

From "Unraveling the Mechanism behind Illegal Outposts", by Peace Now, January 2017

1. The Settlement Division and its control of lands in the Occupied Territories

The Settlement Division of the World Zionist Organization is a non-governmental body vested with government functions and powers to act for the establishment and development of settlements. Consequently, the Division has operated for decades behind closed doors, unregulated and without transparency. After criticism from the Attorney General, the Knesset passed a law regulating its powers, applying some of the rules that pertain to government agencies. Still, it is an independent nongovernmental body and operates almost without supervision.

The State, through the Custodian of Government and Abandoned Property of the Civil Administration (a sort of branch of the Israel Lands Authority in the OPT), has allocated to the Settlement Division [approximately 60% of the state lands](#) allocated in the OPT (between 400,000 to 500,000 dunams). Only 40% of all allocated state lands were allocated to Government ministries and local authorities (such as the Ministry of Housing, Mekorot-Israel's water company, various public institutions.) There are also 1.27% of the public lands that were allocated for Palestinian purposes.

The Settlement Division has the authority to manage and register rights in lands allocated to it. Thus in most of the settlements, whoever wants to acquire rights on state lands, buy a house or cultivate agricultural land - has to sign an agreement with the Settlement Division called a "Bar Reshut" Agreement (Authorization Certificate) (see [example of a "Bar Reshut" contract](#) in Hebrew).

Within the State of Israel, any deal on state land requires, in principle, the approval of the Israel Lands Authority, which is in charge of managing state lands. But in the OPT the Custodian of Government and Abandoned Property does not deal with allocations and transactions conducted by the Settlement Division in public lands. Any real estate deal on state land that is unrelated to the Settlement Division undergoes rigorous approval and registration by the Custodian, but in the case of the Settlement Division, there is no supervision; the Custodian does not inspect **or even know** what the Settlement Division does in the lands allocated to it. The Custodian of Government and Abandoned Property does not even bother to receive payment for the land, and the Settlement Division continues to distribute them freely without any supervision, as shown below.

2. The Settlement Division allocates lands outside its jurisdiction to outposts and settlements

In a discussion within the Knesset's Constitution, Law and Justice Committee concerning the Regulation Law on November 28, 2016, Rabbi Frank from the illegal outpost of Amona said:

"I purchased a house in Amona, and received a mortgage for it from the Ministry of Housing. In purchasing the house, I received an Authorization Certificate, and I'm speaking of my good faith. This was my process."

This testimony raises suspicion that the Settlement Division had given the settler permission to settle in a land that never belonged to it, and apparently also gave him documents he needed in order to obtain a mortgage. If this is indeed true, this was not a one-time occurrence.

In 2007 construction began on [9 new houses](#) in the settlement of Ofra. Like most of the houses in Ofra, they were built on private Palestinian land. At the outset of construction, the Civil Administration issued demolition orders. Then, in 2008, the Settlement Division gave the settlers who wanted to buy the houses an "[Authorization Certificate](#)" contract for the land stating:

The settling body [the Settlement Division] informs the settlers, and the settlers receive permission as authorized users from the settling body, of the lot in the settlement whereupon a housing unit was or will be built by the residents within the time specified in this contract.

With these explicit words, the Division granted the settlers a "right" to settle the private land of Palestinians.

In addition, the Division provided the settlers with a [letter to the bank](#) enabling them to obtain a mortgage, with "a pledge for mortgage registration and agreement for collateral rights." Moreover, the settlers also possess [a contract with the Ofra Cooperative Association](#), which sold them the houses as if the land belonged to it. In this case, the landowners and Yesh Din submitted a [High Court petition to cease construction](#) and the Court ruled that the houses must be demolished by February 2017.

But Amona and Ofra are not the only cases: In the case of the **Givat Ulpana neighborhood in Beit El**, which was built on private land, it became clear during hearings held by the High Court hearings that the [Settlement Division gave settlers contracts entitling them to the land](#), and in the case of the **Mitzpe Kramim outpost**, also established on private Palestinian land, the settlers presented to the High Court the Authorization Certificates they received from the Settlement Division for lands that the Division never owned.

Not only private Palestinian lands were stolen with the help of the Settlement Division, but state lands as well. [Haaretz recently reported](#) that a project of 54 housing units in the **settlement of Beit Horon** was built on the basis of an Authorization Certificate given by the Settlement Division for land which is state-owned, but was never assigned to the division.

On November 3, 2002 Ze'ev Hever (Zambish) and Dov Markovitz, the heads of the Binyanei Bar Amana company, signed a mortgage agreement with the Tfahot bank, in which they mortgage their rights in lots number 2-21 in Amona, to guarantee a loan. As is well known the lots in Amona are registered in the name private Palestinian owners, but the representatives

of the Bar Amana company had no problem to [sign a document](#) declaring that the company is "the only owners of the property known as Ofra (Amana) lots 2-21".

They also signed a similar declaration on December 24, 2002, in a mortgage agreement with the Tfahot bank for [lots 1-15 in Migron](#), which also privately owned by Palestinians.

We do not know whether the heads of Amana got any document from the Settlement Division supporting their claim or on what bases they signed the declaration.

3. Expired authorizations, activity contrary to the purpose of authorization, and changes in land status

[The Spiegel Report](#), prepared by the Ministry of Defense for the Prime Minister to review the status of the settlements, contains a detailed list of permission-granting contracts given by the Custodian of Government Property in the Civil Administration to the Settlement Division in each settlement. In many cases, the authorization contracts had expired (e.g. in Itamar, Elon Moreh, Asfar, Beit El and others). Still, in some of these places settlers continued to use land for construction. In others, the Settlement Division gave authorization for residential and construction use, despite it only having the authority to grant permission for planning.

Another phenomenon was exposed in the [Report of the State Comptroller from 2016](#). In recent years, a "[Blue Line Team](#)" is operating in the Civil Administration to redraw the boundaries of state lands in the settlements, because the borders in most places turned out to be inaccurate. This means that areas mistakenly considered state lands, some of which had been allocated to the Settlement Division, are now considered private land that should not be used (other areas previously considered private likewise became state land, according to the redrawn boundaries). Despite the determination of private land status, the Settlement Division continues to act as if it owns the lands by granting new Authorization Certificates to settlers, who do not know this is private land. In the words of the State Comptroller: **"It thus turns out that residential buildings are built on lands removed from the jurisdiction, i.e. on private lands ... without the Civil Administration's awareness or ability to prevent it"** ([Comptroller's Report 66B](#), p. 123).

In other words, the Custodian of Government and Abandoned Property in the Civil Administration, which is responsible for all state lands in the OPT, does not inspect or work to prevent the Division from illegally allocating lands. The Civil Administration's response regarding these issues is that it does not have enough manpower to handle the matter.

4. Not charging money for the land

Anyone who has purchased a house or apartment in Israel knows the section in the purchase contract called "leasing fee." In instances of state land, which is typically administered by the Israel Land Authority, the state charges the buyers hundreds of thousands of shekels for the land, depending on its value. But the situation in the settlements is different. Without any government decision or approval, the Settlement Division simply does not charge money for land. According to the [State Comptroller's report from 2013](#), the resulting loss of funds is

estimated at hundreds of millions of shekels (This system enables **Amana** to make quite a bit of money, as described below).

In a conversation we had with an **Amana marketing agent** for home purchases in settlements in December 2015, she explained:

"You do not pay a leasing fee on the land, you pay for handling the matter, I think it's 1000-something shekels. You do not pay any further amounts, you do not have to pay more money for the land... we're not talking about the State of Israel, we're talking beyond the Green Line. Beyond the Green Line there are different rules ... the land belongs to the State of Israel, to the World Zionist Organization, and it basically leases the land to you. You do not pay money for this lease. "

In a conversation **with Moshe Hassan, supervisor of contracts and securities in the Settlement Division**, we asked what payments must be made besides payment on the apartment itself:

"With us you do not pay anything. No lease fees. You only have an Authorization Certificate, and you do not pay us a dime. You pay us for registration, either 550 or 1100 NIS depending on the situation, but other than that you do not pay us anything."

5. The State does not supervise or even know what the Settlement Division does

The problems associated with the independent system run by the Settlement Division for the management of land are well known to the relevant parties, and were even mentioned in the [State Comptroller's audit reports](#). But it seems that this situation is very convenient for all involved, and that they prefer to ignore and allow the continued lawlessness.

One of the recommendations of the [Sasson Report](#) from 2005 was to cancel all land allocations made to the Settlement Division that had not yet been used, and return them to the direct management of the Custodian of Government and Abandoned Property in the OPT. The government adopted the conclusions of the report, but also immediately dissolved them with the establishment of a ministerial committee to implement the report. It goes without saying that the Division continues to treat the lands as its own property unabated.

Deputy Attorney General Dina Zilber recently attempted to challenge the phenomenon. A [summary of the discussion](#) held with the Deputy Attorney General on April 18, 2015, which was attended by representatives of many offices, raised the problems in all their severity:

- **The picture that emerged in the discussion is that over the years the Settlement Division has been allocated hundreds of thousands of dunam of land (the order of 400,000 to 500,000 dunam), rights to which the Settlement Division passed in whole or in part to third parties. All this occurred without the Custodian's knowledge of the amount of lands whereupon rights were transferred; the nature of the rights transferred; the conditions for their transfer; the existence or absence of compensation for the transfer of rights; the identity of the parties**

to whom the rights were transferred; or the management of registering those rights.

- **The complete absence of monitoring mechanisms by the Civil Administration and the Custodian on the actions of the Settlement Division.**
- **The lack of a collection system of user fees and leasing fees in respect of the rights assigned and transferred in the land to the Division and from the Division to third parties.**
- **There are cases where rights were transferred by the Settlement Division to third parties, although at the outset it was not possible to transfer rights to those lands for various reasons: the rights were given to lands not allocated to the Division; land were privately owned by Palestinians; land were not under the responsibility of the Custodian; land was deducted from the Blue Line and so on.**

During 2015, a construction company filed a High Court petition (HCJ 8261/15 MI Shaham vs. the World Zionist Organization and others) to cancel the allocations given to the Settlement Division and to address the issue once and for all. In response the State announced that the Prime Minister established "a commission to examine the management of state land in the rural sector in the West Bank," composed of Director Generals of the Prime Minister's Office and the Ministry of Agriculture, the settlement consultant to the Defense Minister, the head of the Budget Division, the Director of the Israel Land Authority, and the Coordinator of Government Affairs in the OPT (as an observer). [In the appointment letter of the Prime Minister in February 2016](#), the commission was given six months to make recommendations, but as of this writing, the commission has not yet completed its work, and the High Court granted the state's extension requests, the last of which was granted in January 2017.