

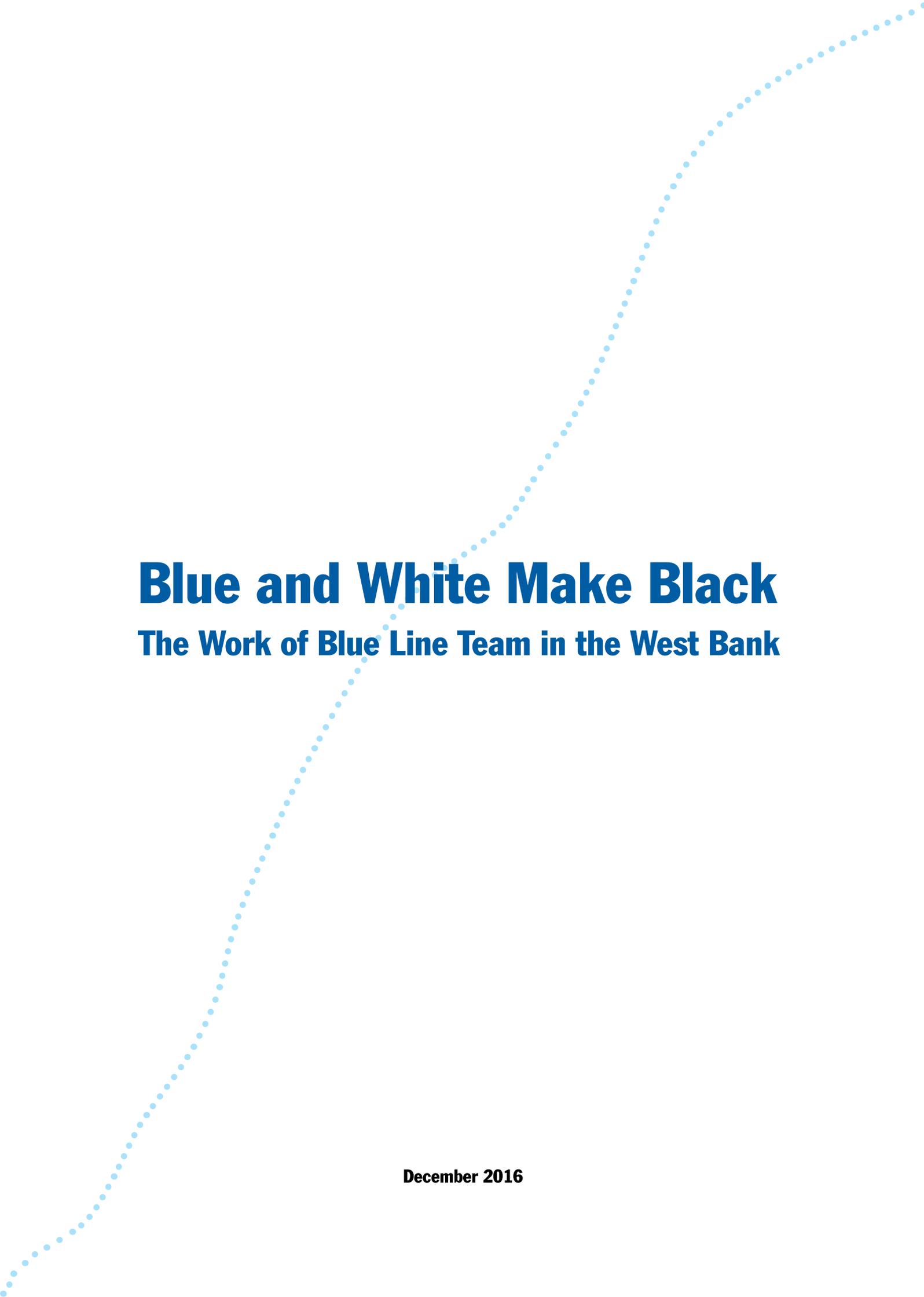


Blue and White Make Black

The Work of Blue Line Team in the West Bank



December 2016



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This report has been produced with the financial assistance of Diakonia and HEKS. The views expressed herein should not be taken, in any way, to reflect the official opinion of the donors to the project and the donors are not responsible for any use that may be made of the information it contains.



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Kerem Navot – Naboth's Vineyard is an Israeli organization established in 2012. The organization monitors, researches and publishes studies on lands policy in Israel and the West Bank Israeli settlements.

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Kerem Navot would like to thank “Shomrei Mishpat – Rabbis for Human Rights,” “Bimkom – Planners for Planning Rights,” and Ms. Michaela Rahat.

Cover photo: The settlement of Susya



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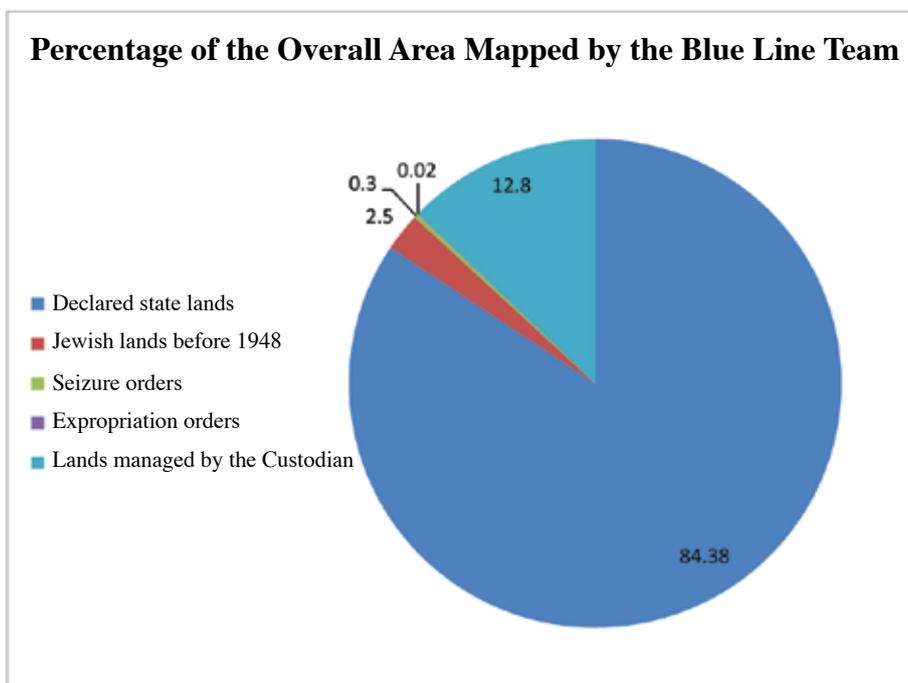
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Abstract

This report is the first devoted to an examination of the activity of the Civil Administration’s Blue Line Team, which has been in operation since 1999. The Blue Line is a general term given by the Israeli authorities to territories known as “state lands.” The main task of the team was and remains to examine the precision of the maps of state-land declarations, maps made in previous years, mainly in the early 1980s. In other words, its job was to revisit and approve the boundaries of these declarations. Since its establishment and through the end of 2015 (the period for which we currently possess information) the Blue Line Team mapped territories whose overall area approximates 320,000 dunam, the overwhelming majority of which had been declared in the past as state lands. A smaller portion of the Blue Line Team’s work was devoted to mapping areas to which Israel helped itself for the settlements and the infrastructure surrounding them, by way of various military orders and through the mapping of lands purchased by Jews prior to 1948.

Percentage of the Overall Area Mapped by the Blue Line Team



Over the years, the Blue Line Team became a key factor in all that relates to the development of the settlements and the retroactive legalization of dozens of outposts, since the procedures of the Civil Administration stipulate that any new plan submitted to the planning institutions for approval and planned on state lands declared prior to 1998 (i.e. on the overwhelming majority of declared lands) requires a reexamination of the land’s status by the Blue Line Team.

Background to the Blue Line Team’s Establishment

Following the ruling in the Elon Moreh petition at the end of 1979, Israel declared over 750,000 dunam in the West Bank as state lands. After the redeployment stipulated by the Oslo Accords (in the years 1993-1995) approximately 655,000 dunam of these lands remained in Area C. These lands were declared as state lands based on Israel’s distorted interpretation of the Ottoman Land Code, and in the overwhelming majority of cases, they were allocated for the development of settlements, and a sweeping prohibition was imposed to prevent Palestinians from using them. Over the years, inherent problems in the enactment of the state-lands declaration mechanism resulted in the creation of settlements “split” into a number of parts, and also left enclaves of private Palestinian lands in the heart of the settlements. As a result, vast private Palestinian territories around and within the settlements, which had never been included in declared-land areas, were stolen from their owners.

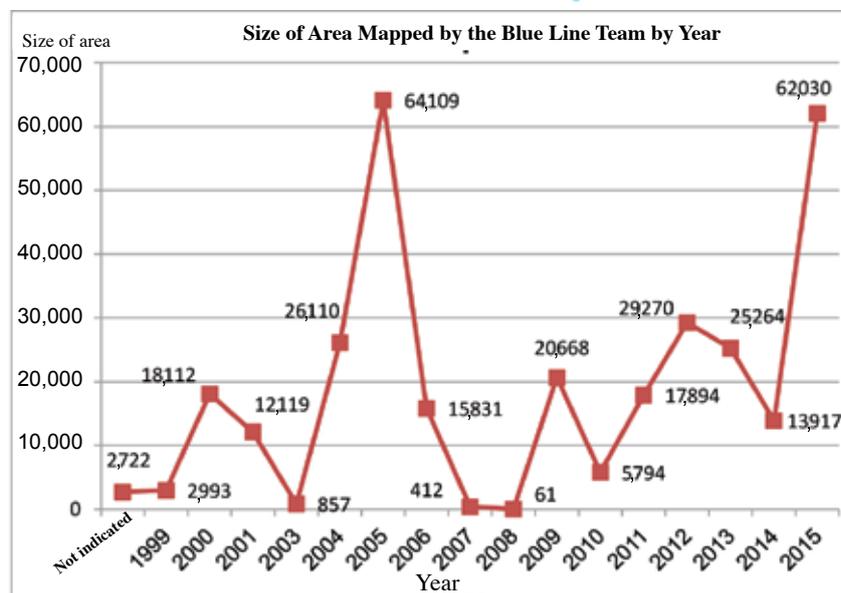
Most of the declarations of state land were made in the early 1980s by a team headed by the longtime Director of the Civil Department in the Ministry of Justice, Atty. Plia Albeck. Since the signing of the Oslo Accords, the number of declarations and the area of lands declared has dropped sharply, although it did not taper off completely.

Alongside the decline in the number of active, formal declarations, a parallel channel of mapping developed, which the Israeli authorities refer to as “survey lands,” i.e. lands that can be declared as state lands since according to the state’s requirement, they are cultivated not at all or insufficiently, and accordingly, under “substantive law,” they are viewed as state lands for all intents and purposes. These lands are mapped by a team that works in parallel to the Blue Line Team, known as the Survey Lands Team. However, since Israel never conducted a full survey of all the lands in Area C, today there is no government or civil body in possession of a complete picture regarding the location and overall area of the lands that Israel – if not actually then certain potentially – defines as “state lands.”

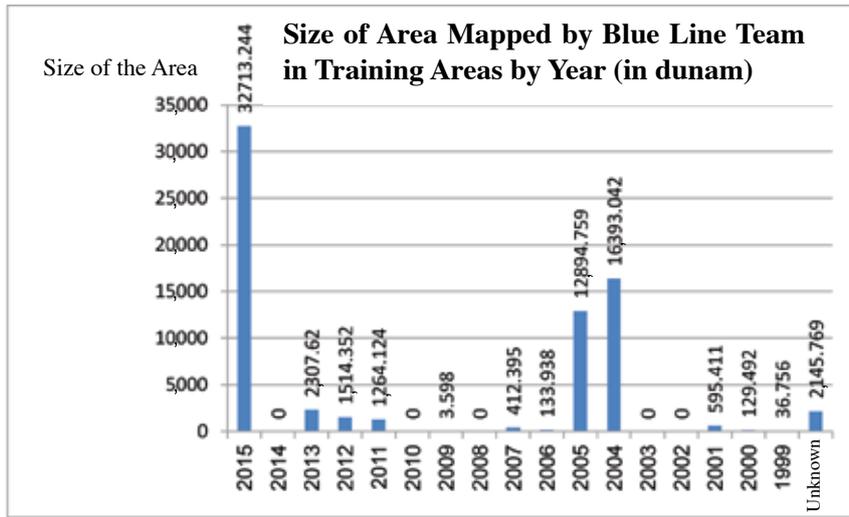
Work of the Blue Line Team

Approximately 70% of the area mapped by the Blue Line Team during the years of its work is located within the settlement jurisdictional areas, while the rest of the lands (30%) are located outside of the official settlement jurisdictional areas, but included in the realm of six Israeli regional councils in the West Bank. Only a fraction of a percent (0.2%) of the areas mapped by the Blue Line Team to this day have been allocated for Palestinian use, all of them for the “settlement” of the Palestinian Bedouin east of Abu Dis, a maneuver intended to enable the expansion the settlements in the Ma’aleh Adumim bloc.

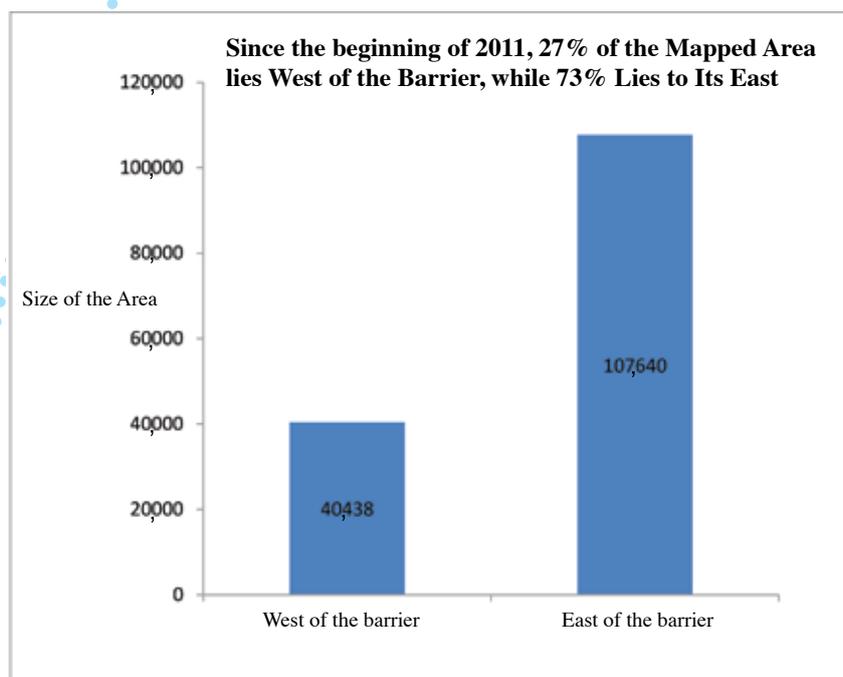
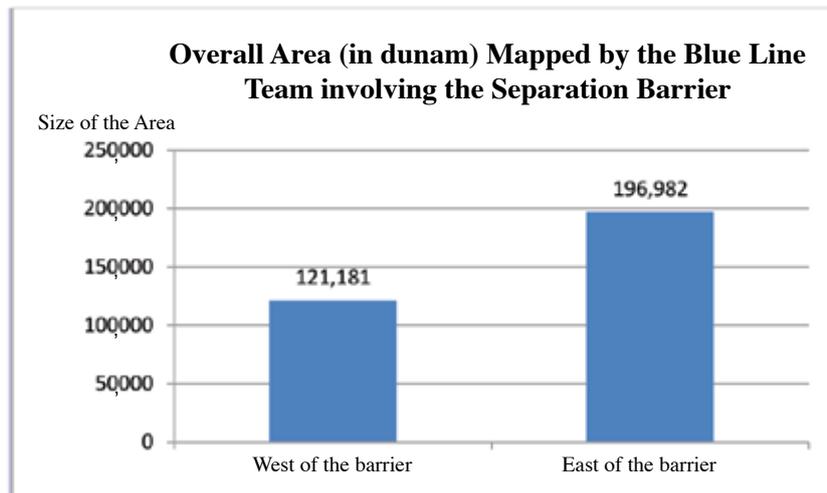
The Blue Line Team was in continuous operation over the years from its establishment, with the exception of 2002, and there are extreme variations in the area of the lands mapped each year. The years 2005 and 2015 saw the most extensive mapping of all.



It is important to note that 70% of the territories mapped by the Blue Line Team that are not within the settlement jurisdictional areas are located in declared military training areas (although in the decisive majority of them no training takes place). This is an area of approximately 68,000 dunam, comprising over one-fifth of the entire area mapped by the Blue Line Team since its establishment. In recent years, there has been a jump in the overall area that the Blue Line team has mapped within the training areas, and to our understanding, this maneuver proves that the military training areas are first and foremost a “land bank” that Israel is preserving as land reserves for the settlements.



Approximately 60% of the territory mapped by the Blue Line Team to this day is located east of the route of the Separation Wall, i.e. around isolated settlements and east of the “settlements bloc.” This trend has intensified in recent years (since 2011), and to our understanding, it constitutes an additional proof of the contradiction between Israel’s actual policy and its declared commitment to a two-state solution.



“Quality” and Precision of the Blue Line Team’s Work

An examination of all areas declared as state lands and mapped by the Blue Line Team revealed that 14,716 dunam, approximately 5.5% of the total area mapped by the team, were cultivated during the early 1980s, and therefore, were not supposed to be included within the Blue Line. Slightly less than half of these areas are today located in the actual bounds of 65 settlements, in industrial areas and in various outposts, and on almost 6,000 dunam of them, structures were built or the land was otherwise developed. This means that thousands of dunam of private lands owned by Palestinians were illegally stolen even according to the very “permissive” standards to which the Israeli authorities were supposed to adhere, leading to the conclusion that the Blue Line Team preferred to turn a blind eye to the fact that these areas were cultivated and to retroactively legalize buildings that should never have been erected in the first place.

| Year | Size of Area Mapped by the Blue Line Team | Size of Cultivated Area Mapped by the Blue Line Team | Percent of Cultivated Area Mapped by the Blue Line Team |
|------|---|--|---|
| 1999 | 444 | 2,993 | 14.8 |
| 2000 | 2,191 | 18,112 | 12.1 |
| 2001 | 621 | 12,119 | 5.1 |
| 2003 | 34 | 857 | 4 |
| 2004 | 734 | 26,110 | 2.8 |
| 2005 | 4,642 | 64,109 | 7.2 |
| 2006 | 22 | 15,831 | 0.1 |
| 2007 | 0 | 412 | 0 |
| 2008 | 51 | 61 | 83 |
| 2009 | 665 | 20,668 | 3.2 |
| 2010 | 564 | 5,794 | 9.7 |
| 2011 | 607 | 17,894 | 3.4 |
| 2012 | 2,193 | 29,270 | 7.5 |
| 2013 | 992 | 25,264 | 3.9 |
| 2014 | 206 | 13,917 | 1.5 |
| 2015 | 652 | 62,030 | 1.05 |

An examination of the “quality” of the Blue Line Team’s work and its level of precision revealed large gaps in the level of accuracy between the various maps. This fact belies the team’s failure to adopt binding professional standards in its work over the years. It is clear that this fact also did not escape the notice of the members of the Blue Line Team themselves, since over the years they made dozens of corrections on earlier maps. However, in a number of cases, these corrections had no impact, since in sites where the Blue Line Team reduced the lands in earlier mappings they had performed, buildings had already been erected or other development work had taken place.

An examination of the “errors” of the Blue Line Team reveals that a clear motive underlies some of them, and it can be plainly seen that they were intended to enable the paving of settlement access roads, as well as roads connecting areas included within the Blue Line but that remained cut off from one another. In a number of places the team included historical roads and areas where Palestinians from various communities lived and conducted their lives within the Blue Line, and in so doing, the Blue Line Team contributed to the truncation of the contiguity of Palestinian space and the eviction of Palestinians from lands slated to serve the settlement undertaking.

Introduction

This document is devoted to examining the activity of the “Blue Line Team” of the Civil Administration, responsible for managing all civilian affairs in Area C of the West Bank. The “Blue Line” is the term given by the Israeli authorities for lands known as “state lands,” lands that in most cases were allocated to Israeli settlements in the West Bank. The concept “state lands” in this context relates to two main groupings of land.

The first group is state lands listed in the Land Registry Office as state lands during the period of the British Mandatory government (until 1948) or during the period of Jordanian rule (until June 1967). These are areas that extend over approximately 600,000 dunam (one dunam = approximately four acres), approximately 535,000 of which became part of Area C under Oslo II (September 1995).

The second group, which will be the focus of this report, is the group of lands that the Israeli authorities declared as “state lands” after the “Elon Moreh” ruling in 1979, whose historical importance in this context is elaborated later in this report.¹ This area includes some 755,000 dunam, of which 655,000 are in area C. These lands were declared state lands under the Ottoman Land Code, Par. 68 of which determines that with the exception of unusual cases, a person who ceases to cultivate “*miri* lands”² for a period exceeding three years, loses his right to continue cultivating the land, and it is repossessed by the state, which can, in turn, transfer it to another individual.

Most of the declarations of state lands in the West Bank were carried out at the beginning of the 1980s when hundreds of settlements were created that required the availability of state lands. The declarations continued afterwards as well, at a slower pace. In many cases, the declarations were made near settlements that had been established earlier, on lands seized through military orders. We recall that the declared settlement policy of the Likud governments, a policy formulated in 1978 by Matityahu Droblas, was to establish settlements intentionally in the most populated lands of the West Bank (from “gav ha-har”, the eastern slopes of the mountain range west of the Jordan Valley, also known as “West Bank hill country,” and westward towards the Green Line) in order to prevent the establishment of a Palestinian state in this area.³

Over the years, the declaration of state lands became the most important administrative tool of the Israeli authorities for allocating lands in the West Bank to settlements. A few years ago, the organization Bimkom revealed that only 0.7% of the state lands were transferred to Palestinians for their use.⁴ As far as we know, the rest of the declared lands were incorporated into the areas of six Israeli regional councils in the West Bank.⁵ In other words, the concept “state lands” enables Israel to carry out a policy of unequitable land allocation rather than manage the land resource for the benefit of the local Palestinian population, as international law requires.

At the same time, it has emerged that the official declarations are only a small part of the overall “story” of state lands: for years, the State of Israel has repeatedly emphasized in the courts that the act of declaration itself is a voluntary act that is not required at all by the Ottoman Land Code, and that the determinant of whether land is “state land” is whether or not it is being cultivated (falling under the legal category known as “substantive law”). In other words, there are other very expansive areas that although they are not at all cultivated, or not cultivated intensively enough for the state to recognize the right of Palestinian ownership on them, they have not yet been declared “state lands.” The Civil Administration defines all of these lands as “survey lands,” and refuses to release any information regarding their dispersal or size. Legally, the state does not distinguish between declared “state lands” and undeclared “survey lands,” and

¹ HCJ 390/79, Duweiqat v. Government of Israel.

² Land that according to the Ottoman Land Code belongs to the “emir,” i.e. the government.

³ Droblas’ plan was called “Outline Plan for the Development of Settlement in Judea and Samaria for the years 1979–1983.”

⁴ Chaim Levinson, “Just 0.7% of State Land in the West Bank has been Allocated to Palestinians,” *Haaretz*, March 28, 2013.

⁵ See below, p. 17.

treats “survey lands” like state lands for all intents and purposes (for example, it issues eviction orders for individuals who in its opinion have trespassed on both these types of land, and occasionally even enforces them). One of the important ramifications of this approach to land management, which has been approved by the High Court of Justice, is that today there is no government or civil entity in possession of complete data regarding the extent of lands that the state views as “state lands,” since the Civil Administration has never carried out a comprehensive survey of all the lands in Area C.

At the end of 1999, the Civil Administration established the Blue Line Team, whose main job was and remains to evaluate the precision of maps of the declarations of state lands charted in previous years. However, the Blue Line Team was also called upon to state its opinion on additional land questions that arose (such as the mapping of seizure and expropriation orders and the boundaries of “Jewish Land” purchased prior to 1948). The reason for the establishment of the Blue Line Team at this point in time had to do with new technological developments that had occurred in mapping (GIS).⁶ The role of the Blue Line Team, then, is to “interpret” the maps of the declarations charted in a highly imprecise manner during the years prior to establishment of the team. The team’s “interpretations” of the state-land declarations were made by deciphering historical aerial photographs, assessing how intensively the land was being cultivated. Since its establishment and to the end of 2015 (the period covered by the information in our possession), the Blue Line Team mapped areas whose overall size is nearly 320,000 dunam, the overwhelming majority of which had been declared in the past as state lands.

This document will deal with hundreds of interpretations granted to this day by the Blue Line Team to the various declarations. Presented here for the first time is a comprehensive estimation of the quality of the Blue Line Team’s work and precision, in all that pertains to determination of the boundaries of state land, based on the criterion relied upon by the Israeli authorities – “the 50% cultivated-land test,” on which we will expand shortly.

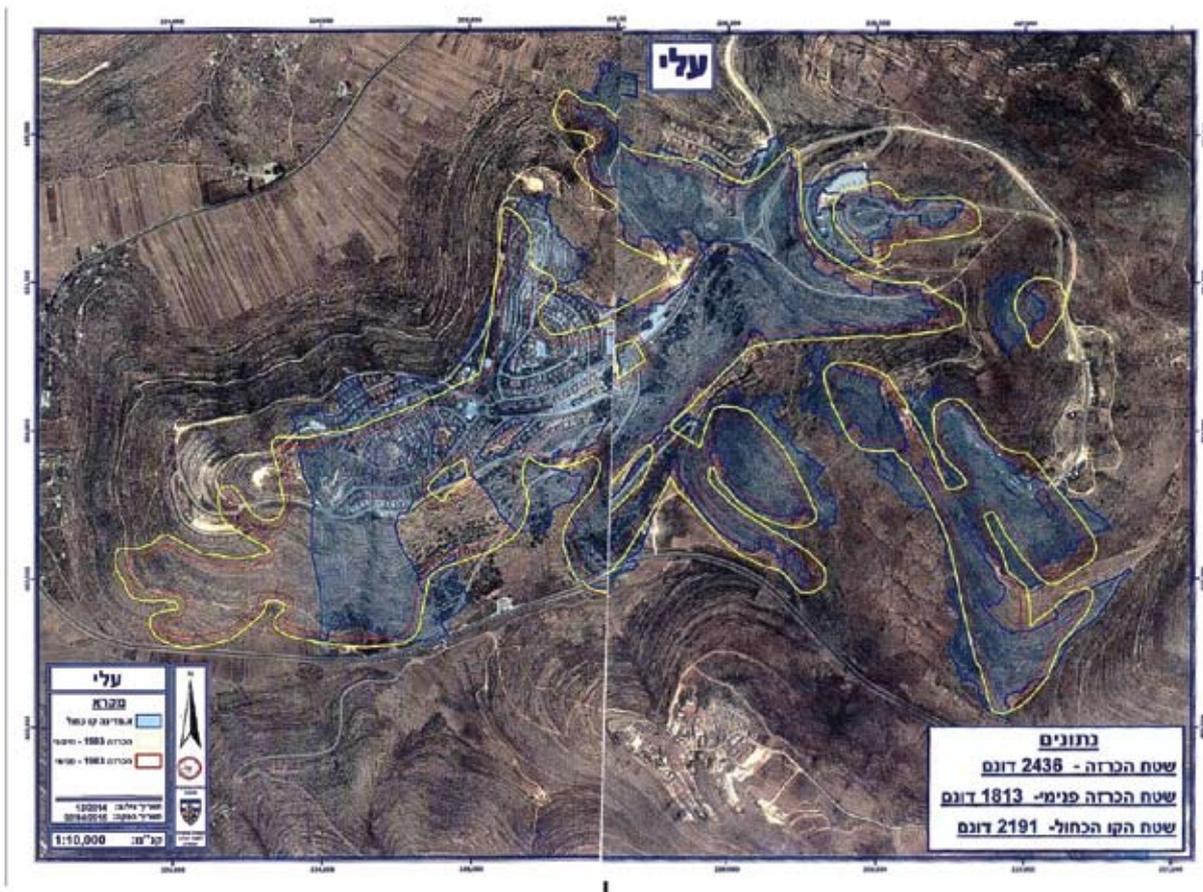
In order to conduct the research on which this document is based, we acquired and performed in-depth evaluations of hundreds of high-resolution aerial photographs taken from 1967-1983, which span all of the sites where the Blue Line Team has operated since its establishment (with the exception of one site). The results of the evaluation of these hundreds of aerial photographs are, in our view, the heart of the present document, and they are presented in Chapter 4, below. In contrast to other important works that have challenged the legitimacy of the policy of declaring state lands and the policy of subordinating them almost exclusively to the benefit of settlement interests, this document does not seek to take issue with the policy itself, but to examine the level of precision of the authorized actors (i.e. the Blue Line Team) and their adherence to the standards that the system itself stipulated for determining the boundaries of these “state lands.”

We emphasize that in many cases, the work of the Blue Line Team is disconnected from the reality in the field, since in the overwhelming majority of West Bank settlements there are incursions onto lands that the Israeli authorities themselves view as private territories.⁷ One of the many examples of the disconnect between the maps and the situation in the field became apparent of late when the Custodian of Abandoned and Government Property in the Civil Administration published a map of the Blue Line at the settlement of Eli (between Ramallah and Nablus) for objections. According to this map, the area of the Blue Line (which entirely overlaps with the jurisdictional area of the settlement) is 2,190 dunam, but an investigation of the “real” area of the Eli settlement, that is, the area determined by the line of construction in the settlement and the system of belt roads in the area, reveals that the correlation between the Blue Line and the area of the settlement is very tenuous, and in fact the settlement sprawls over approximately 4,400 dunam that include at least 166 structures built on private land outside of the Blue Line.⁸

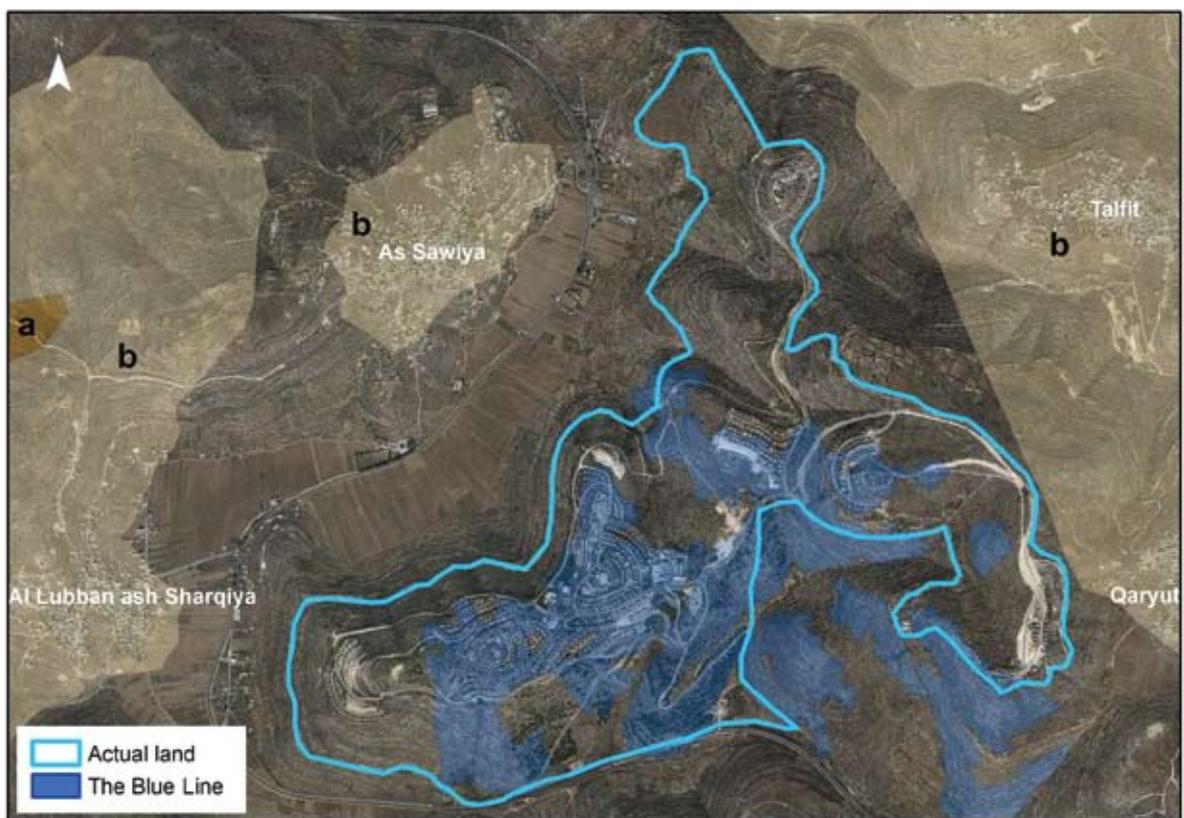
⁶ Geographical Information System

⁷ See *Guilty: The Construction of Settlements upon Private Land – Official Data*, Peace Now Report, March 2007, http://peacenow.org.il/wp-content/uploads/2016/05/Breaking_The_Law_formal-data_March07Eng.pdf.

⁸ Chaim Levinson, “At Least 166 Homes in Israeli Settlement Built on Private Palestinian Land,” *Haaretz*, January 28, 2013, <http://www.haaretz.com/israel-news/at-least-166-homes-in-israeli-settlement-built-on-private-palestinian-land-premium-1.496872>.



Map published by the Blue Line Team on February 29, 2016, showing state lands around the settlement of Eli



Actual land of the settlement of Eli compared to the settlement's Blue Line



00.08.08 0.16 0.24 0.32 Miles

The settlement of Eli is no exception, and the obvious conclusion is that the Blue Line as mapped out by the Blue Line Team cannot, in most of cases, be instructive regarding the reality in the field, since the declaration of a particular area as state land and its transfer to the settlers is usually a springboard used to gain control of additional extensive territories in other ways.

Structure of the Report

The report comprises four chapters and one appendix.

In the first chapter, we will survey the history of the mechanism of Israel's takeover of lands in the West Bank, focusing on the most important means that Israel created in this takeover mechanism - the declaration of state lands. Using the description of the procedures that preceded the establishment of the settlement of Susya, we will clarify the structural problems that characterized the mechanism of state-land declaration already in its initial stages, and we will see how these problems created severe procedural distortions, with implications both for freedom of movement of Palestinian residents of the West Bank, and their right of ownership.

In the second chapter, we will review the quantitative aspect of the declarations of state lands and see how they were carried out and during what years. Later in the chapter, we will clarify the reasons that led to a decline in the number of declarations (although they did not end entirely) and describe the mechanism that Israel developed for circumventing the declarations.

The third chapter will be devoted to a description of the circumstances of the establishment of the Blue Line Team in the Civil Administration, the procedures that guide its operations and the priorities defined for its work. The chapter will also survey the work of the Blue Line Team in the field. We will discuss the scope of the mapped area overall and the scope of the areas mapped each year, the goals of the mapping, the division of the area mapped according to areas in the West Bank, the scope of the area that was mapped and transferred to Palestinian use, and the scope of the area mapped that overlaps with areas declared as "closed areas" for IDF training ("firing zones"). Finally, we will analyze the work of the Blue Line Team relative to the Separation Wall which marks (at least according to the claims of various state spokesmen over the years) the eastern border of the "settlement blocs."

The fourth chapter will be devoted to a survey of findings from research we conducted regarding the manner in which the Blue Line Team carried out its work. The findings in this chapter are based on a close examination of historical aerial photographs of areas mapped by the Blue Line Team and defined as state lands, in an attempt to understand the state of the cultivation of these territories during the years when they were declared as state lands.

The report's appendix will be devoted to an overview of the activity of the Blue Line Team in Gush Etzion, an area whose land many Israelis mistakenly think was purchased by Jews before 1948.⁹ In this chapter we will describe the land history of each of the settlements located in this area, with the assistance of a series of maps and aerial photographs, and we will dispel the common myths regarding ownership of these lands.

⁹Usually Gush Etzion refers to the entire area west and southwest of Bethlehem, but the Gush Etzion Regional Council includes broader areas around the city of Bethlehem.

Chapter One: The Mechanism of Israeli Takeover of West Bank Lands Land Arrangement in the West Bank and its Suspension in 1968

Prior to the occupation of the West Bank by Israel in 1967, the formalization of land rights and registration of approximately one-third of the territory of the West Bank had been completed.¹⁰ This included some of the areas around Ramallah, Nablus, Jenin, Tulkarm, Qalqiliya, and the northern part of the Jordan Valley. The Mandatory authorities, and later, the Jordanian government, advanced formalization of land ownership in these areas, which included division of village lands into parcels and plots, and division and registration of ownership for all of them.¹¹ In the formalization of lands in the West Bank, among the registrations formalized, approximately 600,000 dunams were registered in the name of the “state,” that is, under the name of the British mandatory authorities, and later, with the annexation of the West Bank to Jordan, in the name of the Jordanian treasury.¹² In December 1968, that is, approximately a year and a half after Israel entered the West Bank, the process of land formalization was suspended – that is, frozen until further notice, through a military order signed by the area commander at the time, Brig. Gen. Rafael Vardi, and thus was the process of formalization in the West Bank halted to this day.¹³ Since suspension of the arrangement, ownership registration of land in the West Bank can be carried out through a process known as “first registration,” performed at the initiative of the landowners and at their expense.¹⁴

Seizure of Land for Security Needs and Allocation to Settlements

During the first decade following the occupation of the West Bank, most of the settlements were established through the seizure of lands intended ostensibly for “military needs.”¹⁵ A total of approximately 40 settlements were established over the years in this manner.¹⁶ International law, which allows seizure of territories for security purposes, is based on the assumption that the seizure of these areas will be temporary only, since a security situation is dynamic by nature. In order to circumvent the problem of the “availability” of these seized lands, the Israeli authorities retroactively declared a substantial portion of lands seized and transferred to settlements as government lands. Other areas, which could not be declared as state lands (whether because they were private, properly registered lands, or because they were lands that were not properly registered but beyond any doubt were cultivated by Palestinians before being seized by the army), retain to this day the formal status of “military seizure,” as do some of the official jurisdictional areas of 21 settlements. After the HCJ’s Elon Moreh ruling in 1979, which limited the right of the military commander to seize lands for the construction of settlements, the state greatly reduced (but did not completely cease) the use of seizure orders as a means of establishing new settlements, but continued building in settlements whose lands were seized prior to this ruling.¹⁷

HCJ Elon Moreh Ruling and the Transition to the Method of Declaring State Lands

The ruling in the Elon Moreh affair led, as stated, to a limitation of the state’s ability to use “seizure for military needs” in order to establish new settlements or expand existing settlements. It then became necessary to devise a new mechanism to enable the continued takeover of lands for the purpose of transferring them to dozens of settlements that the Likud government planned to establish or expand. This state of affairs is aptly described in B’Tselem’s report, *Under the Guise of Legality*:

¹⁰ The area of the West Bank is some 5,600 km². Seventy km² of this area was annexed to the area of the Jerusalem municipality, and the State of Israel views it as part of its sovereign territory.

¹¹ On the lands of some villages (including Beituniya, Al Jab’a, Kafr ‘Aqab and al Khadr), the process of formalization was initiated, and in certain cases even reached final stages, but was not completed entirely due to formal reasons, and therefore, the Israeli authorities view these villages as villages whose lands were not formalized. This incidental fact had a fateful impact on the lands of these villages – large portions of them were declared state lands, and settlements were established on them, such as Giv’at Zeev, Geva Binyamin, Kokhav Ya’akov and Efrat.

¹² Of these, approximately 535,000 dunam are today located in Area C.

¹³ The formalization was suspended by virtue of the Order regarding Land and Water Arrangement (Judea and Samaria) (No. 291) 1968. Par. 3a of the order stipulates that “The validity of any arrangement order and any procedure carried out according to the arrangement order will be suspended.”

¹⁴ Further information about the process of “first registration” can be found on the website of the Military Attorney General, <http://www.law.idf.il/163-6619-en/Patzar.aspx?SearchText=registration>.

¹⁵ See Yotam Berger, “Secret 1970 Document Confirms First West Bank Settlements Built on a Lie,” *Haaretz*, July 28, 2016, <http://www.haaretz.com/israel-news/.premium-1.733746>.

¹⁶ A number of sources cite other data regarding the number of settlements established on lands seized for security needs. The data appearing here are based on the GIS layer that the Civil Administration sent to us in May 2012.

¹⁷ The settlements of Pesagot, Maon, Dolev, Har Bracha and Ma’aleh Levonah were established in the early 1980s on lands originally seized for military needs. In some of these settlements as well, the seizure was replaced after in a retroactive declaration of these lands as state lands.

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.¹⁸

The transition to an “active” policy of the declaration of state lands turned what had appeared to that point as a random matter with limited ramifications, to one with far-reaching implications for the lands regime created by Israel in the West Bank. In two-thirds of the area of the West Bank where the process of legally formalizing the lands has not begun or was not completed, Israel invokes Par. 68 of the Ottoman Land Code, which enables it, according to Israel’s interpretation, to seize lands that were not cultivated – or not sufficiently cultivated – for a period of over three years. Israel’s use of the Ottoman Land Code, which dates to 1858 and is unarguably anachronistic, is based on the particularly ironic claim that as an occupying power it is not authorized to institute changes in local law, unless these changes arise from an immediate security need, or are necessary for the wellbeing of the civilian population in the area.¹⁹

Cultivation as the Criterion by which Land Rights are Determined²⁰

Par. 78 of the Ottoman Land Code (1958) determines that a person who “undisputedly” cultivated land for ten consecutive years has the right to continue cultivating it (“tasarruf” rights).²¹ However, this law does not mention the precise type of agricultural cultivation that affords this right. The law reflects the interest of the Ottoman state, which wanted to encourage subjects to cultivate lands in order to preserve its tax revenues. The British Mandatory governments, and after them, the Jordanians, for purposes of this law, defined “agricultural cultivation” as “reasonable cultivation,” that is, cultivation that corresponds to the conditions of the specified unit of cultivated land. Thus, if the land is rocky, the test of reasonable cultivation does not impose a requirement of removing the rocks, but rather, requires agricultural use of the patches of arable land that is not rocky. In contrast, the Israeli interpretation of “reasonable cultivation,” much stricter and lacking any legal precedent, determined that “reasonable cultivation” meant cumulative cultivation of over 50% of the area of any plot, regardless of the type of land. If the overall cultivated area constitutes less than 50% of the plot, the entire plot is considered state land.²²

The Administrative Mechanism behind the Declarations of State Land and their Allocation to the Settlements

The transition to an active method of declaring state lands required the allocation of resources for mapping the boundaries of the territories that Israel was claiming as state land. To this end, a special team was convened, headed by then Director of the Ministry of Justice’s Civil Department, Atty. Plia Albeck. During the 1980s, Albeck’s team conducted several dozen surveys, both by conducting field tours and using aerial photographs, for the purpose of demarcating what team members viewed as uncultivated lands that could be declared as state lands.²³ In addition to these surveys, a black marker was used to mark topographical maps (usually 1:20,000 scale) to indicate areas found suitable for declaration as state lands. The surveys conducted by Albeck’s team were ordered by the Ministerial Committee on Settlement

¹⁸ *Under the Guise of Legality*, B’Tselem Report, February 2012, pp. 14–15.

¹⁹ *Ibid.*, pp. 5–7.

²⁰ *Ibid.*, 35–46.

²¹ “Tasarruf” refers to the right of a person to continue cultivating particular lands, even though absolute ownership of the land – “raqaba” – is in the hands of the state.

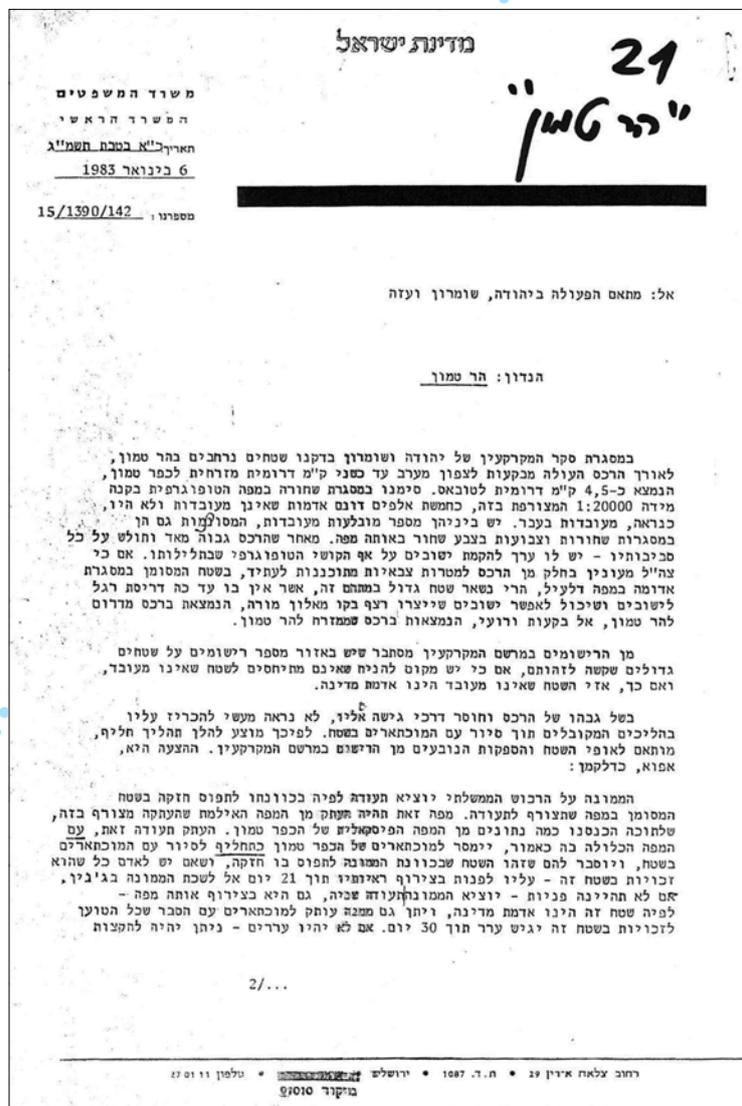
²² The source of this interpretation is surveys conducted by Israel in the 1960s on lands in the Galilee, sovereign Israeli territory, in order to “Judaize” this area. See Jeremy Forman, “A Tale of Two Regions: Diffusion of the Israeli ‘50 Percent Rule’ from the Galilee to the Occupied West Bank,” *Law and Social Inquiry*, 34:3 (Summer 2009), pp. 671–711

²³ Summaries of the surveys conducted by Albeck’s team were sent to the legal department of Shomrei Mishpat – Rabbis for Human Rights as part of a request under the Freedom of Information Law.

Affairs and were addressed to the Office for the Coordination of Government Activities in the Territories, which was responsible for issuing the declarations, informing the village heads (“mukhtar”s) that their lands had been declared state lands, carrying out field tours with these village mukhtars, and providing the possibility to petition the declaration within a few weeks.²⁴ In practice, not all of the surveys conducted by Albeck’s staff later translated into the establishment of settlements. In any case, the logic guiding the staff’s activity was a clear political logic, namely, to assist in the fulfillment of the vision to divide and perforate the West Bank.²⁵

An example of a survey that did not ripen fully into the establishment of a new settlement is the survey conducted by Albeck at Mt. Tamun (northeastern West Bank). The conclusions of this survey were written in early January 1983, and they clearly reflect that Albeck did a good job of internalizing her role and its purpose:

Even though the IDF is interested in part of the range for planned military purposes in the future, in the territory marked with a red frame in the above map, a large area remains in this compound that until now has not been accessible for settlements, and that may enable [the establishment of] settlements that would create contiguity from Elon Moreh, located on the range south of Mt. Tamun, to Bekaot and Ro’i, located on the range east of Mt. Tamun.



Albeck’s letter of January 6, 1983, to the Coordinator of Activities in the Territories regarding results of the survey at Mt. Tamun

²⁴ In a number of places, Albeck writes that the time allowed for petitioning is 21 days, while in others – 30 or 45 days.

²⁵ Plia Albeck’s letter to the Coordinator of Activities in the Territories, January 6, 1983 (see photocopy of the letter above).

While no settlement has yet been built at Mt. Tamun, this does not mean that no settlement can be erected there in the future, because in the overwhelming majority of the cases, areas that Albeck's team declared as state lands were later allocated to Israeli regional councils in the West Bank. This is what happened at Mt. Tamun: Two and a half months after Albeck sent the conclusions of the Mt. Tamun survey, 5,000 dunam declared there were transferred by army directives to the Samaria Regional Council, established just a year and a half earlier (on August 21, 1981). This regional council and five additional Israeli regional councils established in the West Bank received enormous land reserves within the short span of a few years, and while today the overwhelming majority is still not being used, Palestinians are officially forbidden from using them.²⁶



Mount Tamun

²⁶ The six regional councils in the West Bank are Samaria, Benjamin, Gush Etzion, Mt. Hebron, Megilot and Arvot Ha-Yarden.

Excerpt from an interview with Yehuda Nahari, Custodian of Abandoned and Government Property in the Civil Administration, 1981-1989 (Interview conducted in Jerusalem, July 6, 2016).

Nahari: He [Arik Sharon, Minister of Agriculture and Chairman of the Ministerial Committee on Settlement] said, "Look, I'll give you any budget you want, any budget." "Start working," he says to me. I told him, "No problem."

Question: You said tens of thousands of dunam, based on what? Which tens of thousands of dunam were you talking about?

Nahari: First of all, Turkish law applies there. Among other things, Turkish law stipulates, regarding lands, that if there are lands that are not cultivated, they belong to the state, even if they gave them to someone and he doesn't cultivate them, and there [in those days] there were gifts, all of the rulers gave gifts. Everyone who received land and didn't cultivate it, it returns to the state. That's the point, that's the most important thing. Little me ordered aerial photos from a government surveying department showing all of the lands of Judea and Samaria. I received these aerial photos and they marked all of the areas for me that are not cultivated - rocky, uncultivated lands. I sent each district its segment, I organized jeeps for them, and they went with representatives of the administration of the area and the army, went up every mountain, every place, they checked the ... according to their maps, which they had received from me, they checked how real the business was, returned them to me. After they returned them to me I said, "I'm going to check this again, this whole business." When I told Arik Sharon that I was going to check it I got a helicopter, they gave me a representative from the Defense Ministry, all that me and him, and he's not part of the Israeli Lands Administration in any way, but he's a son-of-a-b*, he gets everywhere. I got a representative from the Ministry of Defense so that it would have a more responsible stamp of approval, they didn't want me to use my legal advisor, and they hooked me up with a legal advisor from the Ministry of Justice.

Question: Whose name is...?

Nahari: Plia Albeck, she's a representative of the Ministry of Justice. For three weeks, maps on her lap, we flew by helicopter from the Knesset to all of the... we went over all of the mountains, all of Judea and Samaria, three weeks. Everywhere where there was concern about something we descended, if you know what that is...

Question: What do you mean by "concern about something"?

Nahari: What?

Question: What do you mean by "concern about something"? Explain it to me.

Nahari: - I, for example, know, maybe you also know, what "sira kotzanit" [Sarcopoterium spinosum - a small, thorny shrub] is. That plant, "sira kotzanit," is like a prickly hedgehog, and when it exists in high concentration in a particular area you think it's cultivated. At the time there were many places like that that weren't cultivated and we corrected the maps.

Question: Explain to me please, you're sitting in the helicopter...

Nahari: With the maps

Question: You're sitting in the helicopter with a map...

Nahari: Yes, yes.

Question: You're looking from the air...

Nahari: Correct, correct.

Question: And you're outlining with a black marker...

Nahari: Correct, correct.

Question: Together with Plia Aleck...

Nahari: Exactly.

Question: Both of you in the helicopter and a pilot?

Nahari: No. We were five: Plia Albeck, a representative of the Ministry of Defense, a representative of the Ministry of... uh... uh... the Civil Administration, the army, that's to say here in Judea and Samaria, a representative from Judea and Samaria, a representative of the Ministry of Defense, a legal advisor and myself, on our knees, three weeks, we went through and corrected what needed to be corrected.

The Problem with the Mechanism for Declaring State Lands

The internal contradictions and the difficulties in the method of declaring state lands began to emerge already in very early stages of its implementation in the field. The contradictions and problems arose from the method itself and from the manner in which it was implemented:

1. The difficulty in deciphering the Turkish deeds (“kushan”s) which described the boundaries of the land owned but did not include maps to enable precise identification of the boundaries of the lots.
2. The lands declared as state lands were in many cases non-contiguous, and thus, Palestinian land enclaves remained between them, surrounded by lands annexed to settlements. In other cases, enclaves of state lands were surrounded by Palestinian territories.
3. Various actors (including the army, the settlers and the Jewish National Fund) implemented measures in the field without coordinating with Albeck’s team, and in effect created facts on the ground, sometimes even in complete contradiction to the conclusions of the surveys themselves, which determined that certain areas were private lands.

Process of Declaring State Lands around the Settlement of Susya

We have chosen to expand our description around the circumstances of the establishment of the settlement of Susya on the lands of the municipality of Yatta in 1983, since this is one of the places where it is possible to see how, over the years, the inherent problems in the declaration mechanism created a reality of dispossession on the scale of thousands of dunam. Much can be gleaned regarding the way events played out in this case from a series of documents written by Plia Albeck during the years 1981-1984.

In 1981, at the instruction of policymakers at the time, Plia Albeck’s team began mapping the lands of Yatta in the South Hebron Hills with the goal of establishing a new settlement there. For many generations, this area was inhabited by residents of a number of herding villages, originally from the municipality of Yatta, including the Palestinian village Khirbet Susya.²⁷ In 1986, residents of this village were deported from the site, and today, the settlers of Susya manage an archaeological site there.²⁸

Determining the Boundaries of the Turkish “Kushans”

Albeck’s initial conclusion from the survey carried out on the lands of Yatta were set down in writing and sent to the Ministerial Committee on Settlement on May 29, 1981. The conclusions were that it is impossible to establish a new settlement in a broad area around Khirbet Susya since these areas were registered in the Ottoman Lands Registry as private lands. Albeck in her letter to Uri Braun, assistant to the Chairman, of the Committee, writes as follows:²⁹

²⁷ The Arabic word “khirbeh” usually indicates a satellite village of a larger, neighboring locality, and should not be confused with the Hebrew word “churvah,” which means, simply, “ruin.”

²⁸ The deportation of residents of Susya from the site took place after its expropriation for public needs on September 2, 1986 (Expropriation Order 1/86, which included 280 dunam), and its transfer to the settlers of Susya.

²⁹ Letter of Plia Albeck to Uri Braun, May 29, 1981.

I also found, in the legal material in the survey file, that lawyers who examined the registrations in this area wrote that they found that over three thousand dunam of the land of Khirbet Susya are registered in the Lands Registry as privately-owned lands. [...] Therefore, it should be assumed that the location you proposed for examination is under private ownership.

מדינת ישראל

משרד המשפטים
המשרד הראשי
האג המנהלית - באג"מ - תשנ"א
29 במאי 1981
מספר: 15/139/81

אל: מר אורי בראון, עוזר יו"ר ועדת השרים להתיישבות

הנדון: איחור לבדיקת שטח אזור חרבת סוסיה
 סמך: מכתבך מיום 17 במאי 1981

לפי בקשתך במכתבך שבסמך החלתי בבדיקה דחופה של האדמות בחרבת סוסיה ולידה, כמסומן במפה שצורפה למכתבך.

בדקתי את החומר שנאסף במסגרת סקר המקרקעין ביו"ש שנערך על ידי מפקדת יהודה ושומרון עם מינהל מקרקעי ישראל ומצאתי שלפי פענוח צילומי האויר שהועלה על ידי אגף המדידות על מפות הסקר - מרבית השטח מעובדת. ממציא זה תואם גם לצילומי האויר עצמם כפי שסומנו לצורך סיור של צוות הסקר בשטח, וממצאי צוות הסקר מסויר בשטח.

גם בחומר המשפטי שבתיק הסקר מצאתי שעורכי הדין שבדקו את הרישומים בשטח זה כותבים שמצאו על למעלה משלוש אלפים דונם באדמת חירבת סוסיה רשומים במרשם המקרקעין בבעלות פרטית. הם כותבים אמנם שרשומים באזור זה בבעלות פרטית שני רישומים של למעלה משלוש אלפים דונם כל אחד אך נראה לי שיתכן ששני הרישומים מתייחסים לאותו שטח עצמו אם כי במקופות שונות, אך לא בדקתי זאת בפירוט. מכל מקום למעלה משלוש אלפים דונם במקום זה הם בבעלות פרטית לפי הרישומים בפנקס המקרקעין כאמור, וזאת דוקא באדמת חירבת סוסיה.

לפיכך יש להניח שהאיחור כמוצע על ידכם לבדיקה הינו בבעלות פרטית.

ב ב ב ה
 פליאה אלבק
 מנהלת המחלקה האזורית
 של פרקליטות המדינה

הערות: 1. שר המשפטים
 2. היועץ המשפטי לממשלה
 3. מתאם הפעולה בשטחים
 4. סגן מפקד אזור יהודה ושומרון
 5. אלי"מ דן סתר, רמ"ח תכנון תשתית, היחידה לבטחון לאומי
 6. עוזר ראש אג"מ/מ"מ למימשל
 7. הממונה על הרכוש הממשלתי, איו"ש
 8. רע"ב הדין הבינלאומי, מפצ"ר
 9. היועץ המשפטי, איו"ש

ירושלים • רחוב צ. אה. א' • 29 • טלפון 271111 • ת"ד 1087 • מיקוד 10000

Letter of Plia Albeck to Uri Braun, May 29, 1981

It appears, however, that this opinion did not ease the minds of the decision makers. They were determined to establish a settlement at this location, and therefore, they pressured Albeck to re-examine the topic in the hope that it would be possible to devise a creative solution to the "problem" of private ownership of the lands in the Khirbet Susya area.

It is worth reading Albeck's second letter of June 10, 1982, to the Coordinator of Activities in Judea, Samaria and Gaza in its entirety, on the topic of the possibility of declaring state lands in the area of the Palestinian village of Susya, in order to gain an impression of the circular reasoning of its contradictory statements. In the first part, Albeck explains why the land is private land, whose area may even be 10,000 dunam and not just 3,000 as she previously believed. However, in the second part of the document, she takes a complete U-turn and clarifies how it is possible, after all, despite everything, to declare two hills whose area is 300 dunam as state lands. Indeed, the settlement of Susya was later established on those hills.

State of Israel
 Ministry of Justice
 Main Offices
 Date: 19 Sivan 5742
 June 10 1982
 Our number: 15/1390/90

To: Coordinator of Activities in Judea, Samaria and Gaza
 Re: Location of Khirbet Susya

My opinion on the location around the ruins of the Jewish synagogue in Susya has been requested repeatedly. The synagogue is located in a place called the lands of Khirbet Susya, which is surrounded by an Arab village [situated] among ancient ruins. The land of Khirbet Susya is registered in the Lands Registry, according to which this land, an area of some 3,000 dunam, is under the private ownership of many Arab landowners. Therefore, the area in the vicinity of the synagogue is in any case privately owned.

And yet, according to the description of the boundaries of the privately-owned land in the Lands Registry, this area comes up to the land of the village, and by this, perhaps, the intention was to the cultivated lands near the village of Yatta, located approximately one and a half kilometers north of the synagogue, all the way to Um 'Aryas, and there is a place called Um 'Aryas located some four kilometers southeast of the synagogue. If, indeed, these are the boundaries to which the registration entry refers, the registration entry includes, in this manner, an area of nearly ten thousand dunam, and not a mere three thousand dunam.

Under Par. 47 of the Ottoman Land Code, when the boundaries of an area included in the registered sale are clear – the number of dunam specified is not taken into consideration, but rather, only the boundaries. Therefore, it is the description of the boundaries that should be viewed as determining what area is included in the registration entry, even though as a result of this, the registration entry applies to some ten thousand dunam. Furthermore, the large gap between the size of the registered area and the size of the area in actuality according to the boundaries, should not affect this result, as was also ruled in other cases by the Israeli Supreme Court, relying on this same directive from Ottoman law.

At the same time, in light of the uncertainty that always exists in the identification of registration entries made a hundred years ago, there is perhaps some room for doubt of some kind as to the correctness of the identification of the boundaries. There is certain support for this conclusion in the fact that the name of the place in the registry is the Lands of Khirbet Susya, while according to what is described in the fiscal map, the lands of Khirbet Susya are much more limited and sprawl out more eastward and less towards the south, though this is of little significance, since when an area in a single registry is large, it is likely to include a number of locations the name of only one of which is included in the registry. Also in support of the doubts is the fact that the more distant area includes large portions that are not settled and are not cultivated, and were not cultivated, and therefore, they do not appear to be an essential part of the lands of the village located on the ruins of Susya. This matter is also only of negligible significance, since the lands included in one registry might span over very varied realms. Between the lands that are not cultivated and were never cultivated, regarding which in light of what was stated above doubt may be cast regarding the said registration entry, and both of which are far from the place on the map referred to as the lands of Khirbet Susya, we located two small, flat hills that were it not for said registration entry, it could be assumed that most of their area is state land. This area is approximately 300 dunam in total. Although it cannot be assumed that these lands are state lands, it is fitting to a degree to attempt to clarify further whether perhaps after all they are not included in the registration entry.

In order to resolve these doubts, it is suggested that the Hebron District demand from the mukhtars of the village of Yatta, during a trip with them in the field, to inform it as to who the owners are, if any, of these hills and to inform them that they should explain their rights to the Hebron District Coordinator [who deals vis-à-vis] the Custodian of Government Property. If the mukhtars say that there are no owners of these hills, and if the owners do not contact the coordinator following this request – this will strengthen the supposition that indeed the registry entry does not include these areas. In such a case, and in light of the report of the results of the action, I will be able to check whether it

is possible for the Custodian to grant a certificate that the areas are state lands through accepted procedures, to explain the certificate to the mukhtars and to announce that anyone claiming rights must contact the objections committee. If after all this there is no request made and there is no petition within 21 additional days – it will be possible to take possession of the areas. If there is a request – we will relate to it based on its content.

As for the territories themselves, they are marked in frames and with the numbers 1 and 2 on the enclosed 1:20,000 scale map. The section marked with the number 3 is a connection approximately seven meters wide between sections 1 and 2, and although it appears to have been ploughed, it apparently was not seeded, and it serves for the passage of flocks between the hills today, and it is likely that it is possible to create a connection between the two sections there.

Approximately two kilometers southeast of these hills is an additional area that is not cultivated, and apparently was not cultivated, which apparently is not included in the entries in the Lands Registry. This area is marked with the number 4 on the attached map, and it is located from Um Aryas going southeast, and therefore in any case it is not included in the registration of the lands of Khirbet Susya. While there is one entry in the Lands Registry in Um 'Aryas itself, the entry pertains to a small area surrounded by rocky hills, and it apparently is one of the enclaves cultivated in the past that was marked on the map in order to not include them in the location [in the lands identified], and also in the area bordering from the north of the area marked with the number 4.

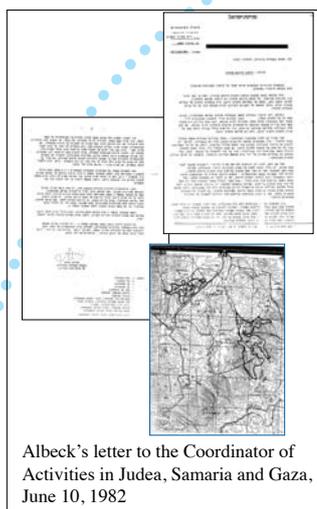
The area marked with the number 4 is apparently state land, and it includes close to one thousand dunam, of which several hundred dunam are suitable for building, and it is likely that it is suitable as an alternative location for the establishment of a locality.

If there is an interest in taking possession of the area marked with the number 4 – it will be necessary to issue a certificate that the area is government property under accepted procedures, and to announce it to the mukhtars of the village of Yatta and to show them the boundaries during a tour of the field, and if appeals are not submitted within 21 days – possession can be taken of the area. If appeals are submitted – we will relate to them according to their content.

Sincerely,
 Plia Albeck
 Director of Civil Department
 Attorney General's Office

Copies:

1. Prime Minister
2. Minister of Defense
3. Minister of Agriculture
4. Minister of Justice
5. Minister of Science and Development
6. Deputy Minister of Agriculture
7. State Attorney General
8. State Secretary
9. Head of the Civil Administration, Judea and Samaria Area
10. Deputy Coordinator of Activity in Judea, Samaria and Gaza
11. Head of International Law Branch, Office of the Military Prosecutor
12. Legal Advisor, Judea and Samaria Area
13. Head of Abandoned and Government Property, Judea and Samaria Area
14. Staff Officer, Custodian of Property, Judea and Samaria



Albeck's letter to the Coordinator of Activities in Judea, Samaria and Gaza, June 10, 1982

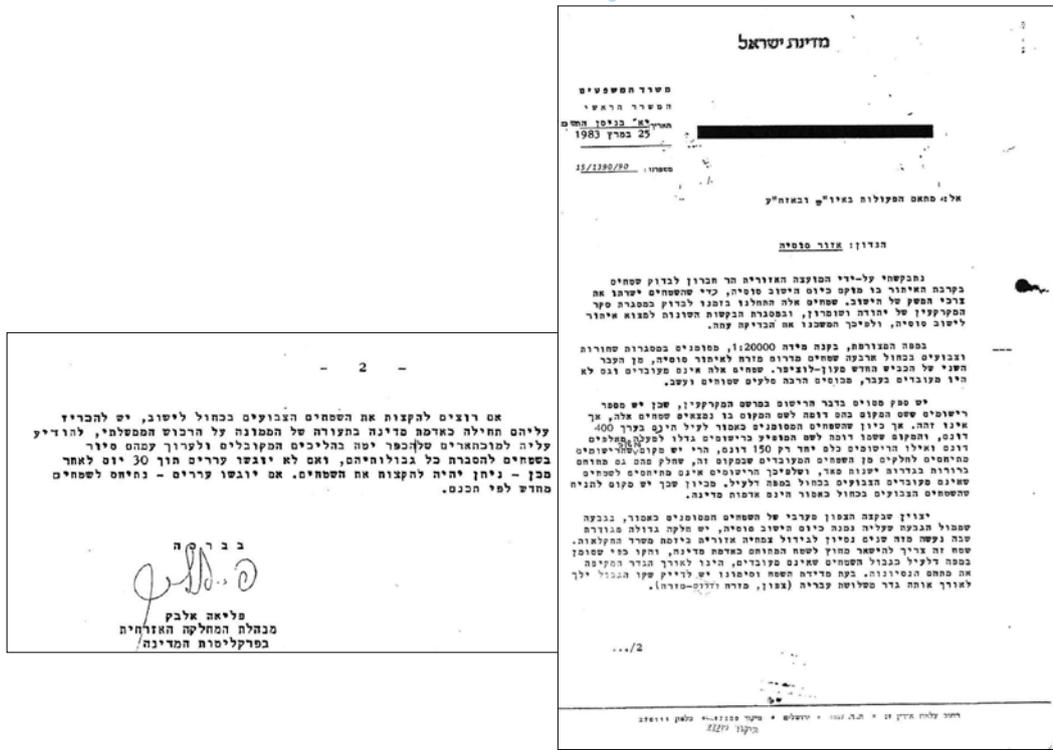
Non-Contiguous Jurisdictional Areas

However, it turns out that despite all of the arguments that Albeck made in writing and sent to decision makers during 1981-1982, according to which territories in area of Khirbet Susya are registered as private territories in the Ottoman Lands Registry, in practice, Albeck continued her effort to locate and map state lands in this area.

On March 25, 1983, Albeck sent the Coordinator of Activities in the Territories a letter with a number of locations of state lands intended for the settlement of Susya, which was being established at the time. In this letter, composed in opaque legal language, Albeck sounds already much more amenable to the idea of establishing a settlement in an area that just nine months earlier she believed should be viewed as private land. In order to establish her new position that these were, apparently, lands that could be declared as state lands, Plia Albeck presents a claim that contradicts an argument that she invoked just a few months earlier to support her view that these were actually private lands.³⁰

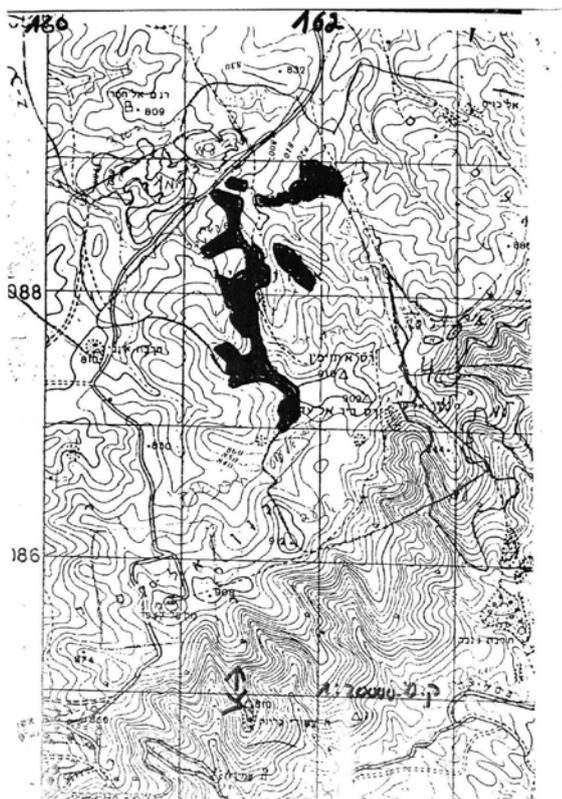
I was asked by the Mt. Hebron Regional Council to examine areas near the location where the locality of Susya stands today, so that the areas would serve the domestic needs of the locality [...] Marked on the enclosed map of scale 1:20000 are black frames with four areas marked in blue southeast of the location of Susya, on the other side of the new Maon-Lutzifer road [...]

There is a certain doubt regarding the registration in the Lands Registry, since there are a number of entries whose name is similar but not identical to the name of the place where those territories are located. However, since the marked areas as stated above are approximately 400 dunam, and the place whose name is similar that appears in the registry grew to over two thousand dunam, while the registered entries altogether total 150 dunam, it is possible to consider that the registered locations may refer to parts of the cultivated areas in this location [...].

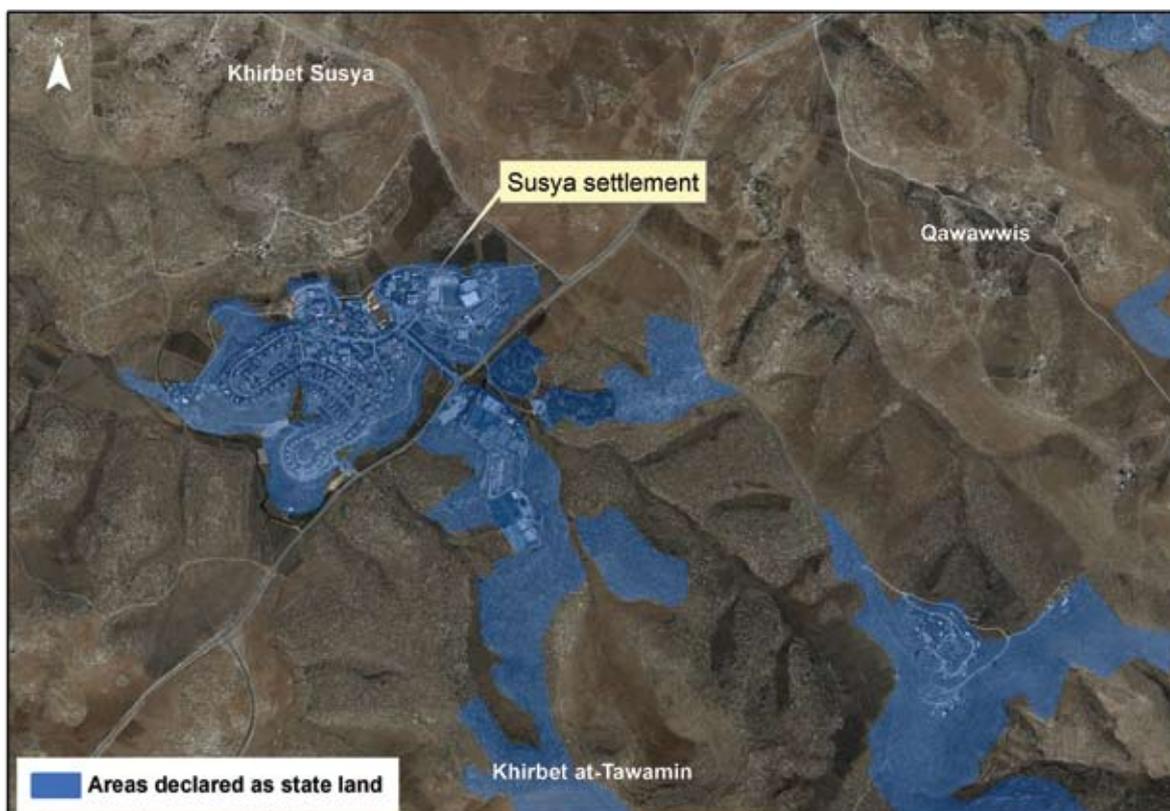


Letter of Plia Albeck, March 25, 1983

³⁰ Plia Albeck's letter to the Coordinator of Activities in Judea and Samaria and in the Gaza Strip Area, March 25, 1983.



Original locations map of Albeck's team showing the area of the settlement of Susya. It is readily apparent that the four declared areas appearing on the map that were transferred to the settlement are not contiguous.



State lands identified by Albeck's team in the area of the settlement of Susya in a recent aerial photograph



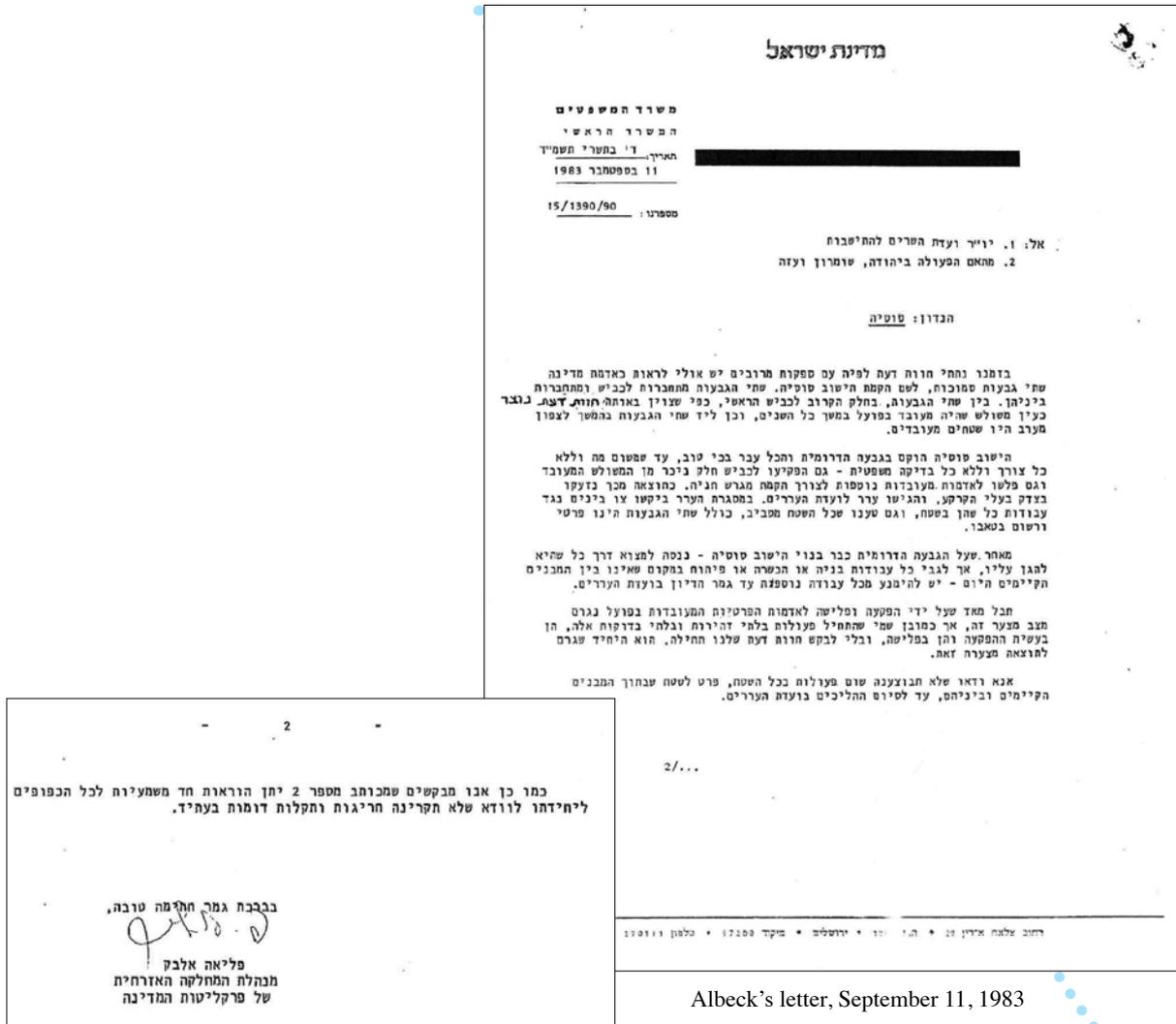
00 08 06 0.12 0.18 0.24 Miles

Incursions onto Private Lands and Lack of Enforcement by the Authorities

On September 11, 1983, just months after the establishment of the settlement of Susya, Albeck wrote a letter to the Chairman of the Ministerial Committee on Settlement and to the Coordinator of Activities in the Territories, in which she complained of the incursions of settlers from Susya onto private lands of their Palestinian neighbors. We note as an aside that the private lands that Albeck mentions were never returned to their Palestinian owners, and they are located today in the heart of the settlement.

At the time, I gave a professional opinion with many doubts according to which perhaps two adjacent hills might be seen as state lands, for the establishment of the locality of Susya. The two hills area connected to the road and to one another. Between the two hills, in the portion near the main road, as stated in said opinion, a kind of triangle was created that was in fact cultivated over all the years, and near the two hills continuing northwest there were cultivated lands as well.

The locality of Susya was established on the southern hill and everything proceeded perfectly, until for some reason, unnecessarily and without any legal examination, a significant portion of the cultivated triangle was expropriated for a road, and incursions were made into additional cultivated lands in order to establish a parking lot.

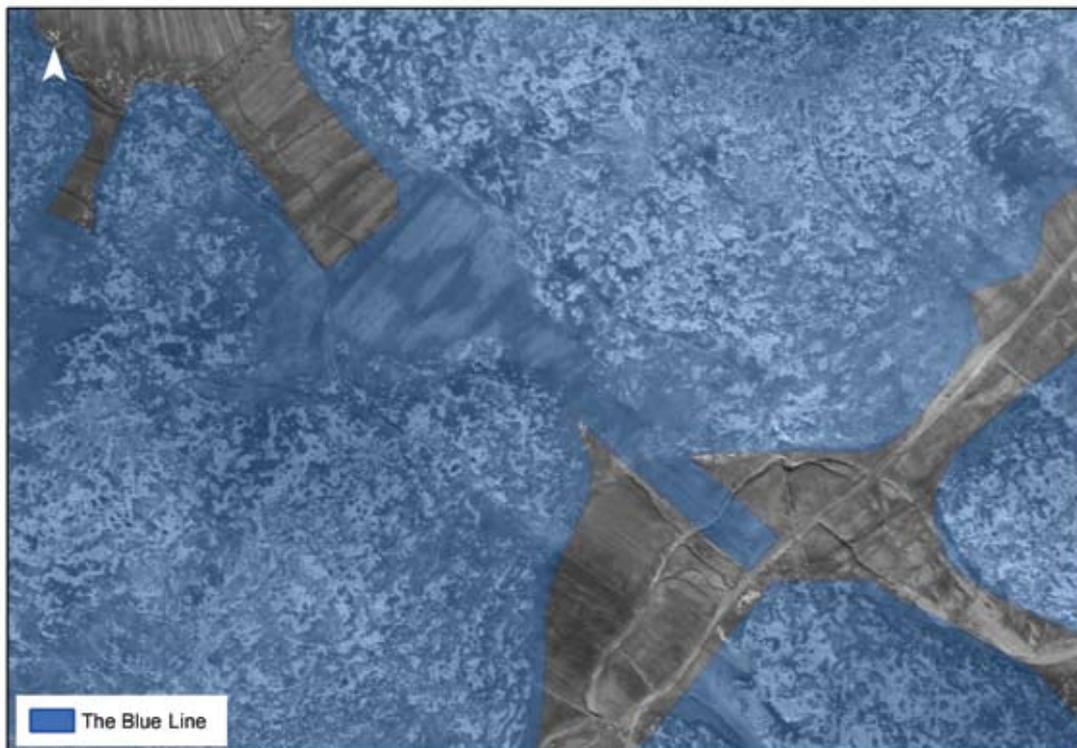


Albeck's letter, September 11, 1983

³¹ In another letter by Albeck, whose topic is "Land Conflict in Susya," sent on April 23, 1991 and addressed to the International Legal Division of the Military Attorney General, she writes as follows: "From past experience, I know that residents of Susya deviate onto territories that are not theirs, and it is difficult to devise a solution without initiating criminal proceedings against them."

Blue and White make Black

An examination of aerial photographs from the early 1980s makes clear why Albeck's anger surged in this letter, even though the Blue Line Team later retroactively legalized the incursion about which Albeck complained, declaring that the territory in question was state land.



The settlement of Susya, 1980

© 1980/1981 0180 0270 026
Miles



The settlement of Susya at present

© 1980/1981 0180 0270 026
Miles

Enclaves of Private Lands within Settlement Jurisdictional Areas³²

As stated, one of the direct results of the method of declaring state lands is that there are hundreds of enclaves of private Palestinian land within the areas declared as state lands and later allocated to settlements.³³ It can be said that in most of the cases in which these enclaves have been included within the actual territory of settlements, over the years their Palestinian owners have been subjected to severe access restrictions and in most, there are incursions of settlers or others involved in the development of the settlements. One example is the large enclave (approx. 45 dunam) inside the settlement of Nokdim, home to the present Minister of Defense, Avigdor Lieberman, among others. After access to the owners of the enclave's lands was blocked, the Jewish National Fund arrived and developed a public park there, open only to use of the settlers and their visitors. The establishment of this park was an additional stage in the takeover of the enclave within the settlement, a process that began already at the end of 1994, just a few years after the establishment of the settlement in its present location. The events were documented in intensive correspondence between Atty. Usama Halabi, representing the Zir family – the owners of the land – and the Civil Administration, which preceded the petition on the matter.³⁴

[...] While they were present in the area, my clients were shocked to see that along most of the borders of their plots (in addition to other plots) metal posts had been placed and barbed wire was extended that “annexed” them to the area of the settlement.

Since my clients cultivate said plots, and they were never expropriated from them and neither was their possession of them limited in any legal manner, my clients viewed the erection of the fence around their land as illegal trespassing and an attempt to banish them from it. They therefore dismantled some of the posts and destroyed part of the fence.

In response, settlers arrived with their weapons drawn and encircled my clients and other relatives who were with them. The settlers led my clients and their relatives, threatening with their weapons, into the settlement, where they were detained for approximately two hours until the army arrived at the scene. Attempts of the settlers to “convince” the soldiers to arrest my clients did not succeed.

As it later transpired, the petition to the HCJ also failed to help safeguard the petitioners' access to their lands over time.³⁵

³² The jurisdictional area of the settlements was determined via military orders and maps that change from time to time. In recent years, the overall jurisdictional area of the settlements has grown by thousands of dunam. See Chaim Levinson, “Israel’s West Bank Settlements Grew by Twice the Size of New York’s Central Park in 2012,” *Haaretz*, May 27, 2013, <http://www.haaretz.com/israel-news/israel-s-west-bank-settlements-grew-by-twice-the-size-of-new-york-s-central-park-in-2012-premium-1.526101>.

³³ It is our intention to conduct further necessary research on the phenomenon of enclaves. At present, we possess only partial information regarding the precise number and size of these enclaves.

³⁴ Letter of Atty. Usama Halabi to Capt. Adrian Agasi, October 9, 1994.

³⁵ *HCJ 677/95, Yusef Khalil Hamad al-Zir et al v. Minister of Defense et al.* Following the petition, the landowners were permitted to access their plots until the area was closed off to them completely again with the outbreak of the Second Intifada. In 2014, Shomrei Mishpat – Rabbis for Human Rights submitted an additional petition regarding access to the enclave in Nokdim (*HCJ 8723/14, Samir Mahmoud Ahmed Sabah et al v. Minister of Defense et al*). A decision rendered on June 29, 2016, obligated the state to allow the owners to enter the southern part of the enclave, which is the part that was the focus of the petition in 1995. The northern part of the enclave (where the park was established) was not included in the HCJ ruling based on the claim that the petitioners did not present documents proving their ownership of this part, even though it is clear that it is private land. In this manner the state succeeded, with the assistance of a technical claim by the High Court of Justice, in preventing the return of Palestinians to their lands, located just ten meters from doorstep of the Defense Minister’s home.

- 2 -

הנ"ל. כשגשש למקום, התברר להם שנהג חשאיית חינו בן השבט תעאמרת העובד ביומית אצל קבלן ישראלי העוסק בחכנת וטיפוח ננים בחתנחלות הסמוכה נוקדים. הנהג סולק מהמקום. תוך כדי נוכחות בשטח נדחמו מרשיי לראות כי על מרבית גבולות חלקותיהם (בנוסף לחלקות אחרות) חוששו ברזלי זווית ונמתחה גדר תייל "המספחת" אותן לשטח החתנחלות.

מאחר ומרשיי מעבדים את החלקות הנ"ל ומעולם לא חופקו מידיהם ו/או לא הונבלה חוקתם בחן בדרך חוקית כלשהי, ראו מרשיי בעובדת מתיחת הגדר סביב לאדמתם פלישה בלתי חוקית ונסיון לנשלם ממנה. על כן, פרקו חלק מחוויות וחרטו חלק מתגדר.

בתגובה, הגיעו מתנחלים עם נשקם השלוף וכיתרו את מרשיי וקרובי משפחה אחרים שחיו אתם. המתנחלים הובילו את מרשיי ובני משפחתם באיומי נשק אל תוך החתנחלות, שם הוחזקו כשעתים עד שהגיע הצבא למקום. נסיונותיהם של המתנחלים ל"שכנע" את חתילים לעזור את מרשיי לא תצליחו.

ביום 29/9/94 פנו מרשיי בתלונה אל מושל נפת בית לחם. התלונה נסמרה לידו "קפטן" אבוסי במנהל אורחי גוש עציון. "קפטן" אבוסי הבטיח להעביר את התלונה לבדיקת הרשויות הנוגעות בדבר, מבלי שתחייב להפסיק את פעולות הגידור והסיפוח שבצעו מתנחלי נוקדים.

חרף חגשת התלונה הנ"ל, נכון לכתובת שורות אלה לא ננקטה כל פעולה מצד מי מרשויות הממשל הצבאי ו/או המנהל האזרחי להפסיק את פעולות מתנחלי נוקדים חבלתי חוקיות, ואלה מששכים בשלהם. כיום אדמות מרשיי ומצאות מעבר לגדר האמור לסמן את גבולות החתנחלות ואין דרך להגיע אליהן אלא דרך שער הכניסה להתנחלות.

נדגיש כי החלקות הנ"ל לא חופקו, לא הוכרזו אדמות מדינה ולא נספרו וכן בבעלות ובחוקה מרשית. פעולות הגידור ונסיון הסיפוח של מתנחלי נוקדים הינם מעשה בלתי חוקי הדורש תגובה מחירה וחולמת מצד הרשויות המופקדות על אכיפת החוק באזור.

על כן, חנני לדרוש את התערבותך המיידית לשים קץ למעשי החתנחלות של מתנחלי נוקדים, ולנקוט בצעדים המתבקשים ע"מ להסיר את הגדר החוסמת את גישתם של מרשיי לחלקותיהם ולנקוט בחליכים המשפטיים המתאימים נגד הפולשים המספחים.

בכבוד,
א. מלבי, עו"ד

(318)

~~1086 / 18/16~~

אוסאמה חלבי, עו"ד
Usama Halabi, Adv.

רח' אליעקובי 10/2, ירושלים 91200
F.O.B 20166 Jerusalem { }
Tel: 02/272982 Fax: 02/894770 :סל 02/272982

9 באוקטובר 1994

לכבוד,
אדריאן אנסלי, סרן
עוזר חיוע"ש
ה.ד. 10482
בית-אל

-דחוף-
9/10/94

חנדון: תלונה על השגת גבול ו"סיפוח" קרקעות
משפחת אלזור להתנחלות נוקדים

חנני מייצג את חושבי הכפר הרמלה/תעאמרת שמתוהים ספורטים לחלון:

- 1) יוסף ח'ליל חמאד אלזור, ת.ז. 945063212
- 2) מחמוד מוצטמא חמאד אלזור, ת.ז. 945068112
- 3) אחמד עלי חמאד אלזור, ת.ז. 945062042
- 4) מוחמד מופיד אחמד אלזור, ת.ז. 945063055
- 5) נאג'י עלי רשיד אלזור, ת.ז. 987260833

(לחלון: "מרשיי")

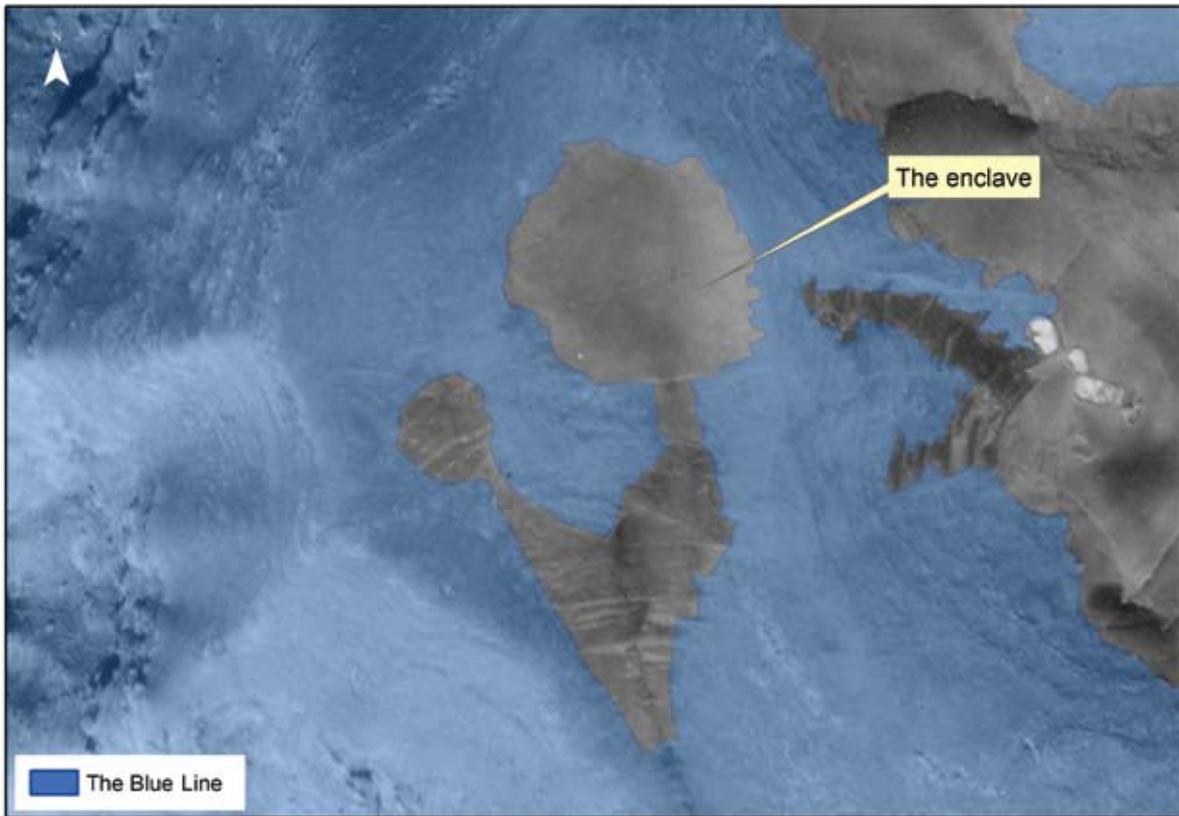
מרשיי הנ"ל חינוג חבעלים ו/או מחזיקים מזה שנים רבות בחלקות: 448, 451, 452, 454, 455 בגוש 4 מאדמות תעאמרת במקום הידוע כ"ח'לת סאלח" בנמת בית-לחם. העתקים מסכרי רישום המבנים והקרקעות לכפר תעאמרת ("מגליח") שנ"ב. האדמות הנ"ל מסמנות את מרשיי לחלקאות (בעיקר חיטה ושעורה).

ביום 28/9/94 ראו מרשיי או חלק מהם שאית המעמיסה ארמה מחלקותיהם

Letter of Atty. Usama Halabi, October 9, 1994

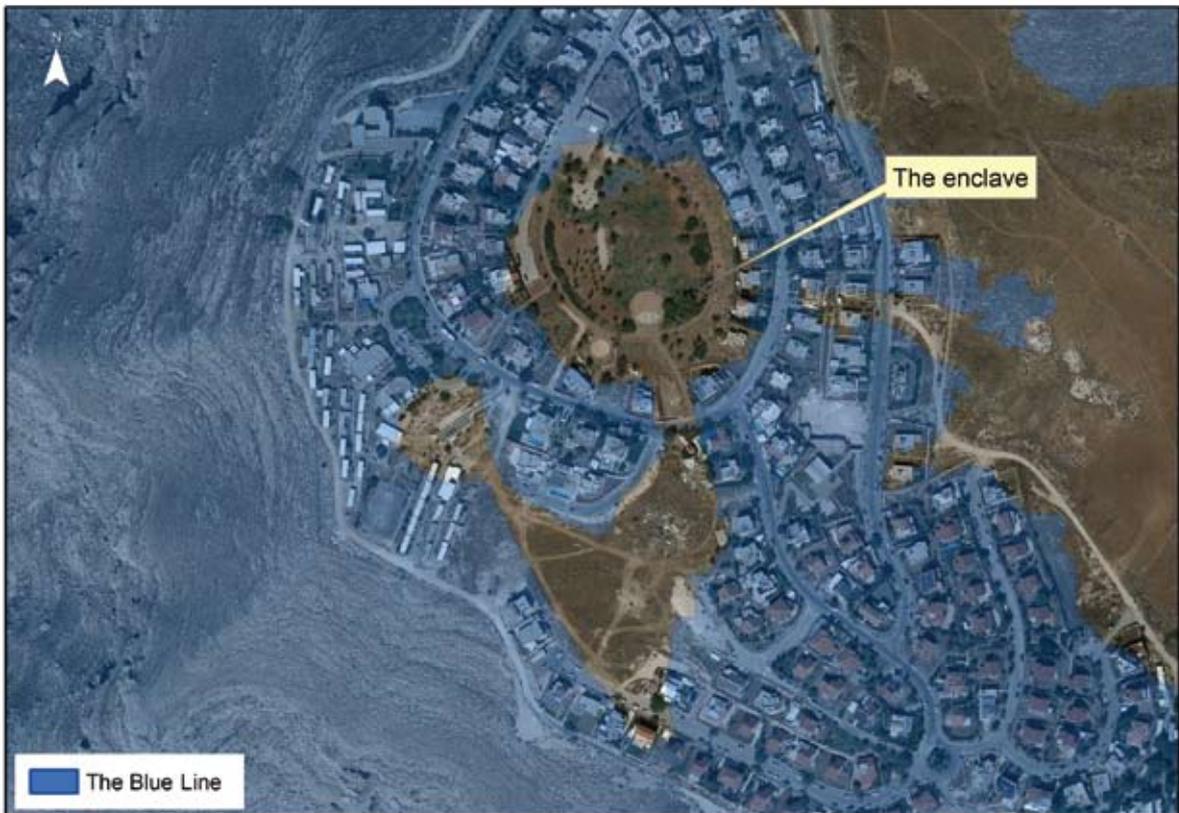


The park in Nokdim's enclave



The enclave in the settlement of Nokdim, 1982

0.0081 0.02 0.03 0.04 Miles

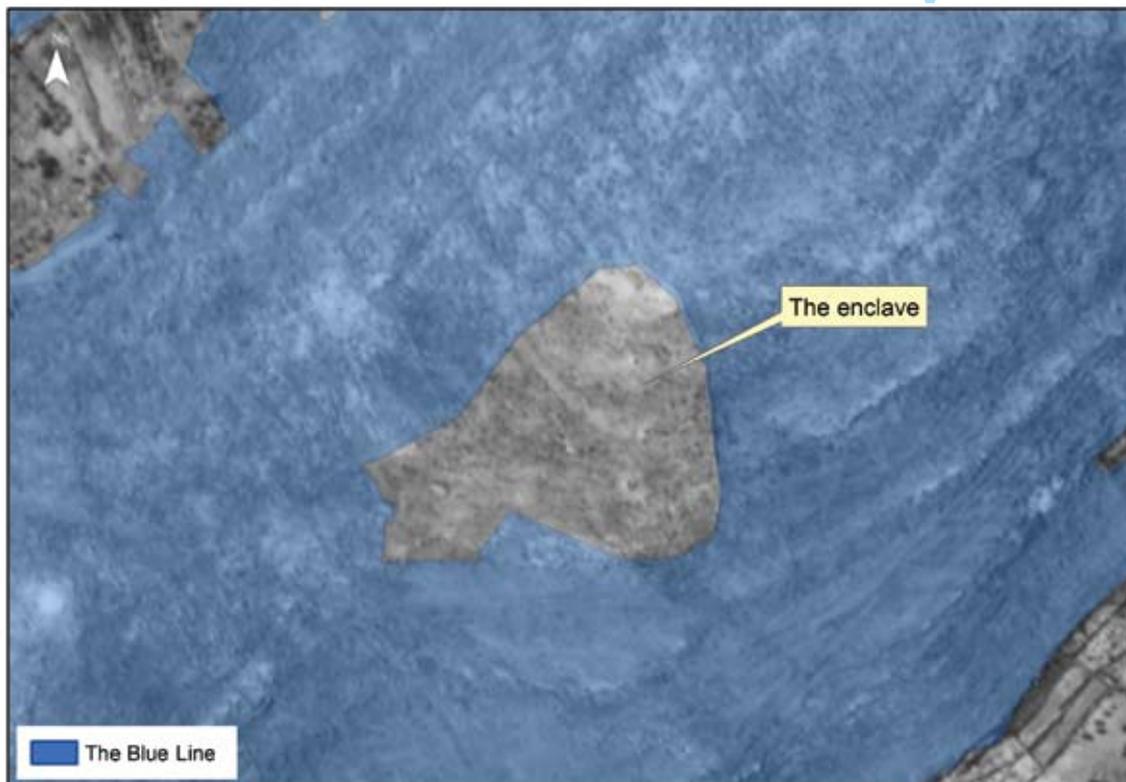


The enclave in the settlement of Nokdim at present

0.0081 0.02 0.03 0.04 Miles

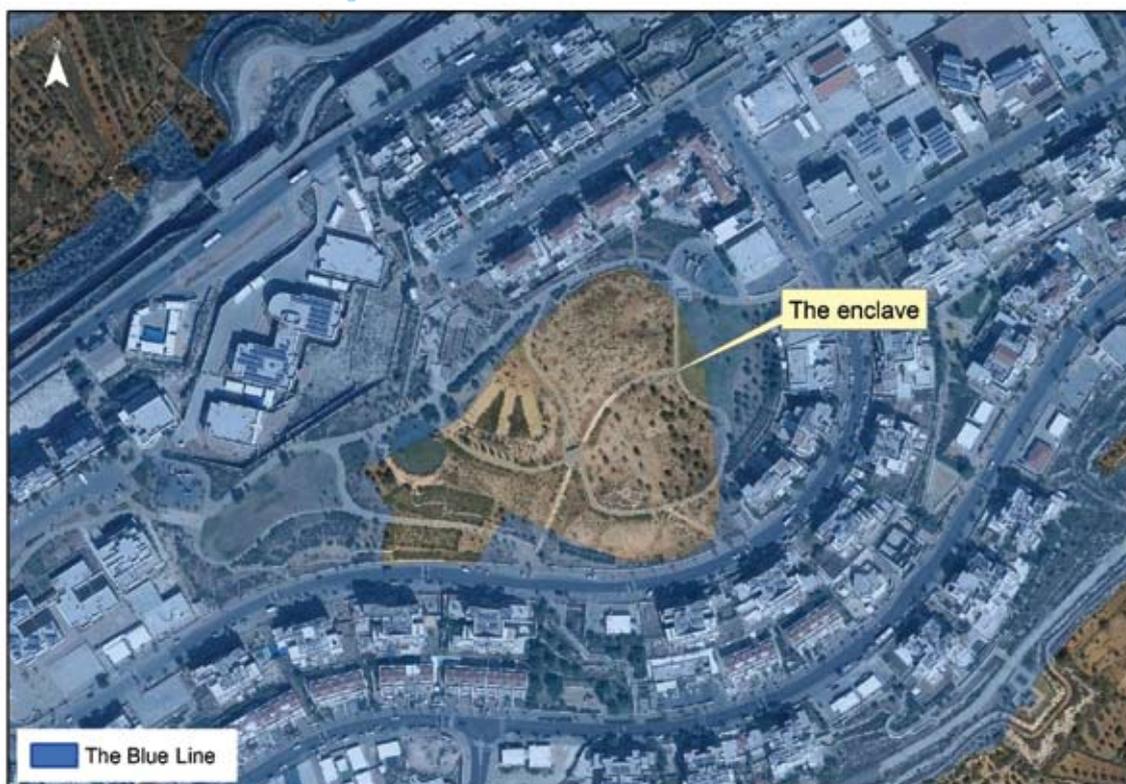
Blue and White make Black

An additional example of this phenomenon can be found in the settlement of Beitar Illit: In 2004-2005, alongside the intensive construction of hundreds of residential units there, a municipal park was built at the center of the settlement (Hill B), most of which occupies an enclave of some 20 dunam of private lands owned by residents of the village of Husan.



The enclave in the settlement of Beitar Illit, 1982

0 000000 0180 0270 036
100m

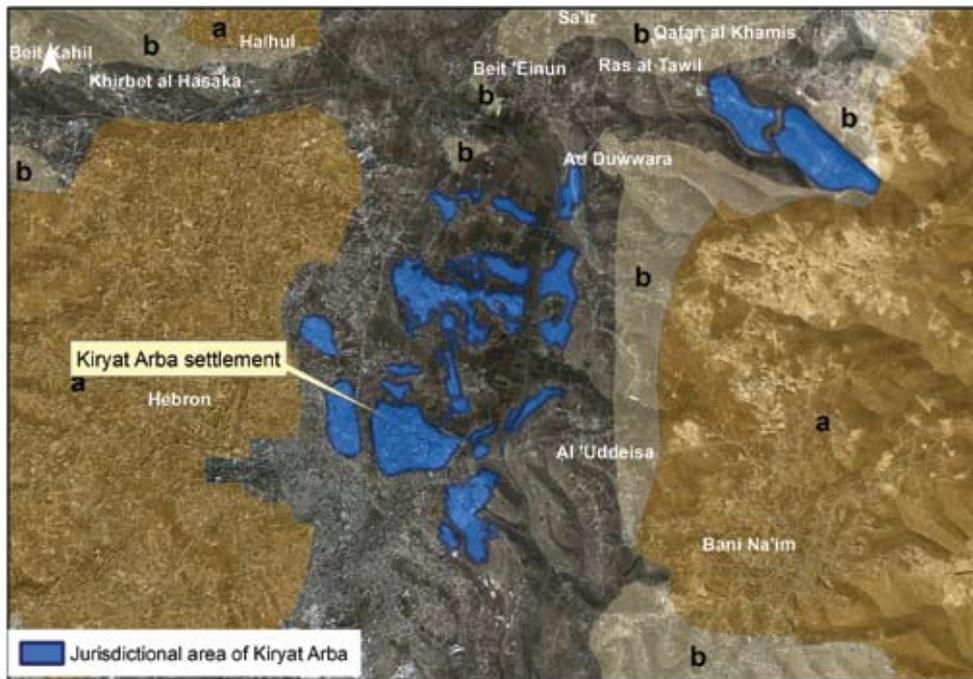


The enclave in the settlement of Beitar Illit at present

0 000000 0180 0270 036
100m

The Non-Contiguous Jurisdictional Areas of the Settlements

The mirror image of the private Palestinian enclaves within the settlement jurisdictional areas is enclaves of declared state lands surrounded by private Palestinian-owned lands. The jurisdictional areas of many settlements built on lands declared as state lands are non-contiguous, in some cases broken up by cultivated Palestinian land not declared as state lands. This situation creates difficulties in accessing these enclaves of state land, requiring constant violation of Palestinian ownership rights. The most extreme example of this is the settlement of Kiryat Arba, whose jurisdictional area comprises 32 non-contiguous parcels of land, spread over a total area of some 4,100 dunam.³⁶ Parenthetically, we note that the phenomenon of enclaves of jurisdictional land, including private Palestinian land, also exists in settlements whose land Israel took over through means other than state-land declarations.³⁷



The jurisdictional area of the settlement of Kiryat Arba, comprising 32 non-contiguous land parcels

In summary, when Israel entered the West Bank in June 1967, formal ownership arrangements applied to approximately just one-third of the lands in the area. Freezing the arrangement of lands led to a continuation of this situation, and no large changes have been implemented to this day. The series of military seizure orders issued by Israel enabled the establishment of over 40 settlements, until 1979, when the HCJ ruling in the Elon Moreh case prohibited this practice from continuing. Following the ruling, Israel began a broad land-survey initiative in the West Bank, following which hundreds of thousands of dunam were declared state land. A large portion of these lands were allocated to settlements and an overall prohibition was imposed, preventing Palestinians from using them, as is the case with all declared government lands; almost all of them were ultimately annexed to the lands of the Israeli regional councils in the West Bank.

The inherent problems surrounding the manner in which the state-lands declaration mechanism created, over the years, settlements that were “split” into a number of parts (as occurred in Kiryat Arba), and left enclaves of private Palestinian lands in the heart of many of the settlements. As a result, expansive private Palestinian territories around and inside the settlements, lands never formally included among the declared territories, were stolen from their owners.

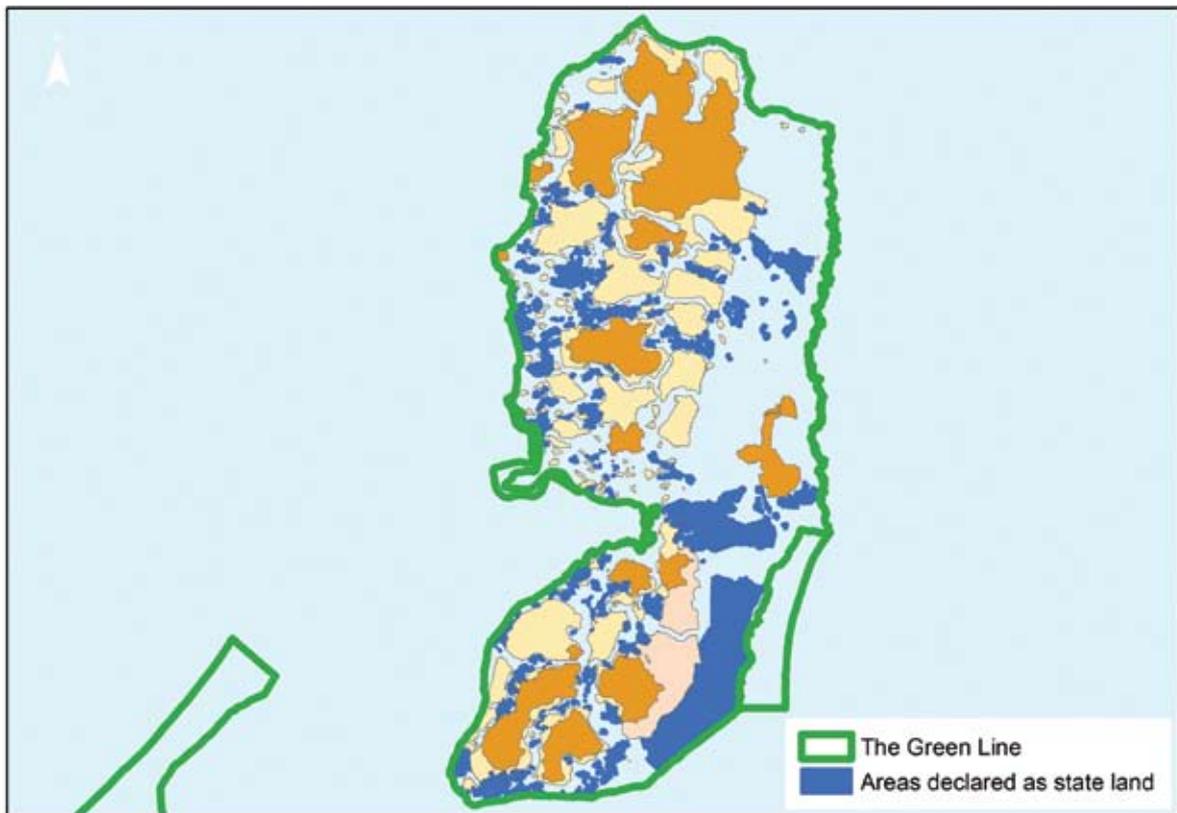
³⁶ Kiryat Arba is one of the settlements established already in the early 1970s on land seized for military uses. Over time, from the 1980s and onward, dozens of additional parcels of declared state land were added to the jurisdictional areas of the settlements.

³⁷ One such example is the settlements of Reihan, Hermesh and Mavo Dotan, most of whose lands were registered in the Lands Registry (TABU) as state lands before 1967.

Chapter Two: Declaration of State Lands and the Transition to the “Survey Lands” Procedure

Declaration of State Lands – The Quantitative Aspect³⁸

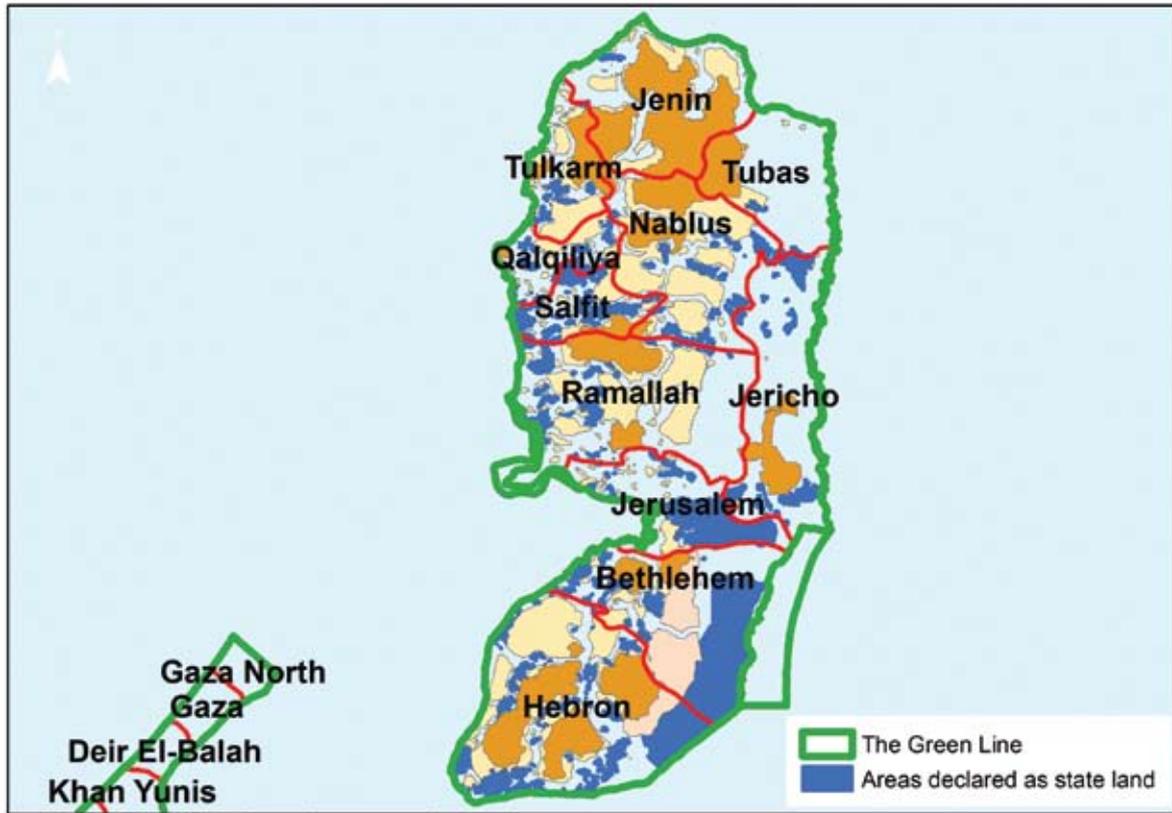
Over the years, the State of Israel has declared approximately 755,000 dunam of the lands of the West Bank as state lands. Some 100,000 dunam of them are included in territories eventually transferred, during the implementation of the Oslo Accords in the 1990s, to the Palestinian Authority (Areas A and B), while approximately 655,000 dunam of declared lands remained in Area C. Of these, approximately 273,000 dunam (42% of the declared area remaining in Area C) were included in settlement jurisdictional areas, while the remainder, which were declared state lands, were included in the jurisdictional areas of six Israeli regional councils in the West Bank.



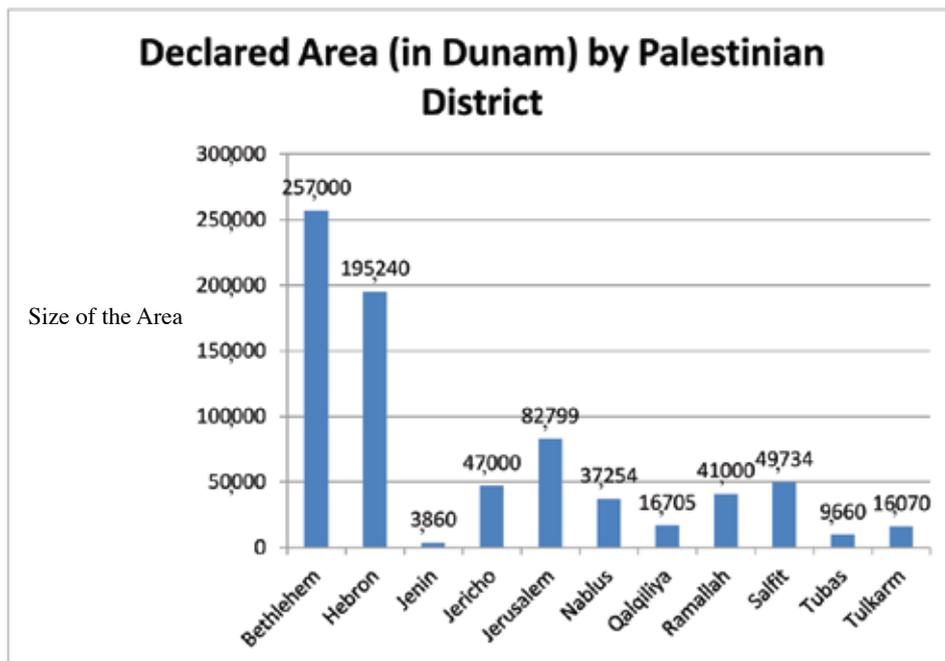
Map of declared state lands in the West Bank

The declaration of state lands took place in all parts of the West Bank, although it focused on the more southern districts of the West Bank: Jerusalem, Bethlehem and Hebron (71% of the territory declared) since in 1967, the procedures for formalized land arrangement in these districts were only in their preliminary stages or had not even begun. In contrast, in the northern districts of the West Bank, larger portions of the lands were under a formal arrangement already in 1967, and therefore, fewer of them were declared as state lands.

³⁸ The numerical data in this chapter are based on the mapping layers (GIS) of the Civil Administration that we received through a request under the Freedom of Information Law during 2014, and they are lower than the data appearing in the reports and publications of other organizations and in the State Comptroller's report addressing this issue.



Map of state-land declarations by Palestinian district



71% of the declared areas were in the Jerusalem, Bethlehem and Hebron districts.³⁹

³⁹ This chart includes all lands declared and not only those located today in Area C.

Decline in the Number of State Land Declarations

During the 1990s, the number of state-land declarations decreased.⁴⁰ However, at this stage, the State of Israel already was in possession of hundreds of thousands of dunam of lands declared state lands in previous years, far beyond what it could settle in the foreseeable future, and therefore, there was no real need to make additional declarations. A document submitted to Bimkom in 2009 shows that in the first decade of the 21st century, a few thousand more dunam were declared, but the pace of declarations and their number remained modest relative to the 1980s.

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[CIVIL ADMINISTRATION LOGO]

To:

Mr. Nir Shalev – Bimkom

Tel: 02-5669655

02-5660551

Re: Request Under Freedom of Information Law –
Government Property and State Lands

1. I hereby confirm receiving your request referenced above. Following is our response.
2. Due to the long information-gathering process, the requested information will be sent to you in installments, in order to not excessively hinder the transmission of information.
3. Following is our response to Par. 3 of your request, which relates to the overall extent of lands in Area C that were declared as government property during the last seven years.

2003 – approx. 1708 dunam

2004 – approx. 1773 dunam

2005 – approx. 897 dunam

2008 – approx. 24 dunam

2009 – approx. 712 dunam

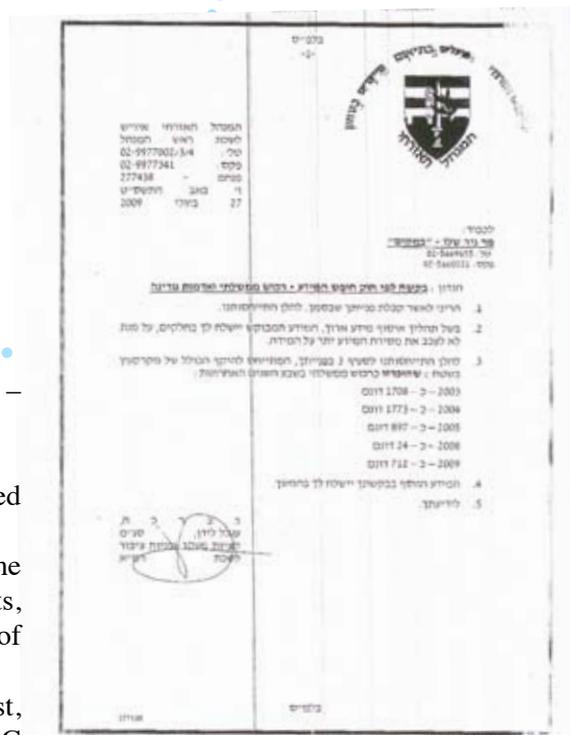
4. The additional information in your request will be sent to you at a future time.
5. For your information.

Sincerely,

Inbal Lidan, Deputy Director

Monitoring and Public Relations Officer

Office of the Head of the Civil Administration



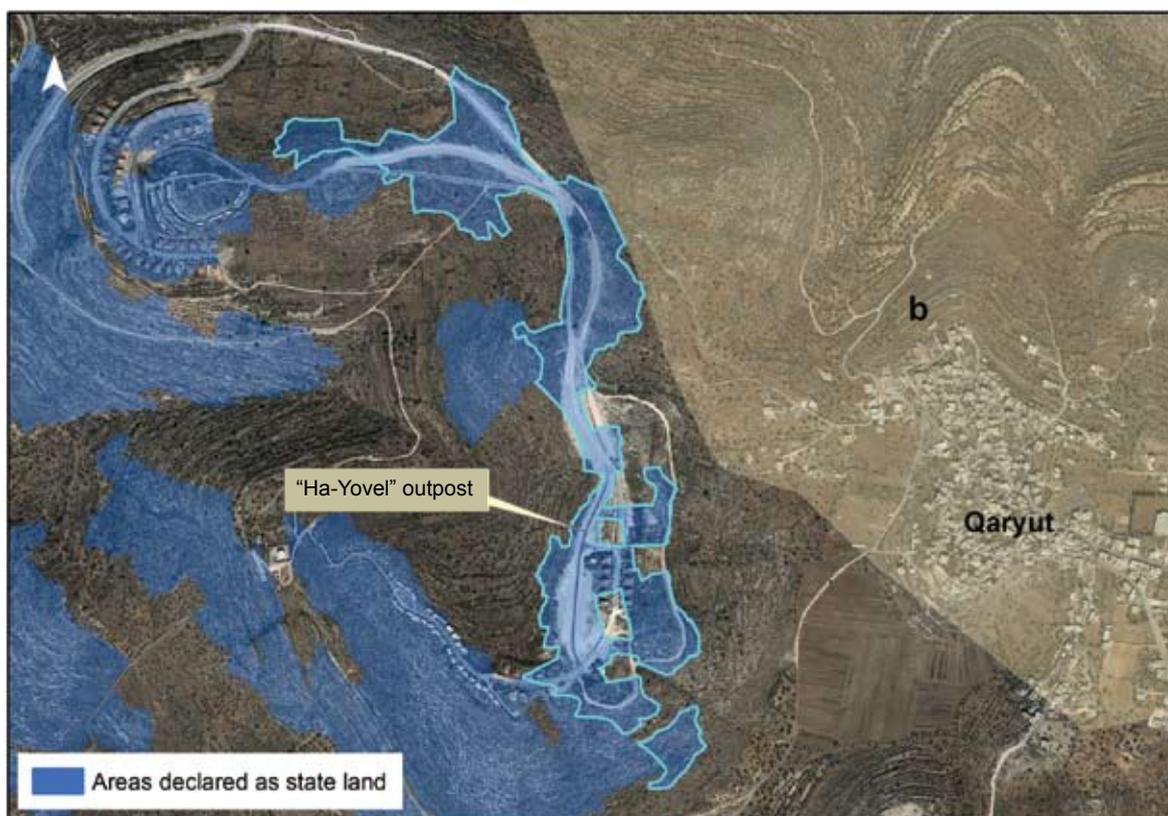
Document sent to Bimkom, detailing the extent of declarations, 2003-2009

⁴⁰ It is likely that the decline is related, among other things, to the change in the political climate in Israel with the signing of the Oslo Accords, beginning in 1993.

Declarations in 2009-2013

There is a possibility that complete information is presently unavailable regarding the number of declarations made during the years 2009-2013 and the area of the territories they included, but we estimate that even if there were declarations we do not know about, the number is modest and the area of the territories is quite small, a few hundred dunam in total. The three declarations of which we are aware during these years were declared in the context of legalizing outposts and portions of settlements built illegally. In all three of these cases, the area of the declaration significantly exceeded the area used for building, for purposes of retroactive legalization of broad surrounding territories for future construction.

| Settlement | Date ⁴¹ | Size of declared area (in dunam) | Village to which the territories belong |
|--|--------------------|----------------------------------|---|
| “Ha-Yovel” ⁴² Outpost (Eli) | January 31, 2012 | 189 | Qaryut |
| Haresha Outpost ⁴³ (Talmon) | January 31, 2012 | 815 | Al Mazra’a al Qibliya and Ras Karkar |
| Kohhav Yaakov ⁴⁴ | May 16, 2013 | 224 | Kafr ‘Aqab |



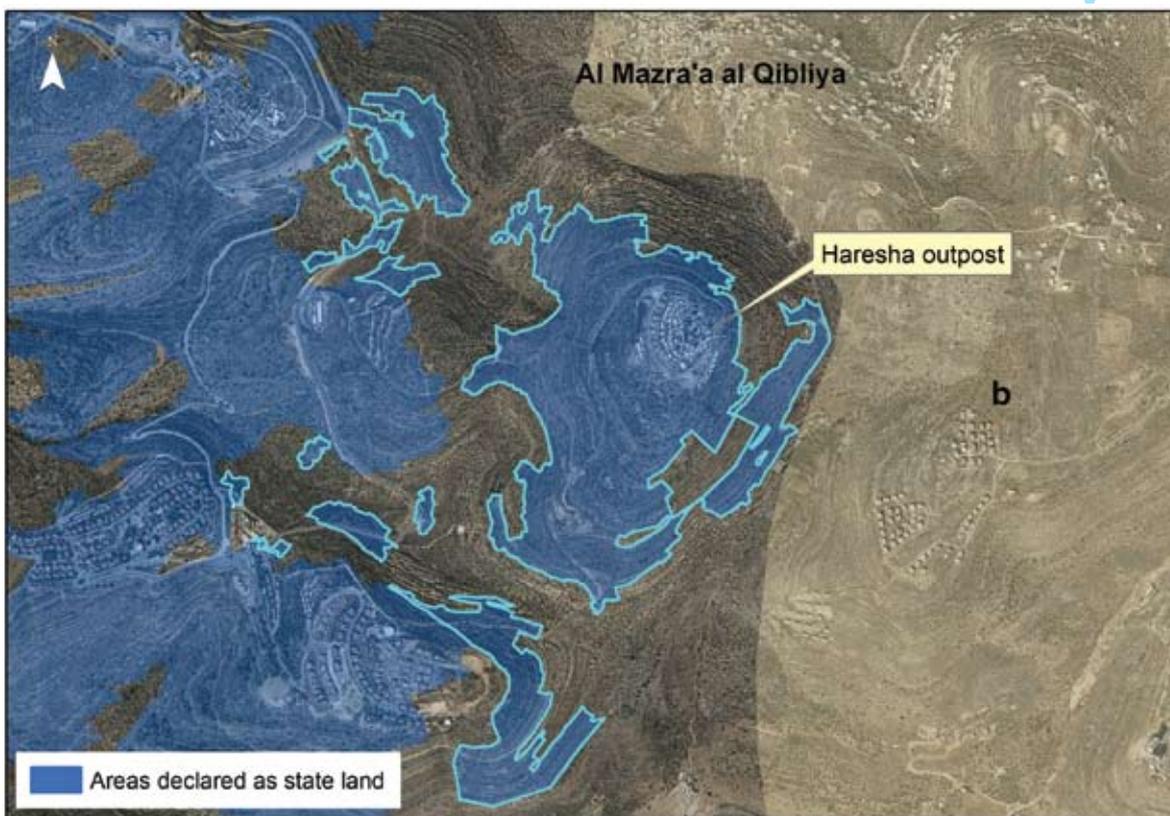
189 dunam of declared state lands from the village of Qaryut – declared in order to legalize the Ha-Yovel Outpost

⁴¹ The dates that appear here are based on lists we received from the Civil Administration, and they are later than the dates appearing on the original declaration documents. Apparently, they are dates of the registration of these lands in the Civil Administration, which took place a few months after the declarations themselves.

⁴² Chaim Levinson, “The Civil Administration Declares Palestinian Lands as State Lands to Expand the Yovel Outpost,” *Haaretz*, July 8, 2011 [Heb.] <http://www.haaretz.co.il/news/politics/1.1179747>.

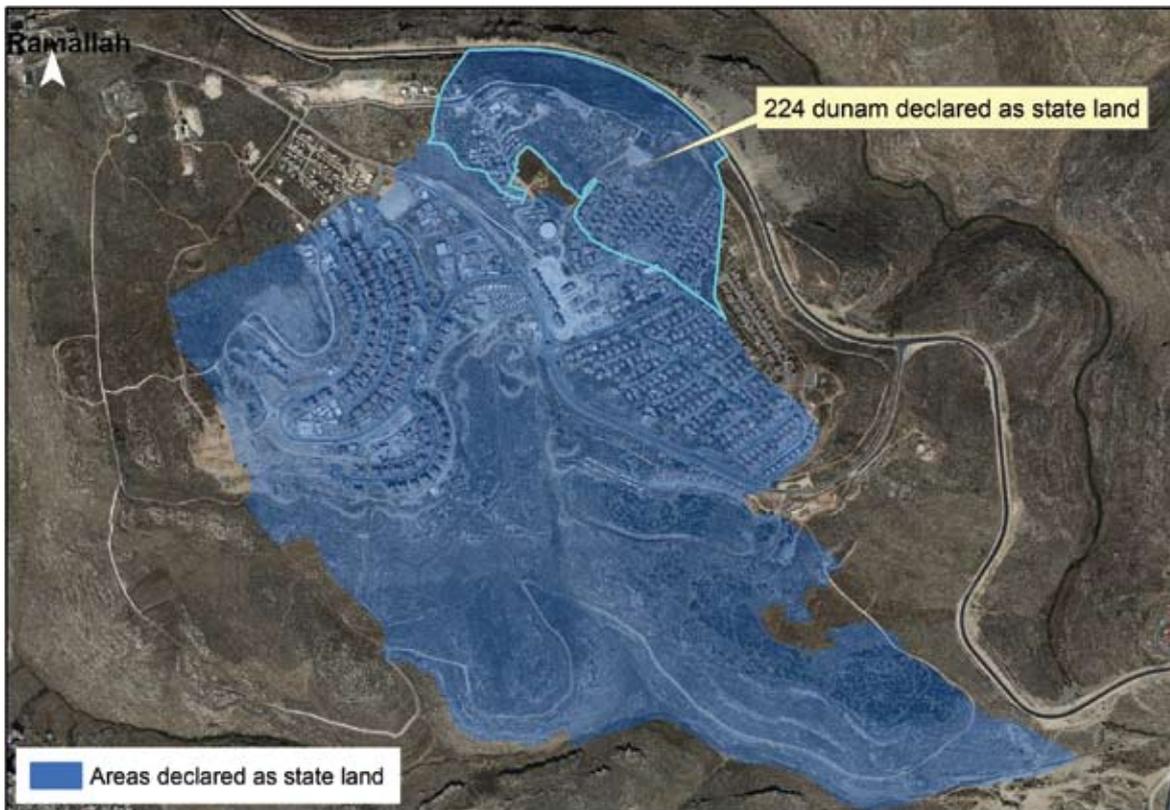
⁴³ Yehoshua Breiner, “For the Sake of Legalizing an Outpost: 815 Dunam Declared State Lands,” *Walla*, September 6, 2011 [Heb.] <http://news.walla.co.il/item/1860608>.

⁴⁴ Yotam Berger, “In Unusual Decision, Panel Rules That Disputed West Bank Tract Doesn’t Belong to Israel,” *Haaretz*, August 7, 2016, <http://www.haaretz.com/israel-news/.premium-1.735700>.



815 dunam declared as state lands from the lands of the villages of Al Mazra'a al Qibliya and Ras Karkar – declared in order to legalize the Haresha Outpost

0.05 0.1 0.15 0.2 Miles

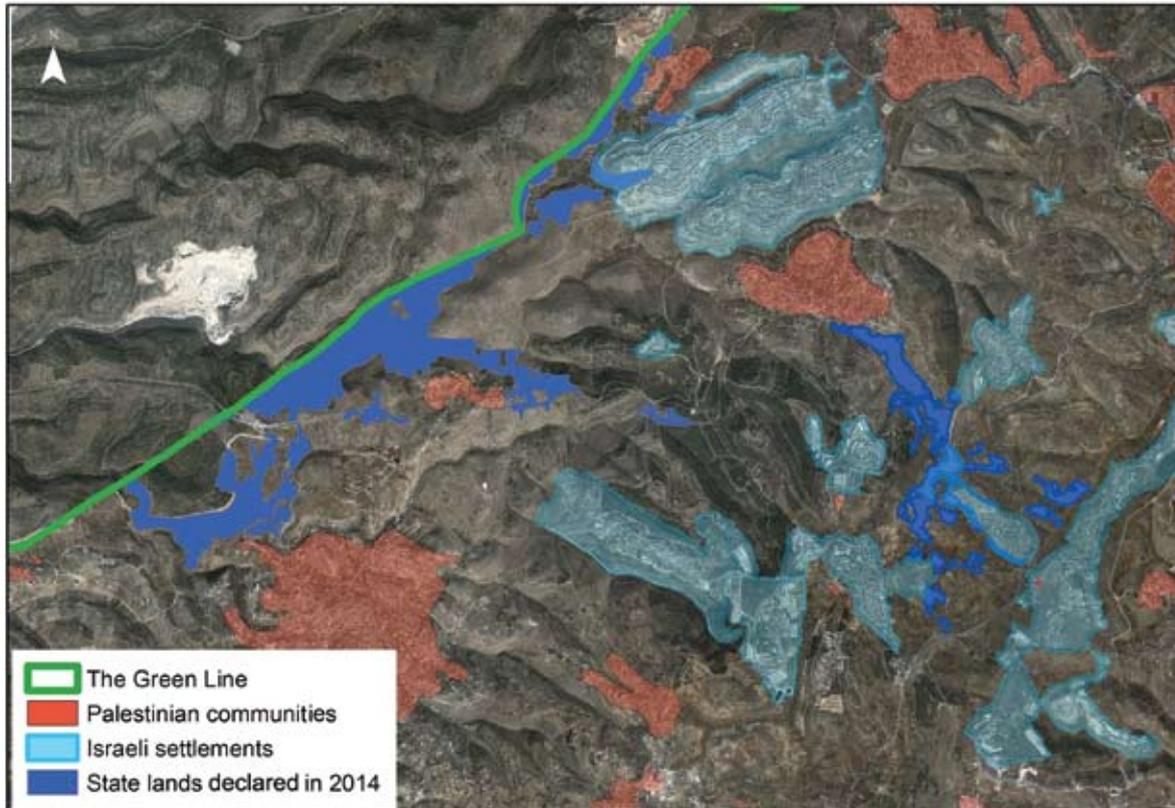


224 dunam declared as state lands from the territory of Kufr 'Aqab – declared in order to legalize illegal building in the settlement of Kokhav Ya'akov.

0.02 0.04 0.08 0.12 0.16 Miles

Declarations from 2014-2016

In 2014, two large declarations in areas southwest of Bethlehem were announced. These are territories that Israel seeks to annex to the Gush Etzion Regional Council. The first declaration was intended first and foremost to retroactively legalize the Derekh Avot Outpost, built at the end of 2001 on private lands of residents of the village al-Khadr,⁴⁵ while the second declaration was intended in preparation for construction of the settlement Geva'ot, slated to be built on and to the east of the Green Line on the lands of the villages of Surif and Nahhalin, also presented by Israel as a punitive measure for the murder of the three yeshiva high school students in June 2014.⁴⁶



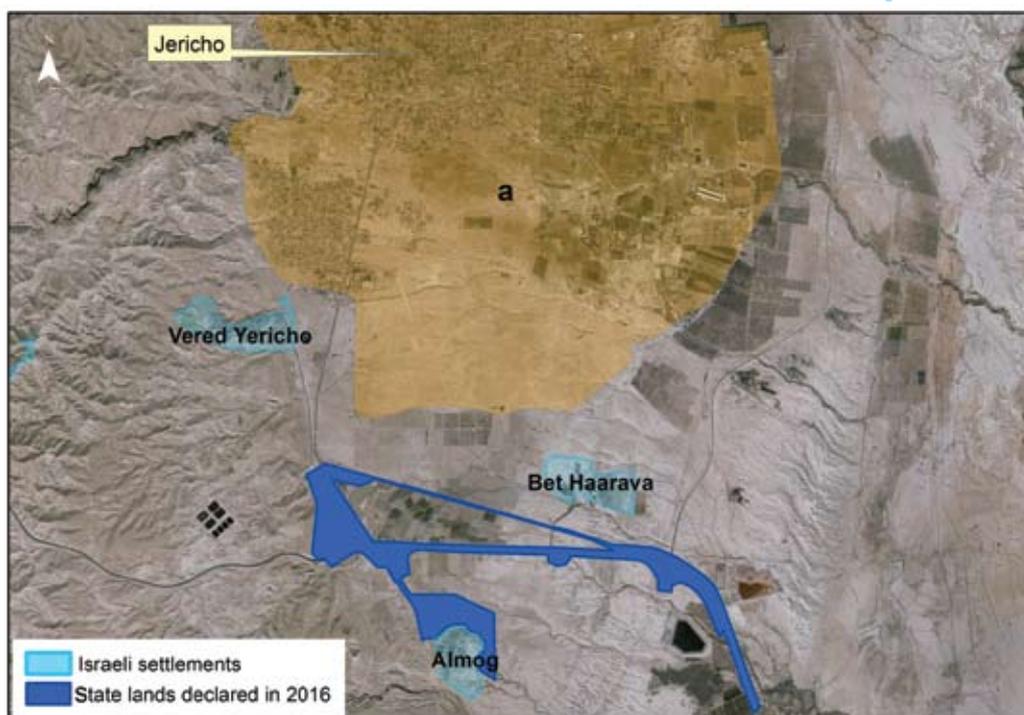
5,000 dunam of state lands were declared in areas southwest of Bethlehem in 2014

0 100 200 300 400
meters

⁴⁵ On September 1, 2016, the HCJ ordered the demolition of 17 houses in the Derekh Avot Outpost, established on lands that had not been included in the declaration of state lands. See Yotam Berger and Yehonatan Liss, "HCJ Orders State to Demolish 17 Houses at Netiv Avot Outpost," *Haaretz*, September 1, 2016 [Heb.] <http://www.haaretz.co.il/news/politics/.premium-1.3056389>.

⁴⁶ See Chaim Levinson, "Israel Set to Legalize West Bank Outpost, Taking Over Private Palestinian Land," *Haaretz*, April 13, 2014, <http://www.haaretz.com/israel-news/.premium-1.585377>, and Chaim Levinson and Jack Khoury, "Israel Appropriates Massive Tract of West Bank Land," <http://www.haaretz.com/israel-news/.premium-1.613319>.

In 2015, there were no declarations of state land, but on March 10, 2016, 2,342 dunam south of Jericho were declared state lands.⁴⁷ A large portion of the declared area overlaps with existing roads, while the rest of the area comprises desert lands, a small portion of which are cultivated today by settlers.⁴⁸



Declaration south of Jericho, March 10, 2016

Order regarding Government Property (Judea and Samaria) (No. 59), 1967 Certificate

By virtue of the authority vested in me by Par. 2c, according to the Order Regarding Government Property (Judea and Samaria) (No. 59), 1967, I hereby confirm in this certificate that the territory specified in the addendum is government property.

Anyone who claims rights to the territory described in the appendix / in the addendum and in the map appended to this certificate or to part of the area is authorized to submit a petition to the Petitions Committee adjacent to the Camp Ofer Military Court in the Ramallah District, in keeping with the Order regarding Petitions (Judea and Samaria Area) No. 172 –1967, and this within 45 days of the day the certificate was made public in the field and in the DCL [Office].

Anyone interested in additional details or explanations to clarify the content of this certificate or regarding the addendum may contact the Office of the Custodian of Abandoned and Government Property in Judea and Samaria.

DCL Jericho, Mondays and Thursdays, between 9:00 and 13:30 at Tel: 02-9703822

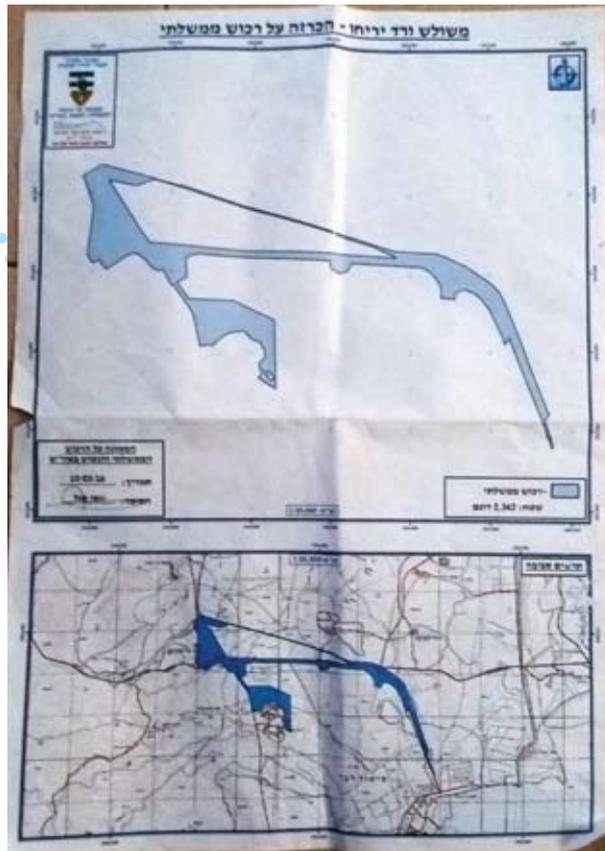
DCL Nablus, Sundays and Wednesdays, between 9:00 and 13:30 at Tel: 02-9703179

Yossi Segal
 March 10, 2016
 Custodian of Abandoned and Government Property
 Judea and Samaria Area



⁴⁷ In the initial reports on this matter on IDF Radio, 1,500 dunam were discussed. It later emerged that the area was much larger. See Inbal Tamir, "Breaking News: Over 1,500 Dunam in the Jericho Area will be Declared State Lands," *Galei Tzahal* (IDF Radio), January 20, 2016 [Heb.], <http://glz.co.il/1064-75349-he/Galatz.aspx>.

⁴⁸ This declaration appears to be extraneous, and its goal is unclear. We assume that the motives behind this maneuver were mainly political and related to struggles between the Likud and the Jewish Home parties over leadership of the right-wing camp.



Documents pertaining to the declaration of state lands south of Jericho, March 10, 2016

Transition to the “Survey Lands” Procedure and Examining Land Status According to “Substantive Law”

The sharp decline in state-lands declarations in the 1990s did not impinge on the big maneuver that Israel orchestrated, whose goal was and remains takeover of most of Area C (which comprises 61% of the area of the West Bank). The practice of active declaration of state lands, and with it, the obligation to enable landowners to petition the declaration within a particular time period (an obligation mentioned in all of Albeck’s survey documents) was over the years replaced by the “survey lands” procedure, carried out by the Survey Lands Team, whose job was to map lands that are uncultivated or cultivated to an insufficient extent (the 50% test). This procedure entered into law in 1998, and is based on the legal claim that the Ottoman Land Code does not require the sovereign over the territory (in this case – since 1967 – the Israeli Military Commander) to make an active declaration regarding particular lands as state land. As long as the lands are “miri” land, whose ownership has not been formally registered (which is the status of most lands in the West Bank), it is sufficient to examine the status of the land’s cultivation to determine its ownership status. In other words, the state’s claim is that it is not the declaration that determines the status of the land, but the “substantive law,” i.e. the state of its cultivation in practice over periods of time defined in the Ottoman Land Code (Pars. 68 and 78). Petitions submitted to the HCJ in which it is claimed that this procedure is illegal since it does not enable landowners to petition expropriations, were rejected. The Israeli authorities treat these lands as state lands for all intents and purposes, and the mapping of these lands continues all the time (in parallel to the work of the Blue Line Team).⁴⁹

One of the significant results of adopting this procedure is that although today there is no complete picture of the scope of lands that Israel views as state lands and their precise location, it is clear that the area in question is much larger than the area Israel has declared as state lands (as noted, approx. 655,000 dunam in Area C).

⁴⁹ Par. 4, HCJ 3998/06, *Ahmed 'Isa 'Abdallah Yasin et al. v. Military Commander of the West Bank et al*, November 9, 2006, <http://psakim.com/verdicts/no-cat/elyon51063-htm>.

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Re: Staff for Examining Locations of Survey Lands – Working Procedures

General:

1. Survey lands are lands of which the Custodian is authorized to take possession, as they are government property regarding which declaration processes have not begun or [regarding which] these processes were not completed, and that are not registered in the land records. The lands in question can be categorized as government property according to the Ottoman Land Code and the security legislation that applies in the area.

2. In 1998, a new procedure was approved for examining survey lands, which replaced the former procedure, according to which lands in Judea and Samaria were declared government property – state lands. The goal of the aforesaid procedure was to arrange the oversight, preservation and protection of government property defined as survey lands. In addition, the procedure was intended to stipulate directives for the manner of taking actual possession of these lands, for particular identifications, and for their management.

3. Part B of the aforesaid procedure stipulates in detail the order of operations for launching an examination of particular locations included in survey lands and for declaring them, through a certificate from the Custodian, as government property upon conclusion of the examination. In brief, the procedure determines the type of approvals necessary for carrying out the examination, the actors involved in the examination, the key documents that need to be examined, the stages of examination and the necessary legal approvals, etc.

4. At the end of the examination process, and after receiving the legal approvals and the approvals from the relevant policy echelon, the declaration of government property certificate is signed by the Custodian of Government Property in Judea and Samaria, according to Par. 2c of the Order Regarding Government Property (Judea and Samaria) (No. 59) –1967. This certificate is published in keeping with the ways stipulated in the procedure, and the population is given the option of appealing it through the Military Appeals Committee.

5. It should be emphasized that according to the law in effect in the area, the signing of a certificate of declaration does not determine land rights, but only declares their existence. The content of the rights and their categorization – if they are government property or belong to the individual – is determined by the substantive land laws that apply in Judea and Samaria and according to the categorization of land as state lands according to this law. This practice was created due to the special situation in the area, and particularly since approximately two-thirds of the area of the Judea and Samaria region did not undergo processes of land arrangement formalization.



“Survey Lands Procedure,” 2011

The legal approach according to which it is unnecessary to declare state lands and that the state of cultivation is sufficient for determining the land's status was formulated clearly (albeit not for the first time) in the state's response to the petition of a group of Palestinians that established the "Bab al-Shams" tent compound in area E1 in early 2013.⁵⁰

Part. 15-16 of the State's Response to the petition read as follows:⁵¹

15. Lands that are under residual ownership by the Custodian of Government Property in Judea and Samaria and that are suitable for being declared government lands (henceforth: lands of the Custodian of Government Property) [emphasis in original]

These are lands most of which are characterized by rocky ground and cannot be cultivated for agriculture. It should be recalled in this context that the significant directives of land laws that apply in the area view lands of said type as government property. Without exhausting the discussion on the matter we will also recall that the condition for acquiring rights to unregistered land in keeping with the binding law is actual agricultural cultivation, together with possession on the ground. It is obvious that in the case of land that cannot in any way be cultivated for agriculture, an individual cannot acquire a right in this manner [...] And indeed, aerial photographs from 1980-2012 lay out a evidential administrative infrastructure according to which from an essential standpoint the lands are suitable to be declared as state lands, since throughout the years they were not cultivated.

16. These lands were not included in the declaration of state lands of 2005, and yet, this does not mean that from an essential standpoint they are unsuitable for being declared as state lands. The reason for this is that on more than one occasion, the declaration of state lands was carried out in several stages. Thus, for example, the declaration of 2005 complemented a previous declaration, in reducing an enclave that remained from the declaration of 1982.

State Land Eviction Orders

The Civil Administration to this day has issued more than 600 eviction orders for what it has defined as "incursions into state lands." Some of these eviction orders were issued against Palestinians who were cultivating lands not declared as state lands but which were defined by the Civil Administration as "survey lands." Such an incident occurred, for example, in June 2015 regarding the lands of the village of Wadi Fuqin, where hundreds of olive trees that had been planted on lands that the Civil Administration defines as survey lands were uprooted.⁵²

⁵⁰ Chaim Levinson, Jack Khoury and Reuters, "Palestinians Erect Tent City in E-1 to Protest Settlement Construction," *Haaretz*, January 11, 2013, <http://www.haaretz.com/israel-news/palestinians-erect-tent-city-in-e-1-to-protest-settlement-construction.premium-1.493451>.

⁵¹ Taken from the state's "panicked" Response of January 15, 2013, *HCJ 248/13, Mufid Fuad Abu Ghanem et al v. Construction Oversight Sub-committee et al.*

⁵² B. Lynfield, "Israel Accused of 'War Crime' over Bulldozing of Palestinian Olive Groves," *The Independent*, June 15, 2015, <http://www.independent.co.uk/news/world/middle-east/israel-accused-of-war-crime-over-bulldozing-of-palestinian-olive-groves-10321936.html>.

Chapter Three: Blue Line Team – Creation and Work Methods

Creation of the Blue Line Team

The declaration of hundreds of thousands of dunam across the West Bank as state lands is therefore the background to the Blue Line Team's establishment at the end of 1999. The team's main job is to ensure that the state-land declarations made in the past by Plia Albeck's team will indeed include only lands that can be defined as state lands, i.e. lands whose level of cultivation does not exceed 50%. The establishment of the Blue Line Team was made possible, and was even a matter of course, following technological developments that occurred in the realm of mapping and geographical data systems management. The team's work is ostensibly based primarily on the examination of aerial photographs of the territories from various years, from which it is possible to conclude what the level of cultivation was in each area declared as state land. Following this examination, the team maps out the territory which, based on the examination results, has not been cultivated for at least three years; such lands are then included in what is known as the Blue Line.⁵³ In most of the cases, the territories mapped were integrated into the official jurisdictional area of the nearest settlement, since they include, ostensibly, only lands that Israel defines as "state lands," which can be allocated to settlers.

In a document from early 2011, entitled "Team for Marking the Boundary of State Lands in Judea and Samaria (Blue Line Team) – Working Procedures," Lt. Col. Tzvika Cohen, at the time Head of the Infrastructure Branch in the Civil Administration, clarified the legal importance of the team's work (which, as stated, was completely at odds with the reality in the field).⁵⁴

The obligation to ensure that the lands intended for planning or allocation have the status of government property derives both from the directives of customary international law which impose a severe prohibition against damaging property suspected to be private property, as well as from Government Decision 145 of November 11, 1979, according to which the expansion of localities in Judea and Samaria and the establishment of new localities will take place only on "lands under state ownership."

The document reveals that in addition to the examination of state-land declarations carried out by Albeck's team, the Blue Line Team on occasion also deals with examinations and mappings of various land questions on which the Civil Administration must decide, such as setting the boundaries for areas referred to in military orders and mapping Jewish lands purchased prior to 1948.

Par. 6 of the document itemizes the procedures that the Blue Line Team must approve before they can progress:

As a rule, planning and land procedures brought for examination by and the approval of the relevant officials, including planning projects and authorizations for planning and development, will be examined by the team, as follows:

- a. Every authorization for planning and/or extension of validity period for a planning authorization.*
- b. Every new plan submitted for approval to the planning authorities that is not included within the boundaries of a prior valid outline plan*
- c. Every plan undergoing stages of statutory approval and contingent on the approval of the Def. Min. in order to advance to the next stage*
- d. Every authorization for development within the boundaries of an approved detailed authorized plan that was not approved in the past by the team for setting state-land boundaries ("Blue Line" team).*

Par. 7 of the document enumerates the cases where no examination of the Blue Line Team is necessary. These cases include, inter alia, all declarations of state land subsequent to 1998 (Par. 7c), since the assumption is that they were made by the Survey Lands Team, which continues to operate according to the same professional standards that guide the Blue Line Team.⁵⁵

⁵³ As required by Par. 68 of the Ottoman Land Code.

⁵⁴ The document was sent to the legal department of Shomrei Mishpat – Rabbis for Human Rights as part of a request under the Freedom of Information Law.

⁵⁵ See below, Chapter Four, p. 45.

It is particularly interesting to note the last four instances included in Par.7 (d-g): In each of these four paragraphs, the instances discussed are those in which there is already an approved plan or where construction actually occurred. The significance is that in these cases, the Civil Administration waives the requirement to re-examine the precision of the declarations, out of a desire to avoid revealing findings that will cast a doubt on the legality of the construction carried out in these territories. As we shall see below in the following chapter, in many cases construction took place on lands that the Blue Line Team mapped out and approved as state lands, even though they had been cultivated in the past and should on no account have been included in the category of state lands.⁵⁶

The geopolitical context in which the Blue Line Team operates should also, of course, be noted, and this emerges clearly from the document itself, Par. 8c:

Priorities for processing by the Blue Line Team

a) Areas under adjudication (HCJ, petition committees, Israeli courts)

b) Areas over which there is a struggle (between Pals. and Israeli settlers and between Pals. and the state)

c) Settlement blocs (Gush Etzion, M. Adumim, Jordan Valley and Megilot, the "Jerusalem envelope," Ariel)

d) Advancement of procedures for educational and public institutions

e) Additional topics that will be defined as urgent by the authorized echelons

This document thus reveals that the Blue Line Team is a necessary link in Israel's efforts to transfer lands in the West Bank to the settlers, first and foremost in areas that the state defines as particularly necessary "settlement blocs."⁵⁷

Re: Staff for Demarcating State Lands in Judea and Samaria
(Blue Line Team) – Working Procedures

General

1. As is known, the staff for demarcating state lands ("Blue Line Team") has been in operation since 1999. The main task of the team is to examine the declarations of state lands carried out in the past. This is for the sake of ensuring that all of the procedures pertaining to planning (advancing planning programs) and lands (land allocations) are advanced only in lands included in the category of state property, without deviating to lands under private Palestinian ownership, in fulfillment of the aforementioned government decision.

And yet, the team also has the option of examining additional planning-land issues, in instances when the expertise of the team might be needed.

2. The obligation to confirm that lands designated for planning or allocation are government property derives both from the directives of customary international law that impose a strict prohibition against harming property suspected of being individual property as well as from Government Decision No. 145 of November 11, 1979, according to which expansion of localities in Judea and Samaria and the establishment of new localities will take place on "government-owned lands."

3. The main need for the activity of the team is rooted in the inaccuracy in the marking of boundaries of the declarations using aides issued by the team headed by then Director of the

Civil Department in the Ministry of Justice, Ms. Plia Albeck of blessed memory, which were used by the authorities in the past. In this manner, certificates of declaration given by the Custodian of Government Property in the Civil Administration were based, as a rule, on maps on a scale of 1:20,000 or 1:50,000, on which the boundary of the declared lands was hand-marked with a thick line. This marking, which arose from a lack of basic technological means that in recent years have become available to the Civil Administration, served the authorities as a basis for undertaking the gamut of planning and land procedures.

Objective

4. To define the manner in which the activity of the Blue Line Team, whose role is to evaluate the declarations of state land carried out in the past, with the objective of ensuring that the advancement of land planning will take place only in relation to lands categorized as "government property."

Although it is not necessary, in order to dispel any doubt it shall be made clear that the team's examination does not replace or render extraneous execution of the survey lands procedure where this is likely to be required, and that its investigations pertain to the boundaries of state lands as they were declared in the past, in the context of imprecisions in their marking.

⁵⁶ See below, Chapter Four, p. 56.

⁵⁷ Akiva Eldar, "Civil Administration Pushing for Land Takeover in West Bank," *Haaretz*, July 22, 2011, <http://www.haaretz.com/idf-civil-administration-pushing-for-land-takeover-in-west-bank-1.374564>.

Team Composition

5. The staff will include representatives of various parts of the Civil Administration that deal with the administration of state lands, as detailed below:

- a. Coordinator of the “Blue Line” Team – Director of the Oversight Unit or his representative
- b. Representative of the Custodian of Government Property – member
- c. Representative of Planning Office - member
- d. Representative of Land Registration Staff Officer – member
- e. Representative of Judea and Samaria Legal Advisor – member
- f. Representative of Measurements Staff Officer - member
- g. Representative of Infrastructure Department

6. As a rule, planning and land procedures presented for examination and approval of the relevant individuals and organizations, including planning programs and authorizations for planning and development, will be presented to the team for examination, as follows:

- a. Any authorization for planning and/or extending the validity of a plan’s authorization.
- b. Any new plan submitted for approval of the planning authorities and that is not included in the area of a previous valid plan.
- c. Any plan undergoing a process of statutory approval, and contingent on the approval of the Defense Minister in order to advance to the next stage.
- d. Any approval for development in the realm of a detailed, approved plan that was not authorized in the past by the government lands demarcation team (Blue Line Team).

7. At the same time, the forum for preparation of the Municipal Building Plan is authorized to decide that the advancement of a particular plan does not require examination by the team, based on reasons that it records, and subject to the obligation to ensure that the planned or allocated lands qualify as government property, as follows:

- a. Any plan included in an area that was examined in the past by the Blue Line Team – the responsibility for the examination and approval rests with the Custodian Staff Officer. In a case where there is doubt (or when information is found that was not known to the staff during the time of decision making), the plan will be transferred for examination and approval of the staff.
- b. Areas [whose status] is arranged and registered in the TABU [Land Registry Office] and/or areas with primary registration – subject to verification of ownership with the Lands Registration Staff Officer.
- c. New declarations carried out beginning in 1998 in keeping with the survey lands procedure and based on precise survey maps. In a case of doubt or location of new information that was not known at the time of the declaration, the plan will be submitted for examination and approval of the team.
- d. Specific changes in the regulations of a plan or a specific plan at a location where development work was already carried out or where there is already construction, according to a valid detailed plan and in keeping with submission of an authorization for development of the land.
- e. Allocation of lots within valid detailed plans that do not border on undeclared lands.
- f. Contractual arrangement of existing construction in the boundaries of a valid municipal building plan and an existing declaration.



Working Procedure of the Blue Line Team, 2011

g. Advancement of planning procedures for regulatory plans that [formally] arrange an existing situation (extant construction).

8. Priorities for processing by the Blue Line Team

- a. Areas under discussion in the courts (HCJ, petition committees, Israeli courts)
- b. Areas of contention (between Pals. and Israeli settlers and between Pals. and the state)
- c. Settlement blocs (Gush Etzion, M. Adumim, Jordan Valley and Megilot, the “Jerusalem envelope,” Ariel)
- d. Advancement of procedures for educational and public institutions
- e. Additional topics that will be defined as urgent by the authorized echelons

[First tier]
Oversight Unit – Central --- Secretary
The Team – Mandatory

[Second tier]
“Blue Line” Coordinator < ---- “Blue Line” Coordinator

[Third tier: Right to left!]:
Representative Legal Advisor – member –mandatory
Representative of Infrastructure Department – member
Representative of Surveying Staff Officer – member
Representative of Land Registration Staff Officer – member
Representative of Custodian Staff Officer – member – mandatory
Representative of Planning Office – member

[Fourth tier: right to left]:
Oversight Unit – Field Coordinator – Judea
Oversight Unit – Field Coordinator – Benjamin
Oversight Unit – Field Coordinator – Samaria

Definition of “Blue Line Team” Work Priorities

9. The Head of the National Team is authorized to determine, from time to time, the priorities for the Blue Line Team’s work.

Tzvika Cohen, Lt. Col.
Head of Infrastructure Department

Petition Procedure for Mapping Work of the Blue Line Team from 2015 – The Case of the Settlement of Eli

Over the years, Israel established and enabled the development of a number of settlements, even though none of them had an approved outline plan of any kind (known by the Hebrew acronym TABA, or “Municipal Building Plan”) by virtue of which it would have been possible to issue building permits.⁵⁸ These conditions were not fulfilled, even though the settlements in question were established formally by Israeli governments (in contrast to the “unauthorized outposts”). One of these settlements is Eli (see also, Introduction, pp. 11-12), located between Ramallah and Nablus. Over the years, a number of petitions to the HCJ were submitted against the illegal construction that continued in Eli.⁵⁹ Following two of these petitions, submitted in 2011, the state made a commitment to initiate a proper planning process, on completion of which a municipal building plan would be approved for the settlement.⁶⁰ In order to initiate the planning process, the Blue Line Team was required (as stated in Par. 6b of the document of Lt. Col. Tzvika Cohen) to remap the state lands in the area. Upon completion of the Blue Line Team’s work, in July 2012, the way was paved for the approval of Municipal Building Plan (TABA) 237, which spanned broad territories that were not included in the map of Albeck’s original declaration in 1983. After approval of TABA 237 in the planning institutions of the Civil Administration, the NGO Bimkom and the heads of the village councils of neighboring Palestinian villages submitted a petition to the HCJ demanding that TABA 237 be annulled or that its approval be suspended so long as the areas added to it by the Blue Line Team (some 22% of the entire TABA) were not declared state lands and until the people who believed themselves to be harmed by the declaration were given the right to file objections.⁶¹ Following this petition, the state, in its response to the High Court of Justice (dated April 29, 2015) pledged to publish the results of the Blue Line Team’s mapping and to allow for a period of 45 days to submit an appeal against the results of the mapping process to the Head of the Civil Administration, who would determine whether to accept or reject the appeal.⁶²

Survey of the Work of the Blue Line Team, 1999-2015⁶³

Based on information we received in March 2016, between its establishment in 1999 and the end of 2015, the Blue Line Team conducted 296 mappings. As stated, the purpose of the overwhelming majority of the mappings was to determine the boundaries of lands declared previously as state lands. The declared state land area mapped by the Blue Line Team during this period exceeds 268,000 dunam – i.e. over 40% of the area that was declared state lands (before 1999) and remained in Area C.⁶⁴

In addition, the Blue Line Team mapped a number of locations purchased by Jews prior to 1948. Most of these sites (“Jewish lands”) are located in the Gush Etzion area, southwest of Bethlehem, but four of them are located along the Green Line, west of the village of Deir Ballut, in an area that is part of Training Area 203, and it is highly likely that their remapping was an attempt to advance a plan to establish a new settlement at this location.

Table of Blue Line Team Mappings (March 2016)

| Goal of mapping | Number of mappings | Overall area mapped (in dunam) | Percentage this category comprises of the total area mapped by Blue Line Team |
|--|--------------------|--------------------------------|---|
| Declared state lands | 263 | 268,322 | 84.38 |
| Lands managed by the Custodian ⁶⁶ | 7 | 40,898 | 12.8 |
| Jewish lands before 1948 | 13 | 7,924 | 2.5 |
| Seizure orders | 5 | 952 | 0.3 |
| Expropriation orders | 8 | 68 | 0.02 |
| Total | 296 | 318,163 | |

⁵⁸ Namely the settlements of Eli, Itamar, Ofra and Kiryat Netafim.

⁵⁹ The settlement of Eli was established in 1984, and today over 4,000 settlers live there.

⁶⁰ These were two petitions submitted by residents of the villages of Al Lubban ash Sharqiya and As Sawiya on whose land Eli was built. *HCJ 1936/11 Jamal Darajmah et al. v. Minister of Defense et al.*, and *HCJ 3819/11, Mahmud Hassan As'ad Ahmad et al. v. Minister of Defense et al.*

⁶¹ *HCJ 7986/14 Bimkom Planners for Planning Rights et al v. Head of Civil Administration et al.*

⁶² Should the Head of the Civil Administration decide to reject the appeal, his decision can be petitioned only in the High Court of Justice.

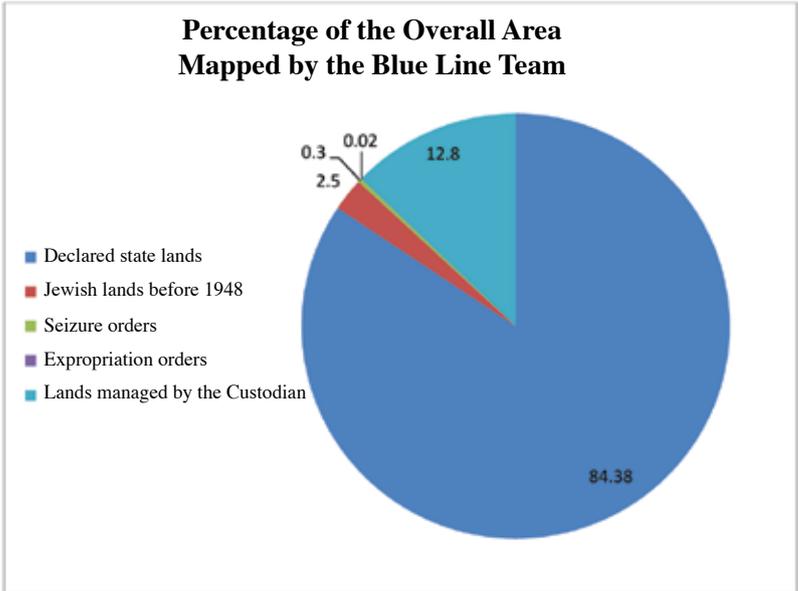
⁶³ The data appearing here are based on information we received from the Civil Administration, which includes mappings performed until March 2016.

⁶⁴ The area in question is approximately 645,000 dunam.

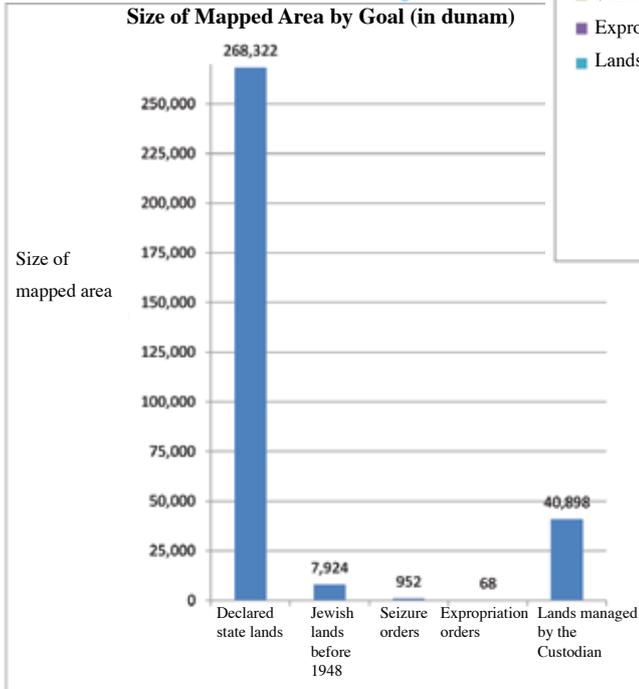
⁶⁵ These are the lands of the village of Khirbet Musmar, destroyed in 1948. These lands were the focus of a legal dispute between heirs that was adjudicated in the Jerusalem District Court, *Civ. Pet. 2572-00, 2076-00, M. Shub et al v. Lands Registration Staff Officer et al.*

⁶⁶ This definition includes a number of means of taking control of lands in the West Bank, including “survey lands,” which, as mentioned, Israel views as state lands even though they were not declared. Also included are expropriated lands, such as those in Ma’aleh Adumim and Ofra.

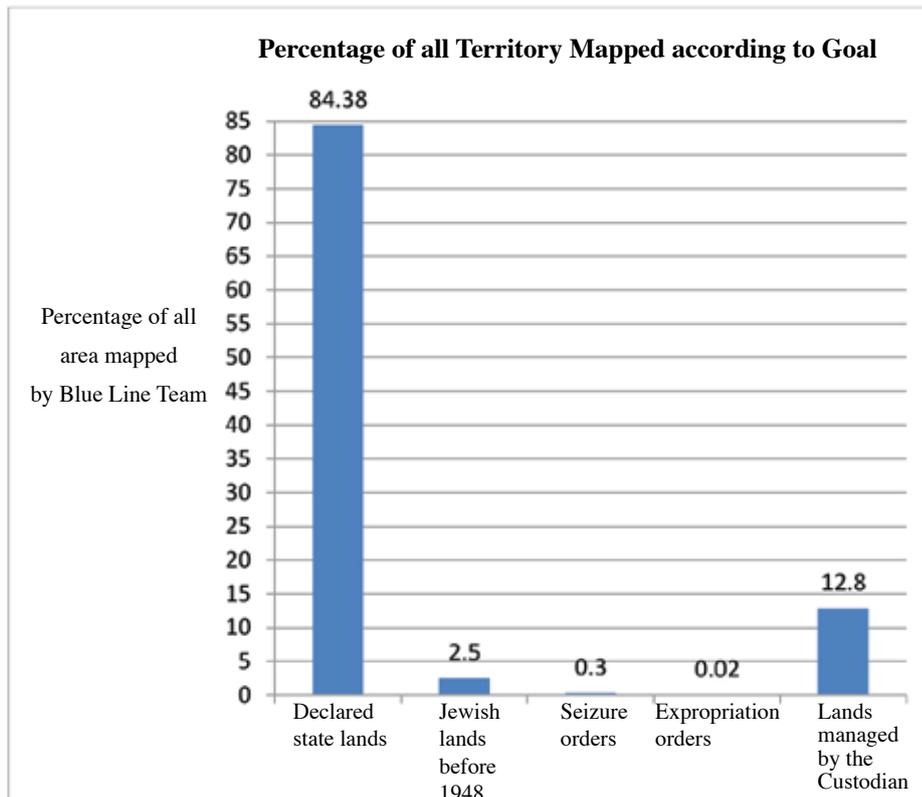
Percentage of the Overall Area Mapped by the Blue Line Team



Size of Mapped Area by Goal (in dunam)



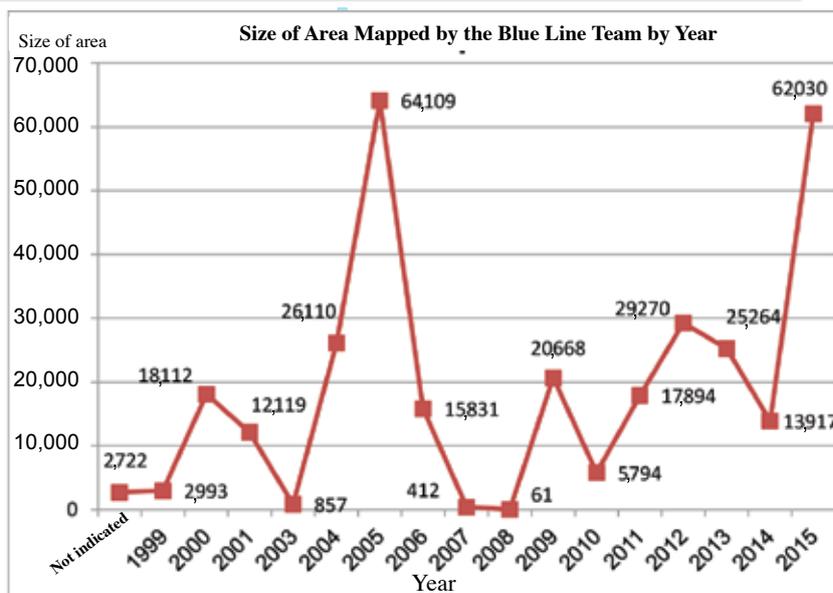
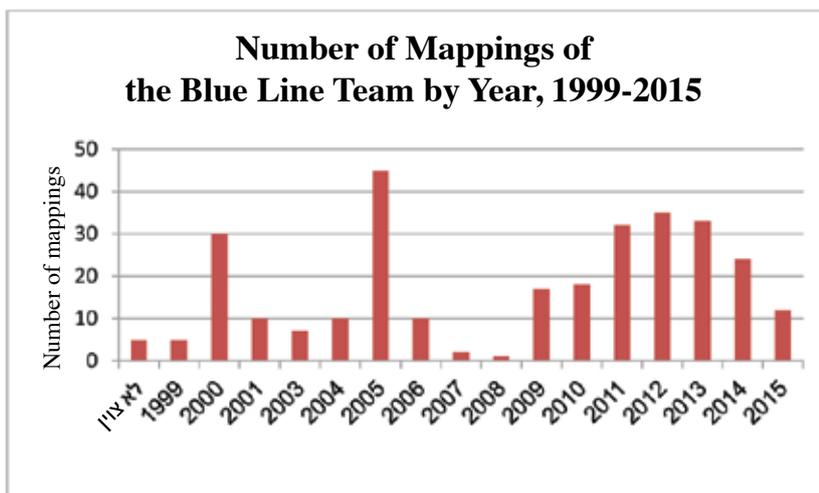
Percentage of all Territory Mapped according to Goal



Work of the Blue Line Team by Year

As can be seen from the graph below, the number of mappings carried out each year varies wildly. It can also be seen that 2005 was a “peak year” in terms of the number of mappings, and that since 2009 (the year of Netanyahu’s re-election as Prime Minister) there was a sharp increase in the number of mappings.⁶⁷

An examination of the mappings according to surface area reveals that 2005 was also the year of the largest area mapped (approx. 64,000 dunam) and in 2015, the second-largest area was mapped (approx. 62,000 dunam). From this aspect, as well, there is great fluctuation from year to year, although in every year since Netanyahu’s return to office in 2009, an increase can be seen in the size of the areas mapped.

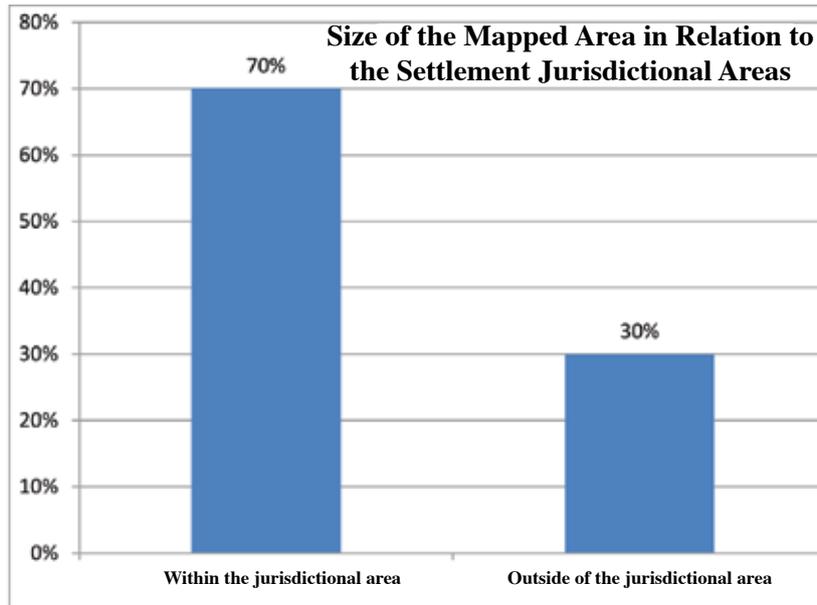


The Blue Line and the Settlement Jurisdictional Areas

The jurisdictional areas of the settlements in the West Bank total approximately 538,000 dunam. An examination of the Blue Line Team’s work reveals that approximately 222,500 dunam of the territory mapped by the Blue Line Team, namely, approximately 70%, are included in the current jurisdictional areas of the settlements. The significance of this fact is that the Blue Line Team made advance preparations for the future annexation of almost 100,000 additional dunam of state lands to the jurisdictional areas of the settlements.⁶⁸

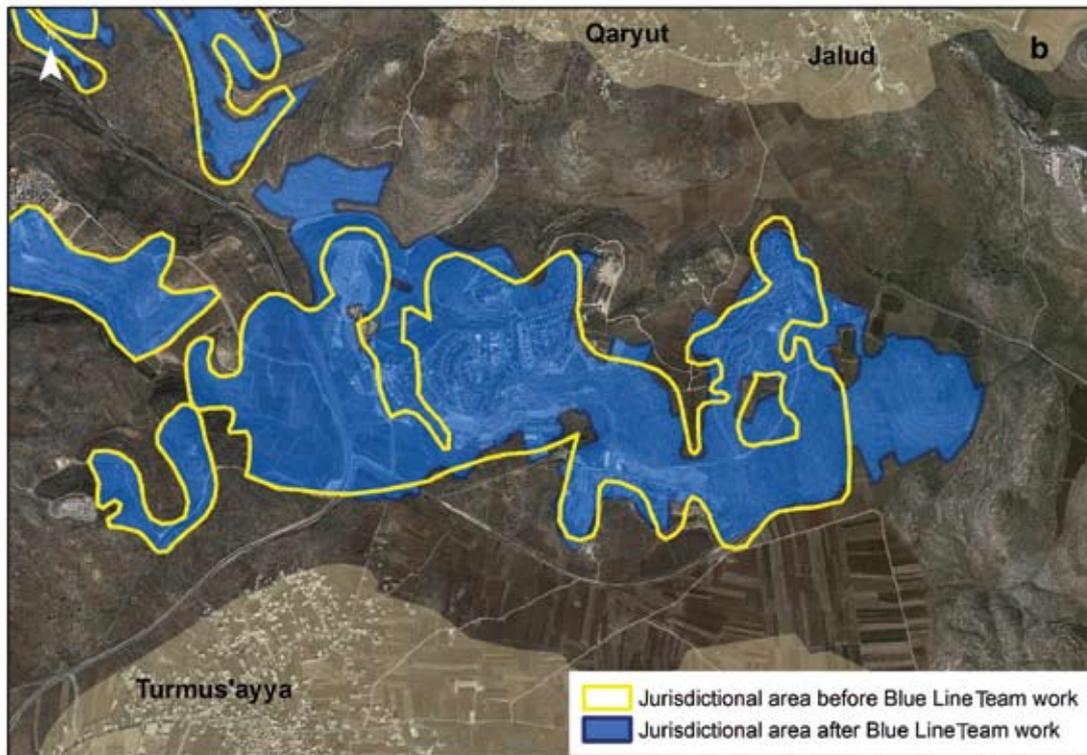
⁶⁷ We recall that in 2005, Israel evacuated the settlements in the Gaza Strip, as well as four settlements in the northern West Bank. Examination of the locations where mapping was carried out that year revealed no indication of a connection to these events.

⁶⁸ The settlement jurisdictional GIS layer, our source for which is the Civil Administration, suffers from significant inaccuracies, and therefore, the numbers presented here are only approximations.



It is important to emphasize that the claim of a connection between the work of the Blue Line Team and the annexation of territory to the settlements is not mere speculation, but is based on a number of precedents:⁶⁹

- The jurisdictional area of the settlement of Shilo was increased on May 28, 2013 by some 600 dunam following Blue Line Team operations there in 2000.

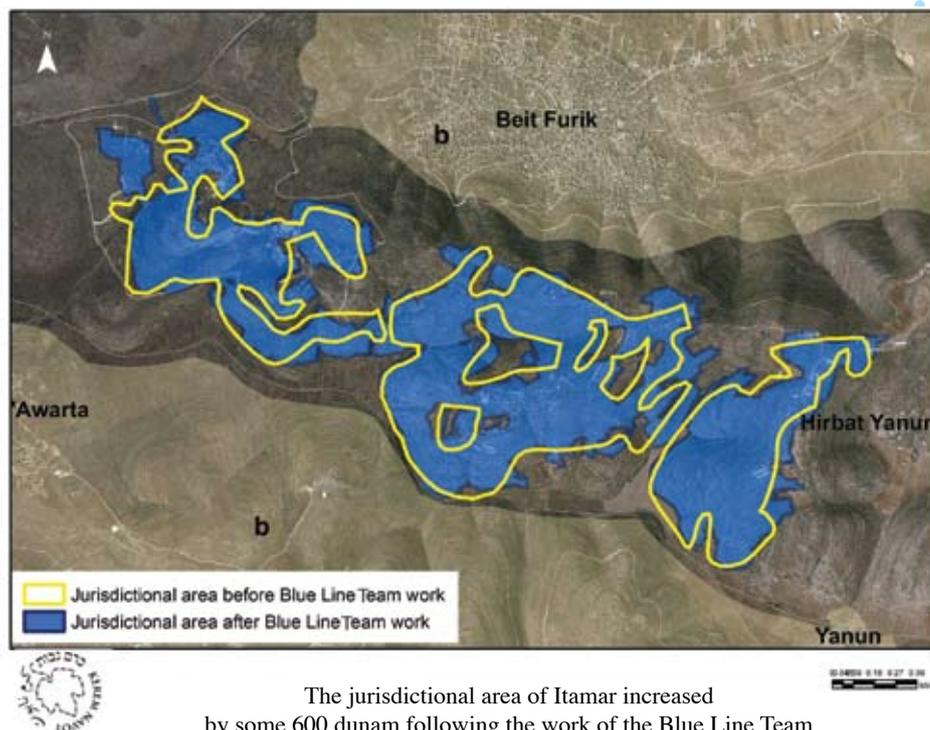


The jurisdictional area of Shilo increased by approximately 600 dunam following work of the Blue Line Team

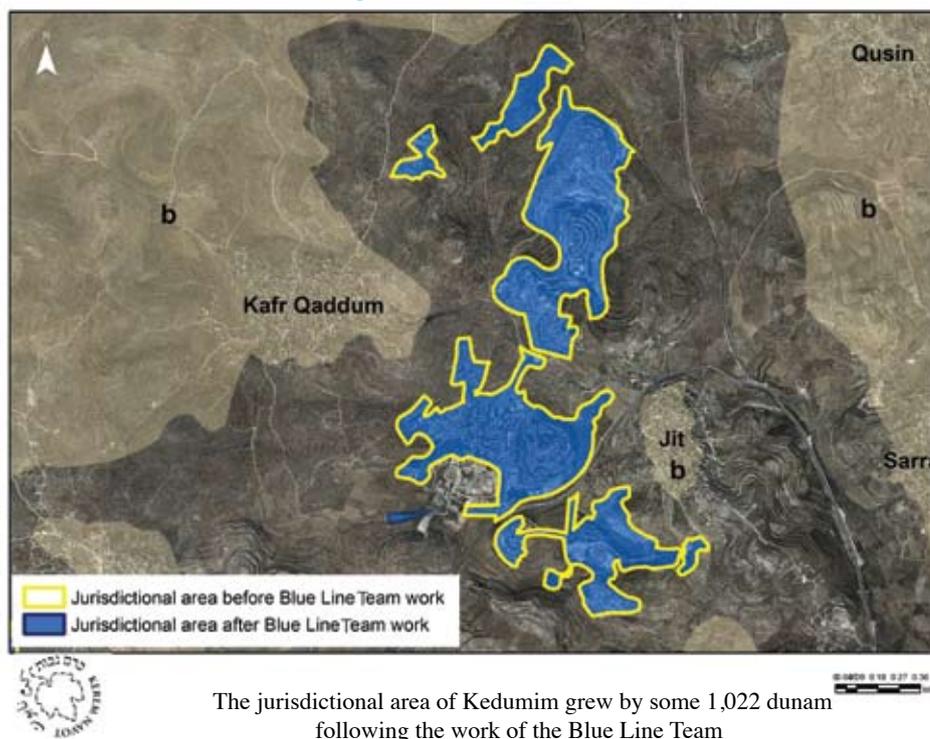
⁶⁹Chaim Levinson, "Israel Preparing Major Expansions in Four West Bank Settlements," *Haaretz*, February 9, 2015, <http://www.haaretz.com/israel-news/.premium-1.641520>.

Blue and White make Black

- The jurisdictional area of the settlement of Itamar was increased by some 600 dunam on January 6, 2013, following work of the Blue Line Team in 2000, 2011 and 2012.

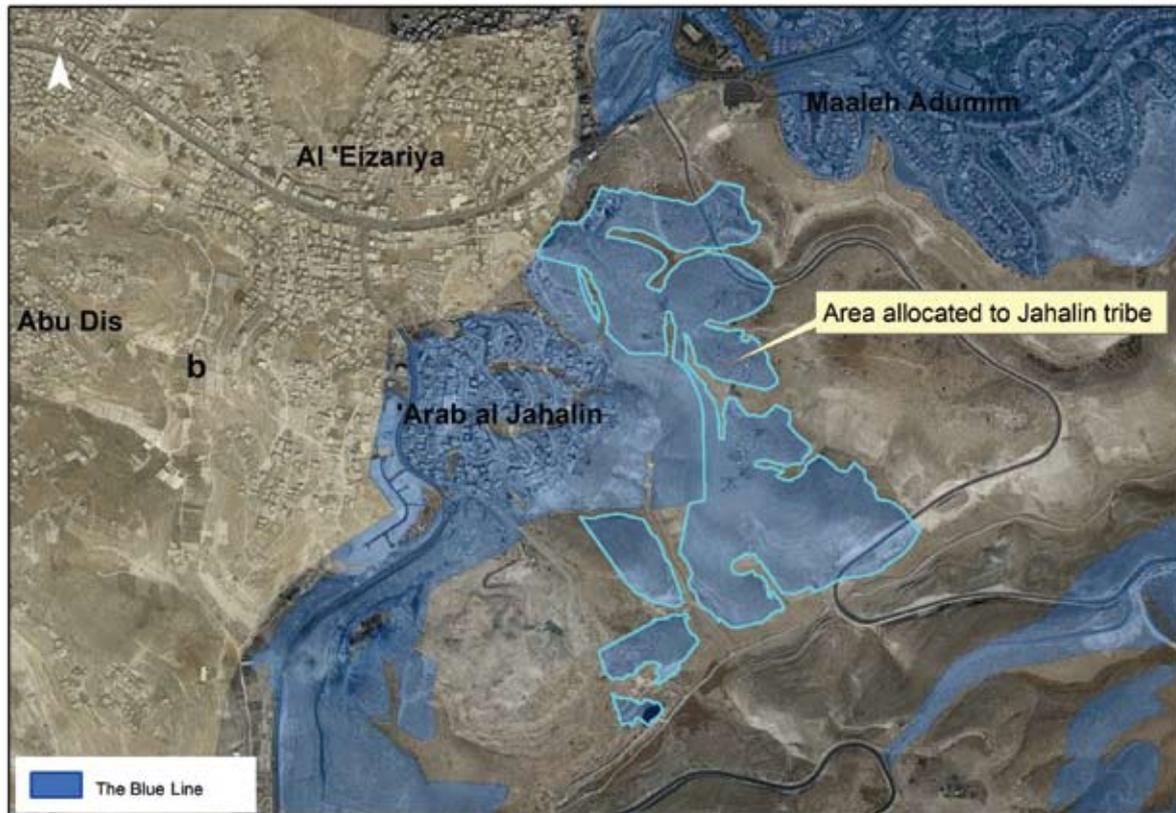


- The jurisdictional area of the settlement of Kedumim was increased twice, on May 24, 2011 and on August 28, 2012, by some 1,022 dunam following the work of the Blue Line Team in 2009 and 2012.



State lands Mapped by the Blue Line Team and Transferred to Palestinians

Slightly more than 718 dunam (some 0.2%) of the lands mapped by the Blue Line Team to this day have been allocated to plans for Palestinians. These are areas included in plans of the Civil Administration to permanently settle the Jahalin Tribe in the area between Abu Dis and the settlement of Ma'aleh Adumim.⁷⁰ This area is slightly more than one-fifth of a percent of all of the areas mapped by the Blue Line Team to this day. The conclusion from this fact is clear: The Blue Line Team was intended to serve - if not exclusively than almost exclusively - the needs of the Israeli settlements in the West Bank.



718 dunam mapped by the Blue Line Team were allocated to plans intended to “permanently settle” the Jahalin tribe in the Abu Dis area



Work of the Blue Line Team in Military Training Areas⁷¹

To date, the Blue Line Team has mapped over 68,500 dunam located within declared army training areas.⁷² A mapping of the areas within the training grounds began already in 2000, and was still underway in 2015. In 2015, an enormous area was mapped – over 32,700 dunam within three different declared training areas. An overall look reveals that over 21% of the area mapped by the Blue Line Team to this day is within declared training areas. This fact supports the supposition that training areas declared by the army are nothing more than a “land bank” that Israel maintains for the benefit of the needs of the settlements.⁷³

⁷⁰ The Civil Administration is initiating a broader plan whose goal is to transfer all of the Bedouin communities living today in the space between Jerusalem and Jericho to a number of sites. The site in Abu Dis is only one of them. See Amira Hass, “Israeli Government Plans to Forcibly Relocate 12,500 Bedouin,” *Haaretz*, September 16, 2014, <http://www.haaretz.com/israel-news/.premium-1.615986>.

⁷¹ See Chaim Levinson, “IDF Earmarking West Bank Firing Zones for Settler Expansion, Figures Show,” *Haaretz*, December 9, 2014, <http://www.haaretz.com/israel-news/.premium-1.630680>.

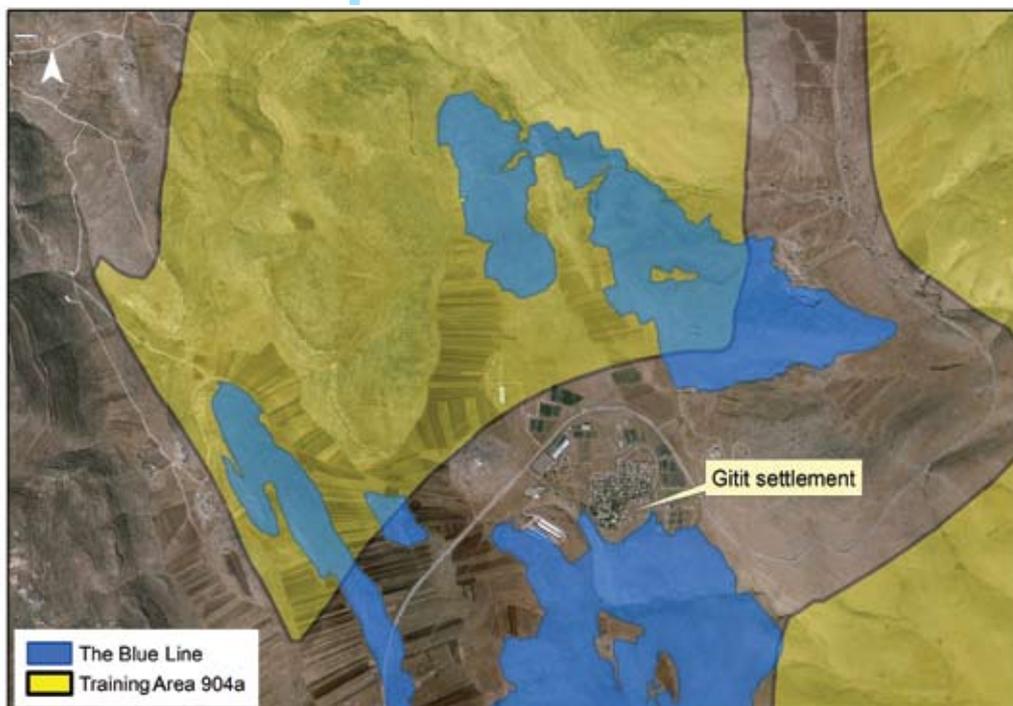
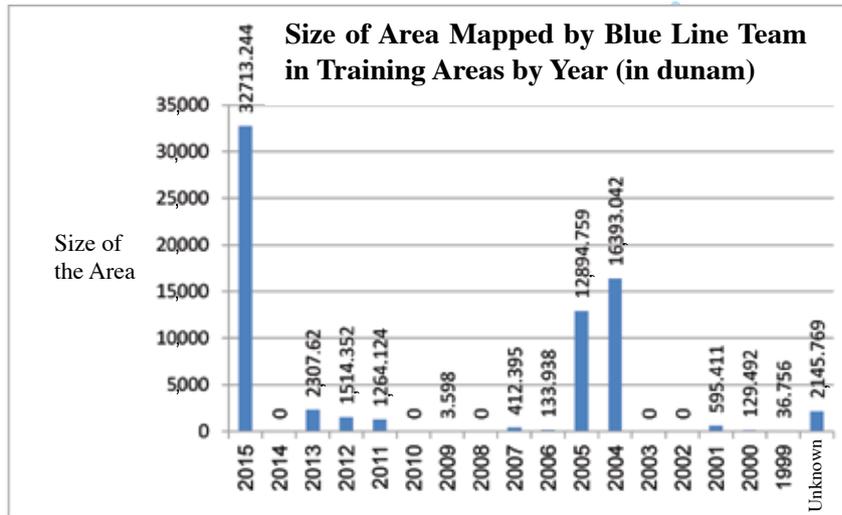
⁷² See *A Locked Garden - Declaration of Closed Areas in the West Bank*, Kerem Navot, March 2015, pp. 80–84, http://media.wix.com/ugd/cdb1a7_5d1ee4627ac84dca83419aebf4fad17d.pdf.

⁷³ See *A Locked Garden*, *ibid*, note 72.

Blue and White make Black

An analysis of the mapping work of the Blue Line Team in the training areas reveals that the team's work focused on three main goals:

1. Mapping of lands in training areas adjacent to the Green Line (west of Salfit and west of Hebron). These areas are intended, it appears, for the establishment of new settlements, and they will create an uninterrupted continuum of Jewish localities west of the Green Line
2. Mapping of training areas on which outposts have already been erected and their nearby surroundings, as part of their retroactive validation and future expansion
3. Mapping of training areas around existing settlements in order to enable the expansion of their jurisdictional areas in the future into the training areas⁷⁴



Blue Line Team mapping in 2015 – some 1,800 dunam in Training Area 904a, north and west of the settlement of Gitit

⁷⁴ Chaim Levinson, "IDF Cancels Status of Firing Zone to Enable Expansion of Nearby Settlement," *Haaretz*, March 8, 2015, <http://www.haaretz.com/israel-news/.premium-1.645771>.



Mapping of 30,500 dunam within Ha-Biq'ah Training Area in the Judean Desert⁷⁵

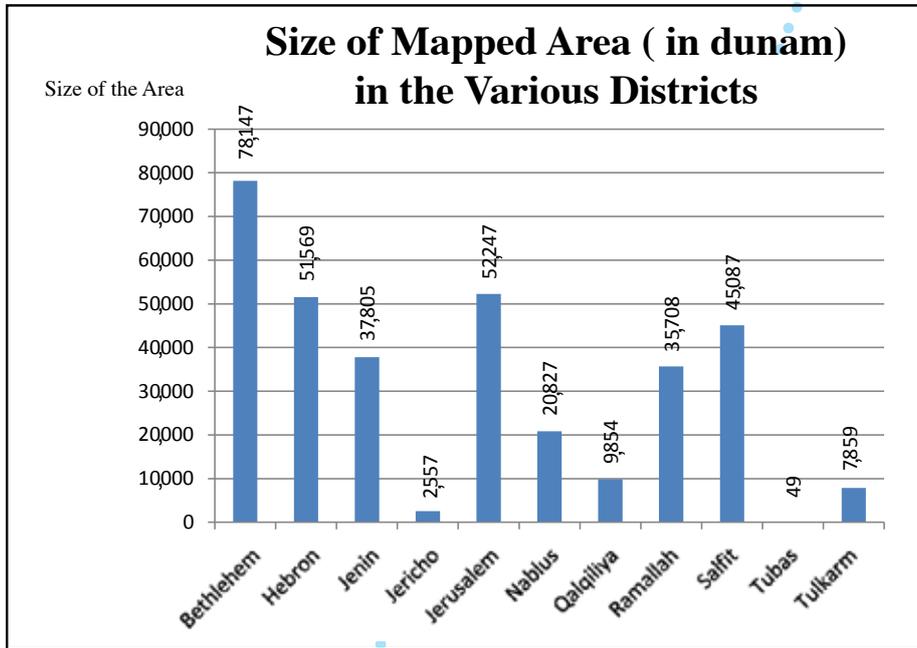


| Training area | Area mapped by the Blue Line Team (in dunam) |
|---------------|--|
| 203 | 15,856 |
| κ 309 | 430 |
| ⌋ 309 | 4,297 |
| 903 | 68 |
| κ 904 | 2,355 |
| 918 | 2,809 |
| 929 | 32 |
| 930 | 18 |
| 959 | 57 |
| Ha-Biq'ah | 41,356 |

⁷⁵ Ha-Biq'ah Training Area is a general name given to open-fire areas 912-917, which form a continuous sprawl across the Judean Desert, from Nabi Musa to Um Daraj.

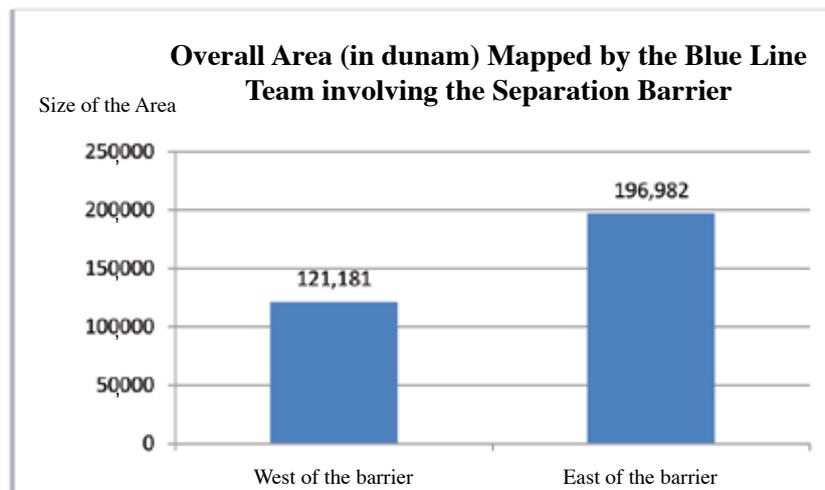
Work of the Blue Line Team in the Division of Land into Palestinian Districts

The main thrust of the Blue Line Team’s activity was, of course, in Palestinian districts where the percentage of registered land is low, while in districts where most of the land has been registered, little mapping has been performed, since in these districts, declarations of state lands are rare or non-existent.



Work of the Blue Line Team Involving the Separation Barrier⁷⁶ – Priorities of the Blue Line Team

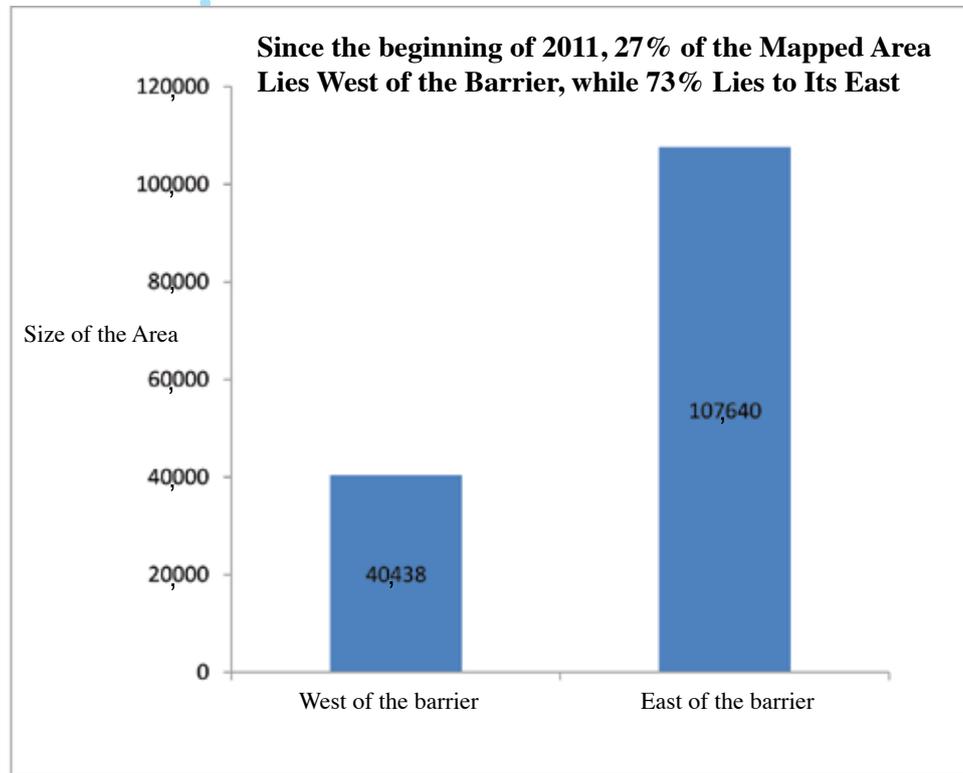
As we have seen, Par. 8 of the document specifying the working procedures of the Blue Line Team, written by Lt. Col. Tzvika Cohen in early 2011, defines the priorities of the Blue Line Team. This paragraph, among other things, states that priority will be given to the mapping of areas within the “settlements bloc” (i.e. areas west of the Separation Barrier) but also to areas in the Jordan Valley and in the Megilot Area (northern Dead Sea).⁷⁷ In this context it is interesting to note that over 60% of the overall area mapped by the Blue Line Team is located east of the Separation Barrier.



⁷⁶ This refers to the approved course of the Separation Barrier, approximately only 64% of which has been built to date.

⁷⁷ See p. 45, this report.

An examination of the work of the Blue Line Team during the period between the beginning of 2011 (date of publication of Lt. Col. Tzvika Cohen's procedure) and the end of 2015 reveals that over 70% of the Blue Line Team's work took place at sites east of the Separation Barrier, that is, around the isolated settlements and outside of the areas that Israel defines as the "settlement bloc," over which it claims that it will relinquish sovereignty in any agreement. Needless to say, this intensive activity, into which many resources are streamed, is inconsistent with what is usually referred to as the "two-state vision," and as far as can be seen, it is also incompatible with Prime Minister Netanyahu's declarations in the Bar Ilan speech (of June 2009) regarding his commitment to the principle of a "demilitarized Palestinian state."



In summary, by the end of 2015, the Blue Line Team had mapped approximately 318,000 dunam. The overwhelming majority of this area is lands declared in the past as state lands. The work of the team is characterized by large swings in terms of the number of mappings carried out and the size of the areas mapped each year. Approximately 70% of the area mapped is located within the jurisdictional areas of the settlements, while the rest of the territory (approximately 100,000 dunam) lies outside the jurisdictional area of the settlements, and its mapping may well be a sign of the intention to annex it in the future to the official area of the settlements. This theory is strongly reinforced by the fact that only a tiny percentage (0.2%) of the area mapped by the Blue Line Team to this day has been allocated to Palestinian use, while even this tiny splinter is intended for the permanent settlement of Palestinian Bedouin east of Abu Dis, a process that Israel is trying to advance in order to enable it to expand the settlements in the Ma'aleh Adumim bloc.

It is worth noting that approximately 70% of the areas mapped by the Blue Line Team that are not within settlement lands (approx. 100,000 dunam) are located in declared training areas. This is approximately 68,000 dunam, totaling more than one-fifth of the entire area mapped by the Blue Line Team. We further note that in recent years, the size of the area of Blue Line Team mapping located within training areas has skyrocketed.

Approximately 60% of the area mapped by the Blue Line Team to this day is located east of the course of the Separation Barrier, that is, around the isolated settlements and east of the "settlement blocs." This trend has been intensifying in recent years (since 2011) and constitutes an additional proof that Israel's policy in practice is inconsistent with its declarations regarding its commitment to a two-state based solution.

Chapter Four: Critique of the Quality of the Blue Line Team’s Work

Methodology

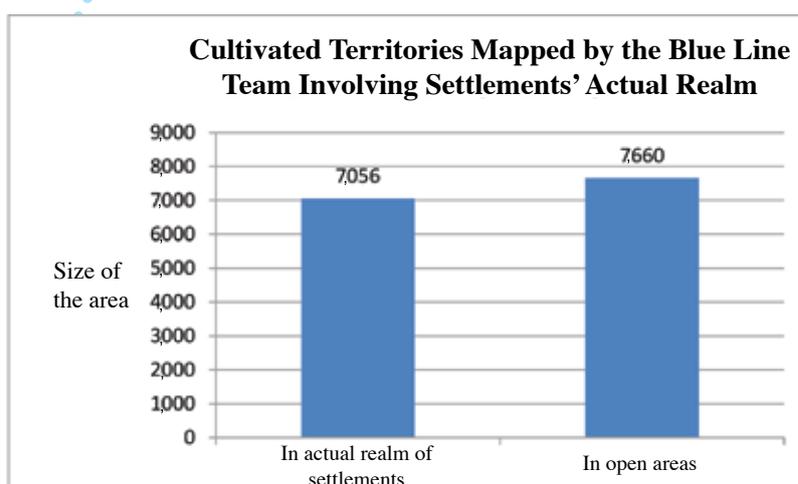
The data in this chapter are based on all the mappings by the Blue Line Team in which the team examined declarations of state lands. These mappings were sent to us by the Civil Administration in March 2016. We compared these data to findings we revealed by deciphering aerial photographs from 1967 and 1969, as well as from the years 1980-1983, purchased from the Survey of Israel. In deciphering the photographs, we marked all of the lands that according to the photographs appear to have been cultivated in the early 1980s (the 50%-cultivation test), and found that despite this, not only did the team headed by Plia Albeck declare them as “government lands,” but the Blue Line Team also confirmed that they were state lands.

This chapter of the report is therefore devoted to an examination of the quality of the Blue Line Team’s work during its first 16 years of activity, 1999-2015, during which the team examined and approved 268,000 dunam as state lands. We again note that the question of cultivation of most of the West Bank lands whose ownership was not formally registered (those defined as “miri” lands) is decisive for purposes of determining land ownership rights, and recall that the main reason that the Blue Line Team was established was to clarify this issue.⁷⁸

We also note as an aside that the data in this chapter do not include declarations made from 1998 onward that were not examined by the Blue Line Team since they were mapped by the Survey Land Team, which operated in parallel to the Blue Line Team, and according to the same professional standards.⁷⁹

Inclusion of Territories Cultivated within the Blue Line – Overview of Main Findings

- In a study we conducted, we identified 752 plots of land that were cultivated in the early 1980s but despite this, were defined by the Blue Line Team as state lands. The total area of cultivated lands included within the Blue Line is 14,716 dunam, which are approximately 5.5% of the entire area mapped by the Blue Line Team.
- 7,660 dunam (52%) of these lands are located in open areas outside of the actual territory of the settlements.
- 7,056 dunam (48%) of these areas are located in the actual realm of 65 settlements, in industrial areas and in various outposts.⁸⁰



⁷⁸ See above, Par. 2 in Lt. Col. Tzvika Cohen’s document, p. 45.

⁷⁹ See Par. 7c of in Lt. Col. Tzvika Cohen’s document, *ibid*.

⁸⁰ Heading the list is the settlement of Ariel, within whose boundaries are 1,640 dunam declared as state lands, even though they were being cultivated in the early 1980s. Additional areas of note are the settlements of Shilo and the outposts in its vicinity, where we identified 1,122 dunam; 394 dunam located in the Barkan Industrial Area; 318 dunam in the settlement of Eli; 300 dunam in the settlement of Geva Binyamin (Adam); 288 dunam in Ma’aleh Adumim; 216 dunam in Modi’in illit and 114 dunam in the settlement of Susya.

- There is construction or other development on 5,952 dunam (40.4%) of these areas (roads or construction groundwork directly relating to work done in the settlements).
- 650 dunam (4.4%) of these areas today are used for settler agricultural purposes.



Area prepared by settlers for agriculture in 2016 after it was included within the Blue Line of the settlement of Shilo

Examples of Cultivated Territories Included in the Blue Line

Due to limitations of space, we will focus on only two places that clearly illustrate inclusion of cultivated areas within the Blue Line: the settlement of Shilo and the Bar-On Industrial Zone in Kedumim.

Blue Line of the Settlement of Shilo

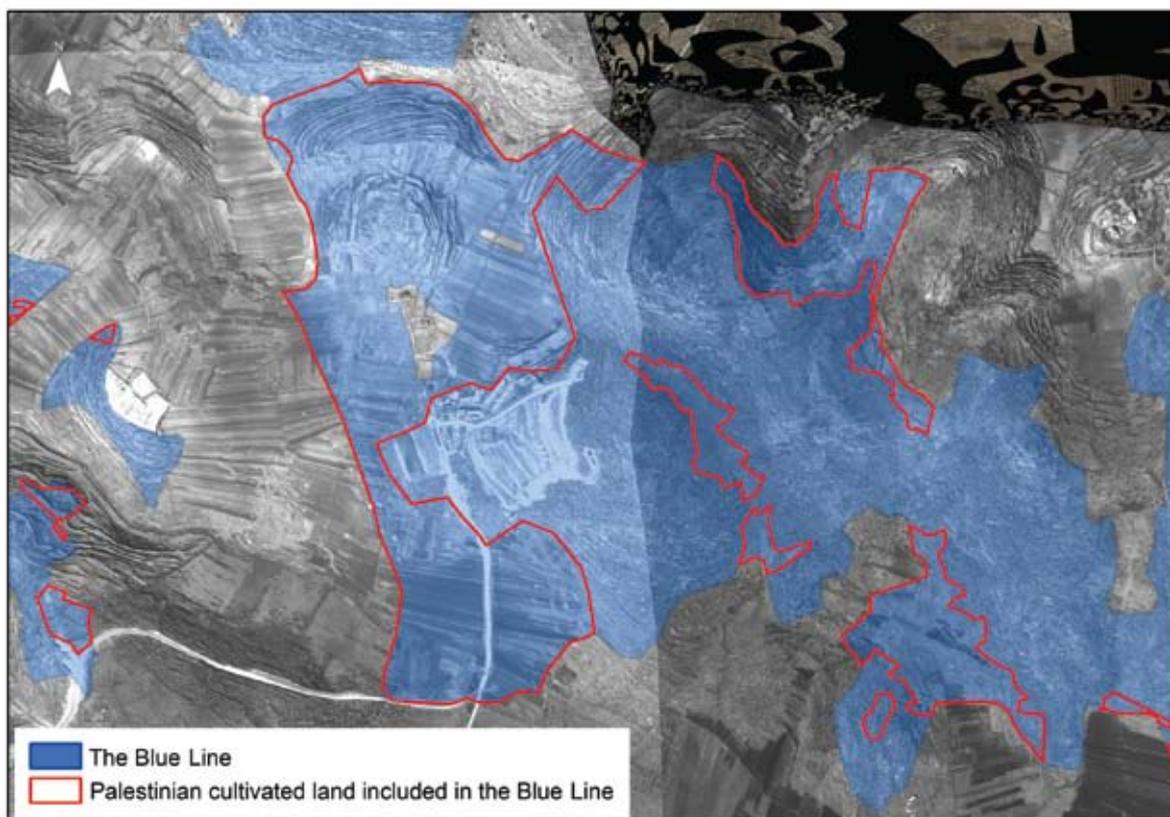
The settlement of Shilo was established in 1978 based on two seizure orders that were retroactively declared as state lands.⁸¹ When the Blue Line Team mapped the area in 2005, it included 2,580 dunam within the Blue Line. Examination of an aerial photograph from 1980 shows that approximately 830 dunam of that territory were cultivated intensively. This is particularly apparent in the western part of the area (lands of the village of Qaryut), which was cultivated to a particularly great extent. Today, this area is part of the archaeological site run by the settlers of Shilo, and other substantial portions of it are cultivated

⁸¹ Seizure Order 1/78, which included the northern part of Tel Shilo (the archeological site of ancient Shilo) and Seizure Order 15/79, based on which the settlement was established.

Blue and White make Black

by settlers there.⁸² The aerial photographs leave no doubt that there was no mistake in the judgment of the Blue Line Team, but rather an attempt to include a great expanse of cultivated land forcefully taken over by settlers in the category of state land in order to retroactively legalize it and make it an official part of the settlement. The violent settler takeover of lands in this area is, to the best of our knowledge, one of the earliest documented cases of settler violence intended on expanding the boundaries of a settlement. This case is described in a May 1983 document written by Yehudit Karp, Deputy Attorney General, in a chapter entitled “The Matter of Relations between Shilo and the Village of Qaryut”:

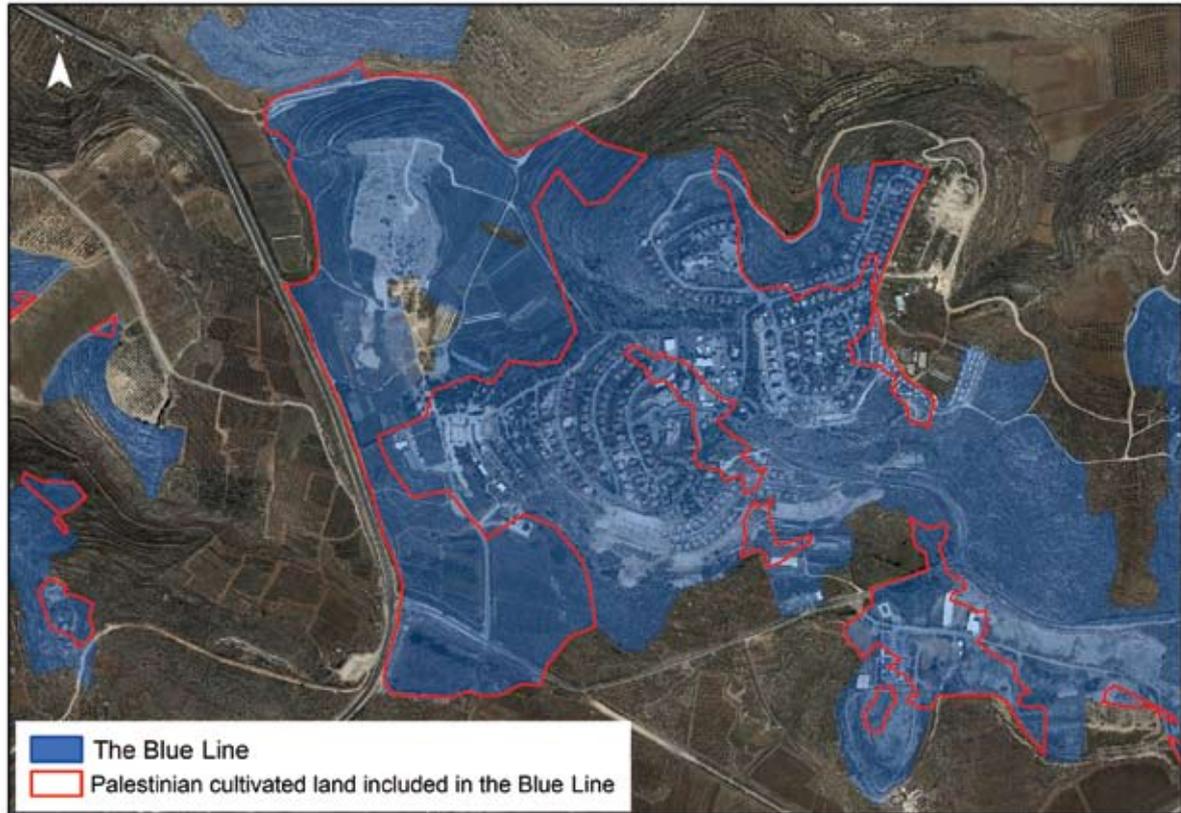
In the months of September and November 1981, Atty. Khouri on behalf of the residents of the village of Qaryut, complained that his clients were being forcefully removed from their lands by the settlers of Shilo, who had taken hold of his clients' lands and trespassed on them illegally using weapons.⁸³



Shilo, 1980

⁸² On the settlement of Shilo see, *Kerem Navot - Israeli Settler Agriculture as a Means of Land Takeover in the West Bank*, October 2013, p. 89, http://media.wix.com/ugd/cdb1a7_370bb4f21ceb47adb3ac7556c02b8972.pdf.

⁸³ Letter of Deputy Attorney General to the Attorney General, May 23, 1983, p. 13 [Heb.], http://media.wix.com/ugd/cdb1a7_3342db25459b43ff8dab68d9ee20e32e.pdf.

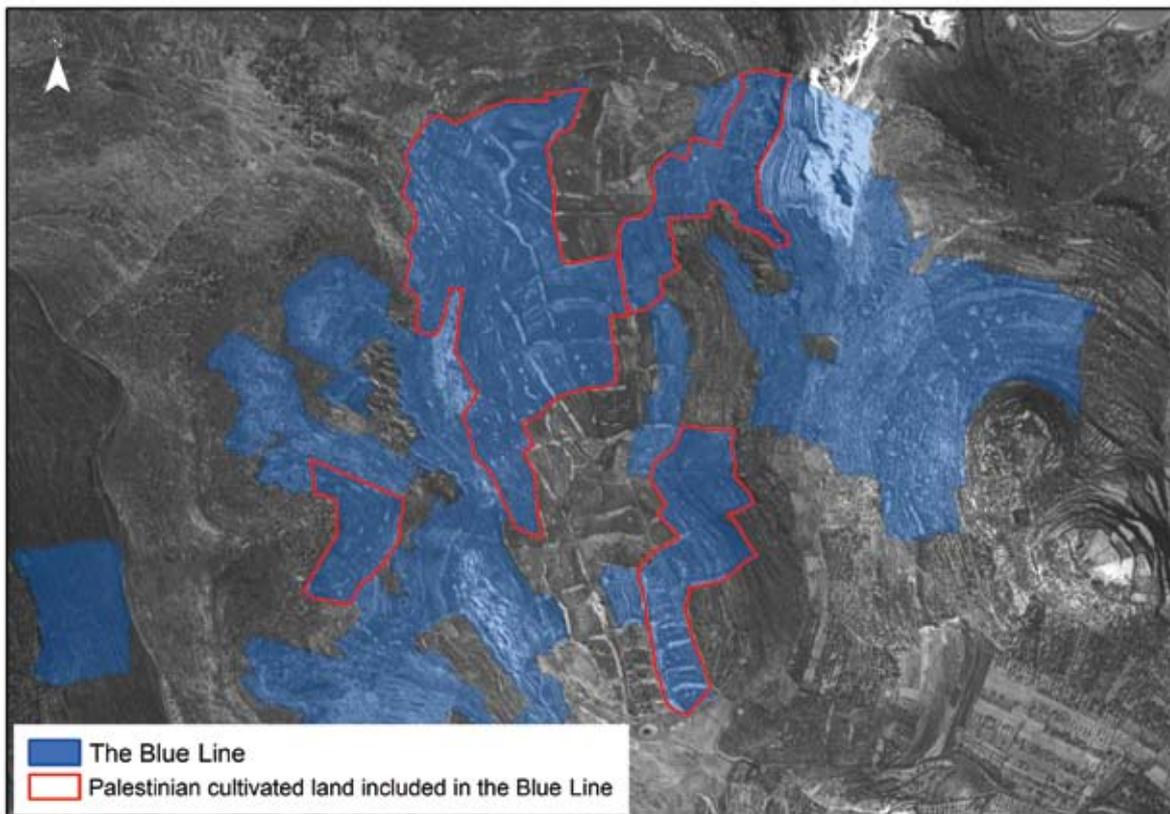
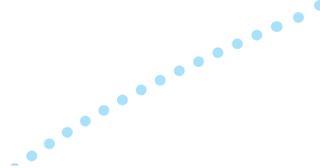


Shilo, at present

Blue Line of the Bar-On Industrial Zone in Kedumim

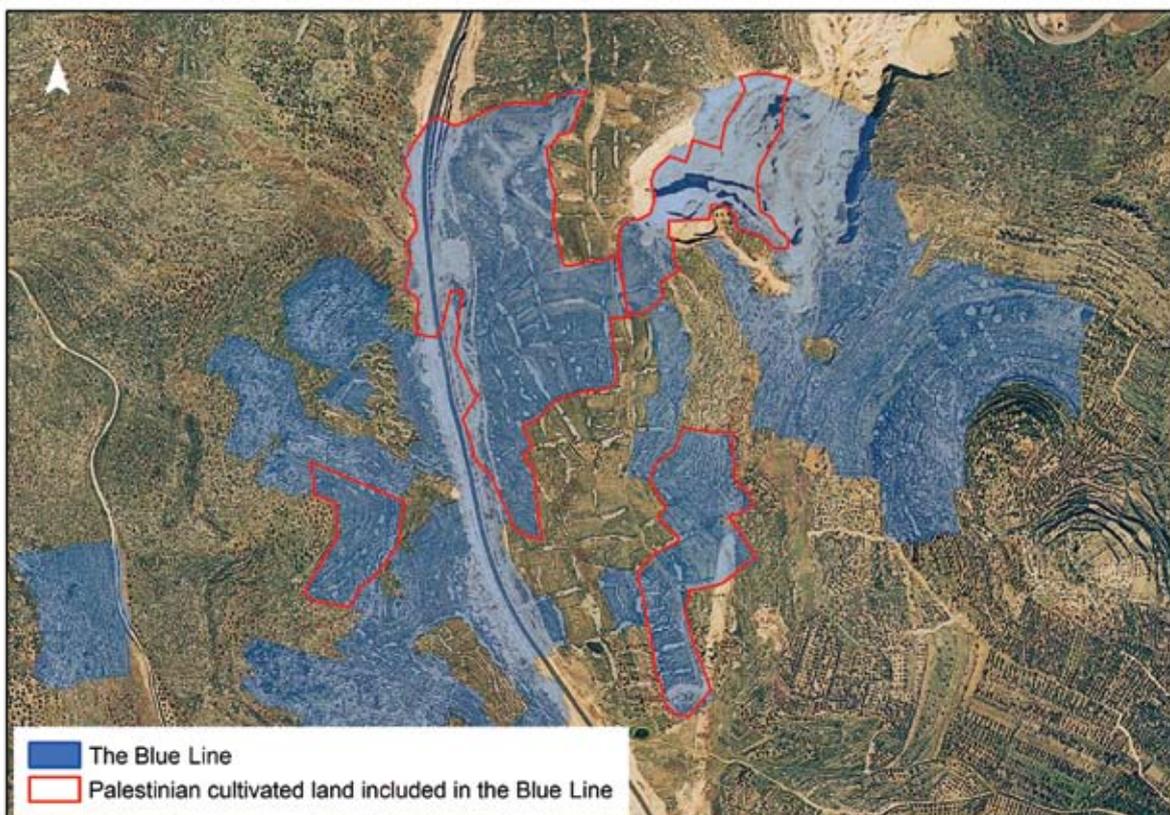
In 1999, the Ministry of Economy and Industry began constructing the Bar-On Industrial Zone in Kedumim, which belongs both to the Samaria Regional Council and the settlement of Kedumim (which is an independent local council). In 2009, the Blue Line Team mapped the state lands declared there, and determined that their area was 1,010 dunam. An examination of the work of the Blue Line Team in this area reveals that of them, approximately 360 dunam were cultivated between the early 1980s and 1997. Although in this case some of the land where the cultivation took place in land was stony, the cultivation is unmistakable.

An examination of historical aerial photographs of this area reveals a further flaw characteristic of the work of the Blue Line Team in many of the places it mapped, namely, the lack of consistent standards in all that pertains to determining the intensiveness of the cultivation (the 50% cultivation test). While certain plots that were clearly cultivated were included within the Blue Line, nearby plots that look identical in terms of the cultivation level were not included. This fact alone says much about the deficient quality of the Blue Line Team's work in many locations.



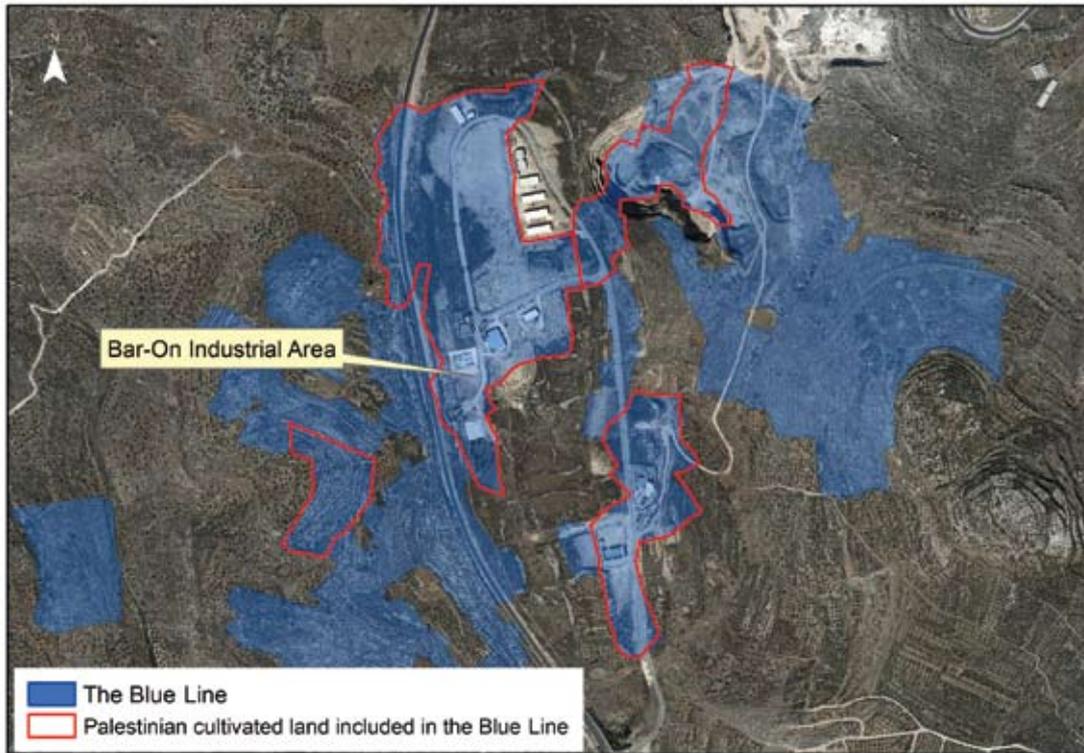
Bar-On Industrial Area, Kedumim, 1983

0 0.06 0.12 Miles



Bar-On Industrial Area, Kedumim, 1997

0 0.06 0.12 Miles



Bar-On Industrial Area, Kedumim, at present



Examination of the Quality of the Blue Line Team’s Work over the Years

The time that has elapsed from when the Blue Line Team was established makes it possible to examine the quality and precision of its work over the years. The graph below indicates that with the exception of 2008, during which only one, mostly erroneous mapping was carried out, the first years of the Blue Line Team’s activity were years during which the percentage of cultivated land that was included was the highest. Stated otherwise, during these years, the rate of “errors” was at its peak. This could be explained by the fact that the team was inexperienced, but an examination of its work in the years that followed indicates considerable undulations in the level of precision from year to year, suggesting a failure in adopting binding professional standards. In this context, we must note that during the three years 2013, 2014 and 2015, there was a marked decline in the percentage of cultivated lands approved by the Blue Line Team for classification as state lands. Time will tell whether this is a consistent trend towards improving the accuracy of the team’s work.

| Year | Size of Area Mapped by the Blue Line Team | Size of Cultivated Area Mapped by the Blue Line Team | Percent of Cultivated Area Mapped by the Blue Line Team |
|------|---|--|---|
| 1999 | 2,993 | 444 | 14.8 |
| 2000 | 18,112 | 2,191 | 12.1 |
| 2001 | 12,119 | 621 | 5.1 |
| 2003 | 857 | 34 | 4 |
| 2004 | 26,110 | 734 | 2.8 |
| 2005 | 64,109 | 4,642 | 7.2 |
| 2006 | 15,831 | 22 | 0.1 |
| 2007 | 412 | 0 | 0 |
| 2008 | 61 | 51 | 83 |
| 2009 | 20,668 | 665 | 3.2 |
| 2010 | 5,794 | 564 | 9.7 |
| 2011 | 17,894 | 607 | 3.4 |
| 2012 | 29,270 | 2,193 | 7.5 |
| 2013 | 25,264 | 992 | 3.9 |
| 2014 | 13,917 | 206 | 1.5 |
| 2015 | 62,030 | 652 | 1.05 |

Corrections of the Blue Line Team on Maps it Created

The poor quality of the work of the Blue Line Team, mainly during its first years of activity, also did not escape the eye of team members themselves. Evidence of this is the fact that in dozens of places where the Blue Line Team mapped out areas, it returned a number of years later to conduct an additional mapping intended to correct the first. Most of the places where corrections were made were those mapped in the years 1999-2001. At the same time, a number of maps created later were also corrected. An examination of 19 maps of declarations of state lands carried out following work of the Blue Line Team in 1999 reveals that 11 mappings (58%) were corrected in later years.⁸⁴ However, although the corrective mappings removed lands from the Blue Line area, it transpires that in most of the cases where corrective mapping was carried out, it was leveraged to map additional extensive areas that had not been included in the first mapping, thereby greatly increasing the area available for planning and building for the settlements in or around which the territories were mapped.

| Settlement | Year of Initial Mapping | Area Mapped in Initial Mapping (in dunam) | Year of Corrective Mapping | Area Mapped after Correction (in dunam) |
|---------------------------|-------------------------|---|----------------------------|---|
| Avnei Chefetz | 1999 | 3,069 | 2014 | 3,883 |
| Bruchin | 1999 | 730 | 2012 | 849 |
| Gitit | 1999 | 1,512 | 2015 | 5,663 |
| Har Bracha | 1999 | 950 | 2015 | 1,164 |
| Har Bracha North | 1999 | 2,130 | 2015 | 2,020 |
| Migdalim | 1999 | 282 | 2015 | 244 |
| Nili | 1999 | 1,539 | 2015 | 2,356 |
| Ateret, Giva't Ha-Sela'im | 1999 | 346 | 2015 | 342 |
| Alei Zahav | 1999 | 447 | 2012 | 1,385 |
| Kiryat Arba, Lot 21 | 1999 | 98 | 2014 | 102 |
| Revava | 1999 | 1,127 | 2012 | 654 |

Furthermore, in a number of settlements, the corrective mapping was not beneficial, since all of the areas removed had been built upon prior to the correction.

The following table presents the settlements where buildings were erected on lands that the Blue Line Team, in the second, corrective mapping, determined were not, in fact, state lands:

| Settlement | Year of Initial Mapping | Year of Corrective Mapping | Year/s of Construction |
|-----------------------------|-------------------------|----------------------------|------------------------|
| Avnei Chefetz | 1999 | 2014 | 1998 |
| Gush Etzion Industrial Area | 2000 | 2012 | 1999 |
| Bracha | 1999 | 2015 | During the 1990s |
| Gitit | 1999 | 2015 | Unknown |
| Yitzhar | 2001 | 2014 | Unknown |
| Modiin Illit | 2006 | 2012 | 2010 |
| Neve Daniel | 2000 | 2012 | 2002 |
| Nili ⁸⁵ | 1999 | 2015 | 2013-2015 |
| Sal'it | 2000 | 2013 | 2014 |
| Alei Zahav | 1999 | 2012 | 1990 |
| Shani-Livneh | 2001 | 2012 | 1999 |

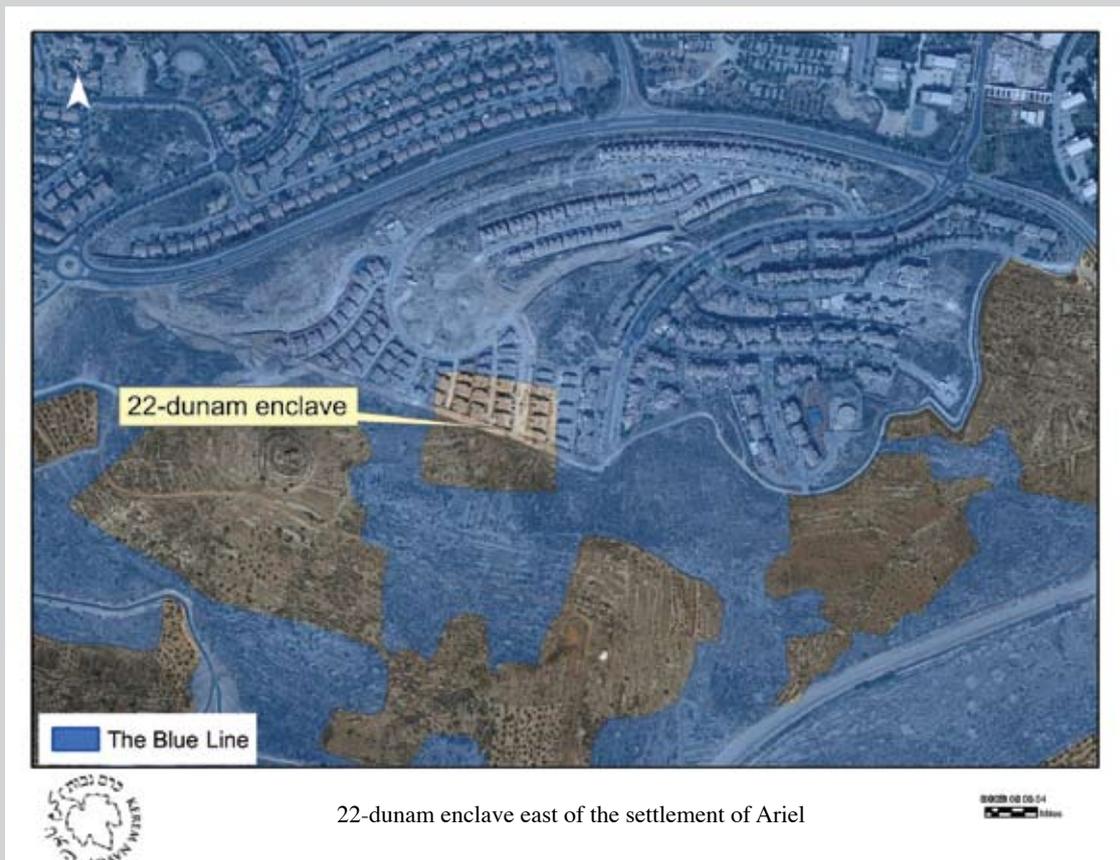
⁸⁴ The table on p. 46 of this report states that in 1999, only five mappings were conducted, since we counted all the other maps made during that year with the corrected maps.

⁸⁵ The buildings constructed in the settlement of Nili were populated after it was already clear that they had been built on territory that was removed in the second mapping since it was private Palestinian land. See Inbal Tamir, "Houses Built Legally Found to be Located on Illegal Land," *Galatz* [Army Radio], [Heb.] <http://glz.co.il/1064-76531-HE/Galatz.aspx>.

Story of the Ariel Enclave – Civil Administration v. the Civil Administration

On February 28, 2005, Outline Plan 130/M was approved for the settlement of Ariel. The plan included, inter alia, a new neighborhood that was supposed to be built in the eastern portion of the settlement. The contractor for this plan was the Ministry of Housing, which carries out most of the construction in the large settlements of the West Bank. One and a half months later, the Blue Line Team completed its mapping of the area. Marked on the map was a 22-dunam enclave of lands privately owned by Palestinians from the town of Salfit in the heart of the declared state lands at this location. However, the outline plan approved a month and a half earlier by the Civil Administration's Supreme Planning Council also included, in contravention of the law, the area of this private enclave marked by the Civil Administration's Blue Line Team. Eight years passed, and in 2013, a large project of private single homes was implemented; construction was completed in 2015. The result is that within this enclave 15 buildings now stand, and it is very difficult to believe that the Civil Administration, the Ministry of Housing and the Ariel Municipality knew nothing of the matter. It is much more reasonable to suppose that they knew but preferred to keep the story quiet.

See Yotam Berger, "Israeli Settlement Ariel Expands onto Suspected Private Palestinian Land," *Haaretz*, November 2, 2016, <http://www.haaretz.com/israel-news/.premium-1.749525>.



The Blue Line Team's Typology of "Errors"

The following pages will provide an overview of the typology of "errors" committed by the Blue Line Team in its mappings. The purpose of this is to understand whether, indeed, these were innocent errors, or a certain organizing logic underlay them. The ostensible answer to this general question is clear. It is obvious that the Blue Line Team's operations are intended to provide land reserves for settlements, and that its interest is to increase these reserves to the greatest extent possible, also explaining its motivation to turn a blind eye by also including cultivated lands within the Blue Line areas. However, in at least a few of the cases where cultivated lands were included within the Blue Line, it is clear that they were motivated by a highly specific goal.

Following are a few examples of such goals:

- "Legalizing" lands in order to pave a settlement access road

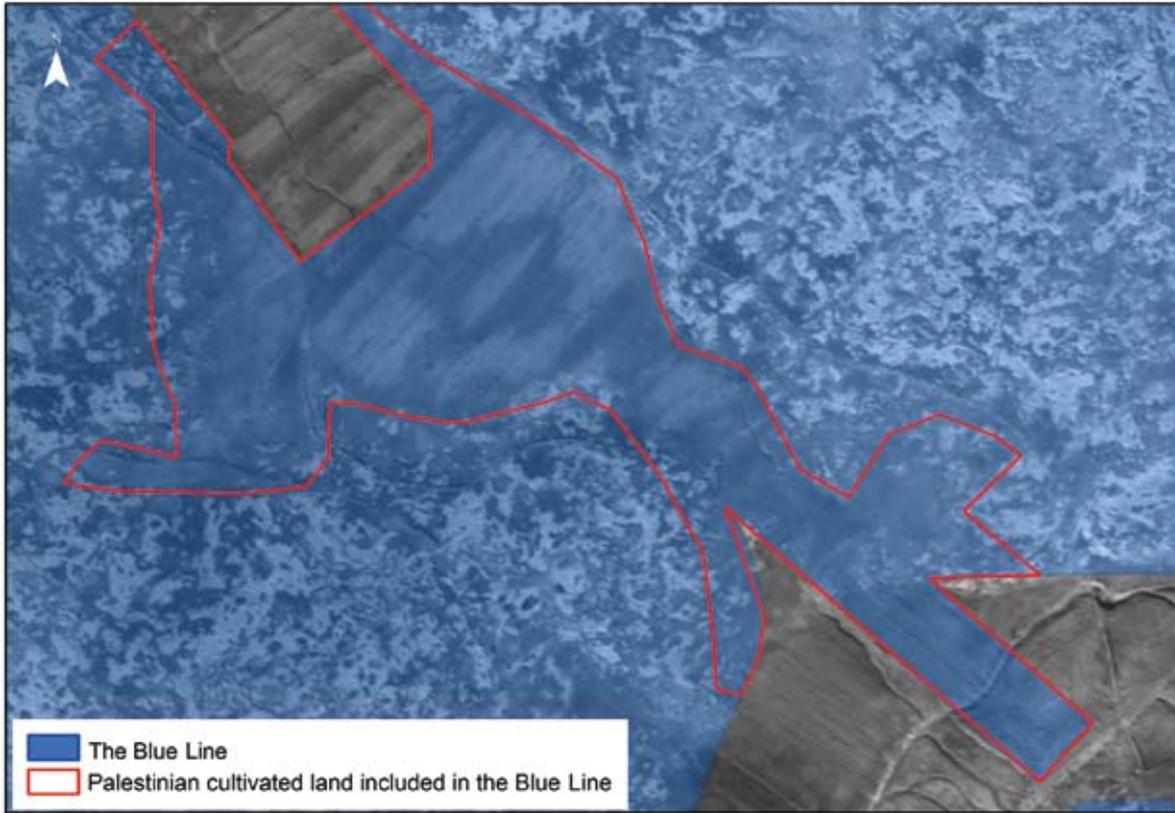
One of the problems created by the lands declaration mechanism is the difficulty in finding a suitable route for paving settlement access roads, since it is easier to pave roads through a dry river bed ("wadi"), but usually, these areas are cultivated since they receive a seasonal supply of water. In certain cases, the problem was resolved by expropriation⁸⁶ orders or seizure orders,⁸⁷ issued for the purpose of paving a road, but in other cases, the Blue Line Team was called upon to devise a "creative solution" so that it would be possible to retroactively legalize roads built without permission in areas that had been cultivated in the past.

One example is the access road in the settlement of Susya, where the Blue Line Team operated in 2000. This access road traverses lands that were unquestionably cultivated in the early 1980s, at the time when state lands were declared there.⁸⁸

⁸⁶ For example, in the settlement of Har Bracha, where the access road was paved based on Expropriation Orders 14/82 and 34/82.

⁸⁷ For example, in the settlement of Otniel, where the access road was paved based on Seizure Order 3/83.

⁸⁸ For an elaboration of the incarnations of the declaration in the Susya area see pp. 20–26 of this report.



Susya, 1983

00.00300 0.012 0.018 0.024 Miles

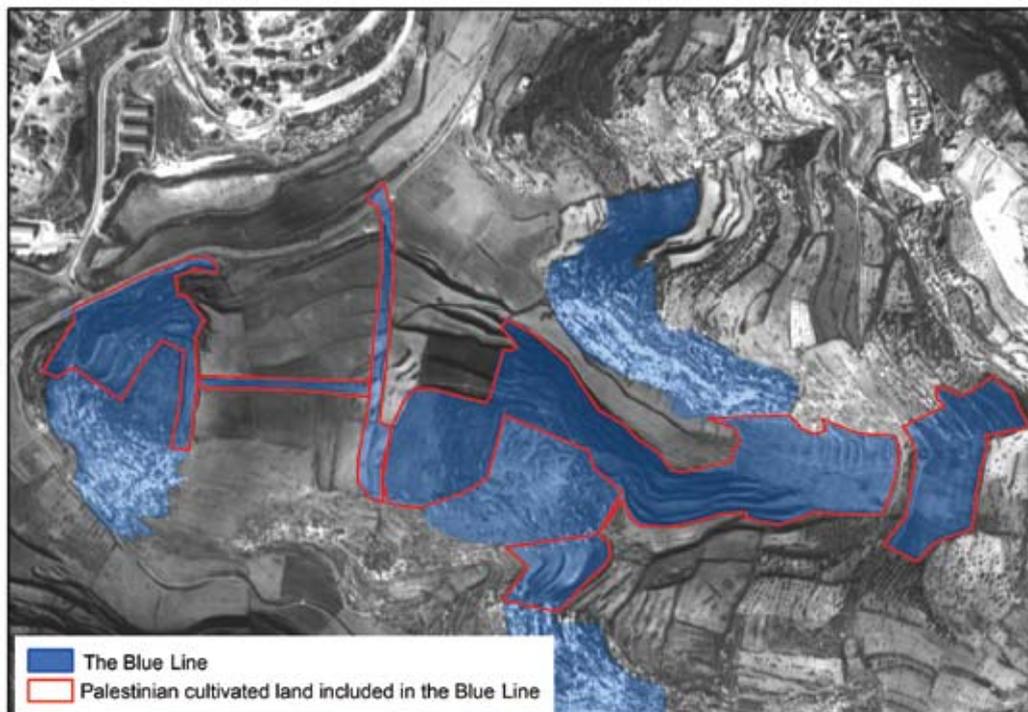


Susya, at present

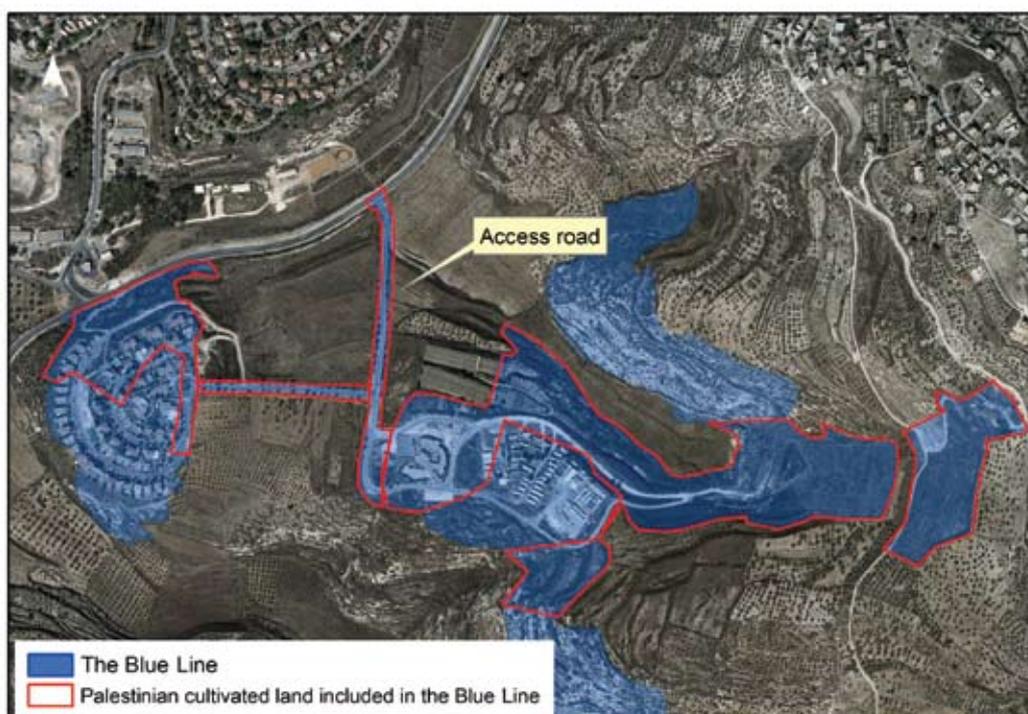
00.00300 0.012 0.018 0.024 Miles

Blue and White make Black

An additional example can be found in the settlement of Mitzpe Yishai (which officially is a neighborhood of the settlement of Kedumim), where the Blue Line team also operated in the year 2000). The aerial photograph shows the settlement access road traversing cultivated terraces.



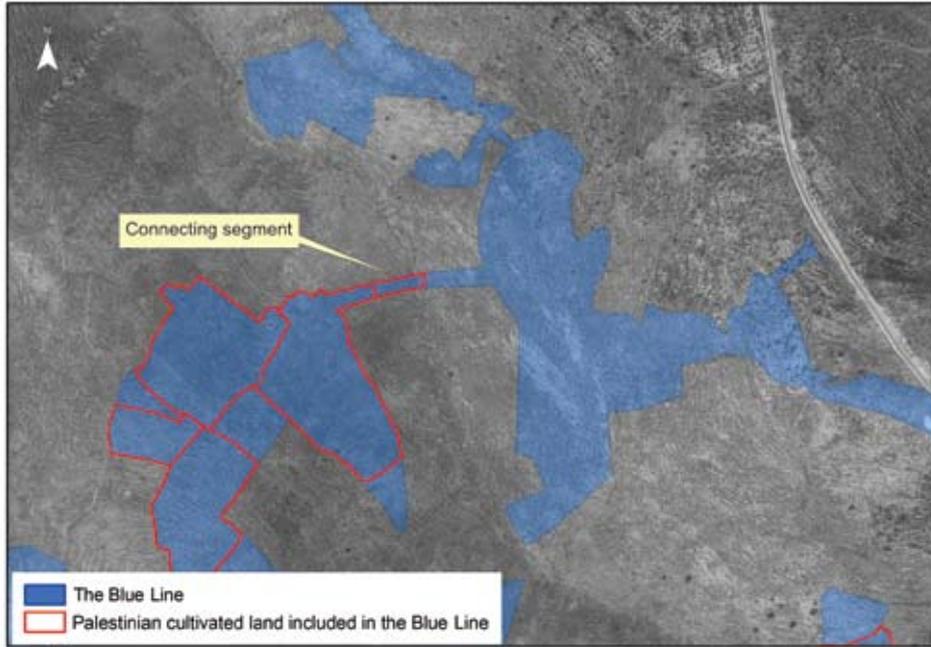
Mitzpe Yishai, 1983



Mitzpe Yishai, at present

- “Legalization” of territories intended to link disconnected parts of a single settlement

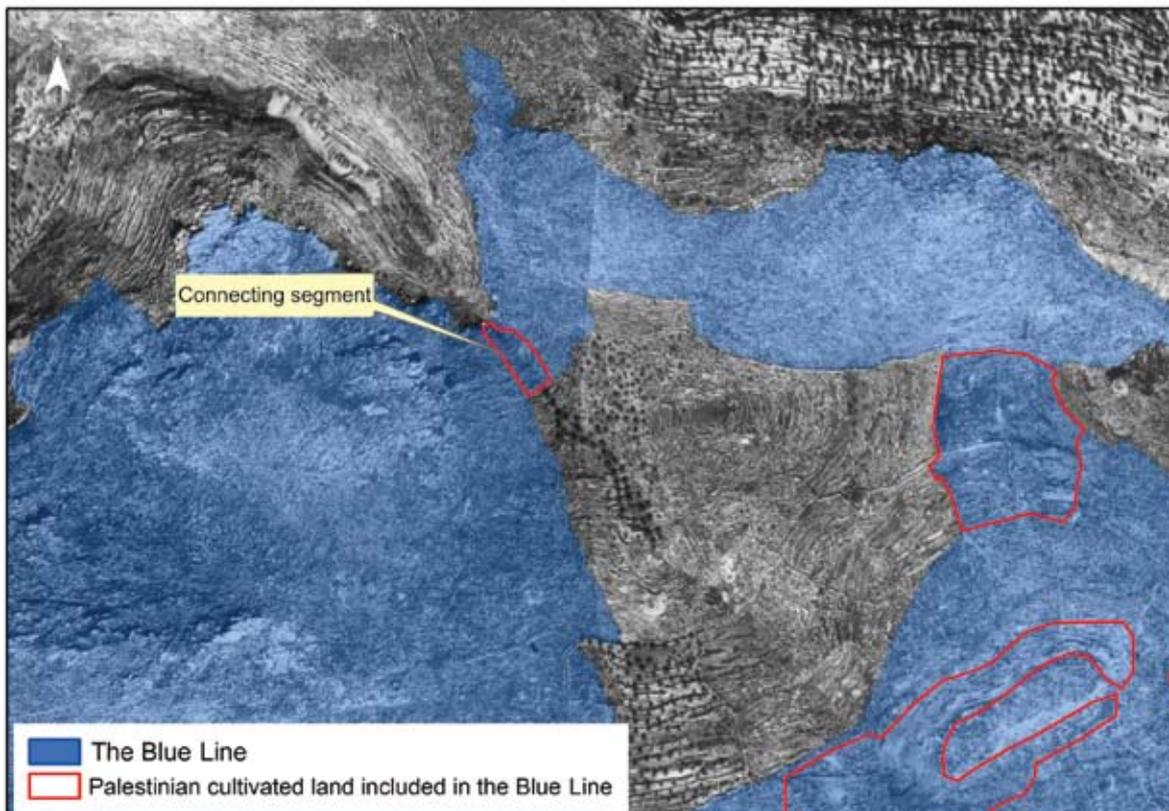
This, too, is a response to the inherent difficulty in the state-lands declaration mechanism. Since in many cases the territories originally declared as state lands were hilly (a type usually less cultivated or not cultivated at all), many settlements were erected in two (or more) separate blocs, separated by a cultivated dry river bed (“wadi”). In these cases as well, the Blue Line Team was required to provide “creative solutions” to the problem of connecting the two blocs, and therefore, its maps in a number of places also included cultivated lands. This phenomenon is apparent in the settlements of Revava and Alei Zahav, in both of which the Blue Line Team operated in 2012.



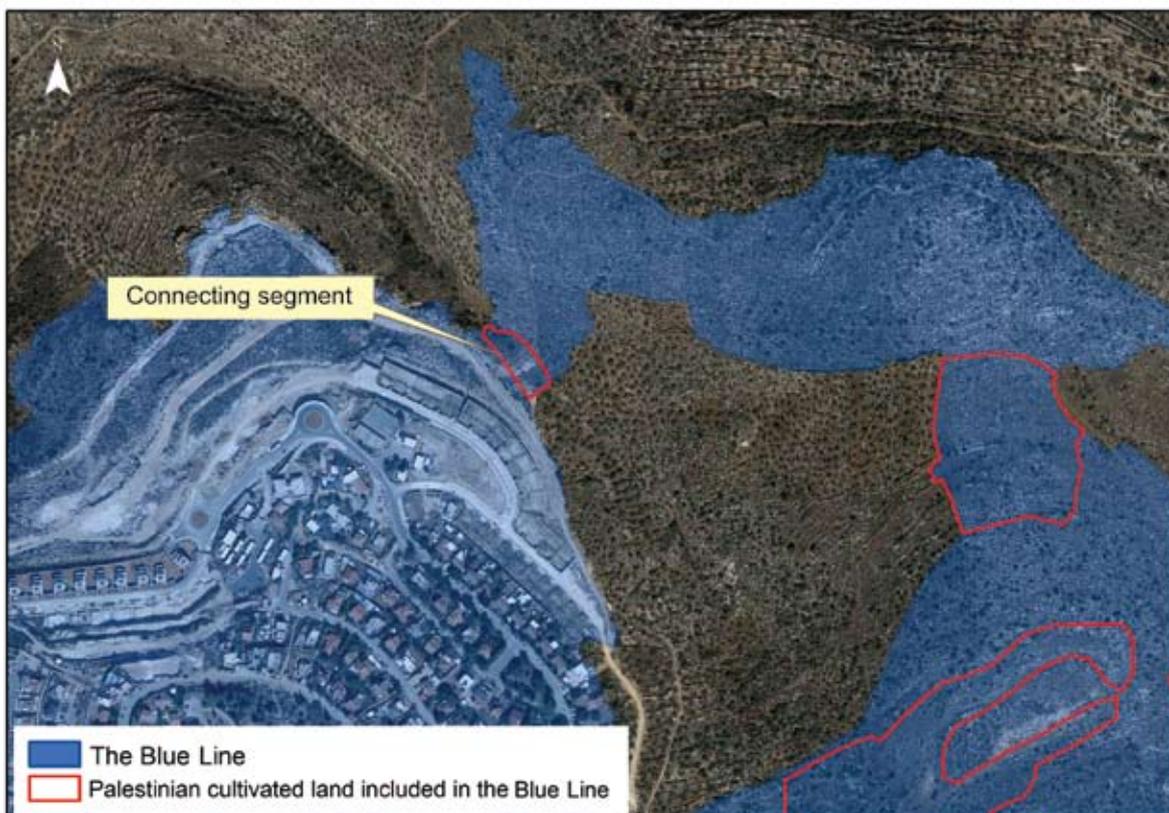
Revava, 1979



Revava, at present



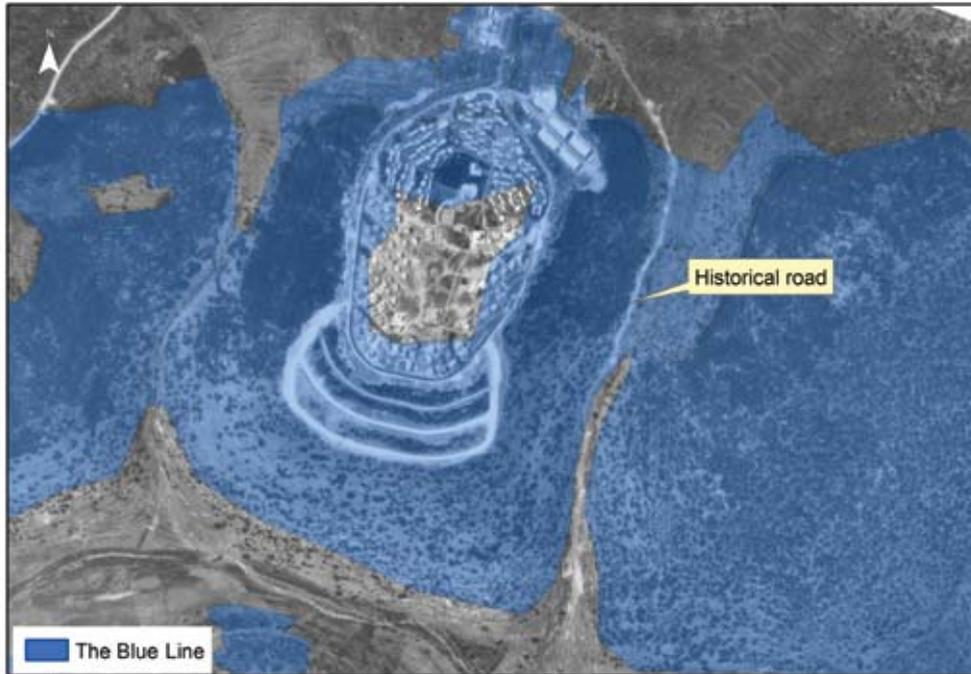
Alei Zahav, 1980



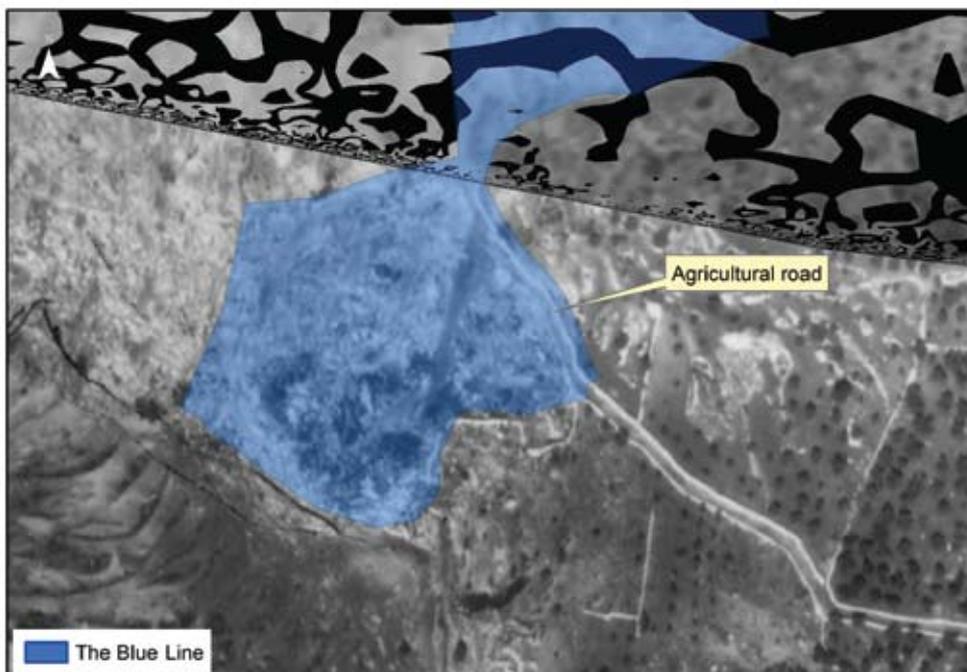
Alei Zahav, at present

The Blue Line Team and the Shredding of the Fabric of Palestinian Life

One of the official objectives of the settlement policy of the various governments of Israel from the outset, and even more so since the Likud's rise to power in 1977, was to unravel the fabric of Palestinian life. It therefore comes as no surprise that the Blue Line Team also devoted its efforts to this overarching purpose. This objective, together with the ways in which it was achieved, can be observed from a number of cases where the Blue Line Team included in its maps historical roads of varying lengths and degrees of importance, thereby obviating the possibility of Palestinians using them in part or at all.



Blue Line Team map, 2012, which incorporated a historical road located in the lands of the village Deir Istiya. The path was blocked by settlers from Karnei Shomron

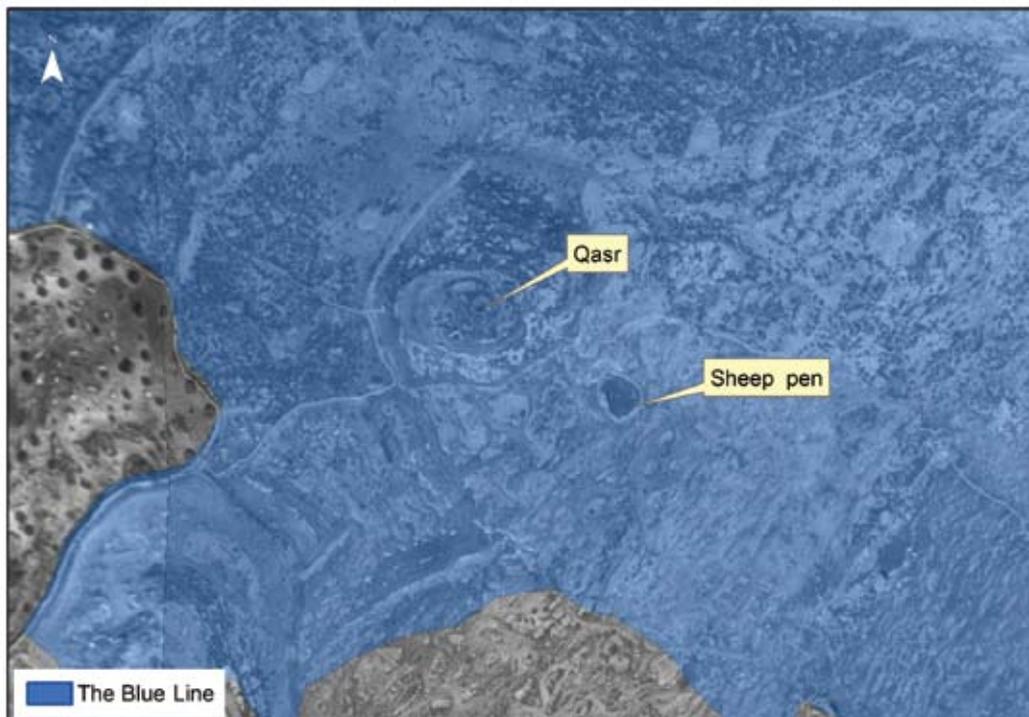


Blue Line Team map, 2011, for purposes of future expansion of the settlement of Avnei Chefetz, which included an agricultural road located in the lands belonging to the village of Shufa

Blue and White make Black

- Ignoring clear signs of habitation and including them within the Blue Line

An examination of historical aerial photographs of a number of locations included in the maps of the Blue Line Team reveals that in a number of places the team ignored clear signs of Palestinian habitation. For example, in the settlement of Einav, where the Blue Line Team operated in 2013, the area mapped includes a traditional agricultural building (qasr, in Arabic) as well as a sheep pen.



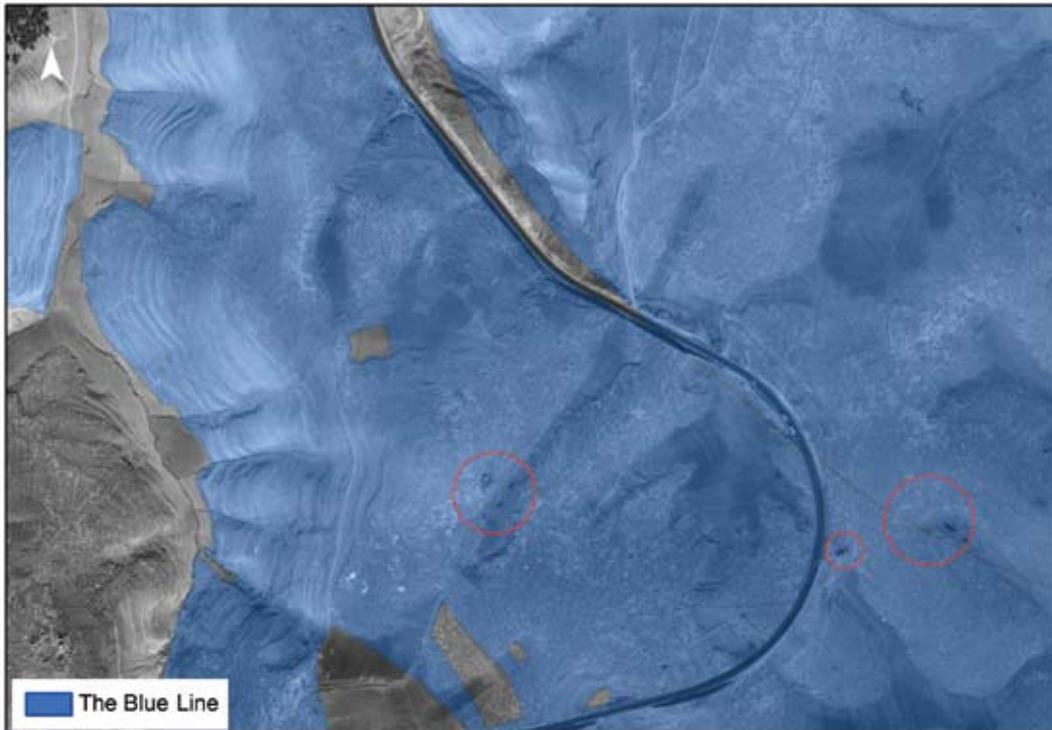
Area where the settlement of Einav was established, 1980



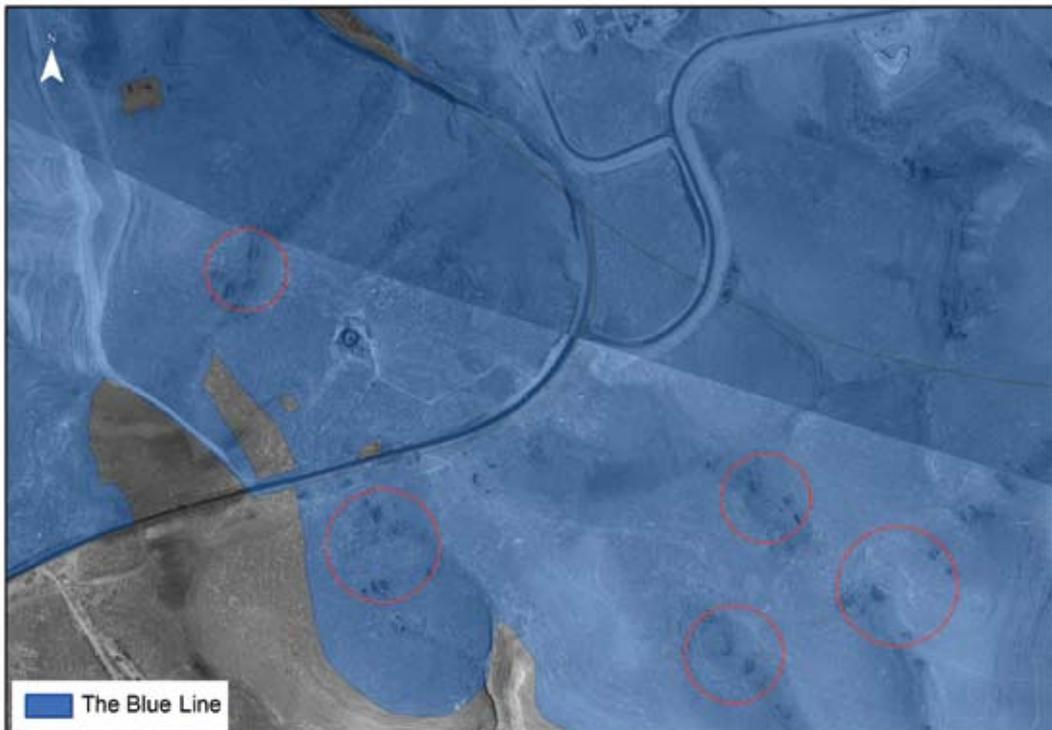
Einav, at present



An additional location where this can be seen is the area on which the settlement of Ma'aleh Adumim was established, home to the Bedouin of the Jahalin tribe. Aerial photographs from 1972 and 1981 show that Bedouin have lived in the area for years, but the Blue Line Team completely ignored this fact, as well as clear signs of cultivation of the land.

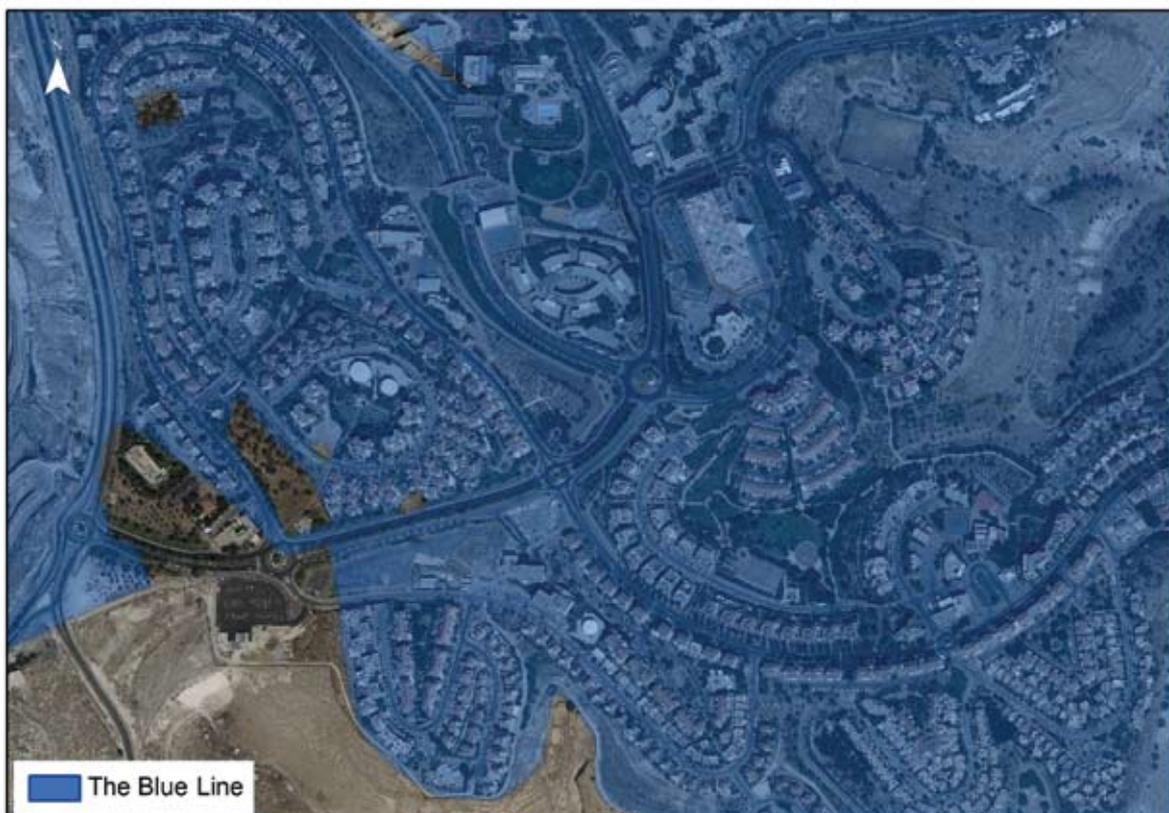


Part of the area on which the settlement of Ma'aleh Adumim was established, 1972



Part of the area on which the settlement of Ma'aleh Adumim was established, 1981





Settlement of Ma'aleh Adumim, at present



In summary, an examination of all of the areas declared as state lands and mapped by the Blue Line Team reveals that 14,716 dunam, comprising 5.5% of the entire area mapped, were cultivated in the early 1980s. Slightly less than half of these areas are located within the boundaries of 65 settlements, in industrial areas and in various outposts, and on almost 6,000 dunam of them, construction or development of some kind has taken place.

An examination of the quality of the Blue Line Team's work over all the years of its activity demonstrates that there are significant fluctuations in the maps' level of cartographical accuracy. This fact indicates the team's failure to adopt binding professional standards in its work.

This fact, of course, did not go unnoticed by members of the Blue Line Team themselves, who over the years saw it fit to make dozens of corrections in the maps they made. In a number of cases, these corrections made no difference, since in sites where the Blue Line Team decreased an area of declared land, the construction of buildings or other development had already taken place.

An examination of the "errors" of the Blue Line Team illustrates that underlying some of them is a clear motive, namely they were intended to enable the paving of settlement access roads, or roads that link disconnected parts within settlements that would otherwise remain separated from one another. In a number of places historical roads were included within the Blue Line, as were areas where Palestinians representing various communities dwelled and conducted their lives. The Blue Line Team thus made a considerable contribution to breaking up the continuum of Palestinian settlement, and divesting Palestinians of lands slated for use by the settlement enterprise.

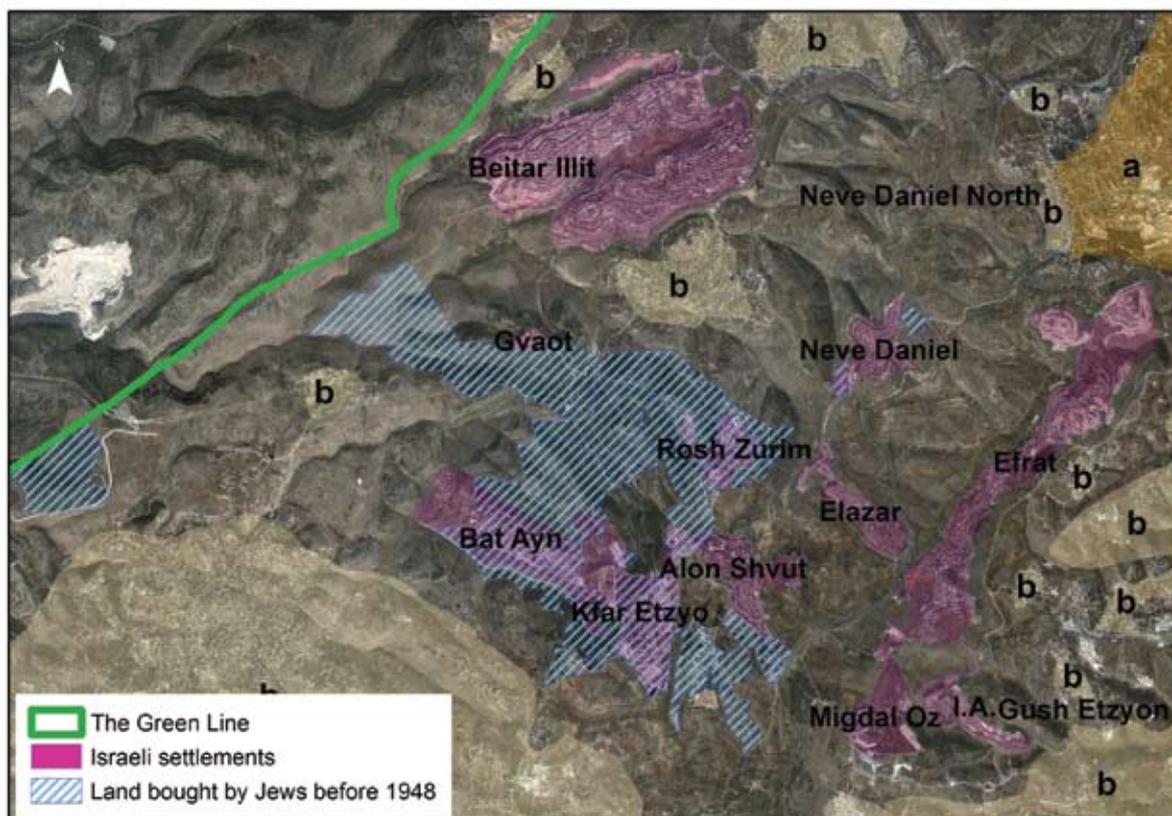
Appendix: The Blue Line Team's Work in "Gush Etzion"

During the years 1943-1948, four Jewish localities were established in the area located approximately ten kilometers southwest of the heart of the city of Bethlehem. On the eve of the 1948 War, there were several hundred residents (including children) living in these communities.⁸⁹ Prior to the establishment of these four localities, there had been three attempts to establish Jewish localities in the area, none of which succeeded. This is described (in idealizing language) on the website of the Gush Etzion Regional Council's website:

On three recent occasions, Jews have tried to settle Mt. Hebron. They were greeted by a rocky, dry, hostile, stormy and snowy mountain. On three occasions they were uprooted from the land and then returned on the fourth. They - like the nation of Israel in its homeland; three times they ascended to Eretz-Israel, struggled with its multitude of limitations, were uprooted from it, and returned and clung to it on the fourth.⁹⁰

The Jewish localities present in this area until 1948 were established on lands bought by Jews beginning in the second half of the 1920s from Palestinian farmers [fellahin], mainly from the villages of Beit Ummar, Nahhalin, Al Jab'a and Surif. A map we received from the Civil Administration reveals that the size of the area purchased by Jews prior to 1948 in the area south and southwest of Bethlehem is approximately 10,500 dunam.⁹¹

Over time, with the occupation of the West Bank by the Jordanian army, these four localities were conquered and destroyed. In September 1967, a few months after the Israeli occupation of the West Bank, the settlement of Kfar Etzion was founded, the first settlement to be established in the West Bank.



Approximately 10,500 dunam were purchased by Jews in the area southwest of Bethlehem prior to 1948

⁸⁹ Kfar Etzion - 1943, Masuot Yitzhak - 1945, Ein Tzurim - 1946, Revadim - 1947.

⁹⁰ See website of the Gush Etzion Regional Council, <http://www.baitisraeli.co.il/?CategoryID=866&ArticleID=963>.

⁹¹ Included in this calculation is also the area of the Duheisha Refugee Camp, most of which was established on approximately 300 dunam purchased by Jews prior to 1948 and registered as absentee land during the period of Jordanian rule. This area is today located within Area A, which includes Bethlehem and nearby towns and villages.

Blue and White make Black

The Gush Etzion Regional Council was established by a military order in 1980, and its spokespeople invest considerable efforts in the attempt to convey to the Israeli public and to the world the impression that this settlement movement is a continuation that draws from a “unique consensual legitimacy,” based on the claim the settlements in its boundaries were established on lands purchased by Jews.⁹² Mythology is one thing, and facts, another. Suffice it to say in the present context that the official area of the Gush Etzion Regional Council is now seven times larger than the area purchased by Jews in this area prior to 1948. The regional council includes today approximately 20 settlements and a number of outposts, the overwhelming majority of which were established on lands that were never purchased by Jews. The mechanism that has enabled the establishment of these settlements is the the same method of land takeover that Israel uses in all other parts of the West Bank – namely, land seizure for ostensible security needs, expropriations for public needs, declarations of state land, and of course, countless pirate takeovers carried out against the law but enabled by the state’s turning a blind eye time and again, and sometimes, with its outright support.

It is sufficient to simply mention in this context that to this day, approximately 22,250 dunam of state lands have been declared to the west and southwest of Bethlehem (the area customarily called Gush Etzion) and this is, as stated, is in contrast to 10,500 dunam purchased in the area by Jews in this area prior to 1948. The process of declaring state lands in this area began in the early 1980s and continued until 2014, in which year only 5,000 dunam of state lands were declared (on two separate occasions).⁹³

In this appendix, we will focus on examining the lands history only of those settlements located in the western portion of what is defined today as the area of the Gush Etzion Regional Council which includes, in effect, all of the settlements west of Road 60, as well as the settlements of Efrat and Migdal Oz, nearby and east of it.⁹⁴

In what follows, we present a summary table and maps displaying the land history of each of these settlements. It is important to note that we received all of the information presented in these maps from the Civil Administration under the Freedom of Information Law, and therefore, it should be viewed as official information.



⁹² See the article by the Head of the Gush Etzion Regional Council: Davidi Perel, “The Truth about Gush Etzion,” *Jerusalem Post*, January 3, 2015 <http://www.jpost.com/Opinion/The-truth-about-Gush-Etzion-392613>.

⁹³ See Chaim Levinson, “Israel Set to Legalize West Bank Outpost, Taking Over Private Palestinian Land,” *Haaretz*, April 13, 2014, <http://www.haaretz.com/israel-news/.premium-1.585377>.

⁹⁴ Efrat and Beitar Illit are larger settlements, and therefore, they are independent municipal entities and not part of the Gush Etzion Local Council. However, since they are in this area, we have included them in the present appendix.

| Settlement | Actual area ⁹⁵ (in dunam) | Jewish lands before 1948 (in dunam) | Percent Jewish lands of total actual area | Declaration of state lands (in dunam) | Percentage that declared lands comprise of total actual area | Seizure for military needs (in dunam) ⁹⁶ | Percentage of area under military seizure of total actual area |
|---|---|---|--|--|---|--|---|
| Gush Etzion Industrial Zone | 428 | 0 | 0 | 384 | 89.7% | 0 | |
| Alon Shvut (including the Giv'at Ha-Hish Outpost) ⁹⁷ | 797 | 118 | 14.8% | 495 | 62.1% | 0 | |
| Elazar (including the Derekh Avot Outpost) | 466 | 0 | 0 | 61 | 13% | 405 (based on a 1975 seizure order) | 86.9% |
| Efrat | 2,802 | 0 | 0 | 1,971 | 70.3% | 0 | |
| Beitar Illit | 4,034 | 0 | 0 | 3,922 | 97% | 0 | |
| Bat Ayin (including the Masuot Yitzhak Outpost and Bat Ayin B) | 1,672 | 1,132 | 67.7% | 182 | 10.8% | 0 | |
| Geva'ot | 134 | 20 | 14.9% | 114 | 85% | 0 | |
| Har Gilo | 495 | 0 | 0 | 75 | 15.1% | 166 (based on a 1977 seizure order) | 33.5% |
| Kfar Etzion | 934 | 792 | 84.8% | 0 | 0 | 0 | |
| Migdal Oz | 588 | 0 | 0 | 33 | 5.6% | 527 (based on a 1976 seizure order) | 89.6% |
| Neve Daniel | 534 | 163 | 30.5% | 253 | 47.3% | 0 | |
| Rosh Tzurim | 419 | 419 | 0 | 0 | 0 | 0 | |
| Sde Boaz (Neve Daniel north) | 32 | 0 | 0 | 0 ⁹⁸ | 0 | 0 | |
| Total | 13,335 | 2,644 | 19.8% | 7,490 | 100 | 1,099 | |

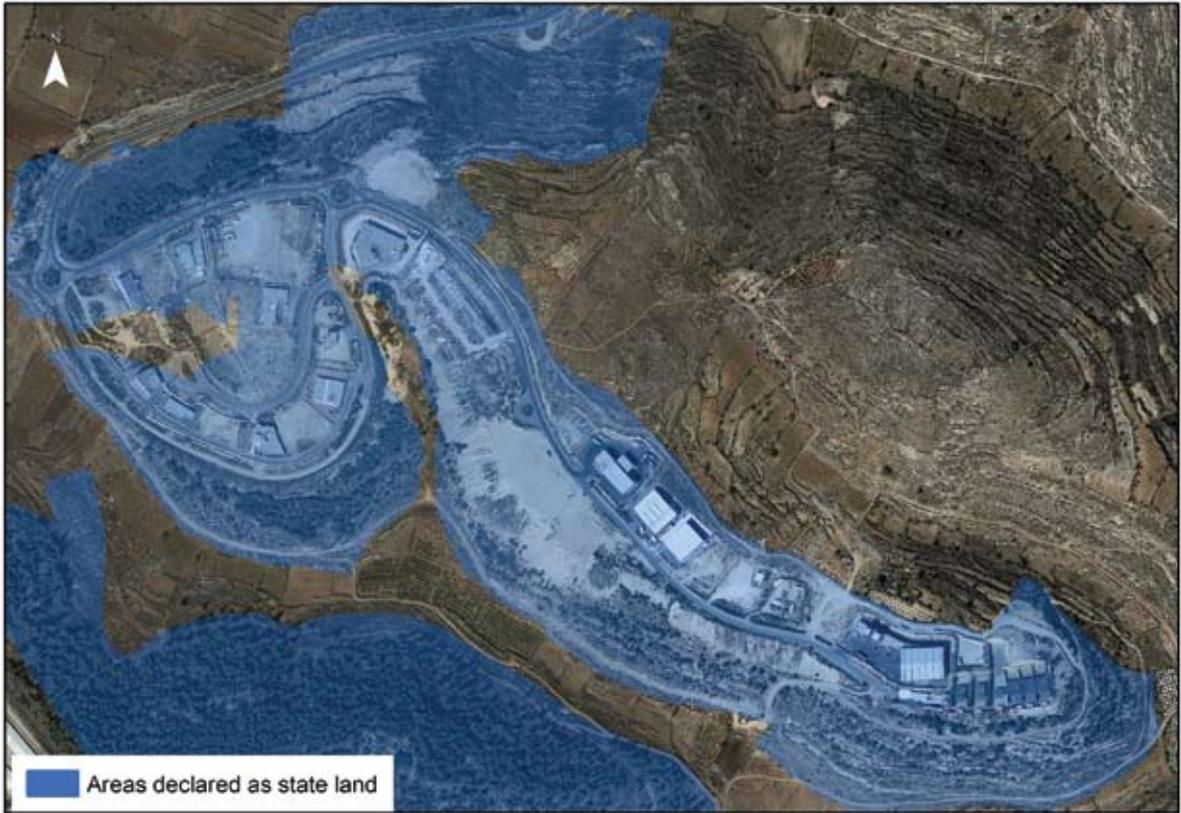
In summary: In contrast to the manner in which the spokespeople of the settlement-right seek to present matters, only a less than one fifth of the de facto territory of all of the settlements in the area that is today called “Gush Etzion,” are lands purchased by Jews prior to 1948. The settlements in this area were established over the years, mainly through a combination of institutionalized and pirate land theft, familiar to us from additional places in the West Bank, and including: seizures for military purposes, declarations of state lands and takeovers of private Palestinian lands whose owners are denied access to them.

⁹⁵ Mapping of the actual area of the settlements was carried out based on the distribution of construction, and the routes of the fences and service roads of all of the settlements.

⁹⁶ In this table we did not take into account seizure orders in the settlements of Alon Shvut, Kfar Etzion, Rosh Tzurim and Efrat, which were established based on seizure orders that overlapped with Jewish lands purchased before 1948 or lands later declared as state lands.

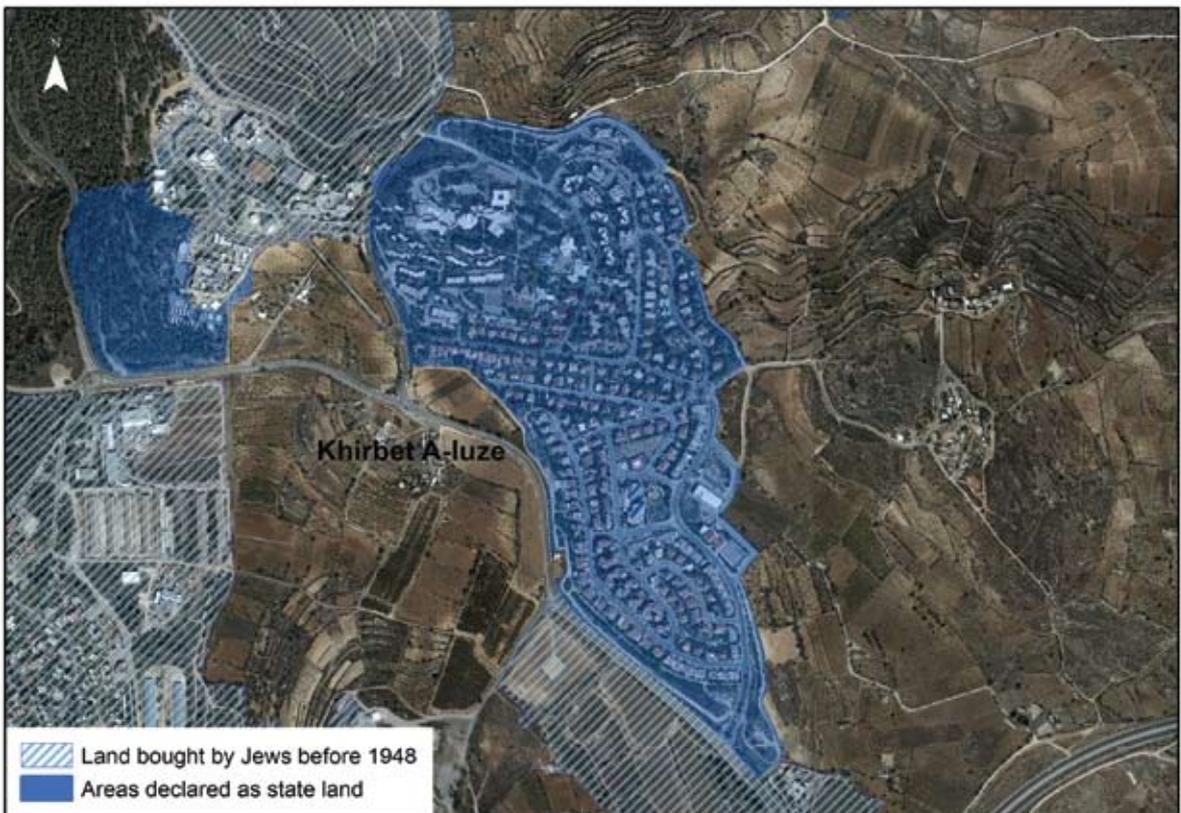
⁹⁷ According to the IDF's Spiegel Database, the subsidiary of the JNF - 'Himanuta,' claims that the lands of Giv'at Ha-Hish were purchased. If the claim is true, the purchase in question is in any case relatively recent and unrelated to the lands purchased prior to 1948.

⁹⁸ The Civil Administration is currently conducting a survey in the area of the outpost, but to this day, it has not been declared state land.



Gush Etzion Industrial Zone

0 0.05 0.1 0.15 Miles



Settlement of Alon Shvut

0 0.05 0.1 0.15 Miles





Settlement of Elazar



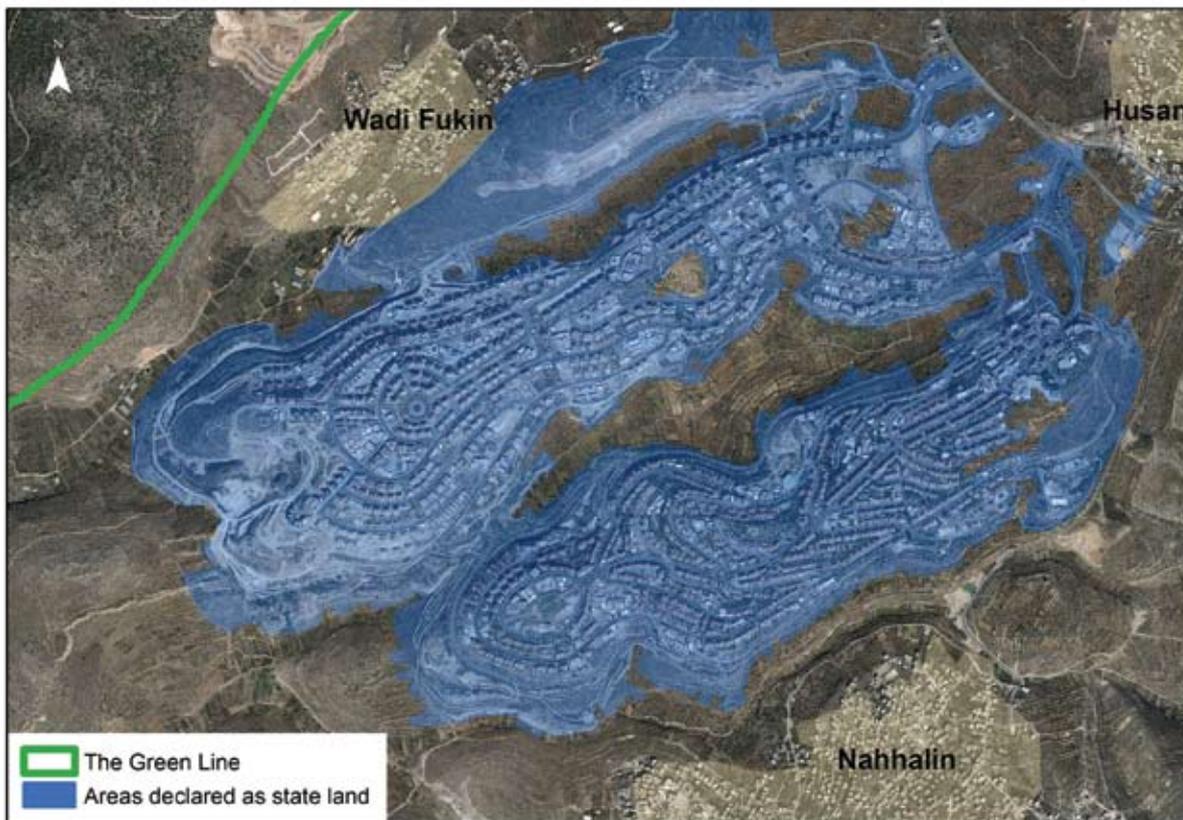
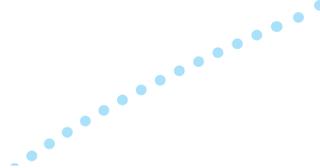
00.00.01 Miles



Settlement of Efrat



00.00.01 Miles



Settlement of Beitar Illit

00.00.00 0.12 0.18 0.24 Miles



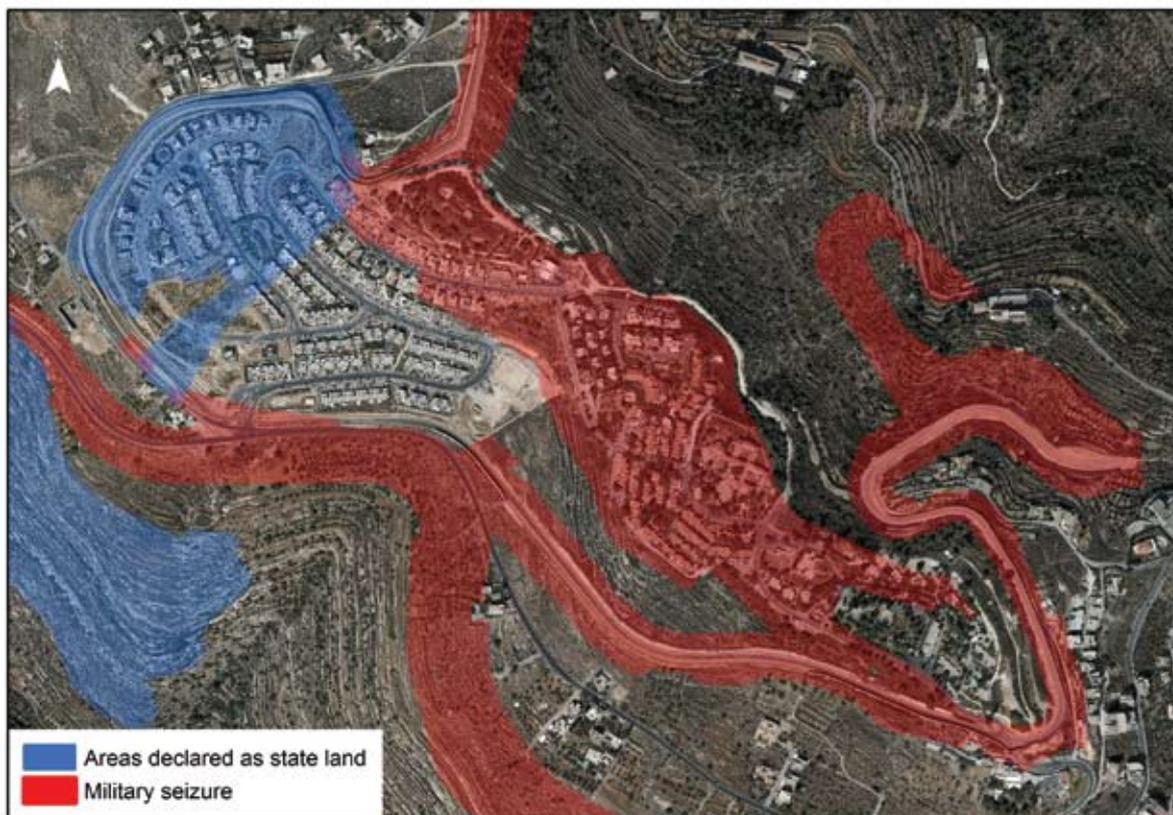
Settlement of Bat Ayin

00.00.04 0.08 0.12 0.16 Miles



Settlement of Geva'ot

00.00408 0.0160 0.240 0.332 Miles



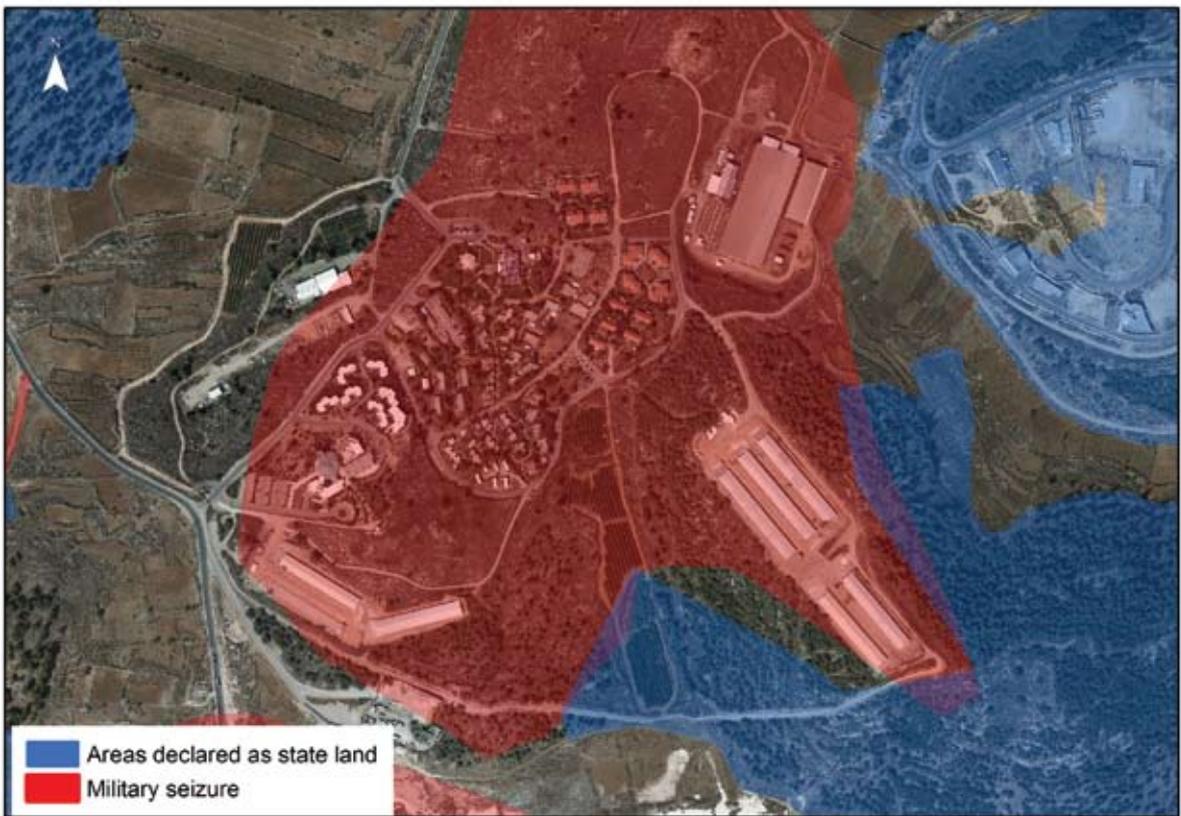
Settlement of Har Gilo

00.8882 0.04 0.06 0.08 Miles



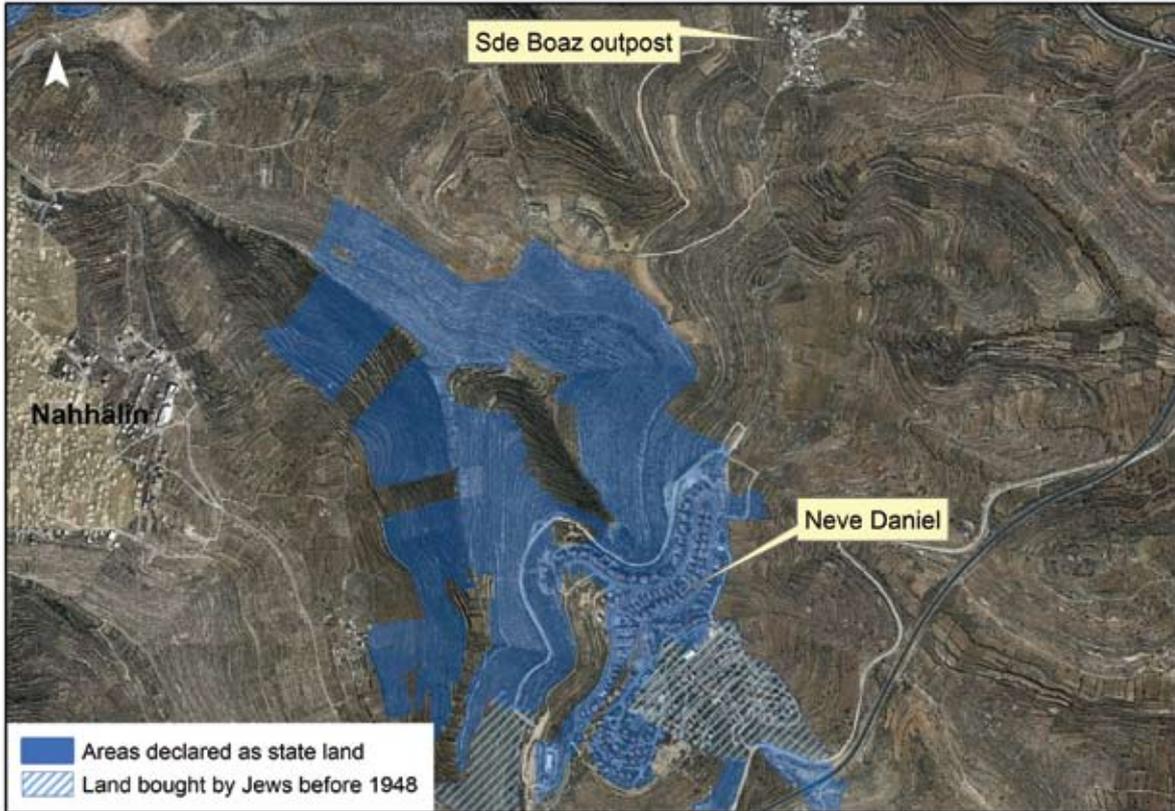
Settlement of Kfar Etzion

000000 0.06 0.12 0.18 Miles



Settlement of Migdal Oz

000000 0.02 0.04 Miles



Settlement of Neve Daniel with Sde Boaz outpost

0 0.0205 0.1 0.15 0.2 Miles



Settlement of Rosh Tzurim

0 0.0202 0.04 0.06 0.08 Miles

