

Unraveling the Mechanism behind Illegal Outposts

Settlement Watch, Peace Now, 2017

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Table of Contents:

Step 1—Establishing a New Settlement

Step 2—Acquiring Rights to the Land

Step 3— Plan is approved by Official Institutions

Step 4—Issuing a Construction Permit

Step 5— Laying down Infrastructure

Step 6—Selling the Houses to Settlers

Step 7- Daily Maintenance and Development of Outposts

Step 8 - Sources of Financing and Government Assistance through Amana

Step 9 – Retroactive Legalization by The Government

Step 10- No Rule of Law in The Settlements

Summary



Kerem Re'im Illegal outpost, November 2016

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 transfer 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 of 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.

Step 1—Establishing a New Settlement

- **Creating facts on the ground (a new road, mobile homes, etc.)**
- **Issuing of demolition orders by the Inspection Unit of the Civil Administration**
- **Lobbying by Amana leaders, Yesha Council officials, rabbis and MKs to pressure the government and the Civil Administration to refrain from enforcement and eviction.**

On November 22, 1992 the Rabin government decided to [stop building new settlements](#) and cease construction in existing ones. The Netanyahu government following Rabin's assassination decided to reverse the decision and allow the continued expansion of settlements. It determined on August 2, 1996 that new settlements can be established but only by explicit government decision, and that construction in existing settlements must be approved by the Minister of Defense:

"Matters of policy including those pertaining to settlement, road-building, and proposals for new settlements, will be brought to discussion and decision by the government" (Government Resolution 150 from August 2, 1996).

This decision is still in force, and according to the present situation, all new settlement construction carried out without explicit government decision is illegal.

But immediately following the government's decision, the illegal outpost phenomenon began to flourish: since 1996, about 100 new settlements were established throughout the West Bank, all without prior democratic processes or formal government decision.

Applying political pressure to avoid enforcement and eviction

While outposts are established without formal government decision, they are nevertheless a result of a certain level of coordination and informal approval by various factors in the system. In many cases when the regulatory authorities in the Civil Administration sought to enforce the law and evacuate an outpost, pressure by settler leaders on the political leadership led to the cessation of enforcement, and enabled construction (e.g. [a story in "Hamakor" Channel 10, from December 20, 2016](#) revealed that authorities' law enforcement against the construction of the

road to Amona was prevented). Officers who served in the Civil Administration attested to phone calls from the political leadership to stop enforcement actions. The situation has reached the point that almost all law enforcement activities regarding the settlements must be [approved by the political leadership](#), and the government generally prefers to avoid a political confrontation with the settlers and stops the evictions.

Step 2—Acquiring Rights to the Land

- **The Settlement Division of the World Zionist Organization provides fictitious documents of "rights" to land**
- **The Custodian of Government and Abandoned Property in the Civil Administration makes no inspection or inquiry**

The precondition for any construction or use of land is possessing rights to the land in the form of ownership, lease, or proof of permission from the rightful owners. In cases where settlers have no land rights (e.g. to state lands or private lands of Palestinians) the Settlement Division of the World Zionist Organization comes to their aid and provides a false certificate stating that they have been given permission to use the land. Peace Now has learned of several cases where the Settlement Division issued contracts and certificates showing rights to lands that it had not even managed, as shown below.

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 (Amona) 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.

6. Illegal allocation of land by the Regional Council and the Civil Administration

In recent years a beautiful integration project for people with disabilities has been set up in the Gva'ot settlement (set up as a military outpost that has been populated with citizens since but to this day lacks an official town planning scheme). The following information shows that in the process of establishing an educational institution in Gva'ot, the Civil Administration assisted in the setting up of the illegal project.

In the [discussion of the Allocations Committee](#) of the Gush Etzion Regional Council on January 21, 2014 the Council approved the allocation of land for the association "Shiluv b'Emunah" for the purpose of establishing a special education institution. During the discussion it became clear that the Council received "**permission for temporary use for five years**" from the Custodian of Government and Abandoned Property of the Civil Administration. "After approval of the TPS (Town Plan Scheme) the permission is supposed to be replaced by a lease agreement".

It would seem that this permission for temporary use is illegal, because the Custodian of Government Property knows that the use of the land for construction of an educational institution would be illegal because there is no valid TPS.

It is worth noting that the information obtained by Peace Now shows that this kind of temporary authorization was granted recently, probably also to one of the pre-military academies in the **illegal outpost of Givat Granit** (Hill 468) near the settlement of Nofei Prat.

Step 3— Plan is approved by Official Institutions

- **The regional council prepares a construction plan, usually funded by the government**
- **If there is no valid certificate, construction proceeds anyway**

The preparation of a building plan is a very important step in the establishment of any construction project. The cost of preparing the plans and seeing them throughout the approval process may reach hundreds of thousands of shekels. Most of the construction plans for the OPT (in 90 settlements that are not managed by the Ministry of Housing) are initiated by the regional councils, by Amana, or by the Settlement Division. It is not always possible to know the source of funding of these plans, but we know of cases where the funding came from the regional council, the Ministry of Housing or the Settlement Division.

1. Council Funding - In the non-recurring expenses (NRE) list of the Binyamin Regional Council (see details below), which was made public following a petition by Peace Now, about 33 million NIS were approved by the Council for various planning projects between 2000 and 2014. Among these projects are also illegal planning projects of residential or public buildings in illegal outposts and settlements, but the financial source of each non-recurring expense is unlisted. For example, under the "urban planning scheme for settlements" clause, which is apparently a code name for illegal outposts, 1.3 million NIS were approved in 2011 and 1.5 million NIS in 2012. In November 2014 the Council approved a budget of 150,000 NIS for planning daycare centers in five illegal outposts ([See below for detailed analysis of the Binyamin Regional Council's budgets](#)).

2. Financing by the Ministry of Housing - Following a petition by Peace Now under the Freedom of Information Act, the Ministry of Housing provided a list of [all of its investments in the settlements](#). Among other things, it turned out that the Ministry has approved funding for plans in illegal outposts where illegal construction has already occurred, such as Zayit Ra'anana, Nahalei Tal (Kerem Re'im), Brosh (Bitronot), Givat Salit, Mitzpe Dani, Bnei Adam and Ibei Hanahal.

3. Financing by the Settlement Division - It is not always possible to easily track expenses of the Settlement Division in the OPT, although it allegedly is committed to transparency in financial matters. Partial information in our possession indicates the Division's involvement in the financing of planning, even in cases of illegal construction. A [partial list of non-recurring expenses \(NRE\)](#) of the Mount Hebron Regional Council obtained by Peace Now contains a "town planning scheme and measurements in the settlements" clause (apparently a code name for illegal outposts) for a total of 1 million shekels. The source for this NRE is a half million from the Settlement Division and a half million from the Council's development fund.

In a [Settlement Division exemption from tender document from July 2, 2012](#) the Division seeks to pay an architect to prepare a plan for the Givat Salit outpost (62,000 NIS in addition to 52,000 NIS already paid to him).

It should be noted that the design of a town planning scheme itself is not an illegal act, and is a prerequisite for legal construction, however these plans are often used for construction without their legal approval.

The plans prepared by the regional councils, Amana and the Settlement Division are submitted for approval by the authorized officials in the Higher Council for Planning in the Civil Administration. The Higher Council for Planning discusses plans only after the prior approval of the Minister of Defense. It turns out that even when the government decides not to approve the plan, settlers still built according to the non-certified plan, and ignored the government's democratic decision. The government for its part helps the settlers by retroactively legalizing the illegal construction in many cases. For example, **since 2011 the illegal construction of at least 1,700 housing units was retroactively legalized** ([for retroactive approval of the government see further below](#)).

Step 4—Issuing a Construction Permit

- **The regional councils issue fictitious construction permits whereby infrastructure is connected and mortgages are obtained**
- **Law enforcement agencies ignore and do not prosecute those responsible for illegal activity**

The regional councils in the OPT use unapproved and invalid plans and issue fake construction permits. They operate without authority and provide support and assistance to illegal activities. They also mislead the settlers themselves and give them the feeling that the construction is legal.

1. Binyamin Regional Council

In a police investigation following a complaint by Peace Now against illegal construction by Amana, the Police Central Unit investigators of Judea and Samaria investigated four illegal houses built on

private Palestinian land in the settlement of Psagot. In the inquiry, the investigators revealed that the Binyamin Regional Council issued [construction permits](#) for the housing units, signed by the head of the council Pinchas Wallerstein, which look like official and valid construction permits. The Council calls them "principle permits."

One of the officers sought to understand the point of issuing an illegal construction permit, and [he writes](#):

"Today at 13:10 or so, I spoke with the Binyamin Regional Council engineer ... regarding my question: "Why give approval by the Council if there is no construction permit?" He responded: "To get a mortgage."

That is, the organized system of issuing fictitious construction permits is designed to help settlers to obtain a mortgage on illegal homes, and in some cases on illegal homes built on private Palestinian land. The fictitious construction permit also enables connection to infrastructure (electricity, water, sewage), all the while misleading the various authorities.

[illegible]

"Construction permit" for an illegal house on private Palestinian land in Psagot

The Head of the Binyamin Regional Council at the time, Pinhas Wallerstein, was questioned under warning on this matter, and said during his interrogation:

"Regarding the approval in principle, we usually explain what is required for it to become permanent... and for example: the entire southern neighborhood in Ma'ale Michmash was approved in principle, and over time, with the completion of any outstanding requirements they were immediately issued legal permit."

When Wallerstein was asked about a specific permit granted to the illegal houses in Psagot he said: **"I turn your attention to the bold writing, "subject to the approval of the commissioner for granting permits in the West Bank."**

Indeed, looking at the fine print of the [construction permit](#) we find the phrase "subject to the approval of the commissioner for granting permits in the West Bank." For Wallerstein, this phrase at the edge of the document, signed by the head of the Council and bearing its stamp, suffices to make it appear like a legitimate permit. He is almost proud of this procedure and does not hide it, and indicates that an entire neighborhood was built in this way.

The illegal permits enable the development of new settlements and illegal outposts, and give the settlers a sense that the building is legal or at least "permitted." In a conversation we had with the secretary of the illegal outpost Givat Harel in December 2015, she says:

"The construction here as of today involves the Council and has the Council's certificates and everything. The settlement is not yet defined as legal, we do not have a settlement emblem... Whoever builds here and gets a parcel number, is recognized in the Council, and the settlement is run very much according to the Council's building regulations."

2. Mount Hebron Regional Council and Shomron Regional Council

The websites of the Mount Hebron and Shomron regional councils contain some information on the construction permits that are brought before the local committee for planning and construction. There is a general description of the application (application number, location and the nature of the application), but access to the application documents is restricted to interested parties through a secret code. The scant details from these websites indicate that the method of granting illegal construction permits also pertains to these local authorities:

תוצאות חיפוש רישוי בניה
עמוד זה מציג את תוצאות הבקשות לרישוי בניה שנמצאו על פי נתוני החיפוש
אותו 160 בקשות (למעבר לעמוד פרטי הבקשה יש ללחוץ על החץ מעד ימין)

מספר בקשה	מספר תיק בניין	סטטוס	כתובת	מקרקעין	שם המבקש	תיאור הבקשה
2015014	7011470	מאושר	עתיאל, 1147	מגרש: 1147 תוכנית: 512/2	דמרי חמר	בניה חדשה
2015005	7001100	מאושר	עתיאל, 110	מגרש: 110 תוכנית: 512	גאמן איריס	הוספת למבנה קיים
2015004	7000781	מאושר	עתיאל, 78 כניסה 1	חלקה: 1, מגרש: 78 תוכנית: 512	פאסי מתת	הוספת למבנה קיים
2015001	7001520	פעיל	עתיאל, 152	מגרש: 152, תוכנית: 512/2	דורון עודד	הוספת למבנה קיים
2014161	7010000	פעיל	עתיאל, 1000	מגרש: 1126 תוכנית: 512/2	אמיר ישיעונית עתיאל	עבודות עפר ותשתיות

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"Construction permit in principle" - In the website of the Mount Hebron Regional Council, for example, there are [construction permits](#) with "approved" status according to a construction plan No. 512/2 in Otniel. This plan was never approved. The Council calls it "an application in principle" for a construction permit.

On the **Shomron Regional Council** website for example, there are 47 applications for permits in the illegal outpost "Nofei Nehemia"; mostly according to TPS No. 107/1 which is not valid ([see here for example](#)). (Plans whose number is 107 are generally for the Elon Moreh settlement. This plan number appears in other applications for illegal construction permits, and is apparently used along with other plans as a type of "Joker card" - a plan number entered in the system to give it the guise of legality). Another example is the settlement Rehelim. In the permits system of the Council's website there are 185 applications for permits under Plan 171 prepared for Rehelim (the plan is invalid), and under other plans that are not valid such as Plan 107/1 above whose connection to Rehelim is unclear. In the settlement of Yitzhar, for instance, there are [permit requests according to TPS 169/1](#) that deals with Yitzhar but is not valid, as well as according to other unrelated plans.

3. Gush Etzion Regional Council - "contingent construction permit"

The minutes of the Special Committee for Planning and Construction of the Gush Etzion Regional Council, show a number of cases in which the Committee approved a construction permit where there was no plan in force. The title chosen for the fictitious construction permit was "contingent permit."

For example, according to the [minutes of the Committee from 28/8/14](#), the Committee approved the following request:

"Nature of application: building a new single-family house, subject to the approval of a new town plan, 411/1/2/1 that has not yet been approved."

"Decisions: ... a contingent construction permit will be granted."

4. Jordan Valley Regional Council

The phenomenon of illegal permits also occurs in the Jordan Valley Regional Council. On December 31, 2015, the Higher Council for Planning of the Civil Administration convened to discuss the approval of a construction plan for the settlement Hemdat, established illegally and without a valid TPS. The plan (TPS No. 304) is designed to retroactively legalize the illegal construction site. [During the discussion](#), the Jordan Valley Council engineer asked:

Assistant to the Legal Advisor: Why did the construction begin?

Council engineer: I don't know. The state built. [...]

Assistant to the Legal Advisor: What enforcement proceedings have been taken?

Council engineer: I don't know. On behalf of the Council I have no knowledge.

Were any permits issued?

Council engineer: Yes, for buildings. The Council and the Civil Administration signed them [Later in the debate it is claimed that the Ministry of Housing issued permits].

Towards the end of the discussion the Assistant to the Civil Administration's Legal Advisor suggested "to include a note in the decision stating that this committee takes a grave view of the fact that illegal construction occurred for many years with no enforcement proceedings taken, **moreover, as we learned today, the Special Committee for Planning and Construction [of the Jordan Valley Regional Council] acted illegally while issuing documents in the guise of permits, without any authority and with illegal backing**" (emphasis added).

5. Investigations are closed with no prosecutions

In only a few cases was a criminal investigation opened in connection with illegal construction in the settlements, and it was solely after complaints and petitions to the High Court of Justice by Peace Now and [Yesh Din](#). In all cases so far in which illegal construction permits were discovered, the case was closed for one reason or another and the appeals to the case's closure were rejected.

Exceptional in this regard is the case of the construction of a sewage treatment plant on private Palestinian land for the settlement of Ofra. The landowners together [with Yesh Din appealed](#) the High Court of Justice to prosecute the leaders of the Council (Avi Ro'eh and Pinchas Wallerstein) who granted the illegal permits (HCJ 8088/14 **Najah Mubarak Musa Farhat vs. the Attorney General**). Due to pressure from the High Court, the state was forced to act and announced that it has reached a settlement with the Council leaders under which they will admit to the act, pay 2000 NIS, and no action will be taken against them nor will they have a criminal record.

As far as we know, this is the only case in which any proceedings were taken against heads of councils that systematically issue illegal construction permits, and that enable a steady expansion

of settlements contrary to the decisions of the elected government. Presumably the "punishment" set in this case will not deter the mayors from continuing with this method.

Step 5— Laying down Infrastructure

- **The Regional Councils and the Settlement Division fund illegal projects with taxpayers' money**

Regional councils refer to the illegal outposts as regular settlements in every sense, as can be seen in the list of settlements on their websites. The councils illegally fund the outposts and transfer funds both for their construction and for their management, while attempting to hide the real aims of the funds. Alongside the Regional Councils, the Settlement Division and the Amana movement also are partners to this financing.

In the past, funds came directly from government ministries, especially the Ministry of Housing, including for illegal activities in the outposts, but this almost completely stopped following the [State Comptroller's Report](#) from 2004 and the [Sasson report](#) in March 2005.

1. Conversations with officials in the outposts

In our talks with several officials in the outposts, they described how regional councils, together with the Amana movement and the Settlement Division, help finance the infrastructure and maintenance of the outposts, and how they mask the budgeting for them in budgets intended for legal settlements:

An Absorption Coordinator in Givat Harel outpost (Binyamin Regional Council) said on December 2015: "The Council receives funding for major settlements, takes a bit from them and transfers it to us."

"We're under the emblem of the settlement of Shiloh, but it [Givat Harel] stands alone in all respects: I get funding from the Council, we have a secretariat, we have a secretary, there is an office and everything. There is even a schedule of group classes. We are a completely independent settlement ... there is an access road to the settlement, the Council now provides some money to expand it a bit. ...

If I compare it to Shiloh - Shiloh receives [funds] from the Ministry of Agriculture and the Ministry of Housing, from all kinds of bodies, because it is a well-known settlement with an emblem. Me, the only money I can get is in the form of aid from the Council or from Amana, which are now for example helping me with the club, or they helped me with the access road to the settlement.

... The Council does receive budgets, and it plays with them. It says okay, Shilo, Kokhav HaShahar, big settlements, we take a little bit from them and give to the younger

localities that are not budgeted. That way they help us with the club, and they help us with the access road, and they help us a bit with the management.

... Until we get a valid TPS, and until we are recognized, we cannot get budgets from them. Today it is only through the Council. The Council helps us try to get funding through Shiloh, through other settlements that are valid.

The Treasurer of Kida outpost (Binyamin Regional Council) said on December 2015:

"Usually Amana give us about one-third, the Council gives one-third, and the settlement itself needs to provide another one-third."

A member of the secretariat in the illegal outpost Mitzpe Yair (Hebron Regional Council) said on January 2016:

"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."

An absorption coordinator in the Mevo'ot Yericho outpost (Jordan Valley Regional Council) said on January 2016:

"For setting up the plots, all the infrastructure of these plots, electricity, water, sewage, the architecture from the Council, these are things that they do finance."

An absorption coordinator in the Mitzpe Dani outpost (Binyamin Regional Council) said on January 2016:

"We never received funding directly from the state. If we get [funding] it is from the Binyamin Regional Council and from the Amana settler movement ... Now Amana and the Council began a project to build a basketball court."

A financial official in the Nofei Nehemia outpost (Shomron Regional Council) said on January 2016: "The Council has unmarked budgets that it can transfer to us"

"There is a group of settlements in Judea and Samaria that were established with approval by the state, but because of all sorts of political reasons, specifically related to the US, there is no valid TPS. The Council is indeed providing funding, it agrees to build, but the Civil Administration does not agree. Then what happens is that there is no budget from the government. That means [that for] the day care center, we need to raise the money only from the settlement institutions, such as the Settlement Division, the Council and donors, and there is no funding from the state. ... The Council has its unmarked budgets that it can transfer to us as in the case of the Mikveh and synagogue."

The Secretary of Asa'el outpost (Regional Council of South Mount Hebron) said in January 2016:
"Usually the main division is the infrastructure that the Council provides, and Amana brings the mobile homes."

This settlement is not yet officially recognized...so now it cannot get resources from the state. So everything that it does is actually based on donations and from aid by various bodies like Amana, the Council, and private entities... The Council has invested half a million shekels in infrastructure and no one funded it for that ... generally speaking, the division is usually that the Council supplies the infrastructure, and Amana brings the mobile homes.

2. Non-recurring expenses (NREs)

The non-recurring expense (NRE) budget is a budget that is not part of the continuous annual budget of the local authority, and is usually intended for one-off projects of development, construction or other investments. The NRE budget is run as a closed system of income and expenditure, and is subject to the approval of the local authority and of the Ministry of the Interior.

If there was full transparency of the NRE lists, and if their goals were fully specified, then it would be possible to examine to what extent the councils are investing in the development and maintenance of unauthorized outposts. Unfortunately we can only learn about them partially from council meeting minutes and from other evidence.

A. Non-recurring expenses of the Gush Etzion Regional Council: "Neighborhood development" = outpost development

The Gush Etzion Regional Council has a non-recurring expense (NRE) called "neighborhood development." A [protocol from July 27, 2015](#) discloses, perhaps unintentionally, the meaning of the budget, as treasurer of the Council explains:

"There are two new NREs: 1. **The development of neighborhoods (works in outposts)** - We have an increase in the running budget for that..."

The true meaning of the term "neighborhood development" is development work in outposts, explains the treasurer. In this way the council seeks to conceal the illegal budget. Similar articles are also found in the NRE lists of the Binyamin Regional Council, as detailed below.

B. The Binyamin Regional Council

Following an appeal under the Freedom of Information Act filed by Peace Now against the Binyamin Regional Council, the Council published [its NRE list](#) from 2000 to 2014. The list shows that the Council is deeply involved in funding illegal settlements and illegal construction.

It should be noted that in terms of the projects' legality, **the list conceals more than it reveals**. The NRE list does not detail the nature and exact location of the project, and it is thus not possible to determine with certainty whether the project is legal or not. Likewise the list does not indicate the financial source of each of the NREs. Still, the list shows that:

- **At least 11% of the NREs approved by the Council is for illegal settlements and outposts** - out of 1104 NREs approved by the Council from 2000 until 2014, the aggregate amount is of one billion and 78 million NIS (1,078,150,102 NIS), at least 156 NREs in the amount of 116,763,584 NIS (10.8%) are for activities in illegal sites. Out of this 110,172,089 NIS is for construction and the rest for other activities. This is the amount approved by the council; **apparently the actual amount spent is much lower**.
- **Many NREs do not list the name of the settlement**. Sometimes projects are undertaken in several different settlements, and sometimes the location is not listed. For example: NREs such as "road maintenance," tourism," "youth clubs" and "visitors center"- do not specify the name of the settlement or settlements where projects are supposed to be implemented and there is no way to know if they are legal or not.
- **Concealment of outposts as "neighborhoods" in existing settlements** - almost every illegal outpost has a name of a legal settlement at the Council, such that the outpost is commonly called a "neighborhood" of existing settlements (e.g. Migron in Michmash; Ahiyah in Shiloh; Zayit Ra'anana in Neriya; Mitzpe Hagit in Kfar Adumim, etc.).
- **In the vast majority of NRE lists, the name of the settlement is noted without specifying the neighborhood** or exact location of the project, and therefore it is impossible to know whether and to what extent there is funding for outposts or illegal construction. It should be noted that in the five years from 2000 to 2004 48 NREs appeared that indicate alongside the name of a formal settlement, the name of an outpost for which the NRE is intended (for a total of 21,047,500 NIS). In 2004, the [State Comptroller issued a report](#) on the illegal funding for outposts and was followed by the [Sasson Report](#) on outposts and the Attorney General's provision prohibiting government agencies from funding illegal construction. Possibly as a result, in the decade between 2005 and 2014 only 14 NREs appeared with the explicit name of the outpost (totaling 4,709,691 NIS).
- An exception is the outpost of **Shvut Rachel** which the Council treats as a regular settlement. The Council approved 21 NREs in it (13 of them after 2004), for the total amount of 10,981,146 NIS. The outpost was established in the early 1990s, and 93 permanent (illegal) structures were built in it by the Ministry of Housing. Following a petition by Peace Now against the new construction that began in Shvut Rachel in 2009, the Defense Minister approved the promotion of a TPS for the outpost, and in 2015 a TPS was approved for the existing homes only. Shvut Rachel has been officially recognized as a neighborhood of Shilo settlement, but in practice it functions as an independent settlement in every respect.

• **An example of illegal Non-Recurring Expenses:**

Non-recurring Expense Name	NRE Budget (NIS)	Approval date	Settlement	Comments
Planning daycare mobile structures (M.Dani + Haresha + G.Har'el + K.Re'im + Kida)	150,000	11/11/2014	Several outposts	Mitzpeh Dani, Kerem Re'im, Kida, Haresha, Givat Har'el - All these settlements are illegal outposts
Ofra-Assaf Neighborhood-mikveh renovation	90,000	11/11/2014	Mitzpeh Assaf	Apparently the outpost of Givat Assaf - on private Palestinian land
Bike and singlebikes paths in Benjamin region	3,567,800	22/07/2014	Several	Recently bike paths were created in the Binyamin region in part on private Palestinian land (in the areas of Talmon, Shiloh, Kokhav HaShahar, Eli and more). Demolition orders were issued for some.
Ofra-wastewater facility	7,985,823	22/07/2014	Ofra	Ofra settlement has no valid TPS and every construction there is illegal
Ofra-Setting up a camera in Mitzpe Assaf	269,605	01/04/2014	Mitzpeh Asaf	Apparently the outpost of Givat Assaf - on private Palestinian land
Shiloh E-playground facilities	236,000	31/12/2013	Shiloh E	Shilo E is an illegal outpost (apparently Kida)
Hagiborim Junction—building for memorial and community center	700,000	27/08/2013	British police station	The center at Hagiborim Junction is an illegal outpost on private land
Eli—infrastructure development	1,024,154	05/02/2013	Eli	The settlement of Eli has no valid TPS therefore any construction there is illegal
Talmon-Nahalei Tal Road Upgrade	245,700	08/01/2013	Kerem Re'im	Kerem Re'im (Nahalei Tal) is an illegal outpost. The road to it passes over private land
Maon Harel - West Shiloh	1,750,000	14/09/2010	Givat Har'el	Givat Har'el is an illegal outpost

- **The category of "settlements"** – some of the NREs are defined as NREs in "settlements." Because all of the council's activities are in "settlements," the term raises suspicion that it is perhaps a code word for informal settlements or outposts. For example NREs such as: "settlements-public buildings," "settlements-sewer," "settlements-infrastructure for synagogues" and so on.
- The following are outposts whose funding was approved by the Council and that are explicitly listed in the NRE list: Ahavat Chaim, Ahiya, Giv'at Harel, Hayovel, Haro'eh, Zayit Ra'anani, Haresha, Tel Binyamin, Kerem Re'im (Nahalei Tal), Migron, Mitzpe Assaf, Mitzpe Dani, Mitzpeh Ha'ai, Mitzpeh Hagit, Mitzpeh Kramim, Neve Erez, Adei Ad, Amona, Palgei Mayim, Tsofit, Kida, Shvut Rachel.

Aside from this, the council has approved many more projects in illegal settlements, including NREs in the amount of 33 million NIS in the settlement of Eli, and another 40 million for projects in Ofra. Both settlements are without a valid TPS, and are partially located on private Palestinian land therefore all construction in them is illegal.

Recall that all the data above refer to the **NRE amount as approved by the Council. Not all the amounts were actually spent.**

Please note that some of the NREs deal with security or maintenance expenses of already existing projects. Even if it is possible to claim that a specific project is legal, for the purpose of this study we indicated it as a project belonging to an illegal settlement.

[For a complete list of NREs in illegal settlements in the Benjamin Council please see here.](#)

C. Mount Hebron Regional Council

[The NRE list of the Mount Hebron Regional Council from 2013](#) that we obtained contains several sections that are intended for illegal purposes:

- NRE no. 1470 in the sum of NIS 100,000 for a mikveh in the outpost Mitzpe Yair.
- NRE No. 1418, 1472 and 1510 - for a total of 1.4 million NIS for construction and infrastructure in Negohot. Negohot was established as a military base that later received official recognition, and has never received a TPS permit, therefore any construction there is prohibited.

The NREs file of the Mount Hebron Regional Council also contains sources of funds for those NREs. It turns out that the partners in financing illegal activities are as follows:

- For a mikveh in Mitzpe Yair outpost - Hebron Development Fund - owned by the Council;
- For infrastructure in Negohot- the Settlement Division gave 400,000 NIS; the Hebron Development Fund - 100,000 NIS, and Amana- 400,000 NIS.
- Israel Sports Betting Board (Toto) gave 150,000 NIS for the construction of a sports field.

Step 6—Selling the Houses to Settlers

- **The Settlement Division allocates land for free to Amana**
- **Amana sells "construction services," and makes profit on free land**

Typically in settlements within the regional councils, the settlement board (local committee) initiates the construction. The board hires a contractor for the construction and development services, and the contracting company engages in the marketing of the houses.

Over the years, it was almost always Binyanei Bar Amana [Bar Amana Buildings] company, a subsidiary of Amana, that won the contract to build in most of the settlements (in recent years, there are more construction companies operating in the area, some of them apparently related to

Amana). Amana's special status in this context is not accidental and stems not only from ideological reasons but also from economic ones.

1. Amana's involvement in construction and marketing of illegal homes

It is not difficult to find evidence of Amana's illegal activities. Amana's website has information on the projects and housing that it offers, among them in illegal locations. The [list of "Amana settlements"](#) contains the following outposts: Avigayil, Ahiya, Elmatan, Esh Kodesh, Givat Harel, Haresha, Mevo'ot Yericho, Mitzpe Dani, Mitzpe Hagit, Mitzpeh Yair, Mitzpeh Asa'el, Neve Erez, Adei Ad, Einot Kedem, Amona, Pnei Kedem, Kida, Shvut Rachel.

Amana also operates the "Amana Information Center" that gathers data on housing options in the OPT (in the last decade, the center operates in conjunction with the Settlement Division that provides [about a quarter million NIS annually](#) for this purpose). In the information center one can get referrals to various marketers of settlements as well as information about projects of the Binyanei Bar Amana company.

From the information center we received [a lot of information about illegal settlements where one can purchase homes](#). Among others, were the following illegal outposts: Pnei Kedem, Mitzpeh Kramim (an outpost built on private Palestinian land), Givat Assaf (an outpost built on private Palestinian land), Mevo'ot Yericho, Mitzpeh Yair, Nofei Nehemia, Adei Ad, Asa'el. One correspondence states:

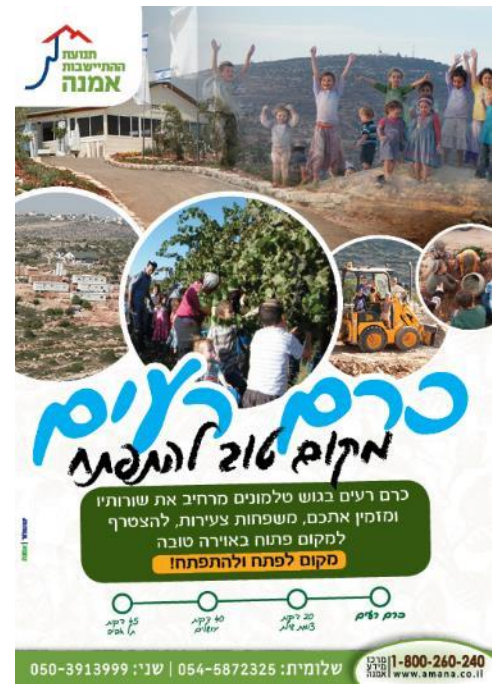
We have plots for sale in Mitzpeh Dani:
Space: 500 sq.m.
Price: Appx. NIS 279,000
Marketer: [.... Name and telephone number]

If the aforementioned land is probably managed by the Settlement Division, it was obtained by Amana for free, and the latter is now selling it for more than a quarter million NIS. If not, then the question is how the land came into the hands of Amana. Additionally, in the settlement of Shilo (state land) [Amana advertised a lot for sale totaling 447,000 NIS](#).

There are many ads marketing houses in the outposts, undertaken by Amana or its subsidiary, Binyanei Bar Amana. The ads can be found in synagogue pamphlets and on the Internet.



Advertisements for Pnei Kedem outpost
southeast of Bethlehem



Advertising for a new outpost, Kerem Re'im,
west of Ramallah



גילוי דעת | 11

Advertisement for Ahiya outpost, between Ramallah and Nablus

Besides the marketing of illegal houses, Amana is also involved in illegal construction, but evidence for this is much harder to find. One of the emails we received from the Amana Information Center stated that **"these settlements contain projects by Amana"** including the outpost Rehelim (with no TPS in effect), and the illegal outpost "HaYovel."

In a conversation with the absorption coordinator of the outpost Mitzpe Dani on January 2016, she said:

Today we are 40 families, most of them still live in mobile homes. We have nine permanent homes, **seven of them are Amana houses**. For many years we were stuck like this, because the settlement was not authorized and we were not able to build. Amana built here, as it were, they took a risk and built without permits and thank God we had a discussion about it in the High Court of Justice some time ago and it was decided that the settlement will be approved God willing.

2. Who profits from free land? Amana

[The State Comptroller sharply criticized](#) the Settlement Division and the Civil Administration for failing to charge a lease fee in the rural settlements managed by the Division. It turns out that the main beneficiaries of this arrangement are not settlers themselves but Amana.

Amana's subsidiary company, Binyanei Bar Amana, develops and builds housing projects in most of the settlements. In some places it sells houses for a relatively low price, but in others they are much more expensive. The construction cost of a standard Amana house is fairly constant, estimated between half a million to 750 thousand shekels, but [the houses are sold for much higher prices](#). The following are examples of home prices in the past two years based on Amana's publications and a profit evaluation (**rough estimate**):

Settlement	No. of Rooms	Sq. meters	Amana's selling price (NIS)	Profit Evaluation (NIS) (for 750,000 NIS investment cost)
Rehelim	4	95	480,000	0
Hayovel	4	102	597,000	0
Einav	4	105	759,000	9,000
Revava	4	96	785,000	35,000
Avnei Hefetz	4	103	815,000	65,000
Ma'ale Michmash	4	100	985,000	235,000
Shilo	5	113	1,064,000	314,000
Padu'el	4	112	1,100,000	350,000
Reihan	4	120	1,200,000	450,000
Kiryat Netafim	4	124	1,381,000	631,000
Yakir	5	154	1,400,000	650,000
Shilo	7	174	1,433,000	683,000
Nofei Prat	5	147	1,445,000	695,000
Nofim	7	182	1,470,000	720,000
Nili	5		1,680,000	930,000

As mentioned, the houses in some of the settlements are sold at prices that exceed a million shekels. In other words, the price that Amana offers buyers includes the price of the land (were they to pay for it), depending on market value. Amana's profit on each house sold can reach hundreds of thousands of shekels. In this way Amana makes money at the expense of the state,

which receives no payment for the land, and at the expense of the settlers who spent a lot of money even though Amana had not paid for the land.

3. Land as a source of profit for Amana

Not only does Amana profit from the land price: it uses the land that it gets for free from the Settlement Division to raise funds and guaranties, using the land as collateral for the bank. Binyanei Bar Amana's documentation includes a long list of about 60 items that the company pledged as collateral on thousands of plots in the settlements. Apparently these are loans and guaranties received from banks in a way that is typical in the construction industry, where the construction company liens the land to the bank, in order to raise a loan or to provide collateral to buyers. Normally, when the company sells the house, it returns the debt to the bank, the land goes to the buyers and the mortgage is deleted. In other words, this is a process of transferring land rights: The developer purchases the land (and is then supposed to pay purchase tax) and then sells the land to the purchasers (and is then supposed to pay capital gains tax or income tax).

Amana's story, however, is slightly different. As mentioned, Amana receives free land from the Settlement Division, mortgages it to the bank, but sells only "[construction services](#)" to buyers without transferring the land rights to them. Recently a contracting company that tried to build in one of the settlements filed a High Court of Justice petition (HCJ 8261/15 MI Shaham vs. the World Zionist Organization and others), claiming that when the Settlement Division signs a transfer of rights to the purchasers, it actually conceals the phase of transfer of predecessor rights to Amana, and no sale transaction is registered either in the transfer phase to Amana or in the transfer phase to the buyers.

Thus, according to the petition, this granting of unofficial rights enables Amana to not only raise money on the land given to it for free, but also to avoid paying purchase tax and capital gains tax on real estate. If the transfer of rights to Amana is indeed considered a sales transaction, Amana's profits from avoiding these taxes are enormous.

Amana and the Settlement Division's responses to the High Court on this matter indicate that this is not a true transfer of land rights. The settlement itself, through its cooperative association, selects Amana (or another financial body) to take a loan in its name for the purposes of development. To this end the Settlement Division registers rights in the land to Amana only at the request of the settlement, and only for the purpose of obtaining a loan for development.

According to Amana and the Settlement Division this pertains for the most part to "association loans" that the Ministry of Housing made available to cooperative associations of settlements to encourage construction and development. Amana (and other entities) entered the picture as relatively stable financial bodies that could help associations to repay the loan, in accordance with the [provisions of the Accountant General from 1996](#). They argue that today the state grants almost no associations loans, and that registration of land rights to Amana was done only at the request of the settlement itself.

Step 7- Daily Maintenance and Development of Outposts

- **Regional Councils, Amana and the Settlement Division maintain and develop illegal outposts**

Regional councils, Amana and the Settlement Division continue to finance the illegal outposts and manage them daily after the construction is completed, using illegal NRE and additional funds. The regional councils build and operate the kindergartens in the illegal settlements, maintain electrical systems and infrastructure, and also handle shuttle services, waste collection and sanitation services.

The councils also finance the settlement boards (local committees) in the illegal outposts, as evidenced, for example, in the [minutes of the Gush Etzion Council meeting from 25/1/2015](#) which discussed recalculating the budget for the benefit of all settlement boards. The protocol says that a decision was made that "new neighborhoods that have not yet received board budgets - will enter the board budget in an orderly fashion." "New neighborhoods" is a code name for outposts (if these were indeed "neighborhoods" of existing settlements, they would be represented by the settlement committee). Indeed, one of the council members complained that the amount allocated to the board of the illegal outpost "Ibei Nahal" is too low.

Together with Amana and the Settlement Division the councils also finance the construction of public buildings and the development of public spaces in the outposts, [as attested by outpost officials](#) in our conversations with them.

Following a lawsuit filed by [Yesh Din](#) with the Palestinian owners of the land on which the Migron outpost was built, the Binyamin Regional Council had to disclose the money it transferred to the outpost for routine maintenance. It turns out, for example, that in [March 2009](#), the Council gave 9000 NIS from the budget of the Psagot settlement to the illegal outpost of Migron. The Council also transferred to the outpost a monthly allowance of 11,285 NIS, and paid for electricity, maintenance of kindergartens and salaries to some employees - for a total of 35,568 NIS a month. For example:

Money for Migron outpost from Benjamin Regional Council, March 2009	Amount (NIS)
Transfer from Psagot	9,000
Monthly allotment	11,285
Electricity (internal)	580
Electricity (security)	688.5
Kindergartens (maintenance and electricity)	960
[... additional clauses]	13,055
Total for March	35,568

It should be noted that the Council also charged the outpost residents property taxes and other payments (**including payments for Amana**) amounting to 22,705 NIS (approximately 12,860 NIS less than what it spent).

Funding from the Settlement Division

The financial officer of Nofei Nehemia outpost told us in a conversation in January 2016, that because there is no valid TPS it is impossible to receive funds from the state budget, and added:

"... **You don't need the state budget; there is the Settlement Division budget.** The Settlement Division is part of the Zionist Organization, which aims to settle Judea and Samaria and the entire country. Since the budget there is not marked [to specific aims] – i.e. the state allocates 500 million per year [and says] do with it whatever it takes to build a settlement - they can invest the money in places that do not have valid TPS, such as Nofei Nehemia. "

The Pnei Kedem outpost Secretary told us in January 2016:

"The Settlement Division is a branch of the Jewish Agency, actually let's put it this way, if the entire country has the Israel Lands Administration, then in the West Bank this is called the Settlement Division. This body is subsidized by the state, and according to its criteria it grants budgets, some of them continuous and some for projects ...

They help us on an annual basis, for example we recently made some promotional video for the settlement, and they help with employee salaries, issues of absorption and community. For example they once made a purchase for the settlement in some deal we made, a percentage in an industrial building located in Gush Etzion, and each month we get some share of it."

Step 8 - Sources of Financing and Government Assistance through Amana

- **Instead of fighting the illegal activity, the government supports Amana and grants it a special status**

"Amana: The mother and father of the settlements," Treasurer of Kida outpost on December 2015:

"Amana is the mother and father of the settlements in Judea and Samaria, especially of the young settlements like us. I mean we are sustained by Amana, not on an ongoing basis, but if we have large projects or need a little something with the management, we turn to Amana which accompanies and guides us ...

They help us in infrastructure, roads, we take part in the expense of course, they do not give us 100% of anything. Usually they give us something like one-third, the

[Regional] Council gives one-third, and the settlement itself has to provide one-third more.

Amana places mobile homes throughout Judea and Samaria, we as a settlement use them to house couples, families, and the rent goes to Amana...but we gain young families who come to us, with the potential to build a house, and we profit by settling the Land of Israel.

It is not only the technical side of the settlement. It is also the social side. They have a social aide person who accompanies our settlement with youth activities and a youth coordinator, they help us with everything, see us through from above."

Amana accompanies and helps settlements in many areas. Many refer to it as the "mother and father" of the settlements. Amana has delegates in the regional councils who are **"Amana settlements coordinators."** As part of the representative role Amana takes care of the settlements' various needs (infrastructure, public buildings, etc.), and takes care of Amana's activities in those settlements.

Amana divides the work of managing and developing the settlements with the Regional Council and the Settlement Division. In illegal locations, Amana primarily takes care of construction and development, which are more difficult to finance directly through the authorities. Typically when a settlement wants to build and develop it does so in consultation with Amana, and in many cases with Amana CEO Zambish himself who later makes sure to promote the settlement vis-a-vis the authorities if he think it is worthwhile to invest in it (as one of the settlers told us, "If you're serious").

1. Zambish will take care of it- Amana's powerful lobby

"When you have a large body behind you that talks to people who are deciding where to invest money, etc. it can give you more support" (Esh Kodesh treasurer, December 2015).

Amana "takes care" of budgets for settlements and for government projects in the settlements, and it helps to liaison with large bodies such as the Ministry of Defense, Settlement Division, the electric company and more. Ze'ev Hever (Zambish), Amana's CEO since 1989, is considered one of the most powerful and influential people in the settlement arena.

For example in a recorded conversation the **coordinator of Yakir settlement explained in December 2015:**

"Amana builds in all of Samaria, I don't want to say that it has connections, but it has connections in the Settlement Division, in the Ministry of Housing, it has the connections that you need to build. And that's it, so they build, they settle. There is land that is not regulated, so they have the financial backing for it. "

Treasurer of the Kida outpost, December 2015:

"Just this week we have a meeting with the [Regional] Council regarding the settlement's electricity. We are connected temporarily. The electric company did not permanently connect us. The electricity is not enough, the electric power is insufficient for our needs.

Q: So how is it related to Amana?

Amana actually connects us to the electric company, helps us get the plan, will be with us in the project itself, and can possibly also give us some of the funding, look it's 400,000 NIS to connect the settlement to the grid now.

Q: Amana will deal with the authorities, with the electric company?

Yes. Amana together with the Council. They are actually our mother and father."

Esh Kodesh outpost treasurer, December 2015:

"Amana is an ideological body that helps and supports the settlements, but it is not only a sponsor, it helps in consulting, providing opinions, in planning ... Amana is like our support system, the body that brings together most of the settlements in Judea and Samaria. It's more like a lobby, it's not a funding body.

Q: If you need to build an access road, Amana does not do this?

The roads, there are all kinds of degrees of urgency for roads, the Israeli Public Works Division does roads. From all the roads in this country, they have to choose which ones are important to invest in. So if you are a private person, you can call and complain but it's uncertain whether they will respond to you. When you have a large body behind you that has channels with people deciding on where to invest money, etc. it can give you more support.

Imagine it as a mayor. The Minister of Housing comes in and says: I want to invest a half million in your settlement for infrastructure development, where should I put it? He tells him: there's this road, this road is dangerous etc., etc. And he sort of helps the government office to know where to invest its money, where it's right, where it's urgent, where it's particularly important. But it is not that it takes its own money to do it."

Secretary of the Dolev settlement, 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."

Indeed, in recent decades, throughout formal and informal negotiations between the government and the settlers regarding development of settlements, the government ministers and other officials have made [various agreements with Zambish](#), as a representative of the settlers.

For these and other reasons, Amana enjoys special status also in matters related to construction projects, and Amana is usually the one building the projects in the settlements, both legal and illegal.

2. The lobby as a source of funds for Amana

"We established the settlement, we are building it, we ensure the construction of roads, acquire funds for the council, build new neighborhoods and a thousand other things."

Moshe Yogev, Treasurer of Amana, in a conversation with a Peace Now researcher in December 2015.

One of the ways Amana acquires funding for itself and for its activities is through its lobbying efforts. In some cases Amana acquires state financing for the body that needs it, and in return receive a cut, a kind of finder's fee or commission. Sometimes it amounts to millions of shekels.

Erasing fines owed by the Central Company for the Development of Samaria - In February 2015 it was announced that following the "Yisrael Beitenu" investigations, the police were also investigating the erasure of debts owed by the Central Company for the Development of Samaria (CCDS) with Amana's involvement. [According to reports](#) the CCDS, which is owned by the Shomron Regional Council, owed tens of millions of shekels to the Finance Ministry for loans it received for the purpose of building settlements.

Amana was mobilized to cancel the company's debts. After lobbying among finance ministers and the relevant MKs, Amana managed to convince the Ministry of Finance to cancel about 30 million NIS from the company's debt. In return, [according to uncovered evidence](#), Amana collected a 30% "commission," i.e. around 10 million NIS.

To hide the payment to Amana, the company misrepresented it in its account books as a loan allegedly repaid to Amana. The money that reached Amana was actually money that it managed to raise from the state for a specific purpose (canceling CCDS's debt), and that it used for other purposes.

In this arrangement the Regional Council received millions in debt cancellation, Amana got millions of shekels directly into its pocket, with only the taxpayers on the losing end. As of this writing, two years after the investigation began, no indictment has been served.

1.3 million NIS from the Gaza Coast Regional Council - [The State Comptroller's Report 58A on the Gaza disengagement](#) (p. 395) relates an investigation on the financial conduct of the Gaza Coast Regional Council. The auditor found that on September 28, 2004 (on the eve of the Knesset's

approval of the disengagement plan and after the government had decided on the matter) Amana's treasurer required payment from the Regional Council of the settlements in the Gaza Strip for "obligations in respect of rent" totaling 1.3 million NIS. On January 5 2005, the Regional Council transferred 1.3 million NIS to Amana in two installments.

But the Council's account books showed no connection with Amana regarding a rental agreement. It also turned out that between 1999 and 2001 the Council paid Amana 1.8 million NIS, for the purchase of mobile homes and their renovation. The auditor raised the suspicion that "the Council has already paid Amana for the structures it has allegedly made available to it."

When the auditor asked the CEO of Amana for an explanation of its collection of 1.3 million NIS, the latter claimed that "the said amount has not been paid on account of rent or for the payment of rent, but for investments Amana made in the Council's settlements **through loans** and grants" (emphasis added). That is, despite the fact that Amana's treasurer requested payment for "rentals," its CEO claimed it was for "loans," and that in any case no reference to a lease agreement or loan agreement could be found in the Council's financial statements. The issue was transferred to the Ministry of Interior's legal adviser and to the Personal Billing Unit in the Office. We do not know what transpired and if proceedings were taken against those involved.

Demand for payment from Migron - In August 2013, [journalist Chaim Levinson revealed in Haaretz](#) that Amana treasurer Moshe Yogev sent to the illegal outpost of Migron, a payment demand of 150,000 NIS for "500 hours of work in an attempt to prevent the evacuation of the outpost." The same case also involved a conflict that broke out between the people of Migron and Zambish, who lobbied the government to establish an alternative settlement in place of Migron despite the fact that Migron's residents had not agreed to this compromise. This letter serves as an indication of Amana's perception that its lobby is a service that costs money.

Amana's proposal to the Ministry of Housing - Amana offers its lobbying services not only to the settlements, but apparently to government offices as well. [Chaim Levinson's investigation of Amana in Ha'aretz](#) revealed that during Amana's negotiations with the Ministry of Housing on debts owed to it by Amana, Amana's CEO proposed, based to the method of obtaining state funds, that "he would obtain budgetary allocations for the Ministry's rural construction directorate, and in return the Ministry would write off his debt" The proposal was reportedly rejected.

Cancellation of debts – "free money" - A source in a government ministry indicated to us that a few years ago, when the Netanyahu government decided to add millions of shekels to the settlements, Amana officials were also present in the discussion on where the money would go. Amana's officials insisted the funds would go towards cancelling debts for settlement companies. The reason for this peculiar insistence is likely that funds granted for specific purposes must obey the regulations, be used for legal aims, and be reported and monitored. Debts that are cleared, however, amount to free money with no objective or supervision. If Amana gets a commission on cancelling such debts, we are talking about direct, free money into Amana's pockets to be used for any purpose they want.

3. Tax deductible donation for illegal activities – through Amana's non-profit

Amana has a non-profit organization named the Fund for Nurturing the Zionist Idea, which raises funds for settlements, including illegal outposts. Contributions to the foundation are considered a tax-deductible expense (under Section 46A of the Income Tax Ordinance) thus the state potentially participates in these contributions of up to about a third of their total sum.

In recent years, Amana's non-profit has raised about 40 million NIS ([as exposed in Haaretz](#)) and transferred most of the money to its subsidiary company, apparently contrary to Registrar of Associations rules. A few years ago it became clear that the Fund also transfers money to illegal outposts ([Yedioth Ahronoth, 30.1.2009](#)), which [Peace Now reported to the Registrar of Associations](#). Following the complaint, the Registrar ordered the Fund to cease transferring funds to illegal construction, but it turns out that it has not stopped.

In a conversation we held with Amana's accountant in December 2015, our researcher offered to help build a synagogue in one of the illegal outposts. At first she tried to convince him to contribute to something legal:

"Accountant: There is a synagogue they are building now in Dolev and they would be very delighted to receive a donation. My boss [Zambish] says it's important. It's a settlement with a permit, with a TPS and everything is legal, you have no problem. Everything is fine.

Q: Actually I want to contribute to small settlements, to Kida.

Accountant: Dolev also needs money. My boss wouldn't direct it there if they didn't need it. Now maybe you could divide a little here and a little there. It's also an option. We also have links with the settlement Kida.

Q: Is Dolev a legal settlement that can issue me a receipt?

Accountant: I'll give you a receipt, then you have no problem, you can pay me through the fund for the expenses of the Dolev synagogue. Kida for example, I can't, but Dolev, no problem.

Q: Why, what's the difference?

Accountant: I pay directly to the supplier, the contractor who builds the synagogue, and I issue receipt for you for tax purposes.

Q: What's the difference for you between Kida and Dolev?

Accountant: In a settlement that's organized and there is no problem, I can pay.

Q: And a settlement that's not organized, you can't write me a receipt?

Accountant: I have more of a problem. [...] If you want to redirect some of the money to Kida, no problem, I'm ready to do it.

Q: If there is a settlement that cannot give me 46, can you?

Accountant: I give you a receipt, Kida cannot and Dolev cannot, if anyone can give you 46 it's me.

Q: The question is for which settlements you can give me.

Accountant: For Dolev I have no problem.

Q: It's the small settlements that actually really, really need it.

Accountant: We also want to help people. Maybe we can divert some here and some there - I give you one receipt. For Kida I transfer from one source and to Dolev from another, so there won't be any problem.

Q: How will you give me 46?

Accountant: We have an organization through which we can issue a receipt under section 46, which fits the purpose.

Q: How will I know where the money goes?

Accountant: [...] I'll make sure that you'll know that I took out a check to the contractor that builds and get money from me. You will be aware of it. [...] I'm not giving money to Dolev settlement, I'm giving it to the contractor who is building the synagogue, he gets a check from me directly. [...] There is no problem, everything gets a deductible receipt.

Q: Even for settlements that you say are illegal?

Accountant: Yes, we find a way to transfer money to them. In the end of the day, who establishes these settlements?

Q: You established these settlements.

Accountant: Exactly. So how did they get built? That is how, they also received [funds], it's not money out of thin air. Earlier I had reservations because I wanted to hear who I'm talking to, because of this I also wanted my boss to talk to you first, and you didn't answer. I wanted to know who I'm talking to. "

Step 9 – Retroactive Legalization by The Government

- **Instead of fighting illegal construction, the government approves it**

Since the beginning of the outpost phenomenon during the first Netanyahu government in 1996, all Israeli governments have formally renounced outposts, claimed them to be an illegal act and announced their intention to evict them. But in reality all governments let them continue to grow.

In March 2011, the Attorney General's office presented a [response to a petition by Peace Now against six outposts](#), stating that instead of recommitting to evacuate the outposts, the Government intends to legalize those that can be legalized (i.e. when the land was not considered to be privately owned by Palestinians). Indeed, **the Netanyahu government began authorization procedures for at least 32 illegal outposts**, in effect [creating new settlements](#). In all cases (except the outposts of [Sansanna, Brukhin and Rehelim](#)) the government authorized the outposts as "neighborhoods" of existing settlements, in order to circumvent the need for a formal

announcement of a new settlement. In practice these are new settlements in every sense. It should be noted that three other outposts (Sdeh Bar, Givat Habrecha and Tel Menashe) began authorization procedures before 2009 during the Sharon and Olmert governments. Hence, a total of 35 outposts began authorization proceedings.

The Netanyahu government is also working to legalize illegal construction in official settlements, not only in the illegal outposts. Since 2011 the government has approved plans for **at least 1,700** housing units in settlements built illegally, including homes built in recent years, in other words authorizing violations immediately after construction.

The government's message to settlers in all this is clear: the planning process and the democratic decisions of the government are not important; you can create facts on the ground illegally, and we will retroactively legalize the construction for you.

Step 10- No Rule of Law in The Settlements

- **The few investigations that were opened - were closed scot free**

In November 2005 Dror Etkes, then director of Peace Now's Settlement Watch project, demanded from the State Attorney's Office an investigation into Amana's involvement in illegal construction in outposts. [In his letter, he detailed dozens of outposts](#) where Amana was building and selling homes illegally. For over a year and a half, no essential response was received from the prosecution and Peace Now continued to send reminders and information about alleged offenses related to Amana.

In July 2007, an [answer finally arrived](#) with then Deputy to the State Prosecutor Shai Nitzan, informing attorney Michael Sfard (representing Peace Now) that in February 2006 a criminal investigation was opened regarding Amana but that **"I did not inform you of it, because for investigation-related considerations we preferred initially to avoid publicity in the matter."** According to him, **"The investigation is under way, and is managed by the Judea and Samaria Central Unit."**

In November 2008, Peace Now received information on an illegal construction project that Amana began in the settlement of Halamish (Neve Tsuf). To add new information to the investigation, Attorney Shlomi Zecharia on behalf of Peace Now called the official in charge of the investigation and asked to provide information about Amana. The investigator was stunned and said he had no investigation on Amana, and when Zechariah gave him the case number, he said: "This is not an investigation of Amana, it's an investigation about four illegal houses in Psagot."

It turns out that of all the material and information on Amana's suspicious illegal construction in the territories, amounted to the investigation of only four houses. In September 2009, four years after the original complaint, with Amana continuing to build and sell illegal houses, the prosecutor's office announced the closure of the case because **"No evidence was found of illegal construction by Amana in the settlements and lands that were investigated."**

The investigation materials on the four houses built on private Palestinian land in Psagot show that the investigators discovered a testimony of one of the home buyers claiming that he bought

the house from Amana, but the only investigation of Amana in this regard amounted to one investigator's memo to the department head, stating:

14/07/08 - On the aforementioned date, I spoke with Mr. Ze'ev Hever, secretary general of Amana Corporation, and talked with him about four housing units built in the Psagot settlement during the years 2005 and 2006 which were built illegally. According to him, he is aware of the construction, but "Amana" never had any connection to this construction. The latter was told that we have a statement from a tenant who claims otherwise, he denied this and promised to look into it again and come up with a full and responsible response within a few days. For your information.

From the dozens of illegal outposts and neighborhoods where evidence shows illegal construction by Amana, the only police investigation of Amana was a phone call with Zambish, in which he denies involvement and promises an answer (no investigation file shows any evidence that he replied with an answer).

In this situation, it is no wonder the state prosecution attests that **"No evidence was found of illegal construction by Amana in the settlements and lands that were examined."** The settlements and lands that were examined were in one place only, and Amana's involvement was examined in a rather sloppy manner.

Still, the investigation file reveals significant findings of other bodies involved in illegal construction. It turned out that the Binyamin Regional Council issued construction permits for the construction of the illegal buildings, and Pinchas Wallerstein, who acted as the head of the council and was questioned under caution, admitted that this was a real method. Alongside evidence against the settlement secretariat, the building contractor and others. The summary of the investigation file that the Police delivered to the Prosecutor's Office stated:

"The investigation file was transferred to the prosecution unit of the Judea and Samaria District, and after reviewing the case ... a list of additions was formulated regarding the required thoroughness of the case, in light of the findings relating to the mechanism whereby Pinchas Wallerstein, the settlement secretariat and its various organs, the Amana staff, the development and construction companies, and homebuyers all worked together for the purpose of taking over private land.

It seems that all concerned are involved in construction on private land, all the while engaging in misrepresentation, ignoring the stop-work and demolition orders, and there is even a suspicion of forgery and fraud with respect to contracts, transfer of funds and the granting of permits by unqualified persons.

This is a complex case concerning areas that are outside the activities and authority of the Prosecution Unit of the Judea and Samaria District, since beyond criminal offenses, there are also suspected irregularities in the conduct of the local authority which possibly committed criminal offenses.

Accordingly, the case is transferred to you for further handling."

Despite all of this, the prosecution decided to close the case against all the bodies for lack of evidence. The appeal filed by Peace Now on the matter was rejected.

The Illegal Tender in Shilo

Another example of the authorities' forgiving attitude towards organized lawbreaking by local authorities in the settlements is the story of illegal construction in Shilo. In January 2009, the Binyamin Regional Council published a call for proposals (a tender) for infrastructure, development and paving for 40 units in the settlement of Shilo. At the time Shilo did not have a valid plan for the legal construction of 40 housing units. Following Peace Now's appeal to the Ministry of Defense, the Council announced a freeze on the tender.



The ad published by the Binyamin Municipality, calling for proposals to build in Shilo.

In this case we see the Regional Council itself initiating and funding illegal construction, but the law enforcement agencies were not worried about this. [Deputy Attorney General Malkiel Blass wrote us in his response](#) dated 1/11/2010:

"In the investigation we conducted, we found that the Regional Council has canceled the tender immediately after the announcement, at which point no agreement was signed and no work was performed according to the tender that was published. According to the information provided to us, the only expense incurred was the cost of advertising the tender in the amount of about 3,000 NIS. Under these circumstances, we believed that there is no reason to open investigative or other proceedings in this matter."

It should be noted that a few months later, work began for the construction of 40 units, and [signs were placed](#) in the area bearing the seals of Amana, the Binyamin Regional Council and the Ministry of Housing.



A sign near the site of illegal building in Shilo, April 2010

Only after a petition by Peace Now, and in light of the High Court's demand, the work stopped and an investigation was launched. Another investigation was conducted on the illegal construction in Halamish following another petition by Peace Now. The two investigations were conducted by the National Fraud Squad. The investigations concluded in 2014 and were transferred to the prosecution, but as of this writing (January 2017) it has not yet been decided whether to file charges.

It should be noted that the Ministry of Housing has indeed signed a contract with the Binyamin Regional Council to fund development work for the construction in Shilo. But according to the regulations of the Ministry of Housing, money is to be transferred only after the work has been performed and if the construction was done legally. The Ministry of Housing told us that in this case it was decided not to transfer the funds.

Summary

Successive Israeli governments have allowed a small group of settlers to determine the future of the state of Israel and its settlement policy in the Occupied Territories by an organized system of fraud.

Regional Councils, the Settlement Division and the Amana movement are running an organized, illegal and well-oiled mechanism that exploits public funds to promote the settlement enterprise. This mechanism falsely presents the illegal construction as originating from the state, even when the government explicitly decides not to establish a new settlement, or not to approve development and planning in an existing settlement.

Since the mid-1990s, nearly 100 illegal outposts and dozens of neighborhoods and illegal projects in many settlements were built through this mechanism. According to Peace Now, in 2015 alone 15% of the units constructed in the settlements was illegal.

Law enforcement agencies avoid investigating and prosecuting the culpable parties. The government retroactively legalizes the illegal activity and thereby sends a clear message to the settlers that the system of fraud is legitimate.