

## **“And Thou Shalt Spread ...”**

### **Construction and development of settlements beyond the official limits of jurisdiction**

A special report presented by the “Peace Now” Settlement Watch

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#### **Table of Contents**

##### **A. Preface**

- Four definitions of the concept of “areas of the settlements”

##### **B. The legal situation**

- The establishment of settlements and determination of jurisdictions
- Prohibition with respect to inclusion of privately-owned Palestinian land within jurisdictions
- Israel’s obligations and the Oslo Accords

##### **C. Declaration of “jurisdiction” as a means of taking control of land**

- Total area under the jurisdictions of the settlements
- Jurisdiction of Ma’ale Adumim
- Small settlements – large areas – settlements in the Jordan Valley
- Lack of territorial contiguity within the jurisdiction
- “Two for the price of one” – the various settlements within the jurisdiction of one settlement.

##### **D. Deviation from jurisdiction**

- Extent of the deviation
- Established deviation as opposed to independent domination

##### **E. The data and their analysis**

- Source of the information
- Definition of the area which the settlements actually dominate

##### **F. Consolidation of findings**

- Analysis of data

##### **G. Conclusions**

##### **H. Annex: List of settlements and jurisdiction violations (excel file)**

## **A. Preface**

One of the recurring claims of the various Israel government spokespersons over the past few decades regarding construction in the settlements was that it only occurs within the “boundaries of the settlement”. Words of that nature were even uttered by Prime Minister Olmert during a recent meeting with Abdullah, the King of Jordan (May 15, 2007), during which he promised that: **“the construction of settlements is only being carried out within the approved designated lines”**. However, through the years, Israel’s spokespersons made deceptive and manipulative use of the concept of **“settlement areas”** in order to continue, in fact, to make it possible for settlements to grow and develop without almost any restrictions. The construction in settlements “within their boundaries” continued, in contradiction to the commitment of those very same governments to maintain “political restraint”, where the vision of a future Palestinian state plays a major role. In this context, it is important to remember that the State of Israel’s official position is that no new settlement has been established anywhere in the West Bank for over a decade. As an aside, we would note that this was the reason that a need arose for the establishment of “outposts”, where the goal was to circumvent the ban on the establishment of official new settlements.

This report was written in order to achieve three goals:

- A. Expose the system of considerations which guided the architects of the settlement project when they drew up the boundaries of settlement jurisdiction;
- B. Discuss the way that Israeli governments used these jurisdictions to promote and reinforce their political goals, first and foremost of which was the expansion of the settlement project; and
- C. Provide an accurate comparison between the official and actual boundaries of the settlements.

We would like to emphasize that this report **does not deal** with the areas of jurisdiction of Israeli regional councils on the West Bank, but rather the jurisdictions of the settlements themselves. While it is true that the vast majority of the area under the jurisdiction of the settlements is also under the jurisdiction of the regional councils, there are also extensive areas on the West Bank that, while officially considered part of the jurisdiction of the regional councils, are not within the boundaries of any settlement. Indeed, a 2002 study conducted by “B’tselem” revealed that 42% of the total area of the West Bank was included in the area of six regional councils<sup>1</sup> and the Israeli local councils on the West Bank.<sup>2</sup>

## **Four possible definitions of the concept of “areas of the settlements”**

In order to clearly understand the intention of the official government spokespersons when they say “the construction in the settlements is only taking place within the areas of the settlements”, it is necessary to understand the various ways in which the concept of “areas of

<sup>1</sup> The regional councils are: Samaria, Mateh Binyamin, Gush Etzion, Har Hebron, Megilot, and ‘Arvot Ha-Yarden. In addition to those settlements which, from a municipal perspective, belong to these six regional councils, there are a few dozen settlements that are considered independent municipal entities.

<sup>2</sup> See: [http://www.btselem.org/Download/200205\\_Land\\_Grab\\_Eng.doc](http://www.btselem.org/Download/200205_Land_Grab_Eng.doc) (page 93) for details.

the settlements” can be defined. The intention is dependent, of course, upon the changing political needs of the official spokespersons. Keeping this in mind, this concept can be interpreted, and intended, to refer to four different things:

- A. The official area of jurisdiction of each settlement
- B. The boundary of the approved outline plan of each settlement
- C. The boundaries of the built-up area of each settlement
- D. The external perimeter of each settlement – that is, the area which the settlement actually covers.

None of these lines necessarily overlap, despite the fact that there are cases where there is a full or partial overlapping between all or some of them. The last part of this report will be dedicated to a comparison between the official areas of jurisdiction, as stipulated by the Civil Administration and ratified by an order issued by the officer in charge of the Central Command forces, and the area upon which the settlements sit in practice. That is, between the first and last definitions proposed above for the concept of “area of the settlements”.

Within this context, we would like to point out that despite the fact that there are only 120 official settlements in the West Bank, for the purposes of this report we chose to examine all of the civilian entities that actually exist there, entities which include the settlements, the outposts, and the industrial zones. Most of the outposts existing today on the West Bank (a total of 102) are included in the area of the settlements, since in reality, most of them constitute an integral part of the area upon which the settlements sit (in accordance with the criteria which will be presented below). However, a few outposts and industrial zones which are clearly not a part of the area controlled by one or another settlement appear in this report as separate entities. Therefore, in this report, we have sorted and examined a total of 164 entities rather than 120.<sup>3</sup>

## **B. The Legal Situation**

As is well known, the West Bank is not part of the sovereign territory of the State of Israel and it is held by virtue of a condition which international law calls “belligerent occupation”. Therefore, the applicable law in the West Bank is military law by which Israeli military commanders have governed since June 1967, acting upon the orders of the political echelon. Actions of the settlement regional councils on the West Bank are regulated by the “**Order Regarding Regional Councils**” (Order 783 5739). With respect to the area controlled by settlements, this Order states:

“Area of a settlement’ – the area bearing the settlement’s name is circumscribed by a line on the map of the regional council which is signed by the regional commander.

1A. The regional commander has the right to alter ... the boundaries on the map. ... copies of the map will be deposited in the offices of the regional commander, available to all wishing to see it.”

Another order, called “**Order Regarding Local Councils**” (Order 892) regulates the issue of larger settlements which have been awarded the standing of “local council”, and also defines the manner in which the area of the council is defined:

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<sup>3</sup> It should not be concluded that we claim that there are over 120 official settlements in the area of the West Bank.

“‘Local Council’ – each of the settlements specified in its addendum ... and where the area delineated by a line on the map is signed by the regional commander”.

For the most part, the boundaries of the settlements are called “blue line boundaries” (because of the color in which they are usually drawn on the maps), indicating the jurisdiction of each and every settlement on the West Bank. As a rule, construction of the settlements is forbidden beyond this “blue line”. Attorney Talia Sasson, in her report published in March 2005, writes in this vein when referring to the four criteria required in order the Israeli construction be considered legal in Area C of the West Bank:

The local law requires the fulfillment of a number of basic conditions before establishing a settlement in the Judea, Samaria and Gaza territories.

First, the decision to establish a settlement must be made by the authoritative political echelon. Government resolutions have always declared that the establishment of a new settlement, either inside Israel or in the territories, requires a government resolution. Such an establishment requires various considerations – economic, social, geographical, political, public and others.

The establishment of an Israeli settlement in the Judea, Samaria and Gaza territories requires additional considerations, including international and national policy and security considerations. The authoritative political echelon is the only one qualified to consider such considerations, and the only one who bears responsibility for such a decision.

The Second Condition concerns the interests (title) in the land to be settled. After the High Court of Justice ruling in the case of Elon More, a 1979 Israeli government resolution states that Israeli settlements shall be established only on State land.<sup>4</sup>

The Third Condition is that a settlement shall be established only according to a lawful designed building scheme. This means that a settlement in the Judea, Samaria and Gaza territories may be established only according to a detailed scheme, which has the power to produce a building permit. It must be clarified that according to the law in force in the territories, the approval of the political echelon is needed not only for establishing a settlement, but also in some of the steps in the plan approval. Meaning – as long as there is no approval for the plan for the settlement, or a part thereof – there is no political echelon approval for its establishment.

**The Fourth Condition is that the bounds of jurisdiction of such a settlement was determined in an order by the Commander of the area. The Commander of the area may determine the bounds of jurisdiction only after receiving the approval of the political echelon.**

These four conditions are accumulative. The lack of fulfillment of one of them makes the settlement illegitimate.<sup>5</sup> [emphasis added by authors]

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<sup>4</sup> For a discussion of the manner in which Israel declared broad areas of land to be State land, see: [http://www.btselem.org/Download/200205\\_Land\\_Grab\\_Eng.doc](http://www.btselem.org/Download/200205_Land_Grab_Eng.doc), page 34

<sup>5</sup> For a summary of the Sasson Report, see: <http://www.peacenow.org.il/site/en/peace.asp?pi=61&fld=343&docid=1454&pos=1>

### **Ban on including private lands within the area of jurisdiction**

How are the boundaries of settlements determined, and by whom?

The following appears in Amendment no. 6 (1996) of the “**Order Regarding Regional Councils**” (Order 783):

“The area bearing the name of the Regional Council, as specified in the amendment, which has been outlined and drawn up ... on the map signed by the regional commander, with the exception of closed areas and privately owned land, which are not within the boundaries of the settlement, but including areas which were seized for military purposes.”

“Area of the settlement” – the area bearing the name of the settlement that has been outlined on the map of that settlement or the map of the regional council that has been signed by the regional commander.”

“The regional commander has the right to alter the particulars of the amendment and the outline on the maps ... copies of the maps will be deposited in the offices of the regional commander, available to all wishing to see them.”

This amendment clarified two main points with which we have not dealt up to now:

1. Privately-owned lands cannot be part of the area of the regional councils and therefore, cannot constitute part of the area of any settlement, unless the land in question has been confiscated for military purposes.<sup>6</sup>
2. The area of jurisdiction of each settlement and each council is a function of the “regional commander’s” decision. In other words, the decision regarding the size of the areas of jurisdiction of the settlements lies with the State of Israel which, in actual fact, controls Area C, the majority of the West Bank.

### **Israel’s Obligations and the Oslo Accords**

In order to fully understand all of the political implications of the findings submitted here, we must go back 15 years in the history of the political process between Israel and the Palestinians. In September 1993, the State of Israel and the PLO signed a declaration of principles that became known as the Oslo Accord.<sup>7</sup> Two years later, Oslo B was signed, detailing the steps that the two sides had committed to take and the arrangements between

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<sup>6</sup> An example of this is an area in the Beit El settlement which was seized for “military purposes” and upon which, in time, the settlement of Beit El was established, recognized today as an independent local council. With regard to the essence of the differences between the concepts of “seizure for military purposes” and “expropriation for public needs” or “declared State land”, see the preface to the report entitled “One offense begets another”, pages 9-11 ([http://www.peacenow.org.il/data/SIP\\_STORAGE/files/9/2569.pdf](http://www.peacenow.org.il/data/SIP_STORAGE/files/9/2569.pdf))

<sup>7</sup> To read this document, see: [http://www.knesset.gov.il/process/asp/event\\_frame.asp?id=37](http://www.knesset.gov.il/process/asp/event_frame.asp?id=37)

them for the interim period of negotiations.<sup>8</sup> This agreement, which from a legal aspect is still valid, defined three areas in the West Bank:

- **Area A** – includes all of the cities of the West Bank, with the exception of Hebron and a few areas around those cities.<sup>9</sup> The Palestinian Authority received full responsibility for internal security and public order in this Area, as well as for all aspects of civilian life, including the issuing of construction permits.
- **Area B** – includes the smaller urban villages and cities, where the PA received full administrative authority from a civilian aspect (including planning and construction), but the ultimate responsibility for security remained with Israel.
- **Area C** – includes all other areas of the West Bank, and in these areas Israel retained all civilian and military control.

While Areas A and B together constitute 40% of the area of the West Bank,<sup>10</sup> the area remaining in Israel's hands, Area C, wherein can be found all of the settlements, covers 60% of the whole area of the West Bank. The large area remaining under Israel's control has made it possible for Israel to continue to expand settlements. We would like to add that there are also dozens of relatively small Palestinian population centers in Area C, comprising an estimated population of around 70,000 residents. These Palestinians, in contrast with those residing in Areas A or B, are dependent upon the Israeli Civil Administration to receive permits in order to use the land for any purpose whatsoever.

### **Dates of declaration regarding the areas of jurisdiction**

In the final section of the accords of Oslo B, para. 7 states:

“None of the parties shall initiate or take any step to change the status of the West Bank and the Gaza Strip before negotiations for a permanent state will have been completed.”<sup>11</sup>

Despite these solemn words, the settlement project which Israel had previously initiated in the West Bank did not come to a halt. In the table below, it is possible to see that the areas of jurisdiction of 92 settlements were redefined (or in some cases were defined for the first time) *after* the 1993 Oslo Accords, while the area of only 24 settlements did not change after that year.<sup>12</sup> The fact that most of these jurisdictions were expanded during those years would have had no immediate practical implications at the time, had this not been

<sup>8</sup> To read this document, see: [http://www.knesset.gov.il/process/asp/event\\_frame.asp?id=42](http://www.knesset.gov.il/process/asp/event_frame.asp?id=42)

<sup>9</sup> A separate agreement was signed in 1997 regarding Hebron, whereby the city was divided into two parts: Area H1, under Palestinian control (similar to Area A) and Area H2, under Israeli control (similar to Area C). For detail, See: [http://www.knesset.gov.il/process/asp/event\\_frame.asp?id=45](http://www.knesset.gov.il/process/asp/event_frame.asp?id=45)

<sup>10</sup> The total area of the West Bank is approximately 5,600 sq. kms.

<sup>11</sup> See [http://www.knesset.gov.il/process/asp/event\\_frame.asp?id=42](http://www.knesset.gov.il/process/asp/event_frame.asp?id=42)

<sup>12</sup> These numbers relate only to West Bank settlements that exist today, and do not include those settlements in the Gaza Strip (and four in the West Bank) which were evacuated as part of the disengagement process during the summer of 2005.

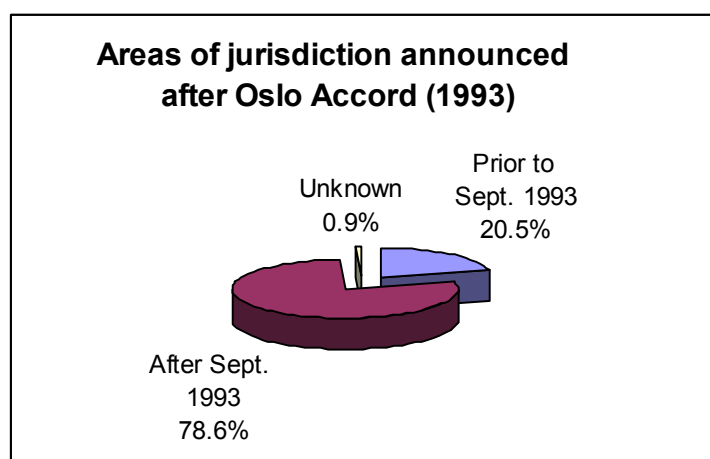
accompanied by a surge in development, construction and increased population in most of the settlements. Thus, in a move which, up to that time, was unprecedented in the history of the settlement project, the total number of settlers was doubled during the decade following the Oslo Accord.<sup>13</sup>

**In conclusion: the use of the administrative tool to define the areas of jurisdiction of settlements has constituted a potent weapon in the hands of the Israeli government. This weapon has enabled Israel, contrary to all long-term political common-sense, and contrary to Israel's obligations under the Oslo B Accords not to take any unilateral steps that could affect the permanent agreement, to continue to expand settlements, through heightened construction and development, and to enlarge the areas annexed to them.**

### Declaration of the areas of jurisdiction of the settlements, according to year

Date of declaration	No. of settlements
1981	1
1982	1
1992	22
1994	3
1995	10
1996	6
1997	29
1998	28
1999	7
2001	2
2004	1
2005	4
2006	2
Unknown	1
<b>TOTAL</b>	<b>117</b>

Date of last declaration	No. of settlements	%
Prior to Sept. 1993	24	20.5%
After Sept. 1993	92	78.6%
Unknown	1	0.9%
<b>TOTAL</b>	<b>117</b>	<b>100.0%</b>

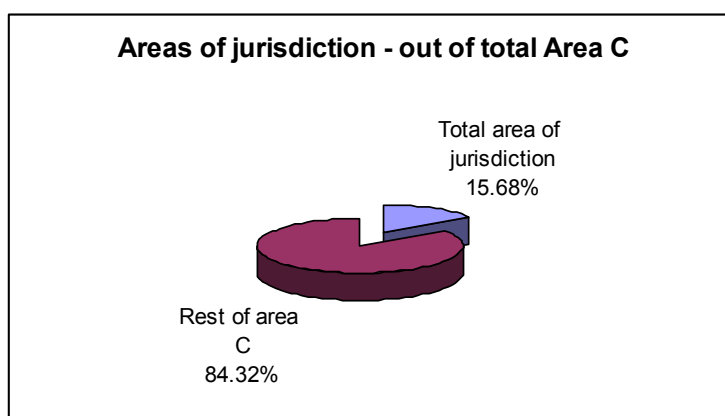
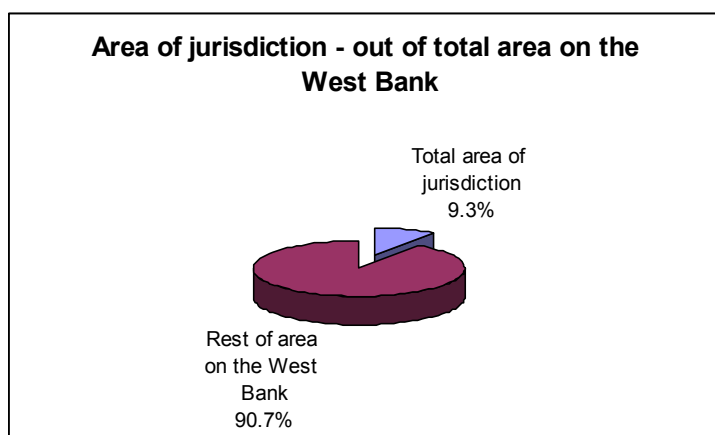


<sup>13</sup> According to data provided by the Israel Central Bureau of Statistics, 116,000 people lived in the settlements at the end of 1993, compared to 232,000 at the end of 2003.

### **C. Declaration of “jurisdiction” as a means of taking control of land**

Throughout the years, the State of Israel used the declaration of areas of jurisdiction of the settlements as a means of controlling the land of the West Bank. As will be shown below, many of the settlements have huge areas of jurisdiction, areas which include thousands if not tens of thousands of dunams of land dedicated for use by the settlements. Even if no use is made of large portions of the areas of jurisdiction, they still constitute areas to which Palestinians have no rights and upon which they are unable to build, develop real estate enterprises or make any other long-term use of the land. An aerial photographic comparison of the areas of jurisdiction of the settlements show that in fact, only about one-fifth of the settlements’ areas of jurisdiction is actually being used by the settlements, making it clear that jurisdictions are defined less by the "needs" of the settlements and more by a desire to establish control over land. The areas of jurisdiction of all of the settlements covers approximately 9% of the total area of the West Bank (as stated above, this is part of the areas of jurisdiction of the regional councils, whose total area comes to 42%).

#### **Total jurisdiction of the settlements**



	<b>Area (in dunams)</b>	<b>% of the West Bank</b>
Area of the West Bank	5,585,891	100%
Area C (under Israeli control)	3,316,787	59.4%
Areas of jurisdiction of the settlements	520,050	9.3%



### **Jurisdiction of Ma'ale Adumim**

The area of jurisdiction of Ma'ale Adumim is the largest of all of the Israeli settlements on the West Bank. Its population is the second largest of all the settlements (after the ultra-orthodox settlement of Modi'in Illit) and is estimated to be today around 32,000 persons. The jurisdiction of Ma'ale Adumim spreads over a very large region which begins west of the settlement and extends into the Jericho valley. If compared with the size of the jurisdiction of cities within Israel, Ma'ale Adumim's area is similar in size to that of the largest (most populated) cities within Israel. The following table shows the area of the seven most populated cities within Israel. Please note that despite the fact that the population of every one of them is many times larger than that of Ma'ale Adumim, this disparity is not reflected in the relative areas.

Name of city	Residents (in 1000s) <sup>14</sup>	Jurisdiction (in dunams)
Jerusalem	732	126,295
Haifa	267	59,587
Beer Sheva	186	54,585
Tel Aviv	385	51,449
Rishon Le-Tzion	222	51,249
<b>Ma'ale Adumim</b>	<b>32</b>	<b>48,000</b>
Ashdod	204	43,984
Petach Tikva	184	36,522

It is important to point out that most of the area of jurisdiction of Ma'ale Adumim (approximately 76%) is empty and unused. The objective of the declaration of such a large area of jurisdiction, particularly in this region, is clear: to create a buffer of land under Israeli control which will bisect the northern and southern parts of the West Bank.

### **Construction on the site of E-1**

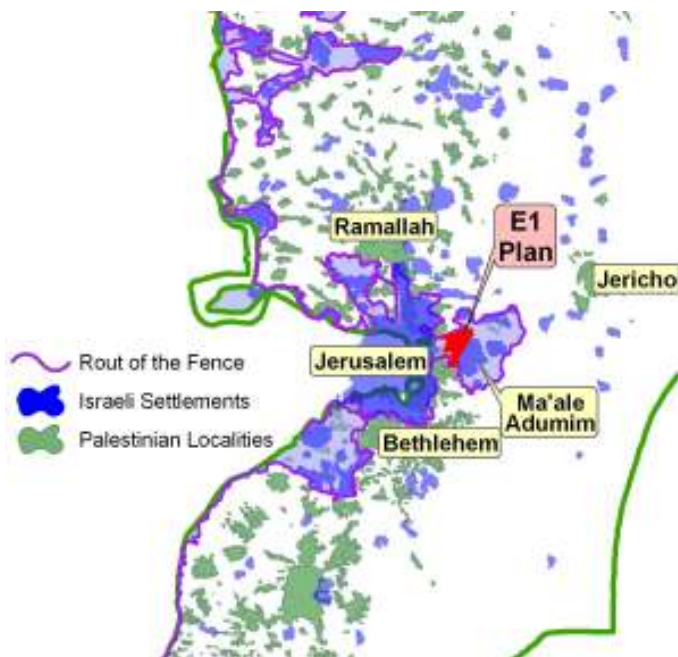
The best-known example of the deceptive (and from the aspect of the political process, devastating) interpretation which the Israel government has given to its obligation "not to build outside of the boundaries of a settlement", is the construction of the SHAI (Judea and Samaria) District Police Headquarters in the area known as E-1. This construction began during March 2006, within the official area of jurisdiction of Ma'ale Adumim, but quite a distance from the actual boundaries of the settlement. In fact, the construction is taking place in an area completely distinct from Ma'ale Adumim, separated by a vast area of empty land and by the area's major regional highway (Road No. 1 - the Jerusalem-Jericho road). The E-1 region is located west of Ma'ale Adumim and east of Mt. Scopus, in an area where, until recently, there was no civilian infrastructure. As of this writing, the construction of this new Police Station is being completed. This building is intended to act as a "bellwether", after which it is planned that expansive construction will take place, with the goal of filling

<sup>14</sup> Source: [http://www.cbs.gov.il/population/new\\_2007/table3.pdf](http://www.cbs.gov.il/population/new_2007/table3.pdf)

the area between Ma'ale Adumim and East Jerusalem with an Israeli presence.<sup>15</sup> The following is a quote from the official Ma'ale Adumim website:

“The area of jurisdiction of the city was recently expanded westward in the direction of Jerusalem and it stretches over **48,000**<sup>16</sup> dunams. The region of E-1 is intended for tourist development, the construction of a hotel and a particularly exclusive residential quarter, and an employment region for the Jerusalem Employment and Commerce Center.”<sup>17</sup>

The State of Israel, therefore, clearly makes political usage of the definition of areas of jurisdiction of the settlements in order to seize extensive areas and prevent any possibility that the Palestinian residents of the West Bank might be able to make any use of it. What is even more serious, if not many times worse, is the fact that in order to realize this political program, the State of Israel in the past did not prevent the expulsion of the Palestinian population when it was residing in areas which Israel planned to annex to the settlements. A case in point is the situation of the Bedouins, members of the Jahalin tribe, who were expelled in 1999 from land upon which they had lived for many years in order to expand Ma'ale Adumim eastward and to permit the construction of Site 07.<sup>18</sup>



The Police Station in the E1 area

<sup>15</sup> For additional information regarding construction in E-1, see:

<http://www.peacenow.org.il/site/en/peace.asp?pi=62&docid=1294>

<sup>16</sup> According to data received from the Civil Administration, the official jurisdiction is actually 46,424 dunams.

<sup>17</sup> <http://www.maale-adummim.muni.il/Page.asp?id=1>

<sup>18</sup> See the B'Tselem report: [http://www.btselem.org/Download/199907\\_On\\_The\\_Way\\_To\\_Annexation\\_Eng.doc](http://www.btselem.org/Download/199907_On_The_Way_To_Annexation_Eng.doc)

### **Small settlements, large areas – settlements in the Jordan Valley**

Ma'ale Adumim is not the only settlement whose large area is disproportional with its number of residents. An examination of areas of jurisdiction of the settlements shows that there are other settlements where the number of residents is very low but their area of jurisdiction is comparable to that of large Israeli cities. For example, the settlement of Mitzpe Shalem, which has only 180 residents, has jurisdiction over more than 35,000 dunams, close to the size of the city of Petach Tikva (which has a thousand times more residents). Another settlement, Beit Ha'Arava, is the second smallest settlement in size of population (with only 83 residents) but is the fifth largest in terms of area of jurisdiction (19,425 dunams). It is indeed interesting, if not really surprising, to see that a large number of these settlements are located in the Jordan Valley, an area known for the fact that many of Israel's governments have viewed it as an area which must remain "Israeli". It is clear that the definition of the disproportionate areas of jurisdiction of the settlements in the Jordan Valley constitutes an additional tool in Israel's hands, intended to distance the Palestinian/Bedouin population from the area of the Valley.<sup>19</sup> The exception in this matter is the settlement/city of Ariel, which is not situated in the Jordan Valley and where the population is relatively larger than other settlements, but whose area of jurisdiction is still exceptionally large, far exceeding the settlement's actual needs.

Name of the settlement	Region	Area of jurisdiction in dunams	Number of residents
Mitzpe Shalem	Jordan Valley	35,408	180
Kalya	Jordan Valley	25,304	271
Almog	Jordan Valley	20,116	159
Beit Ha'Arava	Jordan Valley	19,425	83
Ariel	South of Nablus	13,919	16,520
Reihan	West of Jenin	13,442	150
Asfar	Jordan Valley	12,094	258
Netiv Ha-gdud	Jordan Valley	11,099	127
Tomer	Jordan Valley	10,825	281
Hinanit	West of Jenin	9,411	760

For a complete table of the areas of jurisdiction of the settlements in a descending order, see: [http://www.peacenow.org.il/data/SIP\\_STORAGE/files/9/3199.xls](http://www.peacenow.org.il/data/SIP_STORAGE/files/9/3199.xls)

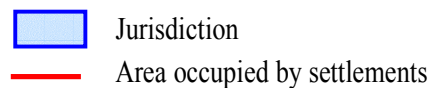
<sup>19</sup> With reference to Israel's separation policy with regard to the Jordan Valley, also see: [http://www.btselem.org/english/Settlements/20060213\\_Annexation\\_of\\_the\\_Jordan\\_Valley.asp](http://www.btselem.org/english/Settlements/20060213_Annexation_of_the_Jordan_Valley.asp)



Mitzpe Shalem



Jurisdiction of Mitzpe Shlem



### **Lack of territorial continuity within the jurisdiction**

A glance at the map of areas of jurisdiction of the settlements shows that in many cases, there is no physical contiguity with the settlement itself. Enclaves of areas which have been declared within the jurisdiction of the settlement are scattered over large areas and at great distances from the settlement itself. The existence of distant enclaves that cannot be used integrally by the settlement strongly testify to the patent political character of the declaration of these areas of jurisdiction. This phenomenon is, of course, related to a desire to control as large an area as possible on the one hand, and the existence of areas that are privately-owned Palestinian lands, which, from a legal standpoint, cannot be annexed to the settlement, on the other. Thus, let us look at the example of the boundaries of Susiya's area of jurisdiction:



**Jurisdiction of Susiya**



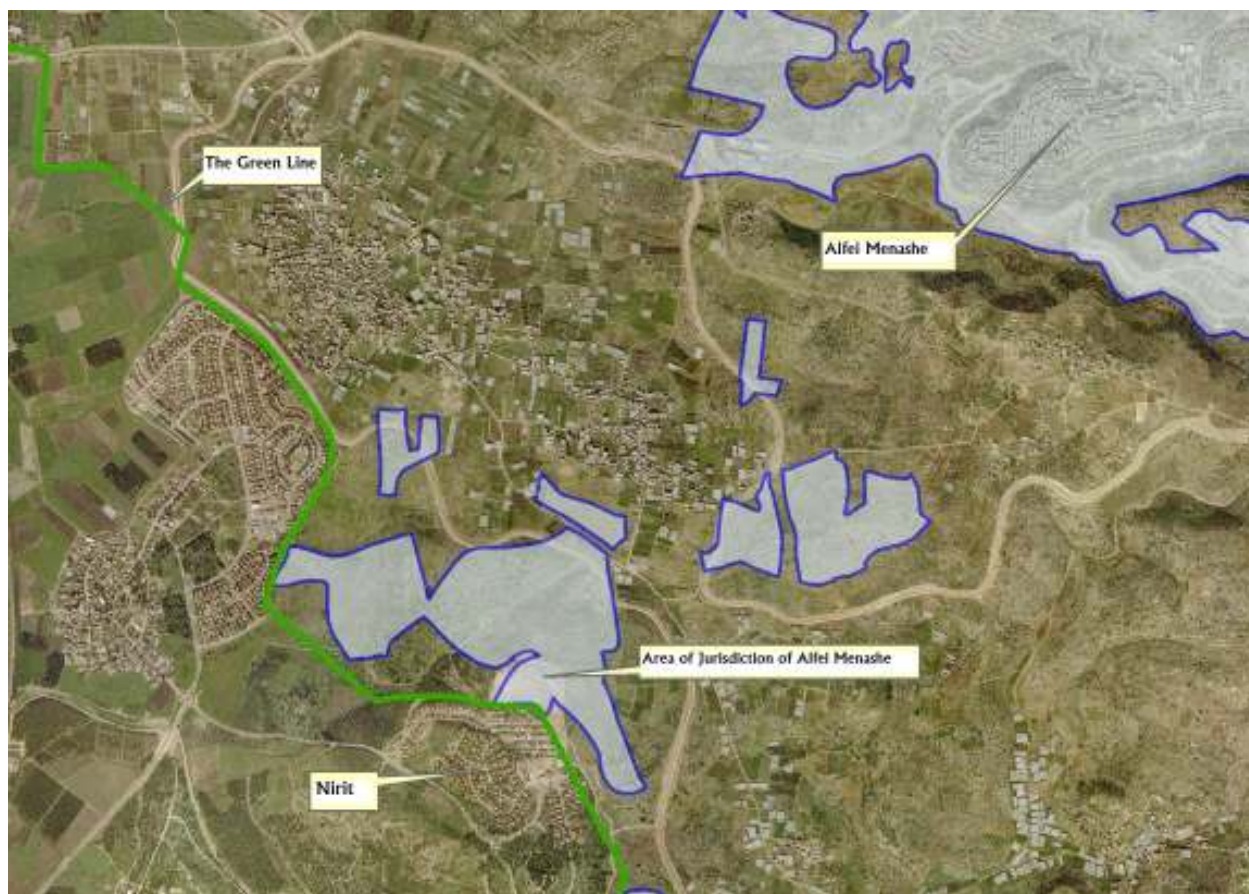
**Jurisdiction of Eshkolot**

**“Two for the price of one” – a number of settlements within the area of jurisdiction of one settlement**

One of the ways that the State of Israel has found by which to circumvent its promise not to establish new settlements is to establish them on land that is within the jurisdiction of an existing settlement, but at a location that is distant and isolated from that settlement, and then still claim that this is just construction within the original settlement. An example is the settlements of Alon and Nofei Prat, officially considered to be “neighborhoods” of Kfar Adumim, but clearly distinct from that settlement.

Similarly, Israel expanded the jurisdiction of Eshkolot to include an area remote and isolated from the settlement, in order to use that land to establish the new settlement of "Sansana" -- permitting the official fiction that this new settlement is simply a neighborhood of Eshkolot.

Another example of this is Nof Hasharon, being constructed as a neighborhood adjacent to the settlement of Nirit, which is within the Green Line (Nof Hasharon is in effect an expansion of Nirit into the West Bank). However, since Israel cannot legally declare West Bank land part of the jurisdiction of an Israeli city (within the Green Line), and since Israel has committed to not establish any new settlements, the Government of Israel found another solution: the area on which Nof Hasharon is being constructed was declared part of the settlement of Alfei Menashe, which is located about three kilometers away (as the crow flies) and has no connection to the new construction.



The use of Alfei Menashe's area of jurisdiction to establish a quarter for Nirit – beyond the Green Line

#### **D. Deviation from jurisdiction**

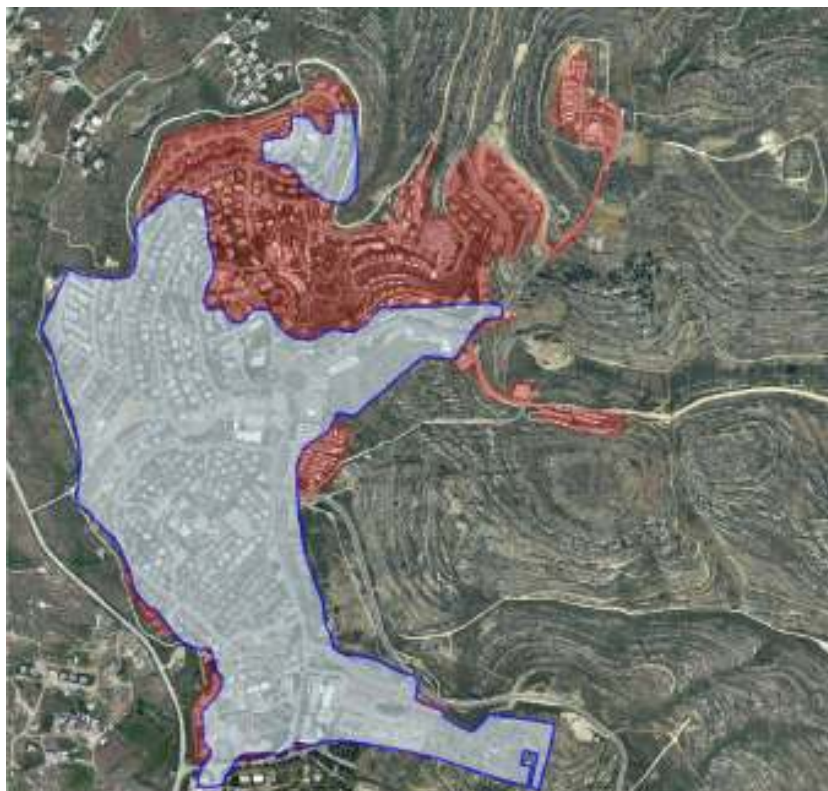
##### **Extent of the deviation**

Up to now, we have analyzed the areas of jurisdiction themselves and the use Israel makes of them in order to control land. However, it seems that it is not enough for the settlement project to control large areas in an official, organized and governmentally-sanctioned manner by declaring them to be areas of jurisdiction for the settlements. It turns out that almost all of the settlements (90%) in actual fact deviate from their area of jurisdiction. Most of the settlements have unofficially annexed additional areas which have then been used for construction and development. The extent of this deviation stands at approximately 30% of all of the area that is actually controlled by the settlements. It is important to emphasize that these deviations from the areas of jurisdiction do not stem from a lack of sufficient physical area or room for the settlements to operate and grow, since, as discussed above, it turns out that they only make use of 21% of the land officially at their disposal. This phenomenon, rather, reflects the fact that while the areas under the jurisdiction of

settlements (along with all ‘State land’ in the West Bank)<sup>20</sup> “are retained” solely for Israeli use -- since the Civil Administration, the Army and the settlers do not allow the Palestinians to use the areas in any way -- the settlers are deliberately focused on taking over land situated outside of the areas of jurisdiction, knowing full well that no one will enforce the law and oppose their actions.

### **Established deviation as opposed to independent domination**

It should be pointed out that in some of the settlements, the deviations from the area of jurisdiction is institutionalized and orderly, apparently sanctioned by Israeli authorities. There are whole construction projects, actual neighborhoods, that were constructed beyond the areas of jurisdiction under the watchful eye of the State, and at times, even at its initiative and with its encouragement, and for which the State has provided services (water, electricity, sewage, roads) and associated infrastructure. The most extreme examples of this phenomenon are the settlements of Ofra and Psagot, both of which are considered official settlements, and both of which, in actual fact, have NO areas of jurisdiction. And, in fact, it turns out that the land upon which these settlements are constructed is registered as being privately-owned Palestinian land, and therefore should not be included in the declared area of jurisdiction of any settlement.



The settlement of Beit El - *The red markings signal construction which deviates from the declared area of jurisdiction*

<sup>20</sup> We are familiar with only one case in which the Civil Administration allotted State land to Palestinians. This is the case where land was given to members of the Jahalin tribe, after they were uprooted from the land upon which they had lived in order to permit the eastward expansion of Ma’ale Adumim (as discussed on page 9 of this report).

There is another type of violation – that of appropriating land by fencing or by working the land, or even by constructing “unregularized” structures outside of the area of jurisdiction. The most obvious and famous example of this type of violation is the establishment of outposts, most of which are situated completely or in part outside of the area of jurisdiction of the settlement, and most of which have received one kind of support or another from the authorities. Attorney Talia Sasson already dealt with this matter in the report she submitted about the outposts and she pointed to the extent of the violation perpetrated in establishing the outposts beyond the areas of jurisdiction.

There are many examples of land appropriation outside of the area of jurisdiction. For example, in Susiya, work is being carried out on land that is adjacent to the settlement on its southeast corner, outside of the area of jurisdiction. Until the second Intifada, this land was being worked by the Palestinians, but since then, the settlers have prevented them from returning or from working their land.



Susiya. Palestinian land cultivated by settlers beyond the area of jurisdiction

The chapter below dealing with the collection of findings (page 18) contains details and an analysis of the extent of violations and their nature.



## **E. The data and their analysis**

### **The source of the information upon which this report is based**

Clause no. 4 of the “**Order Regarding Local Councils**” (Order 892) states:

“A copy of the map of each local council shall be deposited in the offices of that local council ... and everyone who is interested shall be entitled to study them”.

Despite this clause, in actual fact, people and organizations which, for many years, have asked to study the maps regarding the areas of jurisdiction of all of the settlements have been prevented from doing so. In order to remove any doubt regarding this matter, we would like to point out that the areas of jurisdiction of each city and council in the State of Israel proper (inside the Green Line) is public information that is available to every petitioner. Attempts of over a year by the Settlement Watch team to obtain the information on which this report is based were met with evasion and a lack of cooperation on the part of the Civil Administration. This continued behavior on the part of the Civil Administration, in the end, forced us to submit an administrative appeal to the Israeli Supreme Court, based upon the Freedom of Information Law. This petition was submitted in January 2006 in cooperation with the “Peace Now” movement and the “Movement for Freedom of Information”.<sup>21</sup> A year later, in February 2007, as a result of having won this petition, the material was received from the Civil Administration. The grim findings contained in this report are being made public in full for the first time here, clearly revealing why the State preferred, in this case as well, to try and prevent the information from falling into critical civilian hands.<sup>22</sup>

### **Definition of the area which the settlements actually dominate**

We have accepted as a given the areas of jurisdiction established by the Civil Administration. However, it is necessary to define the areas which the settlements actually control. Therefore, in order to prepare this report,<sup>23</sup> and based upon the reality as we know it on the ground, we defined and marked the areas which each settlement dominates as well as each actual settlement. Our definition reflects the reality on the ground and stems from a number of basic factors:

- The built-up area of the settlement
- Areas that are not built-up but which underwent development or some sort of settlement-related change
- Areas that were annexed to a settlement through fencing (with a partial or full perimeter fence)
- Areas included in the perimeter lighting of the settlements

<sup>21</sup> To read this petition, see: <http://www.peacenow.org.il/site/en/peace.asp?pi=370&docid=1662&pos=5>

<sup>22</sup> In a letter which accompanied the data file (“the layer”), which the Civil Administration was forced to provide to the petitioners, the spokesperson of the Civil Administration requested that along with the publication of the data, we note the following reservation: “The information layer contains technical inaccuracies stemming from limitations of the computerized system for maps and geographical data. No claim shall be submitted against the Civil Administration and/or the State of Israel if it is based upon the information provided in this layer.”

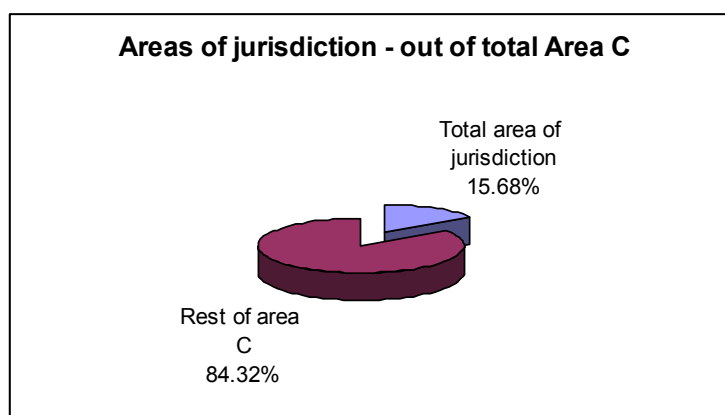
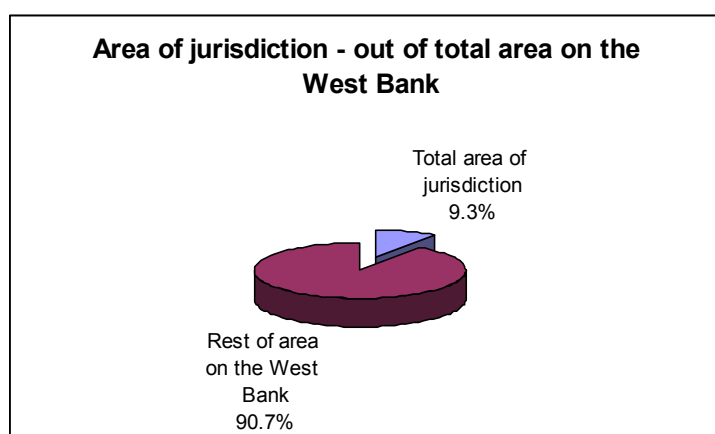
<sup>23</sup> This is the same methodology used in our report “One offense begets another,” published in November 2006, <http://www.peacenow.org.il/site/en/peace.asp?pi=61&fld=495&docid=2024&pos=2>

- Ring roads constructed around the settlements.

The data presented in this report are based upon a comparison between the data which we received from the Civil Administration about the areas of jurisdiction of the settlements and the areas of the settlements as we defined them, based on the factors listed above

## **F. Consolidation of findings**

### **Size of the declared area of jurisdiction**

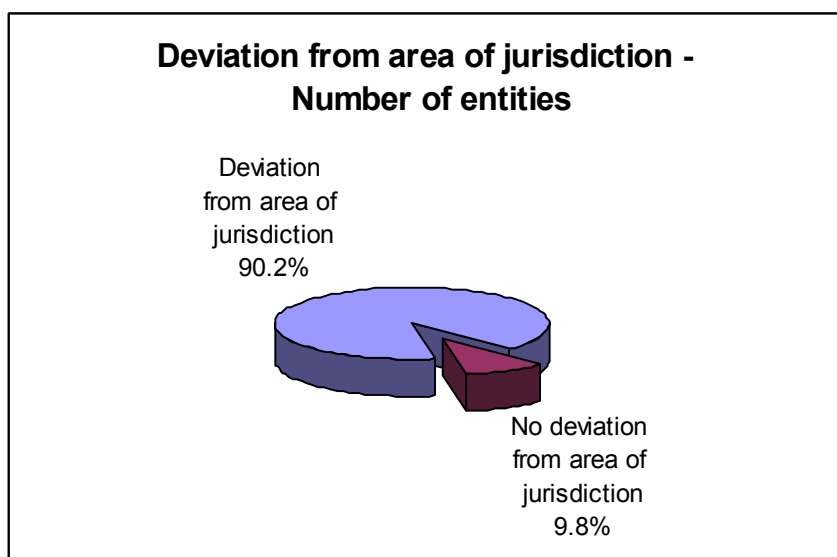


	<b>Area (in dunams)</b>	<b>% of the West Bank</b>
Area of the West Bank	5,585,891	100%
Area C (under Israeli control)	3,316,787	59.4%
Areas of jurisdiction of the settlements	520,050	9.3%

**Percentage of settlements that deviate from their area of jurisdiction**

Over 90% of the civilian entities on the West Bank (settlements, outposts and industrial zones) deviate from their area of jurisdiction.

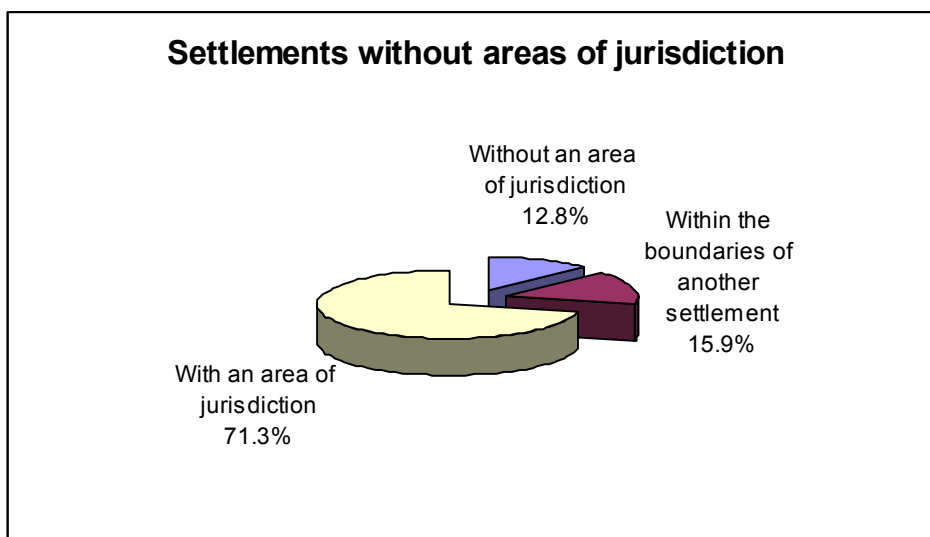
	Number of entities (outposts, settlements, ind. zones)	%
All of the entities	164	100.00%
Construction/control deviates from the area of jurisdiction	148	90.24%
There is no deviation from area of jurisdiction	16	9.76%



**“Entities” (settlements, outposts and industrial zones) lacking any area of jurisdiction**

Four settlements, 16 outposts (mostly inhabited by an orthodox and relatively extremist population), and one industrial zone (Bar-On industrial zone, used by the Kedumim Local Council), are situated outside of any area of settlement jurisdiction. Two examples of this are Ofra and Psagot, which are mainly situated upon land which is privately-owned Palestinian land.

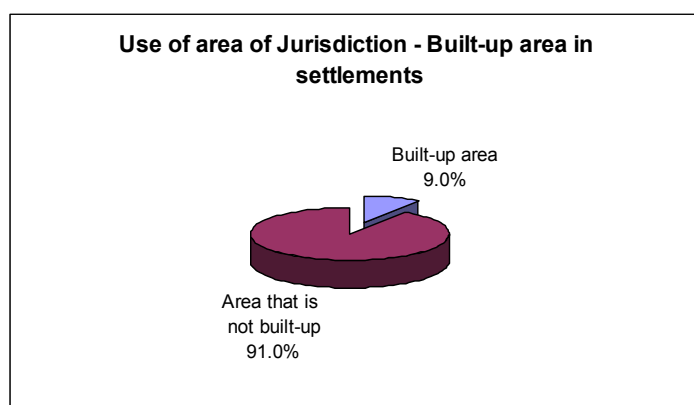
	No. of entities	%
Without an area of jurisdiction	21	13.4%
Within the boundaries of another settlement (wholly or in part)	26	15.2%
Having an area of jurisdiction	117	71.3%
All entities (settlements, outposts, ind. zones)	164	100.0%



### Actual use of area of jurisdiction

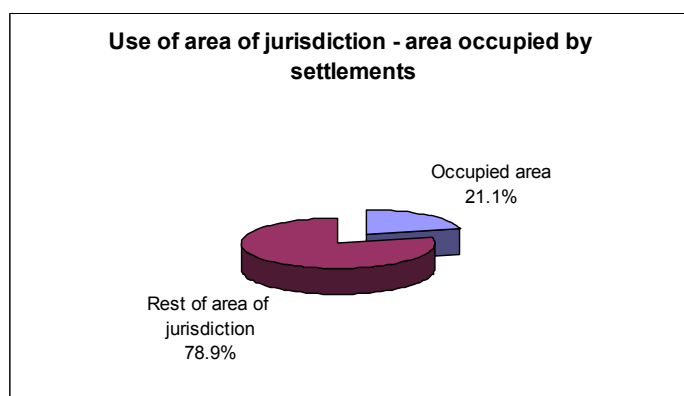
The areas actually used by the settlements (built-up areas, infrastructure, security installations, etc.) account for only about 20% of their area of jurisdiction. That means that the settlements do not use most of their area of jurisdiction.

#### **The built-up area in settlements<sup>24</sup>**



	Dunams	%
Area of jurisdiction	520,050.00	100%
Built-up area in settlement	46,965.47	9.0%

#### **The area occupied by the settlements<sup>25</sup>**



	Dunams	%
Total area of jurisdiction	520,050.00	100%
Area occupied by settlements	109,604.72	21.1%

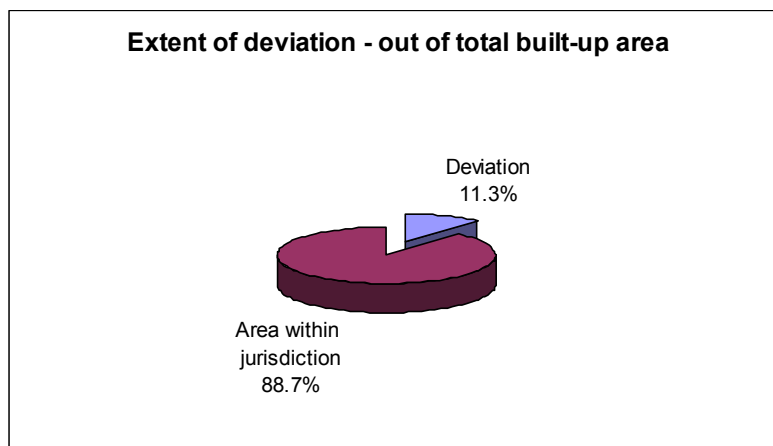
<sup>24</sup> “Built-up area”, in contrast to “the occupied area” only includes the area upon which there are houses or which has been developed

<sup>25</sup> For the manner in which “the occupied area” of the settlements is described, see above “Data and their interpretation”

### The extent of the deviation by the settlements from area of jurisdiction – total picture

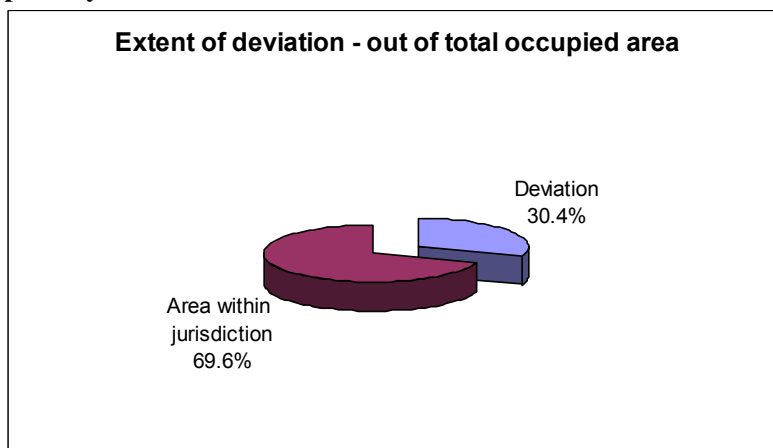
Approximately one-third of the area upon which the settlements are actually located is outside the official areas of jurisdiction, despite the fact that, as was mentioned above, almost 80% of the settlements' area is not being used at all.

#### The built-up area in settlements



	Dunams	%
Total built-up area in settlements	52,941.97	100.0%
Within jurisdiction	46,965.47	88.7%
Deviation from jurisdiction	5,976.50	11.3%

#### The area occupied by the settlements

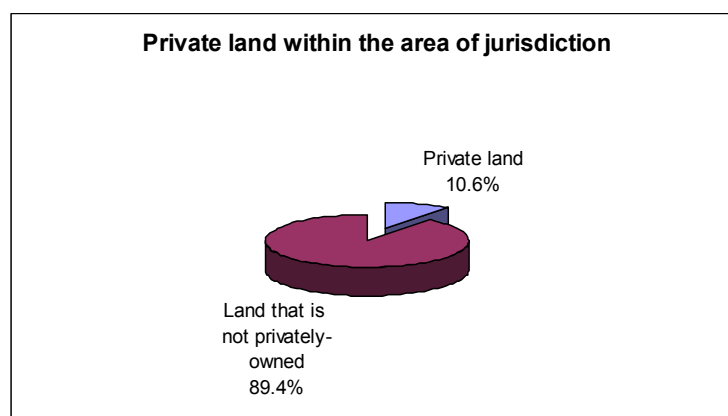


	Dunams	%
Total area occupied by the settlements	157,367.04	100%
Within jurisdiction	109,604.72	69.6%
Deviation from jurisdiction	47,762.32	30.4%

**Percentage of private land<sup>26</sup> within and outside the areas of jurisdiction**

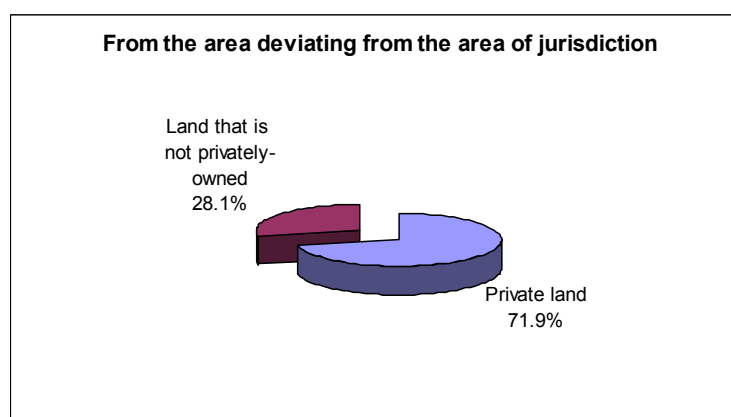
**A. Private land within the area of jurisdiction**

	Dunams	%
Total area of jurisdiction	520,050.00	100.00%
Land that is not privately owned	464,798.11	89.38%
<b>Private land</b>	<b>55,251.89</b>	<b>10.62%</b>



**B. Private land in area that has been taken by settlements and is outside their areas of jurisdiction**

	Dunams	%
Total area outside the areas of jurisdiction	47,762.32	100.00%
Land that is not privately owned	13,438.02	28.14%
<b>Private land</b>	<b>34,324.30</b>	<b>71.86%</b>

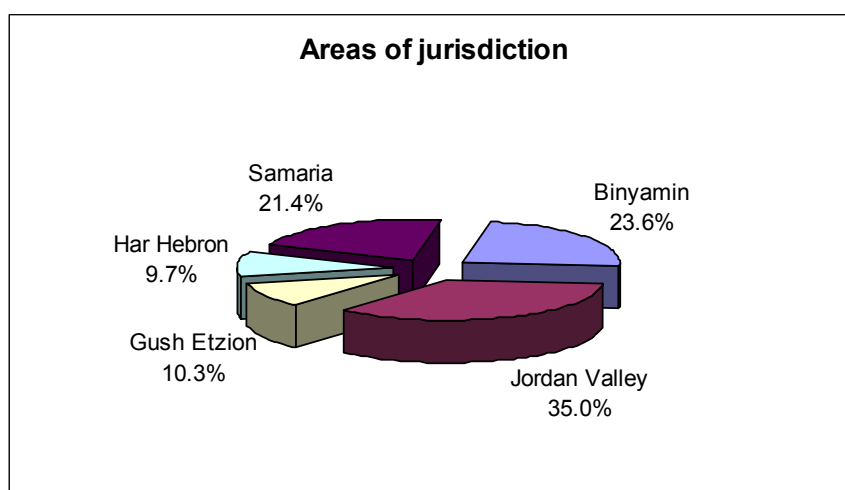


<sup>26</sup> The vast majority of this land is privately-owned Palestinian land.

**Area of jurisdiction and the deviating area – by region**

**Declared area of jurisdiction:**

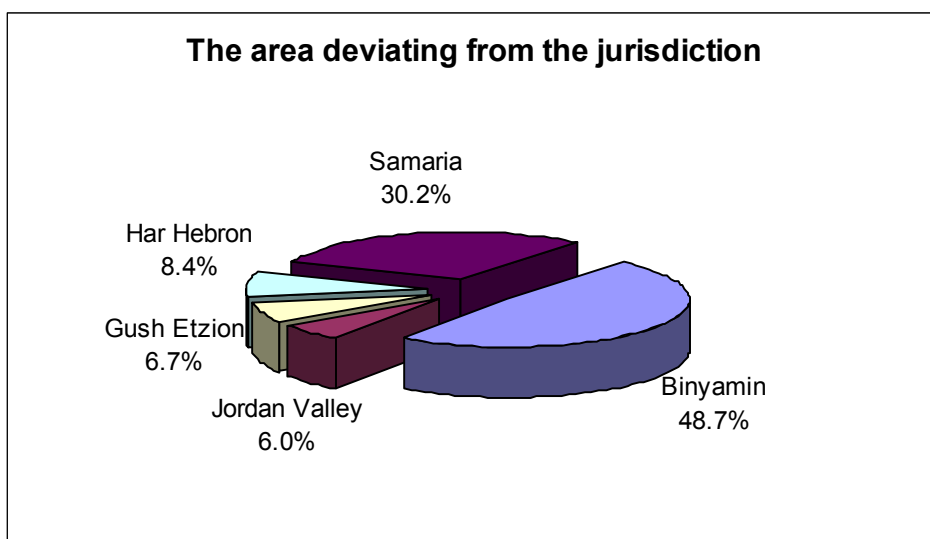
Region	Declared area of jurisdiction (dunams)	% of total
Jordan Valley	182,160.21	35.0%
Binyamin	122,865.51	23.6%
Samaria	111,049.63	21.4%
Gush Etzion	53,673.59	10.3%
Har Hebron	50,301.07	9.7%
<b>Total area of jurisdiction</b>	<b>520,050.00</b>	<b>100.0%</b>



**B. The area taken by settlements that is outside their areas of jurisdiction, by region:**

Region	Dunams outside the area of jurisdiction	% of total
Binyamin	23,256.37	48.7%
Samaria	14,430.21	30.2%
Har Hebron	4,003.29	8.4%
Gush Etzion	3,194.42	6.7%
Jordan Valley	2,878.04	6.0%
<b>Total area deviating from jurisdiction</b>	<b>47,762.32</b>	<b>100.0%</b>

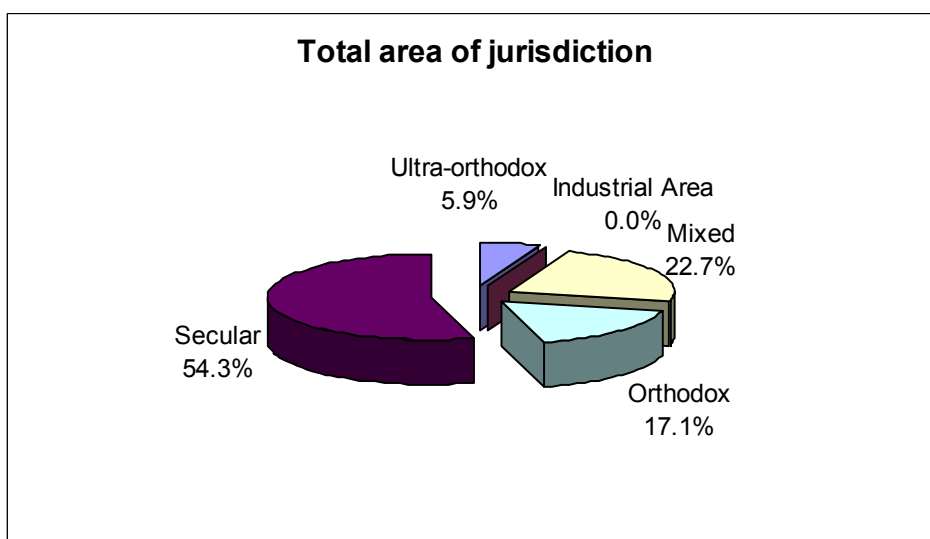




**Area of jurisdiction and the deviating area – according to type of settlement – orthodox, secular, ultra-orthodox or mixed**

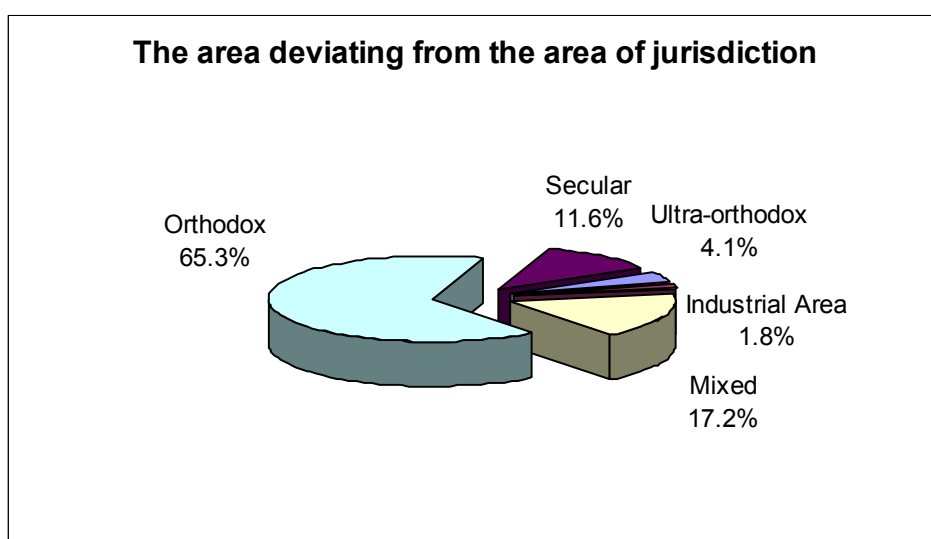
**A. Declared area of jurisdiction**

Settlement type	Declared area of jurisdiction (dunams)	% of total
Industrial zone	0.00	0.0%
Ultra-orthodox	30,701.66	5.9%
Orthodox	89,036.58	17.1%
Mixed	117,907.60	22.7%
Secular	282,404.16	54.3%
<b>Total area of jurisdiction</b>	<b>520,050.00</b>	<b>100.0%</b>



**B. Total area taken by settlements that is outside their areas of jurisdiction, by settlement type:**

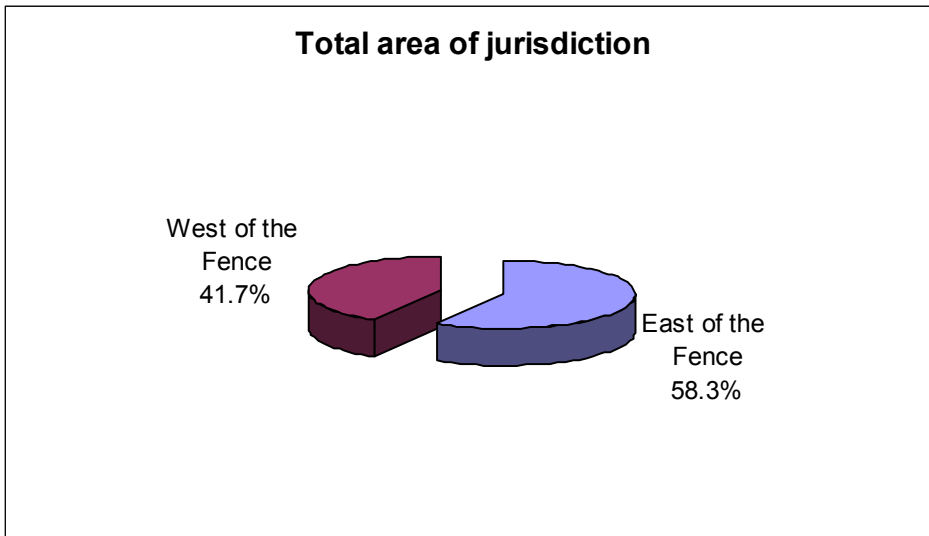
Settlement Type	Dunams outside the area of jurisdiction	%
Industrial zone	877.42	1.8%
Ultra-orthodox	1,963.94	4.1%
Secular	5,522.23	11.6%
Mixed	8,208.20	17.2%
Orthodox	31,190.55	65.3%
<b>Total area deviating from jurisdiction</b>	<b>47,762.32</b>	<b>100.0%</b>



**Area of jurisdiction and deviating area – in relation to the Separation Barrier**

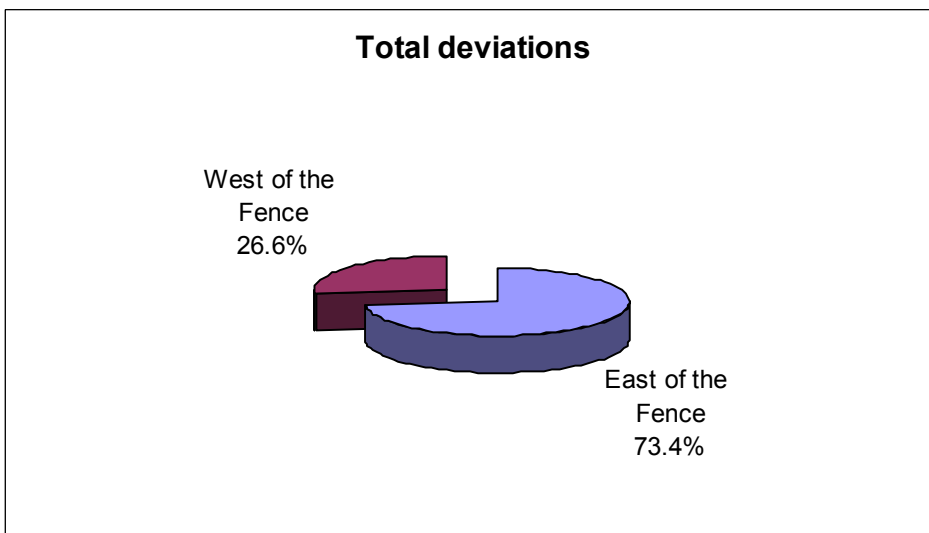
**A. Declared area of jurisdiction**

East/west of the Barrier	Declared area of jurisdiction (dunams)	% of total
West of the Barrier	217,091.25	41.7%
East of the Barrier	302,958.75	58.3%
<b>Total area of jurisdiction</b>	<b>520,050.00</b>	<b>100.0%</b>



**B. The total area taken by settlements outside the areas of jurisdiction, in relation to the separation barrier:**

East/west of the Barrier	Dunams outside the area of jurisdiction	% of total
West of the Barrier	12,711.40	26.6%
East of the Barrier	35,050.92	73.4%
<b>Total area deviating from jurisdiction</b>	<b>47,762.32</b>	<b>100.0%</b>



### Analysis of the Findings

- **Deviations from the area of jurisdiction** – the overwhelming majority of the settlements (90%) deviate from the area of jurisdiction which has been delineated for them. In fact, almost one-third of the total area of the settlements lies outside their official jurisdiction.
- **Actual use of the area of jurisdiction** – the built-up area of settlements accounts for only 9% of their total area of jurisdiction. The actual boundaries of the settlements (including the built-up areas) cover only 21% of the whole of their area of jurisdiction. Thus, it is clear that the deviations from the areas of jurisdiction do not derive from a land shortage in the settlements.
- **Construction beyond the areas of jurisdiction** – approximately one-third of the land upon which the settlements are actually situated is located outside the official areas of jurisdiction. The explanation for this phenomenon can be found in a desire to expropriate additional land that is beyond the official areas of jurisdiction of the settlements. All of this stems from the fact that while the areas of jurisdiction are, in any case, kept solely for use by Israelis (since the Civil Administration, the Army and the settlers do not permit Palestinians to use those areas), expropriation attempts by settlers are aimed at areas located outside the areas of jurisdiction, with the full knowledge that in fact, no one enforces the law against their actions. For a complete table showing the settlements according to the percentage of their use of the area, see: [http://www.peacenow.org.il/data/SIP\\_STORAGE/files/7/3197.xls](http://www.peacenow.org.il/data/SIP_STORAGE/files/7/3197.xls)
- **Expropriation of privately owned land** – over 10% of land included within the jurisdiction of the settlements is privately-owned by Palestinians, despite the fact that officially, the Order Regarding Regional Councils (discussed above), does not permit the inclusion of private land (with the exception of areas which were seized by the Army)<sup>27</sup> within the areas of jurisdiction of the settlements. On the other hand over 70% of the lands, which has been taken by settlements and are outside of their areas of jurisdiction, are privately owned.

This matter is, of course, directly related to the issue of enforcing the planning and construction laws in the Territories. It is a well known fact that today there are approximately 3,000 demolition orders pending against Israeli structures in the settlements; these are not being carried out because of a decision of the political echelon. Recently, Uri Blau<sup>28</sup> of *Ha'aretz* made public an internal memo by the Civil Administration regarding data of illegal construction and related law enforcement in Area C during the past decade. The document shows that despite the fact that Palestinians make up only about one-fourth of the population in this area,

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<sup>27</sup> Since the Civil Administration refuses, at this time, to make available official data with regard to the amount and location of land which was taken as a result of such military orders, we are unable, at this stage, to determine what portion of the identified private lands that are included within the areas of jurisdiction were taken in this manner, and whose inclusion within the areas of jurisdiction, according to the State of Israel, is therefore legal.

<sup>28</sup> <http://www.haaretz.co.il/hasite/pages/ShArtPE.jhtml?itemNo=867236&contrassID=2&subContrassID=21&sbSubContrassID=0> (Heb.)

the number of illegal structures that were identified by Israel on the Palestinian side was twice as large as the number of illegal structures identified in the settlements. Similarly, the number of demolitions carried out against Palestinian illegal construction was three times higher than the number of demolitions in the settlements. These data, coupled with the information analyzed in this study, point to two obvious conclusions: first, there is overzealous enforcement against the Palestinians at a time when, in fact, they are largely unable to build in Area C because they cannot receive the relevant permits from the Israeli authorities; and second, there is almost no enforcement against illegal construction by settlers even if they build beyond the areas of jurisdiction and even if the construction is carried out on land that is privately-owned Palestinian land.

- **Correlation between location of the settlements and deviations from the areas of jurisdiction** – there is an unmistakable correlation between deviations from the areas of jurisdiction and the region in which the settlements are located. Two Regional Councils together – Binyamin (49%) and Samaria (30%) - contain almost 80% of the total area which deviates from the areas of jurisdiction, despite the fact that 45% of the total areas of jurisdiction are located within the boundaries of these Regional Councils.
- **Correlation between the character of the settlements and deviation from the areas of jurisdiction** – there is an unmistakable correlation between construction beyond the areas of jurisdiction and the type of population residing in the settlement. 64% of all of the settlements' land that is outside the areas of jurisdiction is situated around national-religious/orthodox settlements (as contrasted with ultra-Orthodox settlements) whose population is characterized by an ideological dedication to the settlement project. In this context, one should perhaps point out that 14 of the settlements which have the highest percentage of such deviation are national-religious/orthodox settlements. This fact underscores that the phenomenon of deviating from areas of jurisdiction is unmistakably ideological.

For the full table of settlements according to the percentage of deviation, see: [http://www.peacenow.org.il/data/SIP\\_STORAGE/files/6/3196.xls](http://www.peacenow.org.il/data/SIP_STORAGE/files/6/3196.xls).

- **Correlation between the path of the security barrier and deviation from the areas of jurisdiction** – almost 75% of the area of the settlements that deviate from the area of jurisdiction is situated around settlements located east of the path of the security barrier. This fact, once again, underscores the link between this phenomenon and ideology, as well as the lack of action on the part of the system charged with enforcing the law. The data contained in this report correlates to the common wisdom that as a rule, the further away a settlement is from the Green Line, the more politically extreme is its population. In addition, the deeper one goes into the West Bank, the weaker the law enforcement system becomes until it turns into a very amorphous concept.

- Following is a list of very well-known settlements and the percentage of the settlement's land that is located beyond its area of jurisdiction:

<b>Name of Settlement</b>	<b>Area deviating from jurisdiction</b>
Alfei Menashe	10.8%
Efrata	11.2%
Beitar Illit	14.4%
Modi'in Illit	22.9%
Elkana	25.9%
Neve Daniel	27.3%
Kedumim	28.4%
Kriyat Arba	29%
Ariel	29.7%
Immanuel	31.5%
Giv'at Ze'ev	36.2%
Kochav Ya'akov	42.6%

### **Conclusions:**

Despite the fact that 40 years have passed since the birth of the settlement enterprise, and despite the fact that the State's perceptions of the project have undergone far-reaching changes at various periods, Israel's policy, as expressed on the ground, continues to promote, first and foremost, the interests of the hardcore ideologically-motivated right-wing settlers. The State of Israel continues to make use of a variety of planning and administrative tools, among them the delineation of areas of jurisdiction of the settlements, to reinforce its position in this project. It should be pointed out that these means intensify and complement each other. These means include:

- Halting land registration in 1967 so that Palestinians wishing to register their land in the Land Registry Bureau are faced with bureaucratic and financial obstacles which, in fact, prevent them from registering the land in their name;
- Declaring almost half of the land in the West Bank to be State land and only allocating it to Israelis;
- Defining areas of jurisdiction for settlements and settlement councils with no planning justification;
- Systematically and continuously not enforcing the law when it comes to illegal Israeli construction;
- Not providing construction permits to Palestinians in Area C (even if the land is registered to them);

- Effectively prohibiting, through overzealous enforcement (including expulsions and demolitions), any Palestinian use of even their own privately-owned land in Area C;
- Preventing Palestinian access to privately-owned land.

Often when attempts are made to describe the reality that prevails in the West Bank, the discussion focuses upon questions relating to the “rule of the law”, particularly with reference to the shortcomings of a system charged with enforcing the law with regard to Israeli citizens living on the West Bank. This report, which is the third in a series of reports issued by the “Settlements’ Watch” team (see, “One offense begets another” published in November 2006, and “Building settlements in Nature Reserves,” published in February 2007), seeks to paint an up-to-date picture of the relation between Israeli law and the deployment of the settlements. In doing so, we have shown that the main problem can be found in the continual failure by Israel to enforce the law when it comes to Israeli citizens in the West Bank. This failure to enforce the law has become, over time, one of the principal elements of a policy whose main goal is that of transferring the majority of the land reserves in the West Bank into the hands of Israeli citizens. All of this is done to prevent the establishment of an independent and viable Palestinian state alongside the State of Israel. It is difficult to see how the continuation of this policy can bring a better future for either of these two peoples.

Jerusalem, June 2007

**Annex - List of settlements and jurisdiction violations:**

[http://www.peacenow.org.il/data/SIP\\_STORAGE/files/3/3193.xls](http://www.peacenow.org.il/data/SIP_STORAGE/files/3/3193.xls)



[www.peacenow.org.il](http://www.peacenow.org.il)