

Unraveling the Mechanism behind Illegal Outposts

Settlement Watch 2017

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On April 27 2015 a cornerstone-laying ceremony took place for a neighborhood of permanent homes in the illegal outpost Kerem Re'im, west of Ramallah. The Israeli government neither planned nor approved of the outpost and the Ministry of Finance did not transferred funds to it. Nonetheless, the outpost contains dozens of mobile homes, intensive construction of permanent homes, an access road (passing through private Palestinian land), utility poles, and a water and sewage system - all illegal and under demolition orders. If all of this activity is illegal, how is a new settlement being established in the heart of the West Bank, against the government's position and in contravention of democratic decisions?

The present report attempts to answer this question. **This report exposes the fraudulent system set up by a handful of settlers enabling a small and organized group to create facts on the ground and impose its vision upon the State of Israel.**

During the cornerstone-laying ceremony for the permanent neighborhood in the Kerem Re'im illegal outpost, a "[foundation charter was presented](#)":

"We the undersigned pledge to try to do everything in our power to accelerate and push for the construction of the neighborhood and its communal, physical, public and private components, in the shortest time possible. This neighborhood will be, with God's providence, the first stage of the large settlement currently being established here in our forefathers' beloved land."

The document is signed by three people: The head of the Binyamin Regional Council, Avi Ro'eh; Secretary General of the Amana settlement movement, Ze'ev Hever ("Zambish"); and Housing Minister at the time, Uri Ariel. This document is an abridged version of the story of illegal construction in the settlements. The Head of the Binyamin Regional Council, who among other things is responsible for enforcing planning and construction laws in the Council's jurisdiction, is leading and participating in the formation of an illegal outpost. He is joined by the Secretary General of Amana—the settlement movement of Gush Emunim, and by the government's representative, the Minister of Housing. Each of these entities—local authorities, Amana and the government, as well as the Settlement Division in the World Zionist Organization – play a key role in the organized fraud that is promoting illegal settlements,

without any transparency or public debate, by taking advantage of public funds under the pretense of legality.



The illegal outpost of Kerem Re'im, November 2016

Key findings:

- **All stages of establishing illegal outposts:** from paving roads and placing mobile homes to the administration and finance of the illegal outpost.
- **Issuing illegal construction permits by regional councils:** These permits, referred to as “principle construction permits,” or “temporary construction permits” are meant to mislead a variety of different institutions, so that these are unable to tell that the construction is, in fact, illegal.
- **Transfers of funds for illegal construction through non-recurring expenses (NRE):** NREs are on-time transfers from local authorities to specific projects and are usually nontransparent. Peace Now has managed to uncover that in the years 2000 – 2014, the Binyamin municipality authorized the transfers of over 116 Million NIS to illegal outposts and illegal projects.
- **The accumulation of capital through Amana with the help of the Settlement Division, and on the expense of the state and the settlers:** The state grants the Settlement Division the authority to manage lands in the Occupied Territories. The Division then allocates lands to Amana for free. Amana builds, sometimes illegally, and sells homes to settlers in prices which embody the cost of the land. While the state does not receive any returns, Amana is making a fortune on the expense of the settlers.

- **The Settlement Division allocates lands which are not under its management:** Although the Settlement Division received enormous amounts of lands from the state throughout the West Bank, it allocates to settlers public lands that are not under its supervision. Not only that but the Settlement Division also allocates private lands owned by Palestinians (as in the example of the illegal outpost of Amona).
- **Amana acts as a strong settler lobby, a body that is “above the law,” despite many testimonies of illegal activity:** Amana acts as the unofficial representative of the settlers, and raises private funding as well as public resources for the benefit of the settlements. Despite many testimonies regarding vast illegal activity, Amana manages, time after time, to avoid prosecution and punishment.

Institutions Involved in the Establishment of Illegal Outposts:

<u>Settler Regional Councils</u>	<u>The Settlement Division</u>	<u>The Amana Organization</u>
Fund construction plans for illegal construction from governmental sources and additional sources	Provides documents granting rights to lands which are not under its management, including private Palestinian lands	Constructs and markets illegal homes while collecting enormous profits
Issue fictitious construction permits for infrastructure and housing units, which are required in order to connect to infrastructure networks and receive mortgages	Does not charge for lands it allocates, which the general public could have gained from	Raises government funding for its work
Pay for infrastructure, public buildings and services from taxpayers money	Grants budgets for illegal planning and construction	Charges “commission” from public institutions for lobbying services
		Lobbies the government for the retroactive legalization of illegal construction
		Receives tax deductible donations for illegal outposts through a non-profit it owns

And the government? Dragged by the settlers’ institutions, surrender to their pressure, retroactively legalizes, does not investigate or prosecute.

The Illegal Mechanism - Revealed

Step 1: Establishing a New Settlement? No Problem!

The method: Instead of a government decision regarding the establishment of a new settlement, the regional councils and the Amana organization establish new outposts on their own against the law.

- The regional municipalities choose a location deep in the west bank, place mobile homes and pave roads on their own and without a government decision.
- The Civil Administration's enforcement unit issues demolition orders but these are not implemented.
- The leaders of Amana (Ze'ev "Zambish" Hever and others), as well as Yesha Council leaders pressure the government so that the Civil Administration will not enforce its demolition orders and will not evacuate the outposts.

Step 2: Land Purchase? No need!

The method: Instead of purchasing rights to the land, the Settlement Division creates fictitious documents

- The Settlement Division of the World Zionist Organization, which received from the state the right to manage [the majority of the West Bank's public lands](#) ("state lands"), provides "rights" documents to the land (Authorization Certificate (in Hebrew: "[HOZE BAR RESHUT](#)"), even for [lands it does not manage](#) and even when the land is private land of Palestinians. While the document is fraudulent, the head of the government property in the Civil Administration does not supervise or check, as mentioned in the State Comptroller reports from [2013](#) and [2016](#).
- In some cases the Binyanei Bar Amana company, which belongs to the Amana movement, had mortgaged lands which didn't belong to her and got from the bank, in return, loans or guaranties. The report exposes documents where Ze'ev Hever (Zambish), the head of Amana, signed that Amana owns lands in [Amona](#) and in [Migron](#), although it is known that the land belongs to Palestinians.

**Step 3:
No approval for
the construction
plan? We will
make it work!**

The method: Instead of building based on an approved plan, the councils, the Settlement Division and Amana use plans that were not approved.

- In order to build in area C, the construction plan must get approved by the Minister of Defense and the High Planning Committee of the Civil Administration. Despite of that, the councils often begin construction based on plans that were not approved.
- The preparation of construction plans, which are a mandatory stage of every construction project, can cost hundreds of thousands of Shekels. The regional councils in the settlements usually fund these plans either through funds from the [Ministry of Housing](#), the Settlement Division or from [additional sources](#). The preparation of these plans are not considered as offenses, of course, but in many cases, these plans are used for illegal construction.

**Stage 4:
Construction
Permit? A
fictitious permit
will do!**

The method: Instead of receiving a legal construction permit from the local authority, the councils issue fictitious documents

- In order to promote illegal construction, local authorities issue [fictitious construction permits](#). These permits look exactly the same as legal permits, are signed by the head of the council, and through them, settlers can apply for a mortgage from the bank and connect to electricity and water networks.
- Law enforcement authorities consistently avoid prosecution of those responsible for issuing the fictitious permits, even in cases where a police investigation is in place. In the only case where the High Court intervened regarding this matter following Yesh Din's petition (on the approval of [a sewage treatment plant in Ofra](#)) the State Attorney's Office reached a deal with the council heads according to which there will be no conviction or criminal record, and the council heads should pay a fine of 2,000 NIS.

**Stage 5:
Funding
Infrastructure?
On your Expense
and without your
knowledge.**

The method: Instead of establishing and funding infrastructure (roads, sewage, electricity etc.) legally and in a transparent manner, the councils and the Settlement Division establish these illegally and fund them through public funds hidden through Non-Recurring Expenses (NREs).

- The regional councils and the Settlement Division fund infrastructure development, although all of it is illegal. One way for the councils to

transfer funds to illegal construction is through NREs which are usually nontransparent. The NREs budgets are used for the funding of infrastructure developments and construction and are granted by the councils and the approval of the Ministry of the Interior.

- It took a Peace Now freedom of information petition against the Binyamin regional council, for the council to publish its [list of NREs](#) between the years 2000 and 2014. From examining the list it seems that the council approved the transfer of [at least 116 million NIS to illegal sites](#) in settlements and illegal outposts.

The method: Instead of paying the state for the land, Amana receives the land for free from the Settlement Division and sells it to the settlers while making an enormous profit on the expense of the state and the settlers.

**Stage 6:
Expensive
House? Guess
who profits.**

- The Local Committee of the settlement chooses a contractor for the construction and marketing of a project. Usually the company chosen is Binyaney Bar Amana of the Amana organization.
- Amana uses the land it received for free from the Settlement Division as collateral for the bank, which allows it to raise the necessary funds for the construction of the house.
- The settlers receive rights to the land ("[Authorization Certificate](#)") from the Settlement Division and purchase from Amana only [construction services](#) from Amana. However, the price of these “construction services” reflects also the costs of the land (which Amana received for free).
- In this manner Amana makes a huge profit on the expense of the state, that did not receive any payment for the land, and on the expense of the settlers, who purchased lands which Amana did not pay for.

**Step 7:
And who will pay
for post-
construction
infrastructure
and public
services? Israeli
taxpayers, of
course.**

The method: The regional councils, the Settlement Division and Amana develop the illegal outposts and provide services paid for by the general Israeli public

- Similarly to the establishment of infrastructure for construction, the regional councils, the Settlement Division and Amana fund the post-construction infrastructure work in illegal outposts, although it is all illegal. Likewise, they fund the establishment of illegal public service buildings, such as kindergartens and synagogues without construction permits. The regional councils provide public services such as education, welfare, sanitation etc., and fund local committees and additional local institutions. Finally, the Settlement Division and Amana provide training in management to the new illegal output.

The treasurer of the illegal outpost of Kida (Binyamin Regional Council) on the outposts' funding:

"Usually Amana gives us something like one-third, the Council gives one-third, and the settlement itself has to provide one-third more."

A council member in the illegal outpost of Mitzpe Yair (Mount Hebron Regional Council):

"Once a donation is given, the Council often matches it shekel for shekel... someone here gave a donation to build a Mikveh for women, then Amana matched it and the Council matched it with money."

The method: Instead of fighting against these illegal actions, the government backs them through fund allocations and a tax deductible donations status

**Step 8:
Funding issues?
Never.**

- Amana operates as a strong lobby group for the settlers. It receives government funding for its activities and then pushes the government to retroactively legalize illegal outposts.
- Amana also fundraises through its non-profit organization, The Fund for Nurturing the Zionist Idea, for the purpose of construction and assistance to illegal outposts. This non-profit holds a status allowing it to receive tax-deductible donations (under section 46a of the income Tax Ordinance).

Secretary of the Dolev settlement (Binyamin Regional Council), December 2015:

"Zambish is a man with a lot of capabilities and a lot of connections. He is connected to most of the prime ministers and to the ministers of defense, he works in conjunction with them, with the most senior bodies. And it's in the stage of expansion [of settlements] that these things are done on the highest levels. Let's say that usually, the leadership of the settlement, any settlement, has a very difficult time reaching the high levels [...] Amana actually has these connections, Amana has the capability. And they actually help with settlement, that's Amana's goal, to help with settlement."

Step 9:
And the message to the settlers? Illegal activity will be backed by the government.

The method: Instead of implementing demolition orders, the Israeli government allows the illegal system to exist without law enforcement or prosecution.

- The government chooses to ignore the demolition orders and not to implement them.
- In many cases the government retroactively legalizes illegal outposts as "neighborhoods" of existing settlements, even when these are far from the settlement itself and are in fact an entirely separate entity.
- The message to the settlers is that no permit or approval are needed in advance, as construction will be retroactively legalized.

Step 10:
Where is the rule of law? It remains in Israel proper.

The Method: Even when there is an investigation, no indictment and no punishment are issued.

- Following complaints submitted by Peace Now and other organizations, police investigations exposed the method and the frauds of the settlers. As of today, no one was prosecuted and no major disciplinary measures were taken.
- Meanwhile, the Netanyahu Government continues to retroactively legalize illegal outposts and illegal construction, including ones established only recently.

The message of the government to the settlers is clear: Continue to create facts on the ground, to abuse taxpayers' money for illegal activity and to deceive the Israeli public, and we will not stand in your way, will not prosecute or sentence you, and eventually, we will legalize everything.

Israeli governments have allowed a small group of settlers determine Israel's future by setting the country's settlement policy through an organized fraud system

The regional councils in the settlements, the Settlement Division and the Amana organization manage to create the false pretense that their activities are initiated by the government, even when the government clearly decides not to establish a new settlement or not to approve planning in an existing settlement. Through this method approximately 100 new settlements (illegal outposts) were established throughout the West Bank since the mid 90s, as well as dozens of neighborhoods and illegal projects in existing settlements. Based on Peace Now's count, in 2015 alone about 15% of all construction in the settlement was done illegally.

[To read the full report click here.](#)