

OUT OF ORDER

Civil Administration Eviction Orders from 'State Land' 2005-2018



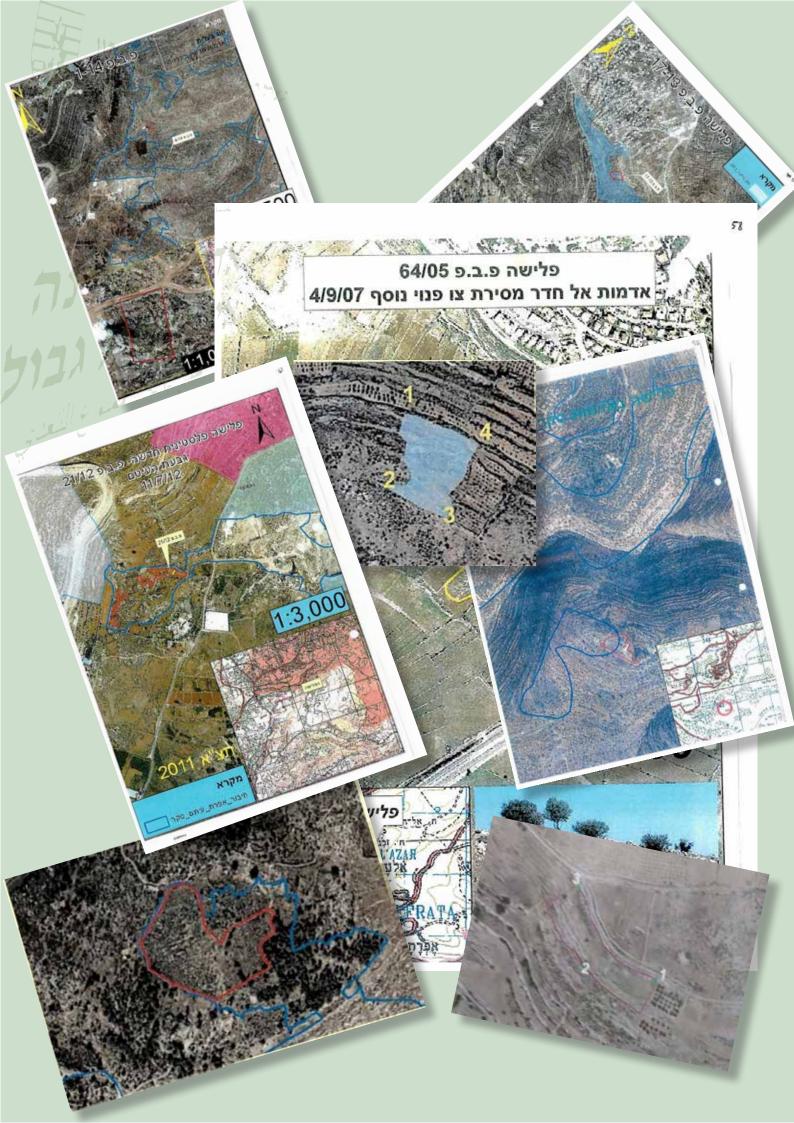




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Civil Administration Eviction Orders from 'State Land' 2005-2018





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 $Kerem\ Navot\ is\ an\ Israeli\ organization\ established\ in\ 2012.\ The\ organization\ tracks,\ examines,\ and\ publishes\ research$

on Israel's land policies in the Israeli settlements and the West Bank.

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Cover photo: Uprooting of trees in the Bedouin village of Dkaika, South Hebron Hills, July 3rd, 2019.

Photograph: Nasser Nawaje

Summary of the Report

This report is the first of its kind dedicated to the examination of hundreds of eviction orders issued by the Civil Administration's Supervision Unit from the years 2005-2018, against what are often referred to as 'invasions' of state land. Eviction orders are signed by virtue of the following orders:

- 1. The Order Concerning Government Property No. 59, signed on 31.7.1967, just weeks after the war.
- 2. The Order on Appointments and Powers under the State Land and Property Protection Law No. 1006, which derives its power from Jordanian law.
- 3. The third order, by virtue of which only a few eviction orders were signed in cases called 'fresh invasions' by the Civil Administration, is Property Order (Removal of Invaders) no. 1472, signed on 28.12.1999. This order applies to cases in which land has been cultivated for up to 30 days or less.

The eviction orders addressed in this report span an area of approximately 12,500 dunams (after offsetting overlap). However, unlike closure and seizure orders, which are signed by the military and whose maintenance requires relatively minimal administrative attention, eviction orders require ongoing resources, administrative management, and supervision in contending with appeals and enforcement. Therefore, to the best of our understanding, these orders authentically reflect Israeli authorities' priorities regarding land management policies in the West Bank, and Israel's long-term political vision for territory in the West Bank. As such, we deemed it necessary to dedicate an exclusive report to a comprehensive overview of the Israeli land regime imposed over the West Bank. Nonetheless, it must be noted that eviction orders from state land are but one tool among many means aimed to minimize Palestinian presence in Area C, thus subjugating Palestinian land to benefit the settlement enterprise.

Background:

Prior to the occupation of the West Bank by Israel in 1967, the regulation of land rights and registration of approximately one-third of the territory of the West Bank had been completed. Approximately 600,000 dunams were registered in the name of the 'state' under the guise of British Mandatory Authorities, and later under the Jordanian treasury, upon the annexation of the West Bank to Jordan in the 1950s. Following Israel's withdrawal from these territories, which were handed over to the Palestinian Authority (PA) during the 1990s after the signing of the Oslo Accords, some 530,000 dunams of state land listed in Israel's Land Registry (Tabu) in Area C remained under Israeli control.

In December of 1968, namely one and a half years after Israel's entry into the West Bank, the land regulation process was suspended by a military order signed by the regional commander at the time, Brigadier General Raphael Vardi, thus effectively ceasing the land regulation process in the West Bank. This order remains in effect to date. Over the years, the state of Israel declared approximately 788,000 dunams of West Bank territory state land. Approximately 103,000 of those dunams were included at different stages of the implementation of the Oslo Accords in the 1990s, as territories intended for transfer to the PA (Areas A and B), leaving roughly 685,000 dunams of declared state land in Area C.

In June of 2018, the Civil Administration shared a document with the Movement for Freedom of Information and Peace Now, indicating that approximately 674,459 dunams were allocated for Israeli settlement needs over the years, comprising 99.76% of all state land allocated from 1967 on. This entails that any work carried out by Palestinians on state land, with the exception of very rare cases, is perceived a priori by the Civil Administration as trespassing.

Throughout the 1990s there was a sharp decrease in the amount of state land declarations. However, this did not compromise Israel's grand orchestration to overtake Area C (61% of the West Bank), which remains in effect to date. This practice of compulsory declaration of state land, and with it the obligation to allow landowners to appeal declarations within a certain period of time, was replaced by the land survey procedure over the years. This procedure took effect in 1998 and is carried out by the Land Survey Inspection Team, whose role is to map land that may be declared government property. The term 'survey land' refers to land either already under review or suitable to declare state land.

The assumption according to which Israel operates, is that all unregulated land in the West Bank ('miri') is state-owned ('raqaba'), yet the right to hold and use it may be in the hands of a specific person under certain conditions. This assumption is also valid for land on which a partial survey was conducted, or territory for which there was no survey procedure at all. Israel justifies issuing eviction orders on survey land under the claim that it is merely 'safeguarding government property,' as opposed to 'managing government property' which entails allocating land to third parties, who are almost always settlers. This report does not address a trivial phenomenon. On the contrary, over 40% of the eviction orders examined were issued for territory that was never declared state land. Moreover, there is no way of knowing whether the land was subject to a survey procedure, and if so, of what nature and outcome, as the Civil Administration refuses to publish information on the matter on the grounds that it may 'compromise security in the area.'

דר ושומרוו

The reality of lack of proprietary security for residents of the occupied territories is a product of the 1968 land regulation process and Israel's requirement that Palestinian residents prove their right to hold 'miri' land. This policy is intended to make it easier for Israel to expropriate Palestinian residents' land who are unable to either prove their land rights, or bear the burden of conducting such long and costly proceedings, alloting them for Israeli settler use or other 'Israeli interests' instead.

This unacceptable practice compels many Palestinian residents to contend with eviction orders against work conducted on land that has been in their family's possession for generations, without even informing them that it is state land. Accordingly, Israel may evict them from land for which the state often lacks sufficient evidence to claim ownership, even per its own standards.

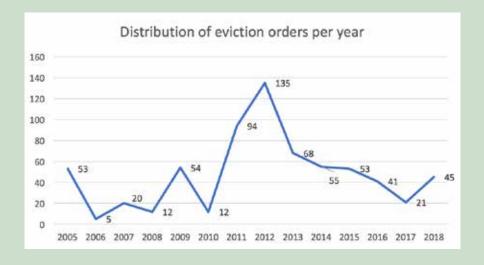
In sum, Israel considers extensive territories in Area C of the West Bank state land. This land is divided into three main groups:

- 1) State land registered in the Tabu, in most cases prior to 1967
- 2) Territory declared state land by Israel over the years. Throughout the 1990s, and especially since the signing of the Oslo Accords, there has been a sharp decline in the amount of land declarations, yet they have not ceased completely
- 3) Survey land, which Israel deemed state land according to the 'substantive law' (based on the Ottoman law that determined when a right to unregulated land exists). To date, there is no governmental or civilian body that retains the full scope of information regarding the total location and size of survey land.

The following details the primary findings:

Distribution of eviction orders per year

The following chart indicates the vast differences in the amount of eviction orders issued over the years. We presume that these differences indicate changes in the priorities of the Civil Administration Supervision Unit's work, and are not reflective of changes on the ground during those years.



Distribution of eviction orders between Palestinians and settlers

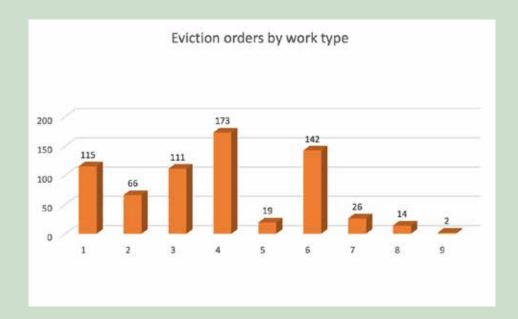
The vast majority of eviction orders (609 orders comprising 91%) were issued against Palestinians. A total of 57 orders (constituting 8.5% of all the orders) were issued against Israeli settlers.



Typological division of eviction orders - work designated as trespassing

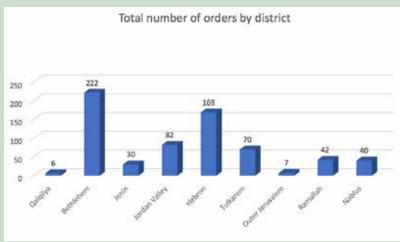
Following an examination of the eviction orders, we divided the types of work into the following nine categories:

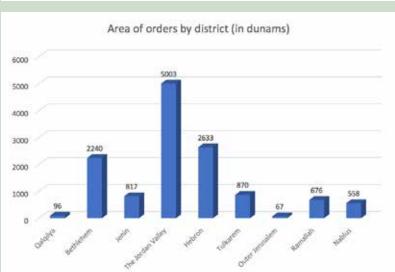
- 1. Places where we found no indication of why the order was issued, or were unable to identify the motives for doing so
- 2. Plowing without initially preparing the land usually in relatively rocky areas
- 3. Preparing the land, breaking ground, and fencing
- 4. Planting trees, greenhouses, and intensive agricultural cultivation
- 5. Lightweight construction
- 6. Massive development and cultivation
- 7. Massive development and permanent construction
- 8. A variety of orders not included in one of the above groups
- 9.Orders issued on PA land



Distribution of eviction orders among West Bank subdistricts

The distribution of eviction orders by subdistricts indicates that the two subdistricts wherein the most eviction orders were issued are Bethlehem (222) and Hebron (169), although the total area of the orders in the Hebron subdistrict is larger (2,633 dunams) than that of the Bethlehem subdistrict (2,240 dunams). The subdistrict that includes the largest area of eviction orders is that of the Jordan Valley (5,003 dunams), yet the number of orders in this district only amounts to 82. As indicated in the following diagrams, the amount of eviction orders in the rest of the West Bank subdistricts and their total area is much smaller.





The status of land included in eviction orders

- Land registered in the Tabu as state land: approximately 2,750 dunams of the area included in eviction orders overlap with territory registered in the Tabu as state land. This amounts to approximately one fifth (21%) of the total territory of eviction orders.
- Declared state land: approximately 4,400 dunams of the territory included in the eviction orders overlap with Israeli state land declarations. This amounts to approximately one third (34%) of the total territory included in eviction orders.
- Other land: approximately 5,391 dunams (41.5% of the territory) of the total area of eviction orders overlap with land that was neither registered nor declared state land by Israel. Some of this land has been fully surveyed, whereas other sections were either partially surveyed or not at all.
- Additionally, we found that relatively small territories overlap with regulated private land, Jewish land purchased prior to 1948, and land located within PA territory, for which it is unclear by virtue of what authority the Civil Administration has ordered the evictions.



Eviction orders in relation to settlements' areas of jurisdiction

As noted above, settlements' areas of jurisdiction span approximately 538,000 dunams. A closer examination reveals that solely one quarter (24.7%) of the territory included in the eviction orders is located within settlements' areas of jurisdiction, while the rest is located on land that does not belong to any specific settlement. This fact indicates that the Civil Administration is attempting to curb Palestinian development in much more expansive areas than those alloted to settlements to date.





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ימות יאות לאווד נקודה ושומרון Saeed Muhammad Rabaa, Abu Muhamaad, was born 54 years ago in a cave in Khirbet Sarura, a few kilometers from eastern Yatta. Today he resides in Khirbet Rakiz with his family, about one kilometer west of Sarura, This area is called Al-Mosafaret by residents of Yatta, referring to the open fields east of Yatta on which they farmed and herded for generations. Historically, Al-Mosafaret has extended into the Arad Valley in the south and the Dead Sea in the east, yet with the establishment of the ceasefire line (the Green Line) a large portion of Yatta's land remained on the Israeli side of the Green Line, while the village itself remained in the West Bank. In Khirbet Rakiz, like all of Yatta's Khirbot (daughter villages), there is a mix of ancient residential caves, small homes built or excavated in the shade of large rock ledges, water cisterns, and structures for farm animals.

In time, most of Yatta's Khirbot that remained in the West Bank were included in territory declared a 'closed military zone' by the army, known as Firing Zone 918. Its residents live under constant threat of eviction. Yet residents of Khirbet Rakiz are more fortunate as the northern border of the firing zone stretches dozens of meters from their homes. This land was inherited by Abu Mohammad along with his brothers and sisters, from their father. He shares:

My father used to plow the land with the help of animals, sowing wheat and barley. He passed away in 2003, yet never knew that the land was declared, thus he never filed any sort of opposition on the matter. In the beginning, I used to plow this land and sow a plant called "borage" (لسان الثور), yet later decided to plant trees in the entire plot. We watered the trees with water from our cisterns, near the home. It seemed to me that settlers from the outpost were displeased with our very presence on site, and they reported us to the military.

A shepherd passing by found the eviction order placed under a rock and brought it to Abu Mohammad. The order had been issued against work conducted on site, and under the Civil Administration's logo, it read:

To: Possessor

Under my authority in accordance with the Order on Government Property [...] I hereby determine that you are illegally holding the land detailed herein.

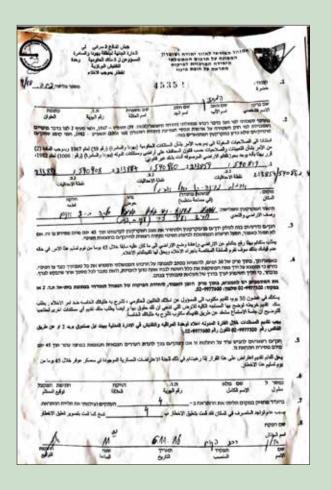
Location: State land 'Blue Line' Avigayil

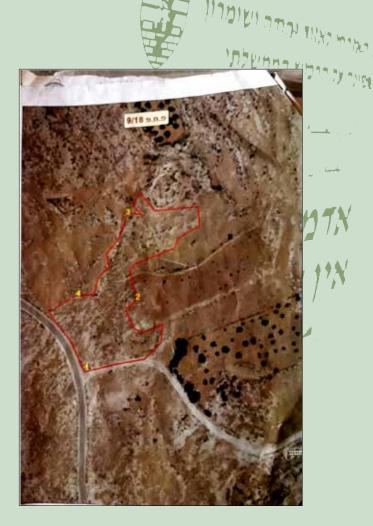
Description of land and invasion: Three-dunam-plot for plowing and fruit trees (olive [sic] grapes) You are hereby required to forfeit possession of the land, and return the land to its original state.

The date 6.11.2018 was hand-written at the bottom of the order. On the map, which was attached as a separate page, a red line was sketched encompassing an area of approximately three dunams. According to Abu Mohammad, approximately one third of the encompassing area belongs to him, while the rest is his neighbors' land. Several weeks passed and the Civil Administration returned, this time with bulldozers. Said's wife, Hawla, described the event:

Said wasn't home. It was a winter day. The neighbors asked me to come out of the house, because Jews were uprooting our trees. I came out with the baby. I arrived at the distant plot a few dozen meters from our home. There were three bulldozers and many soldiers. They distanced people from the land and blocked them from entering and exiting. I remember the baby was only one month old, yet cried a lot on the day of the uprooting. They destroyed everything - even the terraces we built – and uprooted all the trees.

We took a short walk with Abu Mohammad and two of his young children, from their home to the area where the order was found. To this day, roughly one year after the eviction, there are still signs of the uprooting and destruction on site: gaping pits, broken branches, and large stones that were part of a fence that was destroyed and scattered throughout. In parallel, a few hundred meters away construction progressed in the outpost of Avigayil, which was established in late 2001 on land declared 'state land' by Israel 35 years ago. Thus Abu Mohammad and his neighbors' land became 'Avigayil's land.'







Said Mohammad Rabba and two of his children

State land may be classified under the following primary categories:

- 1. Land registered in the Tabu as state land by the British Mandate government, and the Jordanian government, prior to the occupation of the West Bank by Israel in June of 1967.
- 2. Land that Israel declared state land from late 1979 to date.
- 3. Territory deemed state land by Israeli authorities, despite no formal declaration.

Land belonging to the third group is sometimes referred to as 'survey land' or 'land claimed by the Custodian.' Unlike the first two groups, this group can neither be currently estimated, nor approximated, for the simple reason that much land in Area C has not yet been surveyed. The Civil Administration even refuses to publish information on land that has been surveyed.² Regardless, there is no doubt that the size of this vast territory exceeds the total area of declared state land.

This report is the first of its kind dedicated to the examination of hundreds of eviction orders issued by the Civil Administration's Supervision Unit from the years 2005-2018, against what are often referred to as 'invasions' of state land. The orders were passed on to us in response to several Freedom of Information requests submitted from the years 2012-2015. Overall, the Civil Administration shared approximately 670 eviction orders, most of which were issued against work conducted on state land, of the aforementioned nature.

Eviction orders are signed by virtue of the following orders: Order Concerning Government Property No. 59, signed on 31.7.1967, mere weeks after the war;³ and the Order on Appointments and Powers under the State Land and Property Protection Law No. 1006,⁴ which derives its power from Jordanian law.⁵ While the first order defines the nature of government property, the second order defines those responsible for managing and maintaining property on behalf of the government. As such, the West Bank military commander effectively delegates enforcement powers to the Civilian Administration's Supervision Unit. The third order, by virtue of which only a few of the eviction orders were issued in cases referred to as 'fresh invasions' by the Civil Administration, is Property Order (Removal of Invaders) no. 1472, signed on 28.12.1999.⁶ This order is used for cases in which land had been cultivated for up to 30 days or less. This matter will be addressed in detail below. It is important to note that this order originally intended to address trespassing at large, not solely in territory that the state claims is government property.⁷

Since the end of the war in June of 1967, the West Bank has been in a state of military occupation legally referred to as 'belligerent occupation.' The basis for this situation is that Israel is temporarily managing the West Bank. Thus according to international humanitarian law, it is bound by duties and limitations regarding the Palestinian population, which is defined as a protected population.⁸ The state of Israel

¹ In addition to these three classifications, there are two other groups of land under the management of the Custodian of Government Property: 1) Abandoned property, entailing land whose owners are not located in the West Bank; 2) 'Property-owners who have requested that the Custodian manage their property, and which the Custodian has agreed to manage,' which is in effectively land registered in the name of Israelis who sought to disguise their purchase through a fictive declaration that the territory they purchased was state land. See the concluding report by the expert team for formulating a plan for the regulation of construction in Judea and Samaria, 15.2.2018 (hereinafter: Zandberg Committee Report) pp. 45-46.

² The Civil Administration has refused to share information on the location of 'survey land' and its increasing size, claiming that this information may 'compromise state security.'

³ Order on Government Property (Judea and Samaria) (59), 1967.

⁴ See the Order on Appointments and Powers under the State Land and Property Law (Judea and Samaria) (1006), 1982.

⁵ Land and Property Protection Law No. 14, 1961.

⁶ Property Order (Removal of Invaders) (Judea and Samaria) (1472), 1999.

⁷ Theoretically, this order also applies to invasion of privately owned territories, yet Palestinians cannot apply it in cases of settler invasion onto their land, partly due to the wording of clause 4 of the order: "As noted in this order, the lawful owner of the private property, will not act as noted in clause 3 of this order, unless the following conditions are met: 1. The police commander has approved such an action in advance, whether with police accompaniment or not; 2. A military commander has confirmed in advance that lawful removal of the invader may not cause any genuine harm to the security of the region, public order, or human life." See the legal appendix within Kerem Navot, 'Israeli Settler Agriculture As a Means of Land Takeover in the West Bank' (hereinafter: Kerem Navot's Report on Israeli Agriculture), October 2013, p. 106.

⁸ Over the years, Israel has presented two contradictory positions regarding the legal status of the West Bank: on the one hand, it claimed that the West Bank was not in a state of belligerent occupation as it assumed control of the area in June of 1967 from an illegal sovereign, namely Jordan; this was the position presented by Meir Shamgar as Attorney General: Meir Shamgar, The Observance of International Law in the Administered Territories, 1 Israel Yearbook on Human Rights 262 (1971). See the government's position in its response from 21.08.2017 in HCJ 2055/17 The Head of the Ein Yabrud Village Council v. Knesset (pending) and HCJ 1308/17 The Municipality of Silwad v. Knesset (pending). Report by Edmond Levy, Tchia Shapira and Alan Baker, Report on Construction Status in Judea and Samaria Area, Jerusalem, 21.6.2012. pp. 2–13. For more on this matter, see the government of Israel's official position as published on the Foreign Ministry website. According to its position, the state of Israel has voluntarily applied the rules of international humanitarian law in the West Bank on the other hand, in its replies to numerous petitions submitted to the HCJ to date, the state presents a contradictory position that the West Bank is in a state of belligerent occupation. See HCJ 82/393, Jam'iat Iscan Al-Ma'almoun v. Commander of IDF Forces in Judea and Samaria, ruling 37(4), p. 797 (hereinafter: the Iscan Affair); for more on this matter, see Eyal Zamir, state land in Judea and Samaria: Legal Review (5768), (hereinafter: Zamir), pp. 10-11. David Kretzmer and Gershom Gorenberg, "Politics, Law and the Judicial Process: The Case of the High Court of Justice and the Territories" Law and Governance 17, 249, 259 (2016).

is obligated to ensure the daily order and routine of civilian life in the West Bank, and to respect the laws that were in force on the eve of its occupation. This responsibility entails regulating all aspects of life, including protection of local residents' physical, social, and proprietary security. In accordance with international law, in a state of belligerent occupation the military government is responsible for the management and protection of government property. Since 1967, Israel has effectively used this authority to allot state land almost entirely for the needs of the settlement enterprise. Thus, rather than using the allocation mechanism as a means of implementing the occupier's obligation to protect state land in favor of the protected population, it is used to transfer public land for nearly exclusive settler use, whose very presence in occupied territory is entirely illegal, according to international law.

The eviction orders addressed in this report span approximately 12,500 dunams after offsetting overlap (see the explanation in Chapter 2, p. 29). This area is equivalent to the municipal territory of Ramla or Nazareth. It is clear that compared with the land included in the closure orders, spanning approximately 1.765 million dunams, and even the territory of seizure orders spanning 'solely' 100,000 dunams, this is a relatively modest tract of land. However, unlike closure and seizure orders, which are signed by the military and whose maintenance requires relatively minimal administrative attention, eviction orders require ongoing resources, administrative effort, and supervision in contending with appeals and enforcement. Therefore, to the best of our understanding, these orders authentically reflect Israeli authorities' priorities regarding land management policies in the West Bank, and consequently Israel's long-term political vision for territory in the West Bank. The following are two additional matters of note:

- 1. The eviction orders addressed herein, which were issued from 2005-2018, are but a fraction of all eviction orders issued by Israeli authorities to date. The total scope of orders and the land they encompass, remains unknown.
- 2. As the territory deemed state land by the Civil Administration is quite expansive and includes a large percentage of Area C, eviction orders are highly likely to negatively impact the Palestian population.

Considering all of the above, we deemed it necessary to dedicate an exclusive report to presenting a comprehensive overview of this aspect of the land regime that Israel has imposed over the West Bank. Nonetheless, it must be noted that eviction orders from state land are but one tool among many means aimed to minimize Palestinian presence in Area C, and subjugate Palestinian land to benefit the settlement enterprise.

In this report, we examine different aspects of these orders, the legal framework within which they are implemented, and the extent of their legality and conformity with laws that apply to Israel in the occupied territories.

A note on our choice of terminology: the mechanism of state land declaration, established by Israel in the early 1980s, was an attempt to bypass the land ownership system that had previously been in effect. It aimed to effectively expropriate large swaths of land from the Palestinian population, claiming that it was not confiscating, but rather taking possession of state land. With that, it is important to emphasize

⁹ Convention Respecting the Laws and Customs of War on Land and its Annex: Regulations Concerning the Laws and Customs of War on Land (Hague 1907), regulation 43 of the accompanying regulations (hereinafter: The Hague Convention 1907).

¹⁰ For example, sections 46, 52, 53; Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War from 1949 (hereinafter: Fourth Geneva Convention), sections 27, 53. Israel's duty to maintain public order and safety in the West Bank was established in a comprehensive HCJ ruling. See, for example, HCJ 81/69, Abu 'Aita v. Commander of the IDF Forces in Judea and Samaria, 37(2), p. 309; HCJ 04/548, Convention - Gush Emunim Settlement Movement v. Commander of IDF Forces in Judea and Samaria (yet unpublished); Iscan Affair (supra note 8), HCJ 9593/04, Morar v. Defense Minister Published in Nevo, 19.1.2006).

¹¹ International Covenant on Economic, Social and Cultural Rights, 1966, Article 11.

¹² According to Israeli Central Bureau of Statistics data, in late 2018 there were approximately 428,000 people living in settlements (not including East Jerusalem). Assuming that the settler population increases by approxmately 3.5% annually, today it amounts to roughly 450,000 people. The Palestinian Central Bureau of Statistics projects approximately 2.9 million Palestinian residents of the West Bank by late 2019, including the Palestinian population living in East Jerusalem, which amounts to approximately 345,000 people.

that frequent use of terms such as 'state land,' 'survey land,' and 'invasion' does not imply that we recognize the authority Israel took upon itself to redefine ownership of these territories. Needless to note, we do not recognize the state of Israel's right to use this land for the settlement enterprise in the occupied territories. Our use of these terms is thus solely intended for terminological purposes, and to describe the manner in which the Civil Administration operates.

Another important note regarding geographical layout: the term 'West Bank' refers to the territory of the West Bank excluding 70 thousand dunams annexed to the state of Israel weeks after the occupation of the West Bank in 1967, known today as 'East Jerusalem' (though only a small portion overlaps with the territory of East Jerusalem from the Jordanian period). The reason for this, naturally, is that as a military body the Civil Administration does not operate in territories annexed to the state of Israel and to which Israel has applied civil law.

Structure of the report

This report contains two chapters. Chapter 1 is devoted to addressing the factual and legal background on state land and eviction orders in the West Bank. This chapter examines the background of increased use of the state land declaration mechanism, and decreased use of military seizure orders to establish settlements. It assesses the declaration process (pre-declaration inspection, declaration publication, etc.), the shrinking amount of declarations, and the transition to employing what the Civil Administration calls 'survey land procedure.'

Chapter two analyzes eviction orders and presents data: the amount of orders, their year of issuance, status, total area, the West Bank subdistricts in which they were issued, as well as the population and type of work against which they were issued.

Source of information and methodology

All the information upon which this research is based was provided by the Civil Administration. It is primarily digital information passed on by the Civil Administration over the past decade following submissions of Freedom of Information requests and petitions. The eviction orders were transferred to us following two Freedom of Information petitions that we submitted in 2013 and 2017, respectively. Submission of these petitions was preceded by official Freedom of Information requests to which the Civil Administration did not reply. Following rulings on both petitions, hundreds of printed copies of eviction orders were sent to us. These copies were meant to include all eviction orders issued by the Civil Administration from at least 2005, through the ruling on the petition on 17.9.2018.

Each eviction order consists of two parts: a written order meant to contain the eviction requirement, which should include a description of the findings in the area; as well as an aerial photograph indicating the area that the order encompasses. Most eviction orders are hung or placed under stones near the area in question; in other cases, eviction orders are handed to people who work on site, if present. Of the eviction orders passed on to us, some were granted in their entirety and included both parts of the order (the written portion and the aerial photograph), while in other cases we only received aerial photographs without the written orders, or vice versa. In cases where we were only given aerial photographs, we attempted to infer the rationale for issuing the order through historical aerial photographs. All the orders passed on to us were included in the database used to write this report.







Photographs of eviction order 7/19 (not included in the database prepared for the writing of this report). The order was issued for an area of approximately 380 dunams southeast of Hebron

Upon completing digitization of all the orders granted to us by the Civil Administration, we categorized them according to the following parameters, among others:

- 1. Land status i.e. whether it is state land (regulated or declared) or survey land
- 2. Year in which the work commenced
- 3. Nature of the work
 - 4. Size of territory
 - 5. Subdistrict in which the order is located
 - 6. Whether the order was issued against Palestinians or Israelis
 - 7. Location relative to settlements' areas of jurisdiction
 - 8. Whether what was defined as invasive has been removed, and if so when and what happened on site after the eviction

The database we developed contains all the eviction orders at our disposal that were used to write this report.

Information Gaps

As noted, the database on which this research is based includes approximately 670 orders passed on to us by the Civil Administration. The Freedom of Information Law permits information requests from authorities that date back up to seven years. Accordingly, we demanded and received eviction orders issued from 2005 on (seven years prior to 2012).

It is unclear what portion of the eviction orders issued during those years were indeed passed on to us, but there are indications that we were not granted the entirety of the orders.¹⁴

To clarify, as previously noted, the eviction orders are divided into two groups: orders issued on the basis of Order 59 (Order Concerning Government Property) and orders issued on the basis of Property Order (Removal of Invaders) no. 1472. The letter sent by the Civil Administration in July 2017, noted that a total of 48 eviction orders were issued on the basis of the Order for Removal of Invaders. However, based on the material passed on to us and included in the database, we were only able to identify 14 such orders. At this time, there is no reasonable explanation for the absence of the rest of the orders, but this circumstance clearly prevents us from offering an accurate depiction of the distinctions among orders. Additionally, as previously noted, it is clear that many eviction orders were issued prior to 2005, which are not in our possession. As such, it is important to bear in mind that this report does not claim to present a full picture of all the eviction orders issued by Israeli authorities since 1967 on state land.

Another obstacle with which we contended, is that not all orders sent by the Civil Administration included maps. Thus we could not confirm the precise borders of the territory on which work was conducted, or the size of the area from which the order required eviction. In these cases, we were compelled to map based on findings on the ground. Such orders do not constitute a large group and primarily span the years 2017-2019. As such, it is important to note that data on the total territory to which the orders apply are mere approximations. On the other hand, many of the eviction orders were submitted to us without the written portion, such that we know the exact area to which the order applies, though lack the original document detailing findings from the area at the time the order was issued. In such cases, we attempted to infer the rationale for issuing the orders via aerial photographs. yet due to technical limitations in their quality, we were not always able to do so. Overall, we were unable to verify the rationale for issuing 123 orders (18%), and assume that most of these orders were for relatively shallow plowing that would not be visible in aerial photographs.

¹⁴ The Civil Administration's responses to information requests findicate that in 2000-2012, 1,000 orders were issued. Bar Akuka, Civil Administration Public Inquiry Officer, to the organization 'Rabbis for Human Rights,' 10.7.2013; 13.10.2013. The Civil Administration's response to a Freedom of Information request from the organization 'Rabbis for Human Rights' on 17.1.2012 indicates that in 2000-2010, 679 orders were issued on state land.

¹⁵ Response of Bar Norani, Civil Administration Public Inquiry Officer to 'Haqel,' 4.7.2017.

The most significant information gap with which we contended while working on this report is related to the allocation of state land in the West Bank. In June of 2018, the Civil Administration shared a document with the Movement for Freedom of Information and Peace Now, indicating that approximately 674,459 dunams of land were allocated for Israeli settlement needs over the years, which amounts to 99.76% of all state land allotted from 1967 on. Most of this territory (roughly 538,000 dunams) is included within settlements' areas of jurisdiction. Yet we do not retain information regarding the allocation of approximately 278,000 dunams of state land that are not included in the settlements' jurisdiction. The reason we lack information on the matter is related to the fact that for years allocation contracts were not signed transparently.

This issue is of prime importance as it is the principal reason we were unable to address the central question, namely: how many invasions on behalf of Israeli settlers exist? For example: approximately 28,000 dunams of agricultural land cultivated by Israelis are currently located on state land not included in settlements' jurisdiction. Yet due to a lack of information regarding allocation, we are unable to identify what part of the area, if any, was officially allotted to settlers. On the other hand, we lack precise information on Palestinians' cultivation of state land in practice, thus cannot definitively note the percentage of work against which the Civil Administration effectively issued orders.¹⁹

In sum, we currently lack information from which to infer the degree to which the Civil Administration Supervision Unit is effective or impartial in identifying land cultivation, and issuing eviction orders against what they deem 'invasion of state land.'. Based on the information in our possession, we can definitively note two interrelated matters:

- 1. There is extreme discrimination against Palestinians in all matters regarding the allocation of state land.
- 2. The vast majority of eviction orders are issued against Palestinians. This matter will be addressed in the following chapter.



Uprooting of trees in Mufaqara, South Hebron Hills

¹⁶ Following an appeal to the Civil Administration under the Freedom of Information Law filed by the Movement for Freedom of Information and Peace Now, 99.76% (approximately 674,459 dunams) of state land allocated for use in the occupied territories was devoted to Israeli settlements. Palestinians were allotted no more than 0.24% of the area (approximately 1,625 dunams).

¹⁷ As noted, the settlements' area of jurisdiction spans approximately 538,000 dunams. Roughly 396,000 among them constitute state land registered in the Tabu or declared by Israel. The rest of the territory is a combination of land seized for military purposes, expropriated for public needs, waqf land taken for three settlements in the Jordan Valley, land purchased by Jews prior to 1948, and land registered under the names of Israeli companies after 1967.

¹⁸ In 2015, the Peace Now movement filed HCJ petition 8217/15, Peace Now v. Minister of Defense (published in Nevo, 1.8.2019) demanding that all land allocations by the Custodian of Government and Abandoned Property in the West Bank be made public in advance and set a reasonable period of time to file counterclaims. For the petition and state response, see the Peace Now website.

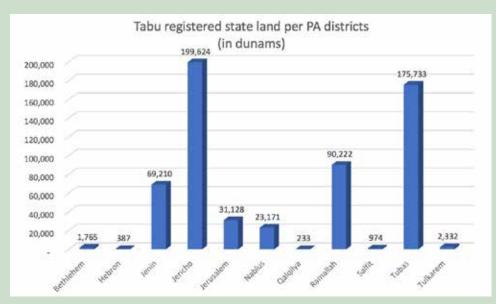
¹⁹ The presentation of this data requires an extensive survey for which we do not have the current resources to conduct properly.



Land regulation in the West Bank and its suspension in 1968

Prior to the occupation of the West Bank by Israel in 1967, the regulation of land rights and registration of approximately one-third of the territory of the West Bank had been completed. These areas include land around the cities of Ramallah, Nablus, Jenin, Tubas, and the Jordan Valley. British Mandate authorities, and later the Jordanian government, advanced regulation of land ownership in these areas, which included the registration and subdivision of all village land into blocs and plots. Upon regulation of land in the West Bank, approximately 600,000 dunams were registered in the name of the 'state,' namely under the guise of British Mandatory authorities, and later under the Jordanian Treasury, upon the annexation of the West Bank to Jordan in the 1950s. Pollowing Israel's withdrawal from these territories, which were handed over to the PA during the 1990s after the signing of the Oslo Accords, approximately 530,000 dunams of state land registered in the Tabu in Area C remained under Israeli control.

In December of 1968, namely one and a half years after Israel entered the West Bank, the land regulation process was suspended by a military order signed by then regional commander, Brigadier General Raphael Vardi, effectively ceasing the land regulation process in the West Bank to date.²³ Since the process was suspended, land rights in the West Bank may only be registered via a procedure known as 'First Registration,' which is initiated by landowners at their own expense, contrary to the standard land regulation process subsidized by the state.²⁴ There are indeed some cases in which Israel registered territory in the West Bank as state land, yet we lack information regarding why the government chose to do so in some places over others.



*This data refers to all areas of the West Bank, including those controlled by the PA

²⁰ Regulation was determined by the Land Settlement Ordinance (Property Rights Settlement), 1928; Land and Water Settlement Law No. 40, 1952. See Zamir (supra note 8), p. 27. Additionally, see the settlement map as it appears in Ian Lustick's, 'Israel and the West Bank after Elon Moreh: The Mechanics of De Facto Annexation,' Middle East Journal, 35 (1981), p. 570. Parts of this chapter are sourced from the first chapter in Kerem Navot's Blue and White Make Black: The Work of the Blue Line Team in the West Bank, (hereinafter: Kerem Navot's Blue Line Report), as well as from a legal appendix in Kerem Navot's report on Israeli Agriculture (supra note 7).

²¹ On the land of some villages (including Beituniya, Al Jab'a, Kafr 'Aqab and Al Khader), the process of regulation was initiated, and in certain cases even reached final stages, but was not entirely completed, thus Israeli authorities perceive these villages' land as unregulated. This had a fateful impact on these villages' land, such that large portions were declared state land, and settlements such as Giv'at Ze'ev, Geva Binyamin, Kokhav Ya'akov, and Efrat, were established on their territory.

²² Approximately 535,000 dunams are currently located in Area C.

²³ Military Order Concerning Land and Water Settlement (Judea and Samaria) no. 291. 5729-1968. Clause 3a of the order stipulates that "the validity of any regulation order and any procedure carried out in accordance with the regulation order will be suspended."

²⁴ For more information on the 'First Registration' process, see the Military Advocate General's website (Hebrew only).

Land seizure for security purposes and allocation to settlements

Over the course of the decade following the occupation of the West Bank, most settlements were established by seizing land for alleged military needs.²⁵ Over 40 settlements were established through this means from 1969-1983.²⁶ International law permits land seizures for security needs based on the sole assumption that the seizure is temporary, as security situations are inherently dynamic. In order to evade the issue of this temporary status, Israeli authorities retroactively declared much of the territory that was seized and transferred to settlements, state land. Other territory that could not be declared state land (whether regulated private land registered in the Tabu under its owner, or unregulated land indisputably cultivated by its Palestinian owners prior to being seized by the army), remain under the status of military-seized territory to date.²⁷ Following the High Court of Justice (HCJ) ruling on the Elon Moreh petition in late 1979, which reserved the military commander's right to seize land for settlement construction, the state of Israel significantly reduced its use of seizure orders to establish new settlements. Yet to this day the state continues to build in settlements whose land was seized prior to the ruling.²⁸

HCJ Elon Moreh ruling and the transition to state land declarations

As noted, the HCJ Elon Moreh verdict limited the state's ability to issue seizure orders for the establishment or development of settlements.²⁹ As a result, the state was compelled to devise a new legal mechanism to enable it to continue transferring land to the dozens of settlements it had planned to invest in over the course of those years. This is aptly described in B'Tselem's report 'Under the Guise of Legality':

The principal legislative step taken to achieve this objective was the extension of definitions in the Order Concerning Government Property. In 1984, the military commander amended the order, establishing that "government property" includes "property which belongs to, is registered in the name of, or is vested" in the Kingdom of Jordan "on the determining day [7 June 1967] or thereafter." The amendment changed the "original definition of government property," which "was a static definition that froze the situation that existed on the 'determining day'... [According to the amended order], even if rights of the enemy state were acquired or arose after the determining day (the day IDF forces entered the area), it became government property." The amendment clearly reflected Israel's adoption of a dynamic approach to the definition of state land in the West Bank, in place of the previous static perception. Land that had not previously been considered state land could now become government property under certain conditions.³⁰

The transition to active policy of state land declarations, shifted what had previously appeared to be an incidental matter of limited impact, to an issue of far-reaching implications for Israel's land regime in the West Bank. In two-thirds of the West Bank, wherein the regulation process has either not commenced or concluded, Israel applies article 78 of the Ottoman Land Code of 1858. According to the state's interpretation, this code permits it to take hold of land that has not been cultivated sufficiently or at all. Israel's use of Ottoman law relies on the particularly cynical claim that as an occupying power it is prohibited from adjusting local legislation unless the changes are due to imperative security needs or are necessary to benefit the civilian population in the area.³¹

Cultivation as a means of conferring land rights

Article 78 of the Ottoman Land Code indicates that anyone who has cultivated land for ten consecutive years unopposed, is entitled to continue doing so, which is legally referred to as 'tasarruf.' However,

²⁵ See Kerem Navot's, Seize the Moral Low Ground: Land seizure for 'security needs' in the West Bank, December 2018 (hereinafter: Kerem Navot's report on land seizure), pp. 41-61

²⁶ For a complete list of settlements, see ibid. p. 51.

²⁷ Ibid., p. 59.

²⁸ Ibid., pp. 39-30; HCJ 390/79, Duweikat v. Government of Israel ruling 34(1).

²⁹ For more on the matter, see Kerem Navot's report on land seizure (supra note 25), pp. 24–26.

³⁰ B'Tselem: Under the Guise of Legality: Israel's Declarations of State Land in the West Bank, February 2012, pp. 14-15.

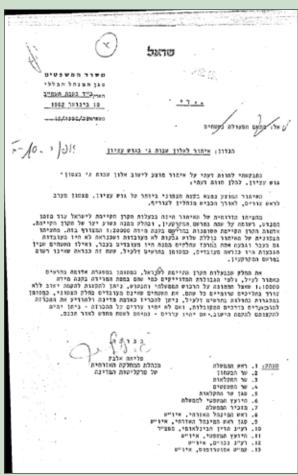
³¹ Ibid., pp. 5-6

³² In this context, the term 'tasarruf' entails one's right to own and use particular land while ownership of the land, the 'raqaba,' remains in the hands of the state. On the issue of cultivation, see supra note pp. 29–36. See also the discussion in a legal appendix ofKerem Navot's Report on Israeli Agriculture (supra note 7).

the code does not specify the precise type of agricultural cultivation that warrants this right. This law reflects the Ottoman state's interest in encouraging people to cultivate land to increase its tax revenue. The British Mandate, followed by the Jordanian Mandate, determined that for the purposes of this law, agricultural cultivation entailed 'reasonable cultivation' that suited the conditions of the type of land. Thus reasonable cultivation of rocky soil would not require rock clearance, but rather the agricultural use of available patches of land. In contrast, the Israeli interpretation of 'reasonable cultivation' is much more strict and legally unprecedented, whereby it entails cumulative cultivation of over 50% of each plot, regardless of the type of land. In cases where the total cultivated area is less than 50%, the entire plot is considered state land.³³

The mechanism for state land declarations and allocation to settlements

The transition to an active mode of state land declaration required the allocation of resources for mapping the boundaries of the territory Israel deemed state land. A special team was established to this end, led by the director of the Ministry of Justice's Civil Department at the time, Attorney Plia Albeck. During the 1980s, Albeck's team conducted dozens of surveys via field tours, aerial photographs, property registries, and taxpayer records,to determine what territory could potentially be declared state land. These surveys were accompanied by topographic maps (most of them on a scale of 1:20,000) that indicated areas deemed suitable to declare state land.³⁴ In accordance with the surveys, the Custodian of Government Property issued declaration certificates.





Document sent by Attorney Plia Albeck in 1982 about land on which the settlement of Gevaot would later be founded southwest of Bethlehem

³³ This interpretation is rooted in Israeli court rulings on land in the Galilee, the interpretation extended to the occupied territories as used by Military Appeals Committees. See Geremy Forman, A Tale of Two Regions: Diffusion of the Israeli '50 Percent Rule' from the Galilee to the Occupied West Bank, Law and Social Inquiry, 34, 3 (Summer 2009), pp. 671–711.

³⁴ In some documents, Albeck writes that the appeal period is 21 days, whereas in others 30-45 days are noted. For details on Albeck's opinion and the practice of declaring state land, see the Zandberg Committee Report (supra note 1), p. 21.

The Custodian of Government Property is the representative of the Military Commander in the West Bank authorized to administer government property per Order 59 Concerning Government Property, including declaring state land. Section 2c of the order reads:

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If the Commissioner confirms in a signed written certificate that any property is government property, it will be deemed as such until proven otherwise.

This certificate, known as the 'declaration certificate' thus transfers the burden of proving land rights to the residents claiming them. They may submit an appeal to the Military Appeals Committee against the declaration, in full or in part.³⁵ Transferring the burden of proof to residents is of legal and practical significance due to the genuine challenge in proving land rights according to Israel's strict interpretation of Ottoman law, as noted above (p. 19-20). In retrospect, this development is of grave significance with regard to the land regime that Israel established over the years.

It is worth noting that under Ottoman land law, deeming territory government property does not require public declaration. Nevertheless, about two-thirds of the West Bank's status has not yet been determined via regulation processes, such that the distinction between state and private land remains unclear. Thus before using state land whose official status is pending, the Custodian initiates a complex declaration process, including factual and legal opinions regarding the land rights system, field tours with residents, and the publication of certificates. In the past, declarations were made via mukhtars (traditional village leader) of relevant villages, and later the Custodian began publishing declarations by hanging them in District Coordination Offices (DCOs) as well as on signs posted in the occupied territories.³⁶



A sign placed by the Civil Administration in March 2017 on the lands of Sinjil, as part of the declaration of 978 dunams of land as state land allocated to the settlement of Eli.

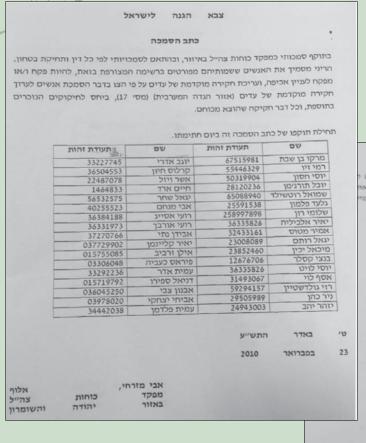
³⁵ In accordance with the Order Concerning Appeals Committees (the West Bank Region) no. 172, 5728-1967.

³⁶ Zamir (Ibid, note 8), p. 32. See also HCJ 3998/06, Yassin v. Military Commander of the West Bank Padaur, 9.11.2006; HCJ 285/81, to Al Nazar v. Commander of Judea and Samaria, ruling 36 (1) 701, 1982; HCJ 4999/06, Commissioner of Abandoned Property and Government Property in the Judea and Samaria Region v. Kfar Giladi Partnership Quarries, 15.2.2009.

Civil Administration Supervision Unit

In 1983 the Central Supervision Unit was established within the Civil Administration. The unit is responsible for oversight and enforcement matters in Area C, including, planning and construction, real estate, firing zones, and the environment, among other issues. The Land Survey Inspection Team operates within the Supervision Unit to identify land that may be declared government property, namely, state land. The 'Blue Line' team operates within the Supervision Unit to accurately mark the boundaries of the declared land, most of which is from the 1980s.³⁷ Several dozen Supervision Unit inspectors are appointed in accordance with a special certification letter, which includes their personal details and describes their authority. The heads of the Central Command and the Civil Administration are authorized to appoint them. According to the Civil Administration website, the unit's role is described as follows:

The Central Supervisory Unit at the Civil Administration in Judea and Samaria is responsible for law enforcement and security legislation in Area C, while emphasizing enforcement measures under planning and construction laws against illegal construction in both Israeli and Palestinian sectors, preserving state lands and firing areas.³⁸



A Civil Administration Supervision Unit certification letter from 2010

		של כתב הסמכה זה ו	מחוולים חומהו
מעודת זהות	שפ	תעודת זהות	שם
33227745	יוגב אדרי	67515981	מרקו בן שבת
36504553	קרלוס חיוו	55446329	רמי זיו
22487078	אשר ויול	50319904	יוסי חסון
1464833	חיים ארד	28120236	יובל תורגימן
56532575	ינאל שחר	65088940	שמואל רוטשילד
40255523	אבי מנחם	25591538	גלעד פלמון
36384188	רועי אסיינ	258997898	שלומי רון
36331973	רועי אורבך	36335826	יאיר אלביליה
37270766	אבידן נתנ	32433161	אמיר מטוס
037729902	יאיר קליינמן	23008089	יגאל רותם
015755085	אילן זרביב	23852460	מיכאל יכין
03306048	פיראס כעביה	12676706	בנצי קטלר
33292236	עמית אדר	36335826	יוסי לויט
015719792	דניאל ספירו	31493067	אסף לוו
036045250	אבנון צבי	59294157	רזי גולדשטיין
03978020	אכיחי יצחקי	29505989	יר כהן
34442038	עמית פלדמן	24943003	וחר יהב
		התש״ע	י באדר
			בסברוא 24
	יוא ראי באי		

תא"ל האזרחי והשומרון

6237

³⁷ See Kerem Navot's Blue Line Report (supra note 20)

 $^{^{38}\} http://www.cogat.mod.gov.il/en/Judea_and_Samaria/Pages/JSInspectionUnitSection.aspx$

ובחה ושומרון In spite of the pretense of portraying the Civil Administration's Supervision Unit as a professional, impartial body that enforces the law equitably, matters are much more complex, to put it mildly: many of the unit's members live in settlements, some of which are among the more radical Jewish settlements. It would not be implausible to assume that the prevailing sentiment among the Civil Administration's Supervision Unit involves sympathy toward the settlement enterprise and its associated interests. One instance of such conduct is seen in the story of a 'Blue Line' team member who lives in the settlement of Tekoa, namely Inspector Yossi Levitt. He was responsible for mapping state land near the settlement of Ma'ale Amos. In early 2014, Levitt resigned from the Civil Administration and established a company with a business partner. Together they built an illegal outpost called 'Khan Tzurei Ye'elim' in the exact area that he had been responsible for mapping a few years prior.³⁹ Although this is an exceptional example in terms of the personal corruption and audacity involved, Levitt was never personally held accountable for his conduct. Needless to note, Levitt's friends at the Civil Administration's Supervision Unit did not obstruct the work on site until recently. Months after we published Levitt's story, it became clear that he was not the only inspector living in an illegal outpost. Yair Albilia, a veteran employee of the Supervion Unit, lived in the illegal outpost of Mitzpe Kramim, which was established on private Palestinian land east of the religious settlement of Kochav HaShahar. Later, Albilia moved to Talmon, west of Ramallah, which is also among the more radical religious settlements.⁴⁰

Settler organizations' direct involvement in 'enforcement' – the state's unofficial Supervision Unit

Settler involvement in what is considered 'supervision' does not amount to mere increased presence in the Civil Administration Supervision Unit. Some West Bank regional and local councils have 'land coordinator' positions, which entail prevention of 'invasion of state land within the council.' Settlers who assume these roles maintain close working relationships with Civil Administration Supervision Unit staff. In the aforementioned case of Yossi Levitt, he had been employed as a land coordinator for the Mount Hebron Regional Council prior to commencing work with the Civil Administration Supervision Unit.

In recent years, settler organizations have emerged to take on the role of 'defenders of state land.' The most notable among them is the far-right organization Regavim, which was established in 2006 and also began to address land issues within territory of the State of Israel proper over the years. The organization's declared role is to "safeguard land and national assets [...] preventing illegal takeover of state land and maintaining good governance regarding Israel's land policy." Regavim provides 'land preservation' services to regional councils in the West Bank, and in return received large sums of money in 2017-2018. The symbiotic links between Regavim and the Binyamin Regional Council (which controls settlements in the Ramallah area) did not elude the State Comptroller, and in 2017 he raised the suspicion that the Council's tenders were tied to Regavim's criteria in advance. In a discussions by the Foreign Affairs and Defense Committee based on a presentation by Regavim, MK Moti Yogev of the far-right Jewish Home party said:

I suggest that if there are no good people in the Civil Administration to do the work, then they should outsource to Regavim. I suggest giving regional councils enforcement authority in their sector and not just in their settlements.⁴³

³⁹ Yotam Berger, "Israeli Official Declares Plot State Land, Then Turns It Into Illegal Outpost," Ha'aretz, 29.6.2018.

⁴⁰ Inspector Yair Albilia's story was covered extensively on Kerem Navot's Facebook page on 28.3.2019.

⁴¹ See the organization's 2018 financial report, p. 3 (Hebrew)

⁴² Yotam Berger, "Israel Watchdog Suspects Settlement Body of Illegally Funding NGOs Connected to Far-right Lawmaker," Ha'aretz, 21.11.2017.

⁴³ Minutes from the Foreign Affairs and Defense Committee's Judea and Samaria Subcommittee discussion 3.6.2018, on "The Palestinians Authority's Strategic Takeover of Area C." (Hebrew)

Another settler organization that addresses the 'protection of state land' is the Jerusalem Envelope Forum, established several years ago by settlers living in settlements between East Jerusalem and Jericho (Ma'ale Adumim, Kfar Adumim and Mitzpe Yericho). This organization is engaged in 'overseeing' Bedouin construction and promoting eviction of Bedouin residents, most of whom are members of the Jahalin tribe.⁴⁴

In 2018, settlers living in settlements in the Bethlehem area established the Rujum Organization for Zionist Entreprenuership. The organization operates what they refer to as a 'Shepard Unit,' described as follows:

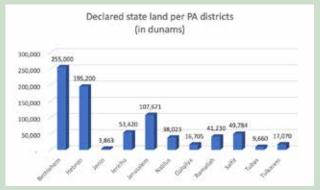
In collaboration with the Israel Police and the Gush Etzion Regional Council, a volunteer unit has been established with the aim of: eradicating and preventing agricultural crime and protecting state land, historic and heritage sites. It is clear to everyone that agriculture is Israel's spearhead and defensive shield. "Wherever the Jewish plow plows its last furrow, that is where the border will run." 45



'Shepard Unit' sticker, from the Rujum Organization for Zionist Entrepreneurship's Facebook page

State land declaration - the quantitative aspect

Over the years, the state of Israel declared approximately 788,000 dunams of West Bank territory state land. Approximately 103,000 of those dunams were included at different stages of the implementation of the Oslo Accords in the 1990s as territories intended for transfer to the PA (Areas A and B), leaving roughly 685,000 dunams of declared state land in Area C.⁴⁶ State land was declared across the West Bank, especially in the southern suburbs of Jerusalem, Bethlehem, and Hebron (among which 71% of the territory was declared), since land regulation processes had either not begun or were in their initial stages in 1967. In contrast, in the northern suburbs of the West Bank larger tracts of land were already regulated in 1967, such that less territory could be declared there.



*This data refers to all areas of the West Bank, including those controlled by the PA

⁴⁴ Hofi Amos, "The Struggle for the Contiguity of the Palestinian State will Be Decided Here," First Source (Makor Rishon), 16.1.2017.

⁴⁵ https://www.rjm.co.il/?page_id=4839

⁴⁶ The numbers in this chapter are based on the Civil Administration's map layers (Geographic Information System) that have been shared with us, and are lower than the numbers that appear in other organizations' reports and publications, and in the State Comptroller's report on the issue.

Decline in the amount of state land declarations

Throughout the 1990s there was a decline in the amount of state land declarations.⁴⁷ By that time, hundreds of thousands of dunams had been declared state land - far more than what the state of Israel was capable of settling in a foreseeable timeframe, thus there was no urgent need for further declarations. A document transferred to the organization Bimkom in 2009 indicates that from 2003-2009 approximately 5,100 additional dunams were declared, such that the size of the territory declared during those years was minimal relative to the area declared in the 1980s. From 2014-2019, the Civil Administration declared additional land in territory comprised of approximately 8,200 dunams. Most of this territory is located in the area west of Bethlehem ('Gush Etzion') and is intended to increase the density of settlements in the area.

The Civil Administration in Judea and Samaria Area Office of the Head of the Administration

Telephone: 02-9977003/3/4

Fax: 02-9977341 6th of Av 5769 July 27, 2009

To: Mr. Nir Shalev - "Bimkom"

Telephone: 02-5669655 Fax: 02-5660551

Re: <u>Freedom of Information Request - Government</u> <u>Property and State Land</u>

- 1. I hereby confirm receipt of your written request. Our response is below.
- 2. Due to the time-consuming information gathering procedure, the requested information will be sent to you incrementally, so as not to delay its transfer.
- 3. Below is our response to section 3 of your request, relating to the scope of land in Area C **declared** government property over the past seven years:

2003 - approximately 1708 dunams

2004 - approximately 1773 dunams

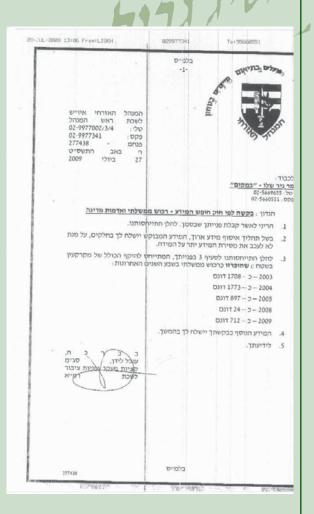
2005 - approximately 897 dunams

2008 - approximately 24 dunams

2009 - approximately 712 dunams

- 4. The additional information requested will be sent to you in time.
- 5. For your reference.

Regards, Inbal Lidan, Second Lieutenant Surveillance and Public Inquiry Officer Office of the Head of the Civil Administration



Document transferred to the organization Bimkom in 2009 regarding settlements declared state land from 2003-2009

⁴⁷ The decline may be linked, among other things, to the political climate in Israel after the signing of the 1993 Oslo Accords.

The transition to the land survey procedure and examining land status according to 'substantive law'

The sharp decline in state land declarations in the 1990s did not compromise Israel's grand orchestration to overtake Area C (61% of the West Bank), which remains in effect to date. This practice of issuing a compulsory public state land declaration, along with the obligation to enable landowners to appeal within a certain period of time (this mandatory obligation is mentioned in all of Albeck's survey documents), was replaced by the land survey procedure over the years. This procedure took effect in 1998 and is carried out by the 'Land Survey Inspection Team,' whose role is to map land that may be declared government property.⁴⁸ The term 'survey land' refers to land either already under review or suitable to declare state land. The results of these surveys have never been published due to the Civil Administration's refusal to do so, such that we lack a full picture of the location and scope of the territory that Israel has surveyed and deems state land. With that, it is clear that if not in practice, at least in theory these territories are much larger than those declared state land to date.

In sum, Israel considers extensive territories in Area C of the West Bank state land. This land is divided into three main groups: 1) State land registered in the Tabu, in most cases before 1967; 2) Territory declared state land by Israel over the years - throughout the 1990s, and especially since the signing of the Oslo Accords, there has been a sharp decline in the amount of land declarations, yet they have not ceased completely; 3) Survey land, which Israel deemed state land according to the 'substantive law' (based on the Ottoman law that determined when a right to unregulated land exists). To date, there is no governmental or civilian body that retains the full scope of information regarding the location and size of all survey land.

The legal basis for Issuing eviction orders

As noted above, eviction orders from state land are issued against what the state defines as recent invasions (of up to 30 days) as well as older invasions. For invasions that last over a 30-day period, an eviction order is issued by virtue of Order 59, and those against whom the order is directed have the right to appeal to the Military Appeals Committee within 45 days. For recent invasions, the eviction order is issued by virtue of the Property Order (Removal of Invaders) no. 1472, which requires the invader to leave within a few days (usually within 48-72 hours). It is possible to submit an appeal against this eviction order to the Supervision Unit of the Civil Administration, and in the event of its rejection the HCJ may be petitioned. It is important to note that in both cases, the burden of proof lies with the person whom the Civil Administration deems 'the trespasser,' and must prove that it is their private land.

As noted above, Israeli authorities' posit that land declarations are not a condition for turning land into government property. Section 3 of Order 59 describes the authority of the Custodian and determined that "the Custodian will manage the governmental property of which they took possession," and taking possession takes effect upon signing a declaration certificate. The state claims that issuing eviction orders is an act of protecting state land, which aims to protect the status quo. This standss in contrast to land management, which requires overt takeover and declaration of state land in accordance with section 2C of Order 59.⁴⁹

Article 1 of Order 59 defines 'management' as follows: "use, manufacture, operation, production, cultivation, purchase, sale, delivery, transport, lease, rental, or any such related action; or through protecting property, via operation or maintenance.' We are of the opinion that the state, according to whom 'protecting' is distinct from 'managing,' uses inconsistent language in the order, which explicitly contains the definition of management as the act of protecting, among other things. The state's interpretation that it is under no obligation to declare survey land before it issues eviction orders against work conducted on it, since such work solely entails 'protection,' is the state's mode of evading the political and international cost that comes with the declaration process. Moreover, this interpretation creates a situation in which individuals are made aware that their land, which they regard as their property for all intents and purposes, is defined as state land solely upon being issued an eviction order.

⁴⁸ The Zandberg Committee Report (supra note 1), p. 23.

⁴⁹ Col. Doron Ben-Barak, Deputy Military Advocate General, to Attorney Quamar Mishirqi-Assad on behalf of the organization Rabbis for Human Rights, 8.7.2013.

Furthermore, sometimes eviction orders are issued for cultivating land on which survey procedures are yet to be completed, and whose status as state land has yet to be determined. This entails that for some of this land, evidence has not yet been sufficiently collected to determine whether it is fit to be declared or considered state land. We are of the opinion that issuing eviction orders in such cases without a declaration procedure or completed survey, is an unnacceptable attempt on behalf of the state to bypass proceedings without proving ownership of the land, even if alleged. Justice Eyal Nun of the Appeals Committee, to which appeals are filed against eviction orders, criticized this practice as follows:

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An eviction order that does not rely on comprehensive facts and details, as what was not made available to the appellant was also not available to the respondent prior to issuing the eviction order, is a grave administrative defect, [...] it cannot be addressed on the agenda, and requires annulment of the decision and with that annulment of the eviction order, as I see it.⁵⁰

Appeals Committee member Major Adrian Agassi addressed similar matters in another appeal indicating that issuing an eviction order without prior inspection "violates public trust:⁵¹ - as, among other reasons, upon conducting the survey authorities may discover information that could impact the land's legal status.⁵² Furthermore, the state's position is that if the survey is not completed, it is not possible to clearly designate the territory state land.⁵³

A member of the Appeals Committee, Judge Meir Vigiser wrote on the matter:

In many cases, the respondent (that is, the Civil Administration) has very limited information regarding unregulated land rights, such as on agricultural or rocky land; property tax records are characterized by the absence of details enabling agricultural plots to be placed within the fiscal blocs; the respondent is likely to encounter significant difficulties upon seeking to collect relevant information for the purpose of issuing such an eviction order.⁵⁴

The outcome is that in numerous cases, the Civil Administration issues eviction orders without fully examining the status of the land rights. The state uses military legislation to evict people from their land, causing them irreparable harm. As indicated in the following chapter, this is not a negligible phenomenon - over 40% of the territory of eviction orders, on which this study is based, has neither been registered nor declared state land.

In this context, it is important to emphasize that the policy of declaring land is a flawed practice, both legally and in application: in many cases, state land declarations are not adequately publicized or brought before relevant parties, thus depriving them of the right to appeal the declarations. Additionally, the Military Appeals Committee, as previously noted, maintains a strict interpretation of the cultivation requirement, which was not customary in the previous regime. As such, in filing appeals against declarations deeming their land government property, Palestinians' chances of success are slim from the outset.⁵⁵

In conclusion, this chapter examined the rise in the use of state land declarations, against the backdrop of the HCJ Elon Moreh ruling (1979), in which it was decided that use of seizure orders to establish

⁵⁰ Appeals Committee 37/09, Abed Hussein Hassan Mussa v. Custodian of Government and Abandoned Property, 16.8.2011, article 17 of Lt. Col. Eyal Nun's opinion (minority opinion).

⁵¹ Appeals Committee 7/04, Ahmad Ali Said Aweida v. Custodian of Government and Abandoned Property, 10.7.2006, section 36 of Major Adrian Agassi's decision.

⁵² See HCJ 6505/09, Ali Daoud Ismail Barakat v. Minister of Defense, 5.3.2014, article 16 of the State's Response of 19.8.2012.

⁵³ See HCJ 5838/17, Al Khader Municipality v. Minister of Defense, 17.10.2017, State Response of 5.3.2013, Article 14.

⁵⁴ Appeal 12/12, Abd al-Rahman Khalil Muhammad Halahala (Tiger) v. Custodian of Government Property (Published in Nevo, 26.5.2014). It should be noted that Judge Vigiser's remarks were made regarding the importance of the hearing and the potential benefit of demanding full factual foundations prior to an administrative decision.

⁵⁵ B'Tselem, Land Grab: Israel's Settlement Policy in the West Bank, May 2002, Chapter 2. See also B'Tselem, By Hook and by Crook: Israeli Settlement Policy in the West Bank, July 2010, pp. 27-28.

settlements that do not primarily serve a military security need is illegal. These declarations involve legally inspecting land rights and surveys designed to examine the percentage of cultivated land in these territories. In the 1980s, use of the declaration method peaked, followed by a decline in the amount of declarations and size of their territory. The practice of declaring state land, and with it the obligation to permit landowners to appeal declarations, was replaced by the land survey procedure, which aimed to map viable land to be declared government property. However, the results of the surveys based on this procedure have never been published, and there is currently no information on the scope or location of the territories that Israeli authorities have surveyed and deem state land. In practice, Israeli authorities claim ownership of all unregulated and uncultivated land in Area C on the grounds that they are 'held as government property,' even if they have neither been inspected nor surveyed. The Civil Administration issues eviction orders for declared land, as well as surveyed land, land that has only been partially surveyed, and land that has not been surveyed whatsoever, on the grounds that such land has only been 'protected.' It claims that such protection does not require a declaration, comprehensive survey, or even the publication of its status for the submission of appeals. We are of the opinion that this position is clearly implausible, and creates a situation in which the state seeks to evict people from their land without enough evidence to prove that it is indeed state land.



Uprooting of trees in Mufaqara, South Hebron Hills

Chapter 2: The Eviction Orders

As noted, this report is based on approximately 670 eviction orders that were issued by the Civil Administration's Supervision Unit from 2005-2018. The following pages are dedicated to an analysis of the evictions from various perspectives.⁵⁶

The total area of eviction orders

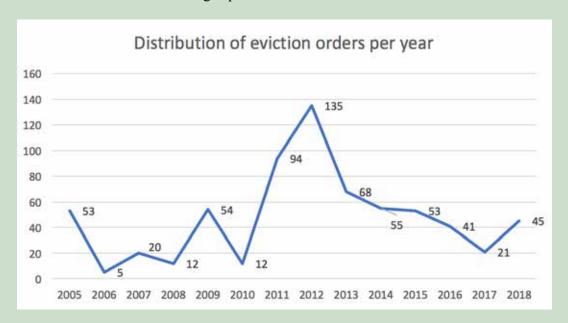
The total area of eviction orders includes nearly 13,000 dunams. That noted, there are 155 overlapping orders. Thus, after offsetting overlap the total area of the orders amounts to 12,500 dunams.⁵⁷ The figures presented below disregard partial overlap among eviction orders.

Distribution of eviction orders per year

The following chart is indicative of the vast differences in the amount of eviction orders issued over the years. We presume that these differences indicate changes in the priorities of the Civil Administration Supervision Unit's work, and are not reflective of changes on the ground during those years. This assessment is based on two explanations:

1. There was a sharp increase in the amount of orders and the scope of their territory during those years, which is also visible via eviction orders issued against Israeli settlers (see below, p. 41)

2. A comparison of the amount of eviction orders issued from 2011-2012 and the amount of evictions effectively carried out, indicates that there was a sharp increase in the amount of new orders both issued and executed. These figures bolster the assessment that a concerted systematic effort was invested in increasing supervision and enforcement around this issue at the time.⁵⁸

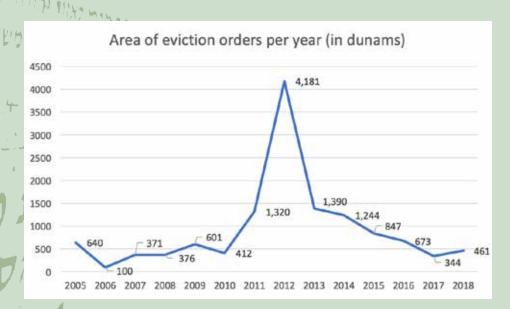


As indicated in the chart above, the sharp increase in the amount of eviction orders from 2011-2013 is also visible via the size of the territory included in the orders. The year 2012 indicates a peak in the amount of orders issued (135), along with the size of the territory included (4,181 dunams).

⁵⁶ As noted in the introduction, the information at our disposal does not encompass all the orders issued throughout 2018 (see above p. 14).

⁵⁷ It is important to note that some of the maps accompanying the eviction orders were negligently drafted, and include territories much larger than those effectively cultivated.

⁵⁸ This assessment is bolstered upon checking the amount of eviction orders issued against Palestinian structures by the same Supervision Unit workers during those years. Our examination indicates that there are no significant differences in the amount of demolition orders issued.



Distribution of eviction orders among Palestinians and settlers

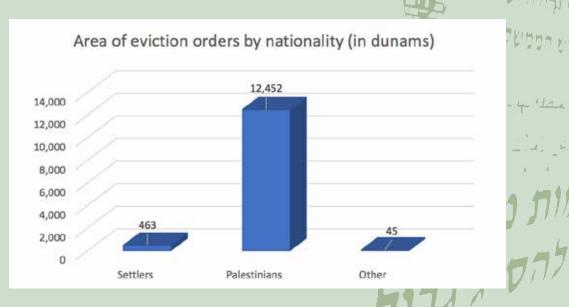
The vast majority of eviction orders (609 orders comprising 91%) were issued against Palestinians. A total of 57 orders (which constitute 8.5% of all the orders) were issued against Israeli settlers. Two additional orders were issued: one against a Ministry of Defense contractor employed to pave Route 4370,⁵⁹ and another against an individual whom we could not verifiably identify.⁶⁰



Segmentation of all the land included in the eviction orders indicates that 96% is included in orders issued against Palestinians. As noted above (p. 17), we lack details regarding the amount of work effectively carried out by Palestinians and settlers. The fact that nearly all state land (99.76%) has been allocated to Israeli settlers, predetermines that any form of land use on behalf of Palestinians will almost certainly be deemed 'trespassing,' with the exception of very rare cases.

⁵⁹ Road 4370 was paved from the years 2001-2008 between Route 1 and Route 437, close to the entrance of the settlement of Anatot, which is part of the Eastern Ring Road. For over a decade following its completion the road remained unused. In January of 2019 it was opened for several hours a day, due to settler pressure.

⁶⁰ An eviction order was issued for an area of 40 dunams adjacent to Route 5 ('Cross-Samaria Highway') west of the separation barrier located inside the 'seam zone,' designated a 'closed military zone' for Palestinian residents of the West Bank, and to which solely Palestinians with special permits may enter. According to the location of the order it is not implausible that it applies to residents of Kafr Qasim, whose easternmost homes are located a mere few hundred meters from the site.



Typological division of eviction orders - work designated as trespassing

Following an examination of the eviction orders, we separated the types of work into nine categories. It should be noted at the outset that in many cases a variety of work was conducted on land to which eviction orders applied, such that the classification below is not unequivocal, but rather a product of our interpretive judgement of the data.

The following are the categories according to which we classified the orders:

- 1. Places where we found no indication of why the order was issued, or were unable to identify the motives for doing so.
- 2. Plowing without preparing the land usually in relatively rocky areas.
- 3. Preparing land, breaking ground, and fencing.
- 4. Planting trees, greenhouses, and intensive agricultural cultivation.
- 5. Lightweight construction.
- 6. Massive development and cultivation.
- 7. Massive development and permanent construction.
- 8. A variety of orders not included in one of the above groups.
- 9. Orders issued on PA land.

The following is a breakdown of the findings:

1. Among 115 orders, which comprise approximately one sixth of the eviction orders (17%) and span 2,279 dunams (17.5%), we were unable to identify any signs of cultivation in the aerial photographs. We presume that this is due to seasonal shallow plowing that was not visible via aerial photographs, whether due to the poor quality of the photos at our disposal, or since the land was cultivated months before the photo date stamp, following which visual indication receded.



Group number 1: an aerial photograph from 2005 of an eviction order issued for land of the village of Nahalin, west of Bethlehem.

2. Upon merging the first and second groups of eviction orders, wherein we were able to identify shallow plowing in 66 eviction orders, it appears that seasonal plowing is the most common type of work. It appeared in 181 orders (27%) spanning approximately 3,966 dunams (roughly 30.5%).



Group number 2: an aerial photograph of an eviction order from 2006 issued for land of the village of Deir Istiya, north of Salfit

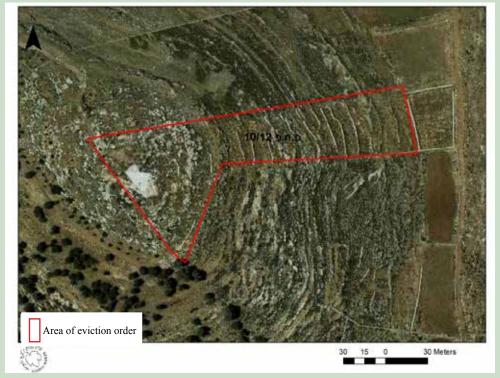
3. A total of 111 eviction orders (about 17%) spanning 1,071 dunams (approximately 8%) were issued for sites on which land was prepared through multiple means - land leveling, breaking ground, or

fencing.



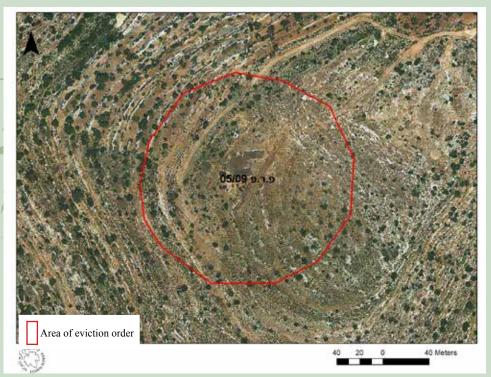
Group number 3: An aerial photograph of an eviction order from 2005 issued for land of the village of Jaba, west of Bethlehem

4. The largest group of eviction orders for which we clearly identified the type of work, are those issued for intensive agricultural work (unlike groups 2 and 3), such as planting trees and constructing greenhouses. This group includes 173 orders (approximately 26%) spanning an area of 5,308 dunams (roughly 41% of the total territory among all the orders).



Group 4: an aerial photograph from 2012 of an eviction order issued for land of the village of Dura, west of Hebron

5. A relatively small group of eviction orders includes 19 orders (approximately 3%) spanning 464 dunams (roughly 3.6%), which apply to areas where there was lightweight construction. The Civil Administration also issued demolition orders against many of these structures, in parallel.



Group 5: an aerial photograph from 2009 of an eviction order issued for land of the village of Beitillu, northwest of Ramallah

6. A group of 142 eviction orders, which constitute over one fifth of the orders (approximately 21%) spanning 1,747 dunams (roughly 13.5%), were issued on sites with agricultural development work, including land leveling, and the construction of terraces and fences. This group differs from group 3 in that the work executed on these sites is more intensive and clearly warranted the investment of larger sums of money.



Group 6: an aerial photograph from 2009 of an eviction order issued for land of the village of Husan, west of Bethlehem

7. A much smaller group of 26 eviction orders (approximately 4%), spanning 117 dunams (roughly 1%) of the orders' total territory, was issued for sites where there was significant development and permanent structures. In most cases demolition orders were also issued for structures on these sites.



Group 7: an aerial photograph from 2011 of an eviction order issued for land in Hebron

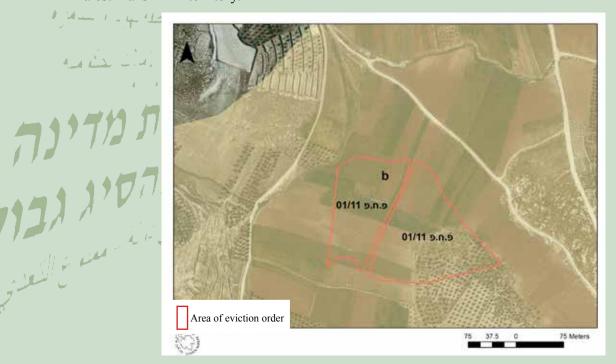
8. A small group of 14 eviction orders (approximately 2%) is for sites that do not belong to any of the aforementioned groups. Such orders differ from one another: some were issued against entrances to structures in Hebron and Bethlehem, while others were issued for sites such as the Baladim outpost built near the settlement of Kochav Hashachar inside Firing Zone 906.⁶¹ These orders span over 205 dunams (1.7% of the total area of eviction orders).



Group 8: an aerial photograph from 2011 of an eviction order issued against equipment left by a Defense Ministry contractor who constructed Route 437 east of the village Issawiyah in the West Bank

⁶¹ This appears to be an eviction order from a firing zone that was issued via Order 373 Regarding Security Provisions, and was passed on to us along with the other eviction orders. Yet we are unable to verify this as we only received the map of the order without the written portion.

9. The last group, comprised of two orders spanning an area of 82 dunams (approximately 0.6% of the total area) in total, is located on Palestinan Authority land. To the best of our understanding, these orders were mistakenly issued as the Civil Administration has no civilian enforcement authority over Palestinians in PA territory.⁶²



Group 9: an aerial photograph from 2011 of eviction orders issued for land of the villages of Nuba and Haris northwest of Hebron within Area B

In conclusion, in the vast majority of cases, eviction orders were issued against various types of agricultural work. Such work includes a few cases of lightweight construction, and even fewer cases of permanent construction in which large sums of money were invested.

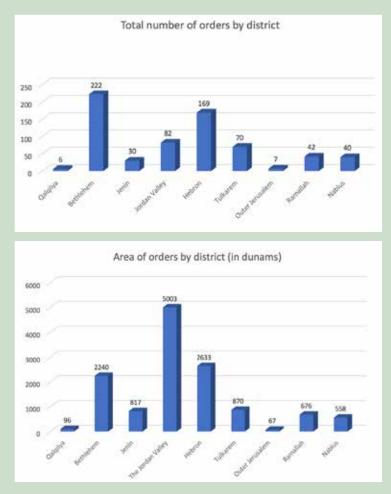


⁶² The diagram below on p. 39 indicates that 96 dunams are located on PA land. The difference between the figure there and this figure is due to the fact that small plots of several orders overlap with Palestinian Authority land. Such negligible overlaps were not calculated here, as we believe that they likely originate in inaccurate mapping of eviction orders.



Distribution of eviction orders among West Bank subdistricts

The distribution of eviction orders by subdistricts indicates that the two subdistricts wherein the most eviction orders were issued are Bethlehem (222) and Hebron (169), although the territory of orders in the Hebron subdistrict is larger (2,633 dunams) than that of the Bethlehem subdistrict (2,240 dunams). The subdistrict that includes the largest area of eviction orders is that of the Jordan Valley (5,003 dunams), yet the number of orders in this district only amounts to 82. As indicated in the following diagrams, the amount of eviction orders and their respective territory is much smaller among the remainingthe West Bank subdistricts and their total area is much smaller.



⁶³ Given that these orders are issued by the Civil Administration, the division of subdistricts presented here is based on their categorization. It is worth noting that the PA has a different administrative division of West Bank territory.

Over 70% of the orders (a total of 473) were issued The question at hand is how to interpret the fact that iin three of the subdistricts, namely the Jordan Valley, Hebron, and Bethlehem, spanning 76% (9,876 dunams) of the total territory of eviction orders. An in-depth examination indicates that two phenomena are likely responsible:

- 1. The abundance of orders issued in the Hebron subdistrict is due to the fact that it encompasses the largest Palestinian population, and that Israel has declared vast swaths of its territory state land over the years.⁶⁴
- 2. The abundance of orders in the Jordan Valley and Bethlehem subdistricts appear to be related to the Israeli government's political agenda in recent years, to promote annexation of the Jordan Valley and 'Gush Etzion.'65

This conclusion is supported by several findings:

- 1. A total of 222 orders, nearly one third of the orders issued throughout the West Bank, were located in the Bethlehem subdistrict, which retains nearly the smallest area (following the outer Jerusalem subdistrict) containing substantially less state land.⁶⁶
- 2! Nearly all the orders (93%) concentrated in the Bethlehem subdistrict are located in a region north of the settlement of Efrat⁶⁷ and west of Route 60 up to the Green Line. This area is typically called 'Gush Etzion.' Various Israeli politicians have declared that they intend to annex the region.⁶⁸
- 3. Over one third of the orders in the Bethlehem subdistrict (a total of 85) were issued against work conducted, whether fully or partially, on land neither declared nor registered as state land. This accounts for approximately 800 dunams, which exceeds one third of the total area of eviction orders in this district. This fact seems to indicate that the Civil Administration has made concerted efforts to thwart Palestinian development in the area. To the best of our understanding, this has occured due to the overt intention to promote annexation of the area.
- 4. As noted, 82 eviction orders were issued throughout the Jordan Valley subdistrict over the years, spanning 5,000 dunams. Yet a meticulous examination indicates that approximately 2,790 dunams, amounting to over 60% of the territory included in the orders issued against Palestinians in this subdistrict, were neither registered nor declared state land. As with the Bethlehem subdistrict, this fact likely indicates a concerted effort on behalf of the Civil Administration, to thwart Palestinian development throughout the Jordan Valley due to overtly political motives.

The status of land included in eviction orders

• Jewish land purchased prior to 1948: approximately 70 dunams of the entire territory included in the eviction orders overlaps with land purchased by Jews before 1948. This land was managed during the Jordanian period by the Custodian of Enemy Property, and after 1967 by the Custodian of Government and Abandoned Property, as if it was state land.⁶⁹

⁶⁴ The aforementioned diagram can be viewed on p. 23. This is due to the fact that Hebron is a relatively large subdistrict, wherein administration and regulation of its land remains incomplete, and much of its territory is arid and rocky. These circumstances have enabled Israeli Authorities to declare large swaths of its territory state land. Beyond the vast areas declared in this subdistrict, there are extensive rocky areas that have not been declared, despite the fact that Israel deems them 'survey land' and the Civil Administration issues eviction orders for this territory as well.

⁶⁵ Noa Landau and Yotam Berger, 'Netanyahu Says Israel Will Annex Jordan Valley if Reelected.' Ha'aretz, 10.09.2019.

⁶⁶ The figures in the diagram on p. 23 indicate the size of the declared land in the Bethlehem subdistrict according to the PA's distribution, which is much larger than that of the Israeli subdistrict.

⁶⁷ The region in question is Khallet an-Nahla in which the Israeli government is advancing construction plans for thousands of apartment units for the settlement of Efrat. See Yotam Berger's article 'Israeli Housing Project in West Bank Would Surround Bethlehem With Settlements,' Ha'aretz, 8.1.2019.

⁶⁸ The region currently known as 'Gush Etzion' is much larger than the area called Gush Etzion in 1948, and less than 20% of the land transferred to settlements in this region was purchased by Jews prior to 1948. See Kerem Navot's 'Blue Line Report' (supra note 20).

⁶⁹ The issue of the status Jewish property in the West Bank was brought to the HCJ in 2006 (HCJ 3103\06, Shlomo Valero v. The State of Israel, 6.2.2011. In the verdict (articles 53, 58 of the ruling), it was ruled that the State has the authority to manage the assets and it does not need to return them or compensate their owners.

• PA land: an examination of the status of the land in the eviction orders indicates that nearly 100 dunams are located in PA territory (Areas A and B). This is likely due to errors in the process of mapping the orders, yet the source remains unclear. Our inference is based on the fact that for all cases wherein the Civil Administration enforced eviction orders within PA territory, enforcement ceased on the border of Area C.⁷⁰

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- Land registered in the Tabu as private property: approximately 250 dunams of the territory included in the eviction orders were registered as private property. In a few instances there are clear deviations that originate in imprecise mapping of the orders' borders, while in other cases we presume that the private land is managed as 'absentee land' by the Custodian of Government and Abandoned Property.⁷¹
- Land registered in the Tabu as state land: approximately 2,750 dunams of the area included in eviction orders overlap with territory listed in the Tabu as state land. This amounts to approximately one fifth (21%) of the total territory of eviction orders.
- Declared state land: approximately 4,400 dunams of the territory included in the eviction orders overlap with Israeli state land declarations. This amounts to approximately one third (34%) of the total territory included in theorders.
- Other land: approximately 5,391 dunams (41.5% of the territory) of the total area of eviction orders overlap with territory that was neither registered nor declared state land by Israel. Some of this land was surveyed in full, whereas other sections were either partially surveyed or not at all.⁷²





A cistern destroyed by the Civil Administration in 2009, east of Hebron. In 2008, eviction order no. 02/08, was issued.

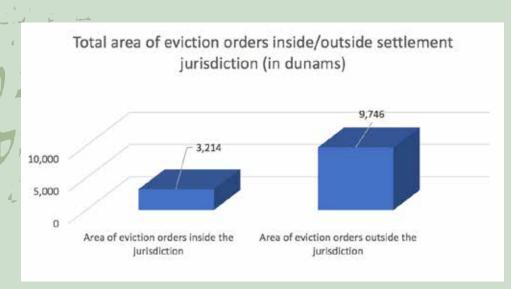
⁷² See Chapter 1, p. 26-28.

⁷⁰ This stands in contrast to demolition orders issued for security reasons. For example, in July of 2019 Israel destroyed buildings in Wadi al-Hummus on PA land in which the military forbids construction for "security reasons," due to their proximity to the separation barrier.

⁷¹ It is important not to confuse the Order Concerning Abandoned Property (private property) (West Bank area) no. 58, 5727-1967, with the Absentee Property law, which was legislated in the Knesset in 1950 and is only applicable within the sovereign territory of the state of Israel. Unlike absentee property within the state of Israel, which is permanently transferred to the state in accordance with the law, abandoned properties in the West Bank are to be managed by the Custodian until absentee owners' return to the West Bank.

ים באוון ערדה ושומרון Eviction orders in relation to settlements' areas of jurisdiction

As noted above, settlements' areas of jurisdiction span approximately 538,000 dunams.⁷³ A closer examination reveals that solely one quarter (24.7%) of the territory included in the eviction orders is located within settlements' areas of jurisdiction, while the rest is not located on land allotted to a specific settlement. This finding indicates that the Civil Administration seeks to curb Palestinian development in much more expansive areas than those allotted to settlements to date.



Eviction orders issued against settlers

The following subsection is devoted to an examination of eviction orders issued against Israeli settlers. We deemed these orders worthy of a separate section as they amount to a relatively small portion of merely 57 orders (8.5% of all eviction orders), which span 463 dunams (3.5% of the total territory) and retain unique characteristics that are indistinguishable upon reviewing the orders altogether.⁷⁴

Prior to reviewing the characteristics of eviction orders issued against settlements, it is important to reinforce that this comparison does not constitute recognition of the legality of Israeli settlers' presence in the occupied territories. Another matter worth reiterating due to its importance in understanding the data presented herein, relates to land allocation in the West Bank, which we reviewed above in detail: in June of 2018 the Civil Administration reported that approximately 674,459 dunams of land were allocated to Israeli settlements over the years, which comprise 99.76% of the territory allotted from 1967 on.75 This entails that any work carried out by Palestinians on state land, with the exception of very rare cases, will be perceived a priori by the Civil Administration as trespassing. This is the case despite the fact that in most instances, if not all, Palestinians deemed 'trespassers' are working land that they have cultivated with their families for many years, albeit sometimes seasonally, and retain documents attesting to their land rights.⁷⁶ A final and important note to clarify the realities on the ground: a great deal of settler construction and agricultural work in the West Bank is carried out on territory that is not state land, but rather land that even Israeli authorities recognize is privately-owned by Palestinians. This issue has surfaced many times over the years, and in January of 2017 the Knesset

⁷³ For technical reasons related to the Civil Administration's accuracy in mapping settlement jurisdiction, the figures in this paragraph are mere

approximations.

74 It is important to note that the figures in this subsection are solely based on 57 orders, and that the land vacated amounts to a mere 3.5% of the total area. Thus our findings are cautiously presented without decisive conclusions.

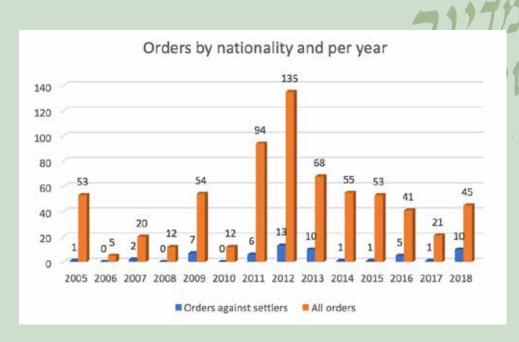
⁷⁵ See p. 15 above.

⁷⁶ In most cases these are registered in tax records preceding Israeli control, which prove that Palestinians paid taxes on the land. In Arabic these are called 'malia' (state treasury) documents, which note the location of the land, its size, and the name of the owner. In certain procedures these documents serve as prima facie evidence for the resident's possession of the land, alongside evidence of cultivation of over 50% of the territory, in accordance with Israel's strict interpretation of article 78 of the Ottoman Land Law. In addition to land tax payment confirmations, some residents retain Tabu records from Ottoman, British, or Jordanian Authorities. See Plia Albeck, 'The Use of Lands in Judea and Samaria for the Purposes of Jewish Settlements: Legal Aspects and the Reality Test,' A. Shvoot, ed, The Climb to the Mountain—The Renewed Jewish Settlement in Judea and Samaria Beit-El Library, 2002, p. 225.

even legislated the 'Regulation Law,' meant to prevent Palestinians from seeking restitution of their property.⁷⁷

Distribution of eviction orders against settlers over the years

As with the distribution of all eviction orders (see p. 29-30 above), there was even a significant increase in the amount of orders issued to evict settlers, and the respective territory, from 2012-2013. It appears that as the Civil Administration intensified enforcement efforts in this field, the amount of orders issued against settlers also increased.





⁷⁷ The regulation law was meant to allow a wide spectrum of takeovers of private property. As is written in the Law for the Regulation of Settlement in Judea and Samaria. 5777-2017: 'Whether intended for construction, agriculture, industry, or laying infrastructure – provided that they been made in "consent with the state" whether explicitly or implicitly, in advance or after the fact, including assistance in laying infrastructure, granting incentives, program planning, publicizing publications intended to encourage construction or development or participation in cash or in-kind.'

Typological division of orders issued against settlers by work classification

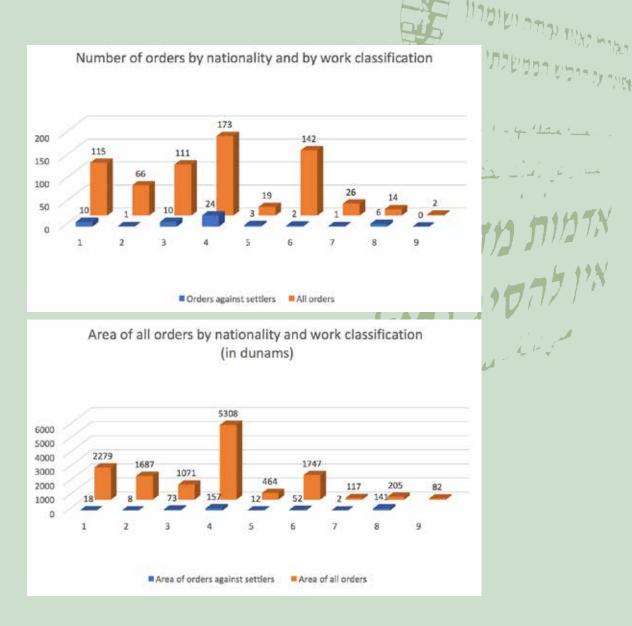
An examination of the eviction orders issued to evict settlers by work classification, indicates similarities and differences between these particular orders and eviction orders at large. The following are the primary findings:

- For 10 orders (17.5% of the orders issued against settlers) we were unable to identify any work on the land (group 1). We presume that similarly to the other orders wherein no work was identified, relatively shallow seasonal plowing is responsible for the lack of visible indication on the land over time.
- From among the orders issued against settlers, we were only able to verifiably identify shallow plowing in one case (group 2).
- A total of 10 orders (17.5%) were issued for sites on which land was prepared for use through various means, whether through land leveling, breaking ground, or fencing.
- The two types of work most prevalent among the orders issued against settlers, are the two most common among all the orders, namely planting trees and building greenhouses (group 4), which comprise 24 orders (42%).



Eviction orders issued against olive groves that settlers planted north of the settlement of Halamish

• Though group 6, which includes orders typified by massive development and cultivation, is a small marginal group that only includes two orders (3.5%), from among all the orders it comprises the second largest group, which includes 142 orders.

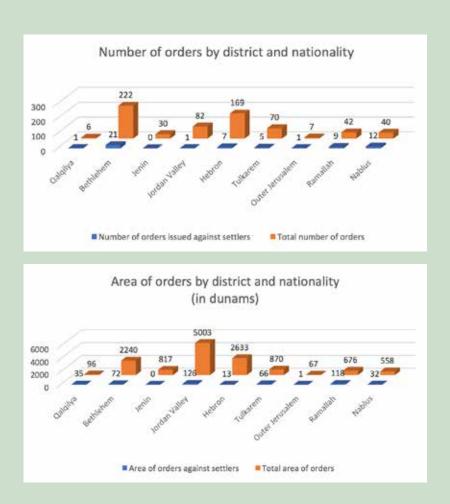


Distribution of orders issued against settlements per West Bank subdistricts

- A total of 21 orders (approximately 37%) were issued in the Bethlehem subdistrict. Most (15 orders) are located around the western settlements of the subdistrict (from the settlement of Efrat westward). The rest of the orders (six in total) were issued around settlements to the east of the subdistrict (Tekoa, Nokdim, Asfar).⁷⁸
- In the Nablus subdistrict, 12 eviction orders were issued against settlers. The orders are concentrated around the settlements of Tapuach and Elon Moreh.
- In the Ramallah subdistrict, nine eviction orders were issued against settlers. The orders are concentrated around the settlements of Halamish and Shilo.
- In the Hebron subdistrict, seven eviction orders were issued against settlers. They are primarily concentrated around the settlements of Kiryat Arba and the H2 area of the city of Hebron.

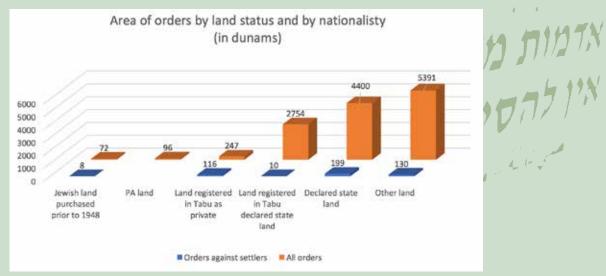


Eviction orders issued against settlers east of 'Givat Harsina' in Kiryat Arba



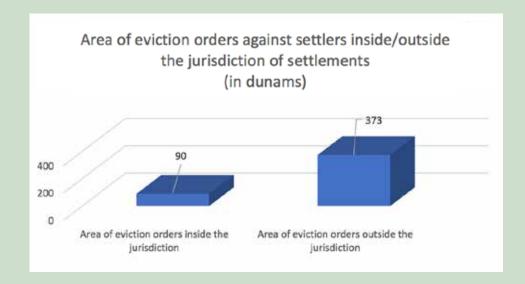
Status of land included in eviction orders issued against settlers

Among the most significant findings with regard to the status of land included in eviction orders, is that 116 dunams (approximately 25%) from among the orders issued against settlers are regulated private land. This includes one eviction order from 2011 issued against residents of the Baladim outpost in Firing Zone 906. 19 It is worth noting that 130 dunams, which constitute over one quarter (28%) of the total territory included in eviction orders against settlers, are undeclared and unregistered as state land. This stands in contrast to 41.5% of all the orders issued against work conducted on land of a similar status.



Eviction orders issued against settlers in relation to settlement areas of jurisdictions

One of the most compelling findings among our examination of eviction orders issued against settlers, is that nearly one fifth of the territory (19.5%) is within settlements' areas of jurisdiction. This indicates that areas of jurisdiction do not necessarily serve to legalize any type of work conducted therein, such that certain work is considered trespassing by the Civil Administration, even when conducted within settlement jurisdiction. As noted in the introduction to this report (p. 16-17), we are currently unable to estimate which percentage of settler work conducted within settlement areas of jurisdiction is considered trespassing, as we lack figures regarding the percentage of land allocated to settlers.



⁷⁹ See supra note 63.

⁸⁰ For technical reasons related to the accuracy of mapping settlements' areas of jurisdiction, the data presented in this paragraph is approximate.

⁸¹ This figure relates to our claim on information gaps regarding land allocation to settlements. See p. 16-17 above.

In conclusion, throughout this chapter we reviewed the characteristics of 670 eviction orders issued by the Civil Administration from 2005-2018. The total territory of these orders is just under 13,000 dunams, although in practice due to overlap among the orders, they span approximately 12,500 dunams. From 2011-2013 there was a sharp increase in the amount of orders issued by the Civil Administration. We attribute this rise to changes in the Civil Administration Supervision Unit's priorities, such that it is not reflective of an increase in the amount of work conducted.

A total of 91% of all the orders issued from 2005-2018 were directed against Palestinians. This is clearly a product of the fact that less than .25% of state land in Area C has been allocated by the Custodian of Government Property in the West Bank to Palestinians, to date. Approximately 70% of the eviction orders are issued for the subdistricts of Hebron, Bethlehem, and the Jordan Valley. We presume that the abundance of orders in the Bethlehem and Jordan Valley subdistricts reflects the Israeli government's ongoing efforts to advance annexation of these areas, which were already designated for annexation as part of the Alon Plan in the late 1960s. This presumption is reinforced upon examining the status of the land encompassed by eviction orders issued in both subdistricts: approximately one third of the territory included in the Bethlehem subdistrict, and 60% of that of the Jordan Valley, was neither registered nor declared state land.

Furthermore, we noted the status of the land on which eviction orders were issued: approximately 5,391 dunams (41.5%) of the orders' total territory were issued against work conducted on land neither registered nor declared state land by Israel. This figure indicates that a significant portion of the Civil Administration's efforts to thwart Palestinian development in the West Bank, addresses land whose ownership status remains inconclusive to date.



Uprooting of trees in Mufaqara, South Hebron Hills

⁸² Although the Alon Plan was never formally accepted, it effectively led Israel's settlement policy throughout the first decade following the occupation of the West Bank.



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