historic circumstances allows Jews to be critical of Christians. Christians, as part of “the ecumenical deal,” are expected to be silent on their criticism of Israeli policy toward the Palestinians whereas “a mature dialogue allows people to speak the truth in a respectful manner.”¹²³ Roman Catholics, Orthodox, and mainline Protestants and Jews in the US have their separate policy operations that address the Israeli – Palestinian conflict in the legislative arena. Ellis is correct that there is not a significant dialogue between Jews and Christians on the conflict. The JCPA Israel Advocacy document simply adds another level of complexity to this relationship and the ability of a large religious constituency in the US to openly criticize Israeli policy toward the occupied territory, and the significance of settlements as a looming roadblock to a Palestinian state.

The larger overall Jewish strategy for advocacy for Israel, known as the Hasbara Fellowship, which includes the document just discussed, is also targeted at university campuses. This quote from Hasbara’s web page summarizes the Hasbara advocacy initiative:

¹²³ Marc H. Ellis, *Reading the Torah Out Loud: a journey of lament and hope* (Minneapolis: Fortress Press, 2007) 111.

Hasbara Fellowships, a program spearheaded by Aish International, educates and trains university students to be effective pro-Israel activists on their campuses. Started in 2001 in conjunction with Israel's Ministry of Foreign Affairs, Hasbara Fellowships brings hundreds of students to Israel every summer and winter. Now within their fifth year, Hasbara Fellowships has trained over 1,000 students on over 220 campuses, providing its participants with the information, tools, resources, and *confidence to return to their campuses as leaders in the fight for Israel's image.* (emphasis added) The most critical aspects of the Fellowships program is the opportunity for Fellows to network with one another, learning from each other and sharing experiences about Israel activism.¹²⁴

It is important to note that this effort was started “in conjunction with Israel’s Ministry of Foreign Affairs.” The Ministry’s spokesperson, Mark Regev, is ubiquitous in the public arena when it comes to defending Israel’s actions. In the fall of 2006, following the summer war with Lebanon and Hezbollah, Regev was in Columbus, OH as the guest of the Hillel Foundation at the Ohio State University. Meeting with more than 100 Jewish students at the Ohio Union on campus, he presented a sophisticated rendition of the threat to Israel’s national security and called for the need for students to become advocates and supporters for Israel. In this case, the focus was really on Israel in the 2006 post summer-war setting. His appearance was a good demonstration of the massive public diplomacy infrastructure that is in place to promote Israel’s interest. From Ohio State he was off to other college campuses to make a similar appeal to Jewish students and supporters of Israel.¹²⁵

There is even more to be discussed in this regard. As part of “the ecumenical deal” the Jewish Council for Public Affairs has spent millions of dollars courting both mainline American Christians and Christian Zionists by taking select individuals and groups on all expenses paid trips to Israel. Depending on the agenda, these trips might include visits to the Israeli Supreme Court or the Ministry of Foreign Affairs (2006, two separate post-war with Lebanon - Hezbollah fact finding tours), and for Christian Zionists, travels into the West Bank to visit Israeli settlements.

¹²⁴ Israelactivism.com: The official website of Hasbara Fellowships.

<http://www.israelactivism.com/israelprograms>

¹²⁵ The event at the Ohio Union at the Ohio State University was attended by this writer who also met with Regev in Jerusalem in September of 2006 while participating in a JCPA post-war fact finding tour.

Christian Zionists: A Special Case

The concept of an ecumenical deal does not apply to Christian Zionists who already have their own ideological agenda for supporting Israel and they do it very effectively by contributing millions of dollars to support the growth of settlements. They also lobby Congress for Israel much in the same style as the American Israeli Public Affairs Council. Most noted for their uncritical support of Israel and its massive lobbying effort is the John Hagee Ministries, which has a worldwide reach out of San Antonio, Texas. His political and financial support of Israel is channeled through Christians United for Israel, an organization with a presence on Capitol Hill that has participated in policy briefings in the White House. Hagee has been noted as saying that he would like for his organization to become the Christian version of AIPAC.¹²⁶ That is not a stretch of the imagination since he has been able to rally 4,000 plus conservative and fundamentalist Christians in Washington to lobby Congress in support of Israel. The organization also has close ties with a number of members of Congress. The current executive director, David Brog who is Jewish and a graduate of Harvard Law School, is former chief of staff for Senator Arlen Specter. Brog also makes the case for forging a closer alliance between Christians United for Israel and AIPAC. Other Christian organizations, including Christians United for Israel, that are noted for supporting Israel unequivocally and uncritically are listed below:

Christian Zionist Organizations

Christians United for Israel - <http://cufi.convio.net/site/PageServer>
Christian Friends of Israeli Communities - www.cfoic.com
International Christian Embassy Jerusalem - www.icej.org
Fellowship of Israel & Black America - www.projectfiba.org
Eagles' Wings Ministries - www.eagleswings.to
Israel Always - www.israelalways.org
International Fellowship of Christians and Jews
<http://www.ifcj.org/site/PageServer>

These Christian organizations are not concerned with the rights and well being of Palestinians. They are, however, strongly committed to the growth of settlements. As

¹²⁶ Max Blumenthal, "Birth Pangs of a New Christian Zionism," *The Nation*, August 8, 2006.
http://www.thenation.com/doc/20060814/new_christian_zionism/single

their web pages reveal, they are indeed passionate, unequivocal advocates for the rights of settlers and the settlement project. They give financial support directly to the settlements in the range of millions of dollars annually. It is difficult to find precise numbers on the amount of money contributed by Christian Zionists to Israeli causes. However, one report indicates that the John Hagee Ministries alone had raised \$12 million for Israel as of July, 2006.¹²⁷

The story of Christian Zionism and their support for Israel is filled with irony and distortion. First, it is important to note that Christian Zionism is a right wing, generally fundamentalist distortion of orthodox Christianity grounded in premillennial dispensationalism. The Bishop of the Evangelical Lutheran Church of Jordan and the Holy Land, Munib A Younan, a Palestinian Christian, has stated emphatically that Christian Zionism is a heresy.¹²⁸ Zionists, based on their unusual interpretation of scripture, are looking forward to the fulfillment of the Christian end time, which is understood as the return of Jesus. That will happen when Israel is restored to the whole land, including the West Bank and Gaza. But, first there must be a period of tribulation. Christian Zionists are consumed with an apocalyptic theology that translates into a dangerous form of offensive realism that argues for Israel to get all that it can, including the West Bank and Gaza territory. Christian Zionists, whose political advocacy is welcomed broadly in the American Jewish community, and in Israel, ultimately do not have Israel's interests at heart. Rather than working for peace and reconciliation between Israel and the Palestinians and the neighboring Arab states, Christian Zionists advocate an "out of this world" realism that is ultimately very dangerous for Israel, and obviously damaging to the interests of the Palestinian people. Christian Zionists are using Israel and the American Jewish community for their own religious, sectarian cause. Israel and the American Jewish community are using Christian Zionists for their political influence, and for their financial support of the settlement movement. This cynical and dehumanizing collaboration is a corruption of Israel's interests, and of the Palestinians, in finding a peaceful resolution of their conflict.

¹²⁷ Andrew Higgins, *The Wall Street Journal*, "Texas preacher leads campaign to let Israel fight," *Pittsburgh Post-Gazette*, July 27, 2006. <http://www.post-gazette.com/pg/06208/709076-84.stm>

¹²⁸ Rev. Robert O. Smith, "Toward a Lutheran Response to Christian Zionism," Evangelical Lutheran Church in America, *Division for Global Mission*. <http://archive.elca.org/peacenotwalls/> Smith provides a concise history of Christian Zionism, and the movement's current political involvement.

Protecting Israel by Watching the Media

Another organization working to promote Israel's national interest and image is CAMERA, the Committee for Accuracy in Middle East Reporting in America. CAMERA is committed to correcting biases and misrepresentations in the media, a laudable goal actually. It is also a highly polemical organization that goes to great lengths to rebut numerous articles and ideas in the media that reflect poorly on Israel. For example, a recent article (08-2008) by the popular human rights columnist Nicolas Kristof at the New York Times about the extreme hardships placed on the Palestinians by the Israeli checkpoint security regime in the West Bank, is singled out for criticism on a number of points. In fact, CAMERA has provided an almost point-by-point rebuttal of the substance of Kristof's rather graphic portrayal of the difficulties of living under occupation and in the presence of Israeli settlements. Most telling is Kristof's comment that the U.S. would be a better friend to Israel "by insisting on a 100 percent freeze on settlements in the West Bank and greater Jerusalem."¹²⁹ Lee Green, writing for CAMERA, responded by noting "it's a safe bet he means only Jewish settlements. Since the land is disputed land, not "Palestinian land," shouldn't any building freeze be placed on both Israelis and Palestinian Arabs - or neither?"¹³⁰ This is a cynical and irrational argument that contradicts the facts in the situation that have been affirmed by international law and international consensus, and once again throws the burden of proof back on the Palestinians. In addition to the extensive critique by CAMERA, Kristof reports that he was inundated by counter arguments to his opinion piece on the burdens of occupation on the Palestinians.

Obviously, CAMERA, like so many of the other pro-Israel support groups, has lost sight of the recognition that there are other forces at work in the Middle East besides Israel's domination of the West Bank. Lee Green, and the other writers at CAMERA, is complicit in Israel's failure to recognize the balance of interests in this situation. For all of their concern about Israeli security and well-being, CAMERA is ultimately damaging Israel's long-term security interest by reinforcing the view that

¹²⁹ Nicolas Kristof, "Tough Love for Israel," *The New York Times*, July 24, 2008.

¹³⁰ Lee Green, "'Tough Love' for Nicolas Kristof," CAMERA: Committee for Accuracy in Middle East Reporting. http://www.camera.org/index.asp?x_context=2&x_outlet=35&x_article=1514

Israel is totally justified in their interpretation of the occupied territory and their mistreatment of the Palestinian people.

A quick study of the CAMERA web page reveals a strident, contentious and polemical defense of Israel by a regular critique of a whole myriad of articles, books, monographs, media interviews, virtually anywhere that comment and/or criticism has been directed at Israel. Other resources used for this paper have also been singled out and critiqued by CAMERA. A reading of CAMERA serves as an advisory to anyone who presents a public criticism of Israel. Expect to be critiqued by CAMERA; and get the information right at the risk of being demanded to issue a public retraction, correction or apology.

One clear strategy in the CAMERA method is to discredit certain critics of Israel by reminding the reader that the presenter or writer either was once or is now a member of Hamas, or the PLO or another organization that denies Israel's right to exist, and/or was involved in terrorism. CAMERA postings and critiques demonstrate that the Israeli – Palestinian conflict and the issue of settlements is also “a war of words” in which Israel and supporters of Israel are prevailing.

Demythologizing the History

Whether it is in the arena of public diplomacy, or in the occupied territory of the West Bank, the Palestinians are at a great disadvantage. They do not have power, position, or influence, and certainly not the capacity to reverse the trends with the Israeli occupation and the growth of settlements. They are the victims of a much more powerful presence which is the Israeli military, the government of Israel, the privileged position and presence of the settlers, the power of the United States government which provides extensive financial and military support to buttress this untenable situation, and an infrastructure of public diplomacy that is dismissive of the rights of the Palestinians. Their history of the plight of the Palestinians has also been mischaracterized, in effect mythologized in a variety of ways.

The Palestinians, in the language of Ibrahim Abu-Lughod, Palestinian scholar who taught for 34 years at Northwestern University,¹³¹ are the victims of the politics of negation. They do not belong in the historic land of Palestine, in what is now identified as the West Bank, he argues. Palestine, as an administrative/political unit, like Trans Jordan and Iraq, is an artifact created by British colonialism under the British Mandate, a fragile and ambiguous construction. As the result of a series of historical moments that are beyond the scope of this paper, the myth evolved that the Palestinian people were latecomers to the area. They are viewed as interlopers, refugees or aliens who came into the land of Palestine only around 1946 just prior to the establishment of the Jewish state in 1948.

That mythology has had currency since the early years of the establishment of Israel. It took on a life of its own as the result of a particularly damaging piece of work published in 1984 by Joan Peters entitled *From Time Immemorial: The Origins of the Arab Jewish Conflict Over Palestine*. The central argument of the book is that Arabs who became Palestinians actually immigrated to Palestine-Israel drawn there by Jewish productivity and prosperity. The Arabs then in turn began to exploit and kill the Jewish settlers who were already there. Many noted public figures hailed the book as a major revelation and insight into the conflict. Included in the list of early reviewers and endorsers are historical writer Barbara Tuchman, Saul Bellow, and others.¹³² Yet, many of the major academic journals reviewed her work very critically, some to the point of dismissing it as Zionist propaganda.

The debate continues even today on the validity of this book's findings and conclusions even though it has since fallen into disrepute as the result of critical academic reviews and because of the work of conservative historian and Zionist Benny Morris and his major investigation of the birth of the Palestinian refugee problem which contradicts many of her conclusions. More importantly however is the recognition that *From Time*

¹³¹ Ibrahim Abu-Lughod, "Territorially-based Nationalism and the Politics of Negation," in *Blaming the Victim: Spurious Scholarship and the Palestinian Question*, ed. Edward W. Said and Christopher Hitchens (London: Verso, 2001), 193-200.

¹³² Edward Said, "Conspiracy of Praise," 23-31, in *Blaming the Victim: Spurious Scholarship and the Palestinian Question*, ed. Edward W. Said and Christopher Hitchens (London: Verso, 2001). Both of these writers, and Norman G. Finkelstein address "The Peters Affair" in *Blaming the Victim*.

Immemorial is now part of the discourse on the Israeli – Palestinian conflict. The fact that it continues to be sold and reviewed means that it is available as a source contribution to the myth that Jews had first rights to the Palestinian territory. Speaking anecdotally, in some synagogues around the US the idea that the occupied West Bank territory was essentially an uninhabited area prior to the arrival of Jews in Palestine is part of the narrative of avid supporters of Israel. *From Time Immemorial* has contributed significantly to the politics of negation of the Palestinians.

The politics of negation work at two levels in the history of Israel and the West Bank. According to Abu-Lughod, the three fundamental issues in the area are: 1. Land; 2. People; and 3. Political sovereignty of the land and the people of Palestine. Abu-Lughod maintains that historically the Palestinian Arabs “negated the Zionist claims of the reality of a Jewish People whose national fulfillment requires a homeland (State) in Palestine.” Then the Zionist Jews, and subsequently Israel, negated the right to self-determination of the Palestinian Arabs, which would have been the realization of a Palestinian state.¹³³ That is a strong basis for understanding the Israeli rationale for continuing settlement growth unilaterally and unabated without any consideration of the interests of the other party that are impacted by this activity. The immigrant Jews, who have a long history of political negation, which was extended initially into Palestine, are now in a position of supremacy and domination over another people whom they do not recognize as having a legitimate place in the land over which they have a quasi-claim of sovereignty. Part of the basis for the claim is religious nationalism. The land was given to them, mandated to them by Yahweh, the God of Israel, and they have the historical narrative, starting with the biblical character of Abraham, and the geographical artifacts to justify their claim on the land. That narrative and those artifacts transcend the passage of time. Times change, populations move on, but the Jewish historical experience coupled with their historical understanding have been turned into a narrative that allows them to reclaim their identity with the Palestinian land and at the expense of the Palestinians in the West Bank.

¹³³ Abu-Lughod, “Territorially-based Nationalism and the Politics of Negation,” in *Blaming the Victim*, 194.

Historical political negation of Jews has been the experience of living as “the other,” segregated in ghettos, marginalized by mainstream European society, and ultimately either expelled from that land or murdered. The experience of political negation has been turned on the Palestinians who are now seen as “the other.” The exercise in political negation allows Israel to persist in the argument that the West Bank is actually a disputed territory rather than occupied which makes it immune from the application of the Geneva Conventions. Political negation by Israel becomes the basis for understanding Palestinian Arabs and Muslims in the same vein as Arabs and Muslims in the surrounding countries who do not recognize Israel’s right to exist as a sovereign people and nation. As noted earlier, Edward Said has said that the Jewish victims have now become the victimizers of the Palestinians. The experience of the politics of negation by the Jewish community, which involved persecution, ejection and execution, has now been turned on the Palestinians. Political negation is a less dramatic term than victimization. Political negation involves the denial of political rights and the national sovereignty of a people and their land. Political negation allows Israel to continue to build settlements in the Palestinian territory without too many qualms because the people who are being negated do not belong there in the first place; just as the long ghetto experience has told the Jews that they did not belong in Europe.

In the language of diplomacy, Jews were declared “*persona non grata*” in Europe. Now the Jews of Israel, and their American counterpart who are their advocates have declared the Palestinian people “*persona non grata*” in the West Bank Palestinian territory, and Gaza. The settlers have developed a sophisticated public diplomacy infrastructure for buttressing their cause, and arguing for the displacement of Palestinians in their territory. Meanwhile, regardless of what else happens, whether it is peace talks, renewed violence, or conflict, Israeli settlements continue to grow in the Palestinian territory. Such growth will likely preempt the possibility of a sovereign Palestinian state, which would be the ultimate and final political negation of Palestinian political interests and aspirations.

The preemption of a Palestinian state also has implications for possible political negation of Israel. Mearsheimer reminds us that states are rational actors, compelled to think strategically about their environment. That strategy means considering the

preferences of other states and how their own behavior is likely to impact upon the behavior of those other states, and in turn, how those other states might affect their strategy for survival.¹³⁴ Allowing the expansion of settlements and risking the possibility that a Palestinian state may never come into being creates great risk to Israel's long-term national security interests. Israel often uses the term "Israeli – Arab conflict" to characterize its conflict with the Palestinians. Right now it is primarily the Israeli – Palestinian conflict. However, it will likely become an all-encompassing Israeli – Arab conflict if Israel forecloses the possibility of a Palestinian state.

¹³⁴ Mearsheimer, *The Tragedy of Great Power Politics*, 31.

Chapter 6

The Other Facts on the Ground: The Plight of the Palestinian People

Many Jews in the United States and in Israel acknowledge the suffering of the Palestinians. Those who are attentive to this situation are familiar with the economic deprivation, high unemployment, and poverty experienced in the West Bank territory. Many of those same people also put the burden of responsibility on the Palestinians for the on-going conflict. Containment and repression will continue until the Palestinians renounce the use of violence and terrorism against Israel. This cycle creates a stalemate. Israel exercises the power and control of an occupying force. On the other side, the Palestinians respond to the domination of the occupying force by resorting to the use of violence.

Asking the Palestinians for an end to violence as a condition for peace is not an unreasonable expectation. The problem is that this request is a two way street. Israel has imposed its own violence that has resulted in many Palestinian casualties. It is very important to document this part of the equation, especially because many American Jews seem to be simply unaware of the extent of the problem.

The two intifadas (uprisings) created situations that resulted in severe retaliatory violence against Palestinians. B'Tselem, the Israeli human rights organization, has been tracking fatalities in the Israeli – Palestinian conflict for many years. As a human rights organization, they are very careful to document fatalities on both sides of the conflict. From Sept. 29 - 2000 to October 31 –2008, B'Tselem reports that Palestinians in the West Bank killed by Israeli security forces totals 1791 and those killed by Israeli citizens is 41. For the record, Palestinian fatalities in Gaza in the same time period totaled 2969.

Many of these fatalities are related to the Second Intifada. Israel argues that the fatalities are the result of social unrest and threats to Israeli security. However, a closer look at more statistics belies that argument. The total number of Palestinian minors killed by Israeli security forces in this time period is 318. B'Tselem identifies another category that is important to our understanding of what is happening in the West Bank:

Palestinians who did not take part in the hostilities but were killed by Israeli security

forces (not including the objects of targeted killings). The number of fatalities in the category of innocent bystanders is 840.¹³⁵

Meanwhile, according to the Israeli Ministry of Foreign Affairs, there have been 1151 Israelis killed in Palestinian terrorist attacks in the time period from September 2000 to October 23-2008.¹³⁶ It is important to make public these numbers because the public impression might be that it is mostly Israelis who are being killed by Palestinians. In fact, more Palestinians have lost their lives to violent activity than Israelis. This is also not about the vindication of the Palestinians because they are being victimized. Rather, it is to illustrate again the cost to the Palestinians of the continuing occupation of the West Bank territory. It is also a demonstration that the current Israeli strategy of continuing the occupation and the expansion of settlements while aspiring to a two-state solution is not only a contradiction but is very costly. It is a source of death and destruction for the Palestinians in the West Bank, and for the Israelis who must deal with terrorism as a source of insecurity.

A synopsis of the sources of oppression and containment in the West Bank by Israel illustrates the difficulties faced daily by the Palestinian people. The United Nations Office for the Coordination of Humanitarian Affairs (OCHA) Occupied Palestinian Territory has accumulated one of the best documentations available of the plight of the Palestinians. According to the OCHA report, there is a network of 1661 kms (1,030 miles) of exclusive Israeli roads in the West Bank that links settlements, military areas and other infrastructure with Israel. Israelis must travel on these roads by order of the Israeli Defense Forces. Because of the way in which this network of exclusive Israeli roads intersects with the roads used by Palestinians, it is often necessary for Palestinians to take long detours to get from one place to the other. In many instances, the Israeli road system has become an obstacle to certain Palestinian roads, making them useless for Palestinian travel.

¹³⁵ B'Tselem, The Israeli Information Center for Human Rights in the Occupied Territories, Statistics, Fatalities. This is an interactive web site that provides the names and circumstances of each individual fatality. The archive of individuals can be accessed by clicking on the numbers.
<http://www.btselem.org/english/statistics/Casualties.asp>

¹³⁶ Government of Israel, Israeli Ministry of Foreign Affairs, *Victims of Palestinian Violence*.
<http://www.mfa.gov.il/MFA/Terrorism+Obstacle+to+Peace/Palestinian+terror+since+2000/Victims+of+Palestinian+Violence+and+Terrorism+sinc.htm> The IMFA web site provides a similar interactive archives of individuals killed by terror attacks.

On these older roads traveled primarily by Palestinians, there is also a system of 85 checkpoints, and more than 460 obstacles consisting of fences, dirt mounds and stone barriers that control and limit access. In addition to permanent checkpoints, there is also an on going regime of so-called “flying checkpoints” that appear capriciously. According the OCHA report monitors of Palestinian highways in July of 2007 revealed approximately 100 – 120 flying checkpoints weekly. These moveable checkpoints are especially burdensome on Palestinians because of their unpredictability, and they often impose a longer wait than the permanent checkpoints.¹³⁷ There is also a series of checkpoints in the security fence that Palestinians must pass through when going to and from East Jerusalem and the West Bank. Palestinian travel through the security fence is for family purposes and for work in Israel.

Protecting the Palestinians: Watching the Checkpoints

Security checkpoints have a number of detrimental effects on Palestinians. They are sometimes the sight of harassment of Palestinians and human rights abuses by Israeli soldiers. There are at least two organizations that regularly monitor checkpoints to protect Palestinians from abuse. The World Council of Churches under the Ecumenical Accompaniment Programme in Palestine and Israel (EAPPI) routinely has a number of volunteers on the ground from around the world observing checkpoints and reporting incidents of abuse to appropriate authorities. Volunteers are often theological students, sometimes retired clergy, and other church people who have received training to intervene on behalf of Palestinians when necessary, and also to photograph and document incidents at checkpoints.¹³⁸

Another organization that monitors checkpoints is an “all-woman group” called Machsomwatch set up in 2001 by 3 Israeli women to curb human rights abuses at military checkpoints in the West Bank. “Machsom” is the Hebrew word for checkpoint. In March of 2007 Reuters reported that the group numbers around 500 members and it

¹³⁷ UN Office for the Coordination of Humanitarian Affairs-OCHA, *Report on the Impact of Israeli Settlements*, Chapter 2. 63, 68.

http://www.ochaopt.org/documents/TheHumanitarianImpactOfIsraeliInfrastructureTheWestBank_ch2.pdf

¹³⁸ Ecumenical Accompaniment Programme in Palestine and Israel, Overview.

<http://www.eappi.org/en/about/overview.html>

maintains a web site that records incidents of abuse and mistreatment at checkpoints.¹³⁹ Reuters reported that Machsomwatch has recorded a long list of incidents at checkpoints including “babies stillborn to mothers held up in queues, sick patients denied passage to hospitals, arguments that ended in Palestinians shot, food rotting on the way to market, students missing their final exams and bridegrooms (who missed) their weddings.” According to Machsomwatch, the checkpoints are a major source of anger, resentment and frustration for Palestinians. One veteran of Machsomwatch, Nomi Lalo contends, “the idea is to make life so unpleasant and so uncomfortable for them (the Palestinians) that they just give up and leave, emigrate to an Arab country, to Canada, wherever they can go.”

Both the World Council of Churches Ecumenical Accompaniment Programme in Palestine and Israel and Machsomwatch provide an important perspective on what is happening in the West Bank. Their investment in this kind of monitoring activity is a good indication of how bad the situation is for Palestinians living under occupation. The extra security regime of checkpoints and the exclusive Israeli highway network are a major imposition on the daily lives of the Palestinian people. This exercise of control over Palestinian movement would not be necessary, or at least would be seriously diminished, if no Israeli settlers lived in the West Bank territory. Israel is compelled to go to extraordinary lengths to provide security for their citizen-settlers who live in the West Bank, thus creating additional burdens on the West Bank Palestinians.

Center of Conflict: the Hebron Settlement

The other problem that confronts Palestinians on a regular basis is harassment, attacks and violence by settlers. One of the worst areas for this kind of activity is Hebron where Palestinians greatly outnumber the settlers, but settlers are heavily armed and closely protected by the Israeli Defense Forces. Hebron is the second largest city in the West Bank and the only one with an Israeli settlement in the middle of the town. It is also noted as the site of the massacre of Palestinian Muslim worshippers at the Tomb of the Patriarchs that was carried out by the Israeli-American settler Baruch Goldstein in

¹³⁹ Bernd Debusmann, “Jewish grandmothers patrol West bank checkpoints,” *Reuters Alert Net*, March 19, 2007. <http://www.alertnet.org/thenews/newsdesk/L09689978.htm>
<http://www.machsomwatch.org/en> This is a link to the organizations web page.

February of 1994 and resulted in the death of at least 29 Palestinians and injuries to at least 100 of the worshippers.

Since that incident the Israeli army has imposed severe restrictions upon Palestinian daily movement and forced the closure of businesses turning the once vibrant Hebron City Center into a ghost town. According to the report by the Association for Civil Rights in Israel titled “Ghost Town: Israel’s Separation Policy and Forced Eviction of Palestinians from the Center of Hebron,” the goal was to protect Israeli settlers in Hebron by separating them from the Palestinians using both physical and legal means.¹⁴⁰ Physical restrictions included the continuation of the curfew imposed during the first years of the second intifada and the closing of certain streets in Hebron to Palestinian pedestrians and vehicles. According to the report, which included an extensive survey of Palestinians in the Hebron area, at least 1,014 housing units were vacated by their occupants, and over 1800 Palestinian businesses are no longer open. In addition, there are many living there who would prefer to leave because of the economic decline in the Palestinian economy, and to get away from attacks by settlers but they do not have the financial means to relocate.

Sylvain Cypel, a senior editor at *Le Monde* who spent 12 years in Israel, explained the irony of this situation.

For the Palestinians, the signal sent by the Goldstein incident was much more explicit. When one of their people commits an attack, a curfew is imposed; collective punishment is in the order of things. But, when an Israeli is the perpetrator, it is again the Palestinians who are put under curfew! The logic of the occupation, according to which security prevails over politics, came down to this: whether a terrorist was a Palestinian or an Israeli, the Palestinians would be constrained.¹⁴¹

This kind of action clearly contravenes any notion of classical realism. Morgenthau, in his six principles of political realism, includes the recognition that political realism is aware of the moral significance of political action. He argues that certain universal moral principles come into play that “must be filtered through the concrete circumstances of time and place.” Morgenthau is unequivocal in his judgment

¹⁴⁰ Association for Civil Rights in Israel, *Ghost Town: Israel’s Separation Policy and Forced Eviction of Palestinians from the Center of Hebron*, May 2007, 13 – 15.
<http://www.acri.org.il/pdf/ghosttown.pdf>

¹⁴¹ Sylvain Cypel, *Walled: Israel Society at an Impasse* (Paris: Editions La Decouverte, 2005), 241.

that realism “considers prudence—the weighing of the consequences of alternative political actions----to be the supreme virtue in politics.”¹⁴²

That kind of judgment is not being exercised in this case. In the simplest terms, restricting the liberty of the Palestinians because of the misbehavior of the settlers is irrational. One term that names this kind action might be hypocrisy. The average person would look at this situation and wonder why the Palestinians suffer the burden of police action even if the Israeli settlers are the culprits.

Hebron is the most extreme and concentrated example of the clash between settlers and Palestinians. The problem is also widespread in the West Bank. B’Tselem, the Israeli human rights organization that regularly documents the situation in the occupied territory, has summarized the problem for Palestinians quite well in the following excerpt from their web page.

Israelis, individually or in organized groups, carry out the attacks on Palestinians and Palestinian property to frighten, deter, or punish them, using weapons and ammunition they received from the IDF. The settlers sometimes act in retaliation for violence committed by Palestinians, and sometimes not.

The actions against Palestinians include blocking roadways, so as to impede Palestinian life and commerce. The settlers also shoot solar panels on roofs of buildings, torch automobiles, shatter windowpanes and windshields, destroy crops, uproot trees, abuse merchants and owners of stalls in the market. Some of these actions are intended to force Palestinians to leave their homes and farmland, and thereby enable the settlers to gain control of them.

During the olive-picking season, when many Palestinians are at work in the orchards, settler violence increases. The violence takes the form of gunfire, which sometimes results in casualties among the Palestinian olive-pickers, destruction of trees, and theft of Palestinian crops.¹⁴³

B’Tselem maintains a running archive of harassment, violence and fatalities that are ongoing in the West Bank. As a human rights organization, B’Tselem also documents

¹⁴² Morgenthau, *Politics Among Nations*, 10 – 11.

¹⁴³ B’Tselem, The Israeli Information Center for Human Rights in the Occupied Territories, Settler Violence, The nature of the violence.

http://www.btselem.org/english/Settler_Violence/Nature_of_the_Violence.asp

incidents of Palestinian violence against Israelis. According to the report, in the period from late September of 2000 through the end of 2004 Israeli citizens have killed 34 Palestinians, sometimes in self-defense, but more often when settlers were chasing Palestinian stone throwers and opened fire on them as a form of punishment.¹⁴⁴

A Religious Consideration

Another consideration for Hebron and other settlement enclaves where the level of conflict and violence is intense is the possibility that Israel, the people of the biblical covenant, are also violating some basic principles of their faith tradition. Reinhold Niebuhr, the Christian realist who had a significant impact upon Hans Morgenthau, discusses the importance of religious resources to social living.

The belief that a revival of religion will furnish the resources by which men will extricate themselves from their social chaos is a perennial one, and it expresses itself even in an age in which the forces of religion are on the defensive against a host of enemies and detractors.¹⁴⁵

In their religious fervor and idealism to reclaim the promise of the covenant by living in “the promised land,” the Israeli settlers are not extricating themselves from their social chaos, but have become the source of social chaos. Living in an armed camp, surrounded by the Palestinian people whom they have chosen to identify as the enemy, their lives appear to be filled daily with turmoil and discontent. That has been the story of the Hebron settlement for many years.

Judaism, as an ethical religion, claims a unique concept for framing their approach to the world. Tikkun Olam is a Hebrew expression that means “to repair the world,” or to make the world a better place. The biblical narrative from Genesis tells the Jewish people that God promised Abraham three things: land, descendants and to be a blessing to the nations of the world. The common parlance for Jews (and for Christians) is that the people of the covenant are blessed by God to be a blessing.

The chaos and violence surrounding the idealism and fervor with which the small settlement tries to hold onto this parcel of land called Hebron is a clear contradiction of

¹⁴⁴ Ibid. http://www.btselem.org/english/Settler_Violence/Nature_of_the_Violence.asp

¹⁴⁵ Reinhold Niebuhr, *Moral Man and Immoral Society*(New York: Charles Scribner’s and Sons, 1932), 51.

the core teachings of ethical Judaism. In the language of the Christian realist Reinhold Niebuhr, the settlers are perverting the basis of their faith tradition, and becoming the source of the chaos that Niebuhr claims they should be able to escape through the use of their religious resources. Following the teachings of the Abrahamic tradition, the settlers are not a blessing to the nations of the world. They have become the opposite, and in that sense, they are also corrupting and perverting their own national interest.

Separation Barriers

According to the World Bank, the growth of the settler population in the West Bank is actually double that of the overall Israeli population growth as measured in the period from 2003 - 2007.¹⁴⁶ It is as if there is a wholesale population transfer from Israel to the West Bank. The total land area in the West Bank that is restricted from Palestinian use is 38.3% including the inaccessible Israeli road system, the land taken up by the Separation Barrier, land used for settlements, and land administered by the Israeli military authorities. The Separation Barrier also cuts off Palestinian farmers from their agricultural areas, limiting their ability to attend to their crops and their harvest. Many Palestinian farmers are required to have travel permits in order to pass through gates to get access to their crops, and even then they are allowed to pass through on a limited basis.¹⁴⁷ The result of all of these barriers in the West Bank is the creation of Palestinian enclaves that are separated from one another by various Israeli intrusions. Restrictions on Palestinian commercial travel have a detrimental impact upon the Palestinian economy. Since a lot of the closures, restrictions, and the building of the Separation Barrier has occurred in the past 8 years, the West Bank Palestinian territory has experienced a major decline in economic growth. According to the World Bank report the per capita GDP in 2007 dropped to 60% of its 1999 levels.¹⁴⁸

¹⁴⁶ The World Bank, *West Bank and Gaza: The Economic Effects of Restricted Access to Land in the West Bank*, October 2008, 3.

<http://siteresources.worldbank.org/INTWESTBANKGAZA/Resources/EconomicEffectsofRestrictedAccessToLandintheWestBankOct.21.08.pdf>

¹⁴⁷ UN Office for the Coordination of Humanitarian Affairs-OCHA, *Report on the Humanitarian Impact of Israeli Settlements*, 110.

http://www.ochaopt.org/documents/TheHumanitarianImpactOfIsraeliInfrastructureTheWestBank_ch4.pdf

¹⁴⁸ The World Bank, *West Bank and Gaza: The Economic Effects of Restricted Access to Land in the West Bank*, Introduction, 1.

As discussed in chapter 4, according to the CIA World Fact Book, the unemployment rate in the West Bank in 2006 was 18.6% and forth-six percent of the population (2007 est.) lives below the poverty line. As long as the occupation continues, and the settlements and their accompanying infrastructure continue to grow, the situation can only be expected to get worse for the Palestinians and therefore more detrimental to Israel's long-term security interests.

Conclusion

Clearly, the situation in the West Bank is extremely difficult. The range of oppressive forces instituted by Israel in the daily lives of Palestinians is extensive, creating a virtual humanitarian disaster. Israel also has legitimate security concerns that should be addressed in peace negotiations if they are ever realized. There are also a number of dimensions to the conflict that need to be resolved including the question of Palestinian refugees, the status of Jerusalem, water rights, the erection of the security fence and borders, to name a few. The history of this conflict is complex and because of that complexity it is often difficult to discern the truth. To say that Israelis and Palestinians have serious animosity and distrust between them is an understatement.

Beyond all of these issues, the continuing growth and expansion of settlements essentially supersedes and exacerbates the on-going conflict. The problem of settlements has been addressed in various peace proposals and stands as an official position for a number of different organizations. Following is a review of some of those protocols, understandings and agreements.

One of the more recent attempts to address the Israeli – Palestinian conflict was undertaken by the Bush Administration in the 2003 proposal entitled The Roadmap for Peace. The Road Map is a seven-page document that was produced by the quartet, which consisted of representatives from the European Union, the United States, Russia and the United Nations. Identified officially as “A Performance-Based Roadmap to a Permanent Two-State Solution to the Israeli-Palestinian Conflict,” this document addresses the concern of settlements in a straightforward manner.¹⁴⁹

<http://siteresources.worldbank.org/INTWESTBANKGAZA/Resources/EconomicEffectsofRestrictedAccessstoLandintheWestBankOct.21.08.pdf>

¹⁴⁹ U.S. Department of State, *A Performance-Based Roadmap to a Permanent Two-State Solution to the Israeli-Palestinian Conflict*, April 30, 2003. <http://www.state.gov/r/pa/prs/ps/2003/20062.htm>

Settlements

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

The Roadmap has not made any progress for a variety of reasons. However, it did at least directly raise the concern about the problem of settlements in the West Bank.

The Mitchell Report, cited in the Road Map for Peace as the basis for addressing the settlement problem, was the product of a committee established to investigate the causes of violence that began around the middle of 2000. The report is named after the chairman of the committee, U.S. Senator George Mitchell. The Mitchell Report, released in May 2001, was very direct about the problem of settlements.

Settlements: The GOI also has a responsibility to help rebuild confidence. A cessation of Palestinian-Israeli violence will be particularly hard to sustain unless the GOI freezes all settlement construction activity. Settlement activities must not be allowed to undermine the restoration of calm and the resumption of negotiations.

On each of our two visits to the region, there were Israeli announcements regarding expansion of settlements, and it was almost always the first issue raised by Palestinians with whom we met. The GOI describes its policy as prohibiting new settlements but permitting expansion of existing settlements to accommodate "natural growth." Palestinians contend that there is no distinction between "new" and "expanded" settlements; and that, except for a brief freeze during the tenure of Prime Minister Yitzhak Rabin, there has been a continuing, aggressive effort by Israel to increase the number and size of settlements.¹⁵⁰

According to the Jewish Virtual Library's discussion of the report, both Israel and the Palestinians had until May 15th to respond to the Mitchell Report. Israel had a number of things to say in response to the report, but was especially strong on their clarification

¹⁵⁰ Jewish Virtual Library: A Division of the American – Israeli Cooperative Enterprise, *The Mitchell Report*, May 4, 2001. <http://www.jewishvirtuallibrary.org/jsource/Peace/Mitchellrep.html> The Jewish Virtual Library is the repository of extensive resources on Judaism and Israel.

regarding the section dealing with settlements. "In recommending a freeze in the settlements, the commission has exceeded its prerogatives. The accords we have reached say the issue of settlements must be discussed within final status negotiations," said Raanan Gissin, spokesman for the Israeli prime minister.¹⁵¹ The 2001 BBC report states that the problem of settlements has been a point of contention for Palestinians who fear that the continued expansion of Jewish settlements "which are scattered strategically over the West Bank....." and threaten to preempt the possibility of ever realizing a Palestinian state.

To their credit, the Mitchell Report, and the BBC news coverage about the report both identified the problem of settlements as central to the conflict. That is unusual in the history of this issue. Normally, it is either overlooked or the role of settlements is downplayed.

An important point in the Israeli response is the relegation of settlements to final status negotiations. The matter of Israeli settlements in the West Bank was indeed designated for final status negotiations along with a number of other difficult issues including refugees and control of Jerusalem. This was done as a provision of the initial Declaration of Principles (DOP) on Interim Self- Government Arrangements that were signed in conjunction with the Oslo Accords in 1993 at the White House on September 13, 1993. The final status talks were opened in 1996 but were halted shortly afterward with the election that brought Prime Minister Netanyahu's Likud coalition to power. The irony of this situation is that the Oslo process identified settlements as a final status issue because it was considered more difficult than some of the others. Yet, at the same time the Oslo Accords did not explicitly prohibit the building of new settlements, a reality that Israel has used to their advantage as they continue the growth and expansion of settlements and the infrastructure of roads built exclusively for settlers. There are numerous explanations for the failure of Oslo. One of the Oslo shortcomings little acknowledged was the designation of settlements as a final status issue without placing specific limits on Israel's proclivity for continuing their building projects in the West Bank. This reality reflects the typical treatment of the problem of Israeli West bank

¹⁵¹ Tarik Kafala, "The Mitchell Report," BBC News Online, May 14, 2001. http://news.bbc.co.uk/2/hi/middle_east/1330371.stm

settlements, which is to simply not deal with it while simultaneously the settlements continue to grow.

Throughout this discussion we have said that peace proposals and conferences come and go, the public discourse about the conflict is on going, and yet the problem of Israeli settlements in the West Bank is seldom brought into the light of public scrutiny and discussion. Israel seems destined to continue the process based on its military might, the inability of the international community to stop it, and the unwavering support of the US. This use of power with no scruples to the rights of the Palestinians has become a perverse application of realist principles of security and balancing, and in the long-run, will undermine Israel's own security.

Occupation and continuing settlement growth is highly destructive of the quality of life of the Palestinians in the West Bank and the general public, especially in the U.S. is hardly aware of the extent of Israeli settlements in the West Bank. Likewise, this "entanglement" by Israel in the West Bank is also a perversion of realism and a contradiction of Israel's security interest. The entanglement drains resources from the actual state of Israel proper and distracts attention from Israel's more critical needs of economic growth and maintaining a focus on real security vis-à-vis the surrounding Arab states. The whole occupation and settlement project creates the prospect that in the long term Israel will become a pariah in the global community of nation – states. As it is, Jews must contend with the plague of historic anti-Semitism. It is alive and well in the world today in various manifestations and is a real threat to Israelis and Jews around the world. However, Israel's declining status in the global community will not be the product of anti-Semitism. It will be the result of Israel's own behavior. The curious irony in all of this is the concern that Israel and its supporters continue to express about the threat presented by surrounding Arab states. The concern is legitimate because the threat is real. That attitude is a good reflection of the pessimism of realism. Yet, simultaneously, Israel refuses to come to terms with the problem of Israeli settlements in the West Bank and the degree to which it exacerbates the threat represented by Israel's Arab neighbors.

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West Bank Settlement Photographs

The following photos provide a glimpse of the nature of the Israeli settlements in the West Bank. These are quite well developed settlements that have the appearance of rather sophisticated European or North American suburban subdivisions.

Figure 1 - The settlement of Betar Illit in Bethlehem governorate, the most rapidly growing settlement in the West Bank.

Photo by J.C Tordai, 2007. Used by Permission of OCHA



Figure 2 - The Israeli settlement of Pesagot is located in Ramallah governorate with a 2004 population of approximately 1,380.

Photo by J.C. Tordai, 2007 (Used by Permission of OCHA)



Figure 3 - This picture shows one of a series of bridges and tunnels used by Israeli settler traffic to bypass Palestinian villages. These are located near Bethlehem and its surrounding villages to ensure Hebron settlers easy access to Jerusalem

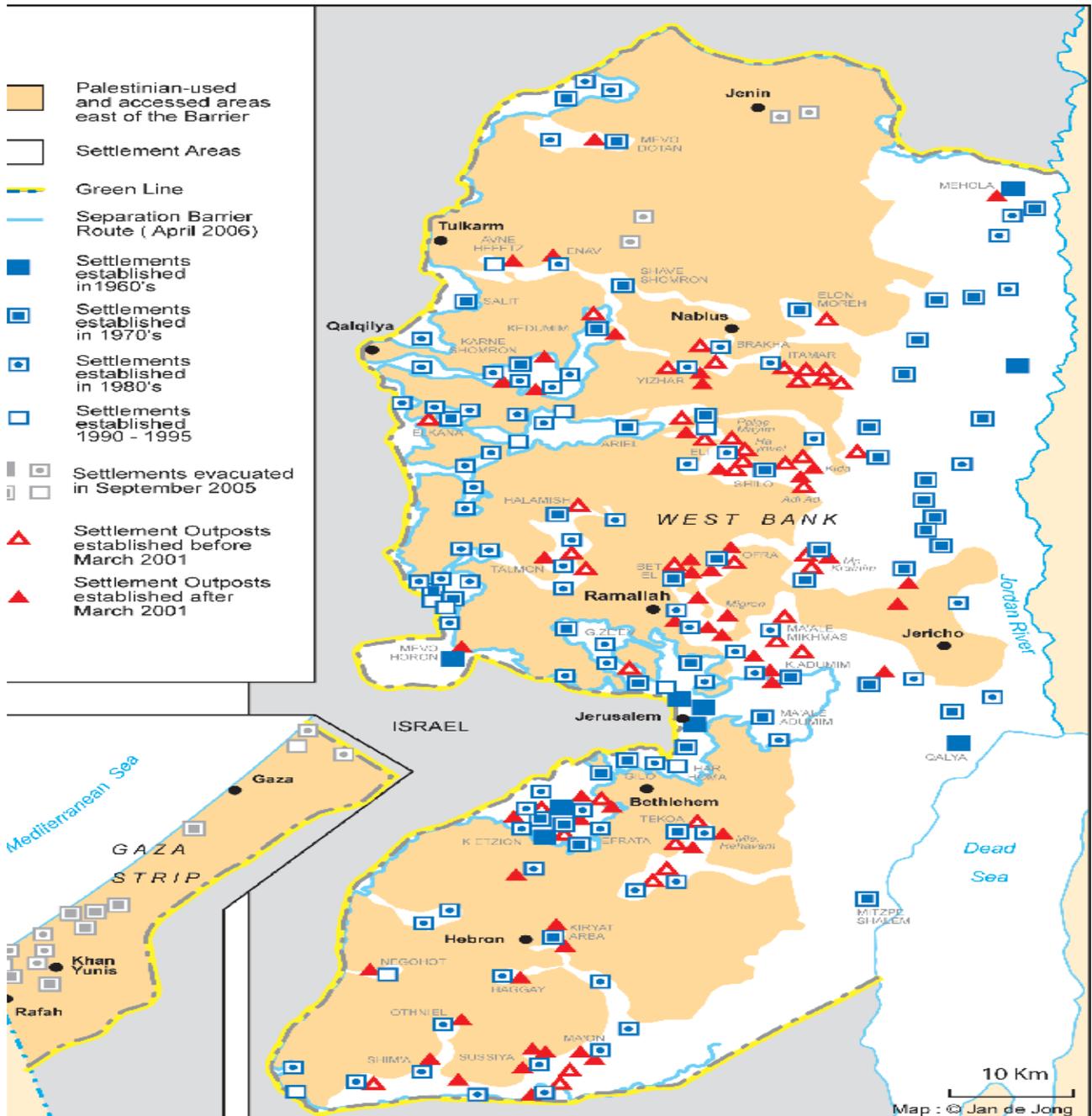
Photo: by J.C. Tordai, 2007 Used by Permission of OCHA



Above photos are from the United Nations Office for the Coordination of Humanitarian Affairs-OCHA, Occupied Palestinian Territory and their study entitled *The Humanitarian Impact on Palestinians of Israeli Settlements and Other Infrastructure in the West Bank* | July 2007 Used by Permission

Settlements Map from the Foundation for Middle East Peace.
 Used by Permission of the Foundation, mapmaker Jan de Jong.

Settlements Established and Evacuated 1967 - 2008



----- Original Message -----

From: [Foundation for Middle East Peace](#)

To: wcornett@insight.rr.com

Sent: Tuesday, November 25, 2008 9:41 AM

Subject: FW: Permission

Dear Mr. Cornett,

Thank you for your interest in the Foundation for Middle East Peace. Please feel free to use that map or any other, we ask only that you give attribution to Foundation for Middle East Peace and our map maker: Jan de Jong.

I will see if we have a map illustrating the by-pass roads and get back to you.

All best,
Waseem

Waseem Mardini
Foundation for Middle East Peace
1761 N St., NW
Washington, DC 20036
(Tel.) (202)835-3650 www.fmep.org

From: Skip Cornett [<mailto:wcornett@insight.rr.com>]

Sent: Monday, November 24, 2008 8:36 AM

To: info@fmep.org

Subject: Permission

[fmep_v18_map_settlements.gif](#)

http://www.fmep.org/maps/settlements-population/settlements-established-evacuated-1967-2008-feb-2008/fmep_v18_map_settlements.gif/view

To Whom it May Concern:

I am just now completing a thesis entitled "Israeli West Bank Settlements: Perversion of Realism, Obstacle to Peace" for a Masters Degree in Political Science at Virginia Tech in Blacksburg, VA.

Since the nature of settlements and what is really happening between Israel and the West Bank is complicated and sometimes difficult to comprehend, I would like to include a map of the settlements and settlement growth. The FMEP map that I have identified about would be perfect for that if you will grant permission to utilize it in my paper. Of course, I will include the appropriate attributions giving credit to the Foundation for Middle East Peace for use of the map.

I am also interested in finding a map that illustrates the system of Israeli by-pass roads in the West Bank to use to illustrate that problem. If you have access to such a map that I could include in my thesis, that would also be very helpful.

Thanks very much. I look forward to your response.

Ward Cornett III
Columbus, OH
Graduate Student in political science
Virginia Polytechnic Institute and State University Blacksburg, Virginia

----- Original Message -----

From: [Juliette Touma](mailto:Juliette.Touma@ochaopt.org)

To: wcornett@insight.rr.com

Sent: Thursday, October 23, 2008 12:29 PM

Subject: Fw: use of certain materials

Please do go ahead and use our material as long as you accredit it to OCHA.

Let me know if you need further help or have further queries.

Cheers

Juliette

Juliette Touma

Communication & Media Analyst

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----- Forwarded by Juliette Touma/OCHA/FD on 10/23/2008 08:29 PM -----

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----- Forwarded by OCHAoPt/OCHA/FD on 10/23/2008 07:08 PM -----

This mail was sent from our website by: wcornett@insight.rr.com

I am writing to request permission to utilize a few items from the OCHA reports on \"The Humanitarian Impact on Palestinians of Israeli Settlements and Other Infrastructure in the West Bank\" | July 2007 to include as part of my masters thesis on settlements in the West Bank. I am presently writing my thesis to complete the requirements for an MA in political science at Virginia Tech. The title of my thesis is \"Israeli West Bank Settlements: Perversion of Realism and Obstacle to Peace.\" If I were able to include a couple of maps and photos from your report, with appropriate attribution, that would do a lot to enhance the quality of what I am trying to do.

My experience is that a lot of people have no idea about the geography of Israel and the Palestinian territory, and most do not know about settlements. To include a map or two, and a couple of photographs of settlements would lend a lot of clarity to my presentation.

I look forward to your response.

Ward Cornett III Columbus, OH

Graduate student in political science at Virginia Tech