The illegal outpost of Amona
Theft of private Palestinian land - a chronology (1995 - ?)
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Introduction

Twenty-five years ago, Israeli citizens took over private Palestinian land in the West Bank, drove off Palestinian farmers who were trying to cultivate their land and built the illegal outpost Amona. An unprecedented legal struggle finally led to the evacuation of the settlers of Amona. Still, nearly four years after the invaders were evacuated, Israel continues to prevent the Palestinian landowners from reaching their private land.

This report visits the main junctures in establishing the illegal outpost in the mid-1990s, the key legal proceedings that resulted in Amona’s evacuation in 2017, and the Palestinian landowners’ persistent and ongoing struggle to return to their land.

Much has been written about Amona over the years, mainly about the Israeli settlers who were evacuated from their homes after living on stolen Palestinian land for years. Several facts are undisputed by all parties and were confirmed by the Israeli High Court of Justice (HCJ):

- **The outpost Amona was built on private and registered Palestinian land.**
- **Construction of the outpost entailed trespassing and was undertaken without construction permits and against the law.**
- **The Civil Administration issued demolition orders for all the outpost structures yet did not enforce its own orders.**
- **The Israeli government allocated public funds for the illegal outpost.**
- **Settlers who violated the law received millions in compensation, and a new settlement was built for their benefit.**

The Amona affair represents Israel’s policy of settlement and takeover of Palestinian land in the occupied Palestinian territories (oPt). The outpost Amona was built and expanded on Palestinians’ private property and was not evacuated for years due to the collaboration of three powerful forces. Israeli citizens, who through a combination of might, deception and manipulation took over private Palestinian land in utter defiance of the law; military and law enforcement authorities, by deliberately and consciously choosing not to
enforce the law when Israelis committed offenses against Palestinians and their property; and the **Government of Israel**, by funneling millions of shekels from the state budget to the outpost although it was illegal, providing legitimacy and political backing, and doing everything within its power to sustain the outpost on Palestinian land.

The Palestinian landowners, whose land was stolen and who are notoriously excluded from decision-making procedures for land in the oPt, were repeatedly forced to petition the Israeli HCJ to uphold their rights. Yet even after the outpost was evacuated, a measure imposed on the State by the Court’s ruling, Israel continues to prevent Palestinians from accessing their land and refuses to restore their rights to their private property. And Israel does so, paradoxically, because of the illegal presence of Israeli settlers there.
Private, registered and cultivated Palestinian land (until 1995)

Residents of Silwad (سلواد), Ein Yabrud (عين يبرود), Taybeh (الطيبة) and Deir Jarir (دير جرير) have cultivated their farmland for hundreds of years, living off their land which provides income and sustenance.

The land where the illegal outpost Amona was built and the surrounding area is registered and privately-owned by Palestinians. As such, all the land on the hilltop referred to as Khirbat al Mazra’a (خربة المزرعة) was registered by Palestinian individuals in the Jordanian land registry prior to Israel’s occupation of the West Bank.

Since 1967 the Israeli army has been tasked with registering and regulating property ownership in the oPt and does so through the land registry in the Civil Administration.1 The land registry, which incorporates all the information regarding registered, privately-owned land in the West Bank, is exclusively subject to Israeli control and administration.

Miriam Hamad, 83, Silwad

There were fruit trees on the various plots – there was a fig grove, olive groves and other fruit. When I was a little girl, my father sat me on a donkey to take me to those plots. After my father died, my brothers and I inherited the land. In 1996, Israeli settlers built the outpost they call “Amona” on it. I haven’t been to my land in 20 years. But I still remember the days before the settlers came. How we’d stay on the land and work until evening. Apart from fruit trees, we planted tomatoes, cucumbers, fakus and okra. The soil was very fertile and gave us abundant, rich crops.

1 The Civil Administration is the military unit responsible for implementing Israel’s civilian policy in the West Bank. Its vast powers touch upon most areas of life in the occupied territories. For further information see: Yesh Din, Through the lens of Israel’s interests: The Civil Administration in the West Bank (December 2017).

2 Unless otherwise noted, the quotes in this document were edited from interviews Yesh Din field researchers and volunteers conducted with the Palestinian landowners.
Issa Zaid, Taybeh

We grew olives, almonds and figs. During fig-picking season, my grandfather and grandmother used to sleep out in the orchards.

Ibrahim Ja’ama, Ein Yabrud

I grew up on this land, since I was young. It was like kindergarten. In those days, a five-year-old boy was already capable of helping with work. We grew everything a farmer could grow here – watermelons, melons, okra, lentils and black-eyed peas. We also had a well, which is how we watered the trees and the livestock that helped us farm.

Abed al-Rahman A’asour, Silwad

I farmed the land since I was four. We planted wheat, lentils, fava beans and chickpeas. Now we buy these at the supermarket. In 1998 I was told it was a military zone and that it was forbidden to go near it. I hope to return to my land before I die.
Agricultural land cultivated by Palestinians in Khirbet al Mazra’a, 1997

- Privately-owned Palestinian plots registered in the land registry (source: the Civil Administration)
- The first trailer homes and water tower set up by Israeli settlers
- Area to which the illegal outpost Amona expanded by 2016 (see aerial photograph on page 18)
Taking over land and building the outpost (1995-1996)

All Israeli settlements and unauthorized outposts in the West Bank were established in violation of international law. The Israeli High Court has refrained from adjudicating the issue, claiming it is a non-justiciable, political issue.\(^3\) The Government of Israel, therefore, regards settlements built on public land with government approval as legal. Unauthorized outposts, however, are established without government approval and Israel too recognizes that they are built illegally.\(^4\)

The Civil Administration is responsible for overseeing the planning and construction procedures required by Israeli authorities for structures built in Area C of the West Bank. The supervision unit at the Civil Administration is responsible for enforcing planning and construction laws, including issuing and executing stop-work and demolition orders.

Civil Administration inspectors first identified settler construction on private Palestinian land by the settlement Ofra in August 1995; this would later become the unauthorized outpost Amona. Fifteen months later, the supervision unit reported the presence of the first trailer homes there.

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3 Article 49 of the Fourth Geneva Convention (1949) forbids the occupying power from transferring its civilian population into the occupied territory; HCJ 4481/19, Bargil et al v. the Government of Israel et al (Judgement dated August 25, 1993).

4 See also infra note 21. For further information see Yesh Din, From Occupation to Annexation: the silent adoption of the Levy report on retroactive authorization of illegal construction in the West Bank (February 2016).
Trailer homes established east of Ofra

1. Recently, east of the settlement Ofra, 3 trailer homes, 2 containers and two water tanks were set up on different dates on privately-owned land and outside the settlement.

2. The details are as follows:
   A. In August ‘95, work began to prep the soil, and concrete was poured, and later 2 water tanks and a container were set up.
   B. On October 15, 1996 a double, joined container was identified measuring 5x12 meters.
   C. On October 7, 1996 three additional trailer homes were identified, apparently these are the three trailer homes that passed the checkpoint at Hizme on October 5.

3. Five stop-work orders for the entire compound were delivered along with a summons to the Subcommittee for Supervision on December 2, 1996.

Illustration of the document drafted by the central supervision unit at the Civil Administration, November 11, 1996 (original document published in Hebrew).

In October 1996, the first residents settled the illegal outpost Amona. Amana – Gush Emunim’s settlement arm, which is funded in part by the State and which was involved in establishing the outpost – reported that initially it was settled by “two young women from Ofra, with residents of Ofra guarding the site”. That same month, the Civil Administration issued stop-work orders for “the entire compound”, which by then included trailer homes, shipping containers and water towers.

Yussef abed al-Jaber, Silwad

I worked on my land from 6 A.M. until sunset since I was ten years old. I used to sleep there during the wheat harvest. All of our bread was made from our wheat. In 1995 soldiers told me “you are not allowed to come back here again”, and that was the last time I was on my land.

5 Yossi Gurvitz, The documents Amona’s settlers don’t want you to see, Yesh Din website, October 31, 2016 (henceforth: Gurvitz, Yesh Din), Document no. 2. Unless otherwise noted, Civil Administration documents presented or quoted from in this position paper were obtained during litigation of the civil lawsuit, see page 23.

6 Haggai Hoberman, “Amona homes will be rebuilt”, Amana – the Settlement Movement website (henceforth: Hoberman, Amana).
Miriam Hamad, Silwad

The first time the settlers came to our land, I was with my husband, we were harvesting. They came and told us: “Get out of there!” We asked, why should we do so? And they said it’s theirs. We left for a bit, and they torched it, they burned what we harvested. We went home, and whenever we tried to go back, they didn’t let us. They didn’t let us go to our land, and then they built on it. Whenever we went there, the settlers and the soldiers sent us back until we couldn’t go there anymore.

On November 24, 1996 the Civil Administration reported that evacuation of the mobile structures from the outpost “was postponed at this time for several days and a new time for the evacuation will be announced”. Refraining from enforcement, not just for several days but for over 20 years, gave settlers the go-ahead to take over more private Palestinian land:

“With time, more young people joined after completing their military service. Then they brought up an additional shipping container. That was the beginning. A year after the outpost was settled, three families, ten single people and three children lived there. In 2003, 21 families with 35 children were living there.”

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7 The full testimony (see short film): In first person – a body of testimonies, “Building the outpost Amona on private land”.
8 Gurvitz, Yesh Din, Document no. 3.
9 Hoberman, Amana.

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After invading private Palestinian property and setting up the illegal outpost, the settlement movement leaders sought a solution for retroactively authorizing this theft of land. At this stage, public representatives, senior-ranking government officials and army officers entered the picture.

In November 1996, Civil Administration officers visited the outpost Amona with the Head of the Binyamin Regional Council Pinchas Wallerstein, Amana CEO Ze’ev Hever and the secretary of the settlement Ofra — all directly or indirectly publicly funded bodies. Needless to say, the Palestinian landowners were not invited.

The settler leaders suggested farfetched solutions for authorizing the outpost. First, they claimed that the trailer homes in Amona were located in the area subject to a military seizure order issued in 1981. Representatives of the Civil Administration clarified that the mobile structures were not in fact on land subject to the seizure order, and several months later the legal advisor to the West Bank area issued a legal opinion determining that the seizure order was not in effect.

During the site visit, the settlers claimed they had purchased tracts of the land from the Palestinian owners, yet they could divulge neither the seller’s identity nor the documents proving the sale. It is important to note that settlers touted various and similar such claims that land in Amona was purchased, even many years later. Multiple Civil Administration planning committee procedures and various legal instances examined the settlers’ claims, yet none of them confirmed that the land was indeed purchased.

What is more, in November 2016 the State indicted two people who worked for Al-Wattan, a subsidiary of Amana, for counts of forgery and fraud for taking over Palestinian...
land in the West Bank, including the outpost Amona. The case is pending the decision of the Jerusalem District Court.  

In March 2007, the Civil Administration issued demolition orders for the outpost structures. The report on the site visit and follow up actions was submitted in April 1997 to Uri Uriel, then head of the settlement department at the ministry of defense, who went on to become a Knesset member and the minister of construction and housing in the Government of Israel. The demolition orders were never executed, the mobile homes remained and the outpost grew.

In November 1997, the settlers pulled out another trick, this time in collaboration with the Government of Israel and the army. Pinchas Wallerstein and Ze’ev Hever toured the illegal outpost with Eli Cohen, aide to the minister of defense on settlement matters (and later member of Knesset for the Likud party) and army and Civil Administration representatives. Their meeting was concluded with the decision that the local council headed by Wallerstein would submit a request to conduct archeological excavations in the area, and the head of infrastructure at the Civil Administration would “set the wheels in motion”.

The reason for this sudden and surprising interest in archeology became clear in April 1998. In a letter entitled “The excavation site (Amona)”, Wallerstein requested approval from the head of infrastructure at the Civil Administration for the plan “to set up mobile structures near the site in order to provide storage and housing for workers.” In an interview for Hamakor, Wallerstein clarified the reason he had requested an archeological excavation: “Of course it was for establishing a settlement! In our code, it was clearly housing for staff, initially of course there would be staff, and religious staff require a minyan, and then we’d need to set up a mikveh and a synagogue. Yes, that was our system and it was the way we worked. It wasn’t hush hush, I mean the Civil Administration knew fully well, so did the minister of defense.” And so, the archeological dig was a ploy designed to retroactively authorize and expand the illegal construction in Amona.

Civil Administration documents reveal that during the outpost’s early years, settlers, government representatives and Israeli legal authorities in the oPt collaborated, conspired and strategized in order to take over Palestinian land, all the while knowing that it was privately-owned property.

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15 Gurvitz, Yesh Din, Document no. 6.

16 From Pinchas Wallerstein, Head of Binyamin Regional Council to the head of infrastructure at the Civil Administration, (Copy: Eli Cohen, Aide to the Minister of Defense), “Plans to establish – the excavation site (Amona)”, April 22, 1998.

17 Hamakor, 2016.
The outpost expands; the state provides funding; the law turns a blind eye (1998-2005)

The settlers’ collaboration with the Government of Israel and law enforcement authorities in the West Bank increased and grew over time, as did the outpost. Amona spread and expanded thanks to settlers’ takeover of additional private Palestinian land and illegal construction; the Civil Administration’s policy of non-enforcement provided the semblance of the rule of law by issuing demolition orders for the illegal construction, orders which it did not enforce; and funding from the state budget, connection to infrastructure and assistance from the Government of Israel.

The incredible account of how the road from the settlement Ofra to the new outpost Amona was paved in 1998 is an example of this system.

On August 24, 1998, the Binyamin Regional Council published a tender for paving a road from the settlement Ofra to the outpost Amona. Exactly one week later, Civil Administration inspectors reported “leveling and laying asphalt” on the road leading to Amona. The inspectors noted that “A final stop-work and demolition orders were issued for this construction. Therefore, the supervision unit intends to confiscate the mechanical civil engineering equipment immediately.”

The orders were issued, but they were never enforced. A Civil Administration memo noted that “after two steamrollers were loaded onto the semi-trailer that was supposed to remove them from the site and confiscate them, the supervision unit’s coordinator made an agreement with Pinchas Wallerstein, based on the instructions he received: he would permit the two steamrollers to be unloaded from the semi-trailer and finish pressing the asphalt laid earlier on the road leading to the mobile homes.” In an interview for Hamakor in 2016, Wallerstein explained that government ranks in Jerusalem gave the order not to confiscate the equipment and in practice approved paving the road.

The absurdity peaked several days later when the ministry of housing and construction, headed by appointed minister Binyamin Netanyahu, transferred 300,000 ILS of Israeli taxpayer money for paving the illegal road on private Palestinian land.

18 Gurwitz, Yesh Din, Document no. 11.
19 Hamakor, 2016.
20 Gurwitz, Yesh Din, Document no. 12.
In 2004, the Government of Israel ordered two reports on outposts in the West Bank: a legal opinion authored by Adv. Talya Sasson of the state attorney’s office and a comprehensive database compiled by a team at the ministry of defense headed by Brigadier General (res.) Baruch Spiegel. Both reports depicted the illegal expansion of the unauthorized outpost Amona on private Palestinian land with state funding.

According to the reports findings presented to the government, in 2004-2005 there were 60 mobile structures and several permanent structures in Amona, and 25 families lived there. The outpost already had a synagogue, mikveh (ritual bath), two daycare centers, two playgrounds, a winery, a creamery and a goat farm. There was also a water tower, lamp posts, plantings, roads and a paved access road.

The Sasson Report also noted that the electrical company had connected the outpost to the electrical grid and that “the ministry of housing and construction paid 2,160,000 ILS for infrastructure.”

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21 Adv. Talya Sasson, Opinion Concerning Unauthorized Outposts (Hebrew), Jerusalem, February 2005 (hereinafter: Sasson Report). The Sasson Report was tasked with charting violations of the law involved in building outposts in the West Bank and suggesting the means for challenging these violations. The report was submitted to the late Prime Minister Ariel Sharon in February 2005. The GOI endorsed the report’s findings and recommendations in Government Resolution No. 3376 (Hebrew) on March 13, 2005. The Sasson Report defines unauthorized outposts as communities which fail to comply with one or more of the following four conditions: 1) There is an official government resolution to build the settlement; (2) Land status (title), i.e. the land is state land or Jewish owned; (3) The community is built strictly according to a master plan pursuant to which building permits may be issued; (4) The community’s jurisdiction is determined by order of the commander of the area.

22 Baruch Spiegel served as special aide to then Minister of Defense Shaul Mofaz. The report was to provide a comprehensive database of settlements and outposts in the West Bank (hereinafter: Spiegel Report). Israel did not release the report’s findings until it was published in full in Haaretz daily newspaper (Uri Blau, “Secret Israeli Database Reveals Full Extent of Illegal Settlement”, Haaretz, January 30, 2009). The full report is available in Hebrew on the Peace Now website.


There is no dispute over the fact that construction, setting up of the trailer homes and paving roads in Amona were carried out on registered private Palestinian land without approval from the landowners and while trespassing. This was also undertaken without a government resolution to establish a settlement, and without a master plan or construction permits, meaning the entire outpost was built unlawfully and without a legal planning status.

The Civil Administration issued stop-work and demolition orders for all the structures in Amona in an effort to provide a semblance of the rule of law. Yet for years, under the direction of government ranks, demolition orders were not executed and the outpost continued to expand.

Thus, one arm of the State determined that the outpost was illegal and must be demolished, while the other arm diverted public funds to aid expansion and connected it to infrastructure, all the while knowing that it was illegal.

In 2016 Amona was the largest outpost in the West Bank, home to 40 families. Data obtained from the Civil Administration shows that 128 houses, trailer homes and illegal structures were built in Amona on an area of approximately 400 dunams (0.4 square km or 99 acres).
The illegal outpost Amona, 2016

- Demolition orders issued by the Civil Administration for the settlers’ illegal construction
  (data obtained from the Civil Administration)
The first petition: nine permanent houses (2004-2006)

In early 2004, settlers began construction on nine permanent houses in Amona. Peace Now addressed the army during early stages of construction and the Civil Administration responded that “Construction in the outpost Amona is unlawful, and files for unlawful construction were opened for all the structures there”. On October 19, 2004 the Civil Administration’s supervision unit issued demolition orders for the nine houses.

In 2005, the settlers continued building the nine stone houses in spite of the demolition orders, connected them to water infrastructure and even installed kitchen cabinets and solar water heaters. Amana, whose income - as noted - includes funding from the state budget, was revealed to be the party responsible for construction of the nine houses.

Construction of the permanent houses in the illegal outpost Amona, March 2005 (photo courtesy of Peace Now)

25 HCJ 6357/05, Peace Now, Shaal Educational Enterprises et al v the Minister of Defense et al, Petition for an order nisi and an interim order, July 3, 2005.
In July 2005, Peace Now petitioned the Israeli High Court demanding law enforcement agencies in the West Bank carry out the demolition orders issued for the nine houses, which were built without permits in the illegal outpost Amona. The petition claimed that construction of the houses openly and blatantly defied the rule of law, and that army authorities in the West Bank deliberately, knowingly and unreasonably evaded their duty.

In its response to the petition, the State confirmed that the outpost was unauthorized and built unlawfully on private Palestinian land; it announced that demolition orders would be enforced by the end of January 2006. Following the State’s commitment, the petition was deleted.

Two petitions were filed to the HCJ in January 2006 to prevent the demolition of the houses. The first was filed by the residents of Amona, and the second was filed jointly by the Binyamin Regional Council and Amana; the HCJ rejected both petitions. In its judgement in the first petition, the HCJ held that the petition lacked integrity and self-judgement, and that residents of the outpost did not hold the rights to the property on which they built the structures. In the judgement in the second petition, the justices noted that, “Those persons holding the buildings in Amona acted unlawfully from the onset and continued to do so. Holding private land and building on it without construction permits is akin to directly violating the landowner’s property rights and contradicts the tenets of planning and construction laws.”

In early February 2006, after a very violent struggle, police and army forces demolished the nine houses. The rest of the outpost’s houses and the structures were left standing, as were the demolition orders for them issued by the army.

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26 Ibid.
27 Ibid, Update on behalf of the State, January 17, 2006.
29 HCJ 1019/06, Binyamin Regional Council et al v Acting Prime Minister (Ehud Olmert) et al (hereinafter: HCJ 1019/06), Judgement, February 1, 2006 (our bolding).
In November 2008, the Palestinian landowners and head of Silwad Village Council petitioned the HCJ, with the assistance of Yesh Din, demanding the army remove the entire outpost of Amona. The petitioners, residents of the villages Silwad, Ein Yabrud, Taybeh and Deir Jarir, demanded that the State take all necessary measures immediately so they may return to their private property and cultivate it.

The petition claimed that law enforcement authorities in the West Bank recognized that the outpost Amona is an illegal settlement on registered, privately-owned Palestinian land. They also recognized that all construction in the outpost lacked a master plan and violated the area’s zoning status. In addition, the factual and legal basis was confirmed in the HCJ’s jurisprudence, which held that the outpost was illegal and that its very existence constitutes a longstanding offense and grave infringement on the landowners’ rights.

The petitioners added that the actions of the Israelis who invaded their land violate the owners’ rights to property, infringe upon their right to freedom of occupation, and harm their livelihood. They claimed that pursuant to international humanitarian law and Israeli law, authorities have the duty to take action to enforce the law and enable them to exercise their rights to their property. The outpost’s continued presence on private land, the petition claimed, is a persistent failure on the part of law authorities, who practice a policy of intentional and deliberate non-enforcement.

There were many legal proceedings in the petition, and the State’s conduct caused these proceedings to drag on for years. In its responses to the petition in 2010-2011, the State confirmed that the entire outpost was built illegally and on private Palestinian property and committed to evacuating Amona by the end of 2012 “by agreement and peaceably.”

As the deadline for the evacuation neared, the State changed its position and asked to limit evacuation to the plots owned by the petitioners rather than all the land on which the outpost was built. In addition, the State asked to defer the evacuation in order to examine the settlers of Amona’s claims for having purchased land. The Court accepted
the request to defer the evacuation and instructed the State to remove the outpost by April 2013. The Court later granted an additional extension ex-gratia, followed by “one last one” for three extra months.\(^{34}\)

In July 2013, the petitioners were forced to submit a contempt of court motion after the attorney general announced that the State would only remove structures located on plots to which the petitioners claimed ownership. The Court determined that “The petitioner’s position must be accepted, especially given that the entire outpost was undisputedly built on private land”, and that the State must evacuate all land where the illegal outpost was built, even land the petitioners do not have specific claims to.”\(^{35}\)

In December 2014, the High Court justices issued a final ruling accepting the petition. The judgement reiterated that the entire outpost of Amona was built illegally, without construction permits and on privately-owned Palestinian property. The Court determined that the State must “take action to enforce the demolition orders for all structures in the area of the settlement”. The State was granted no less than two additional years to implement the judgement.\(^{36}\)

\(^{34}\) Ibid, Judgement, December 30, 2012; Judgement, April 28, 2013.

\(^{35}\) Ibid, Motion for contempt of court, July 22, 2013; Decision, August 21, 2013.

\(^{36}\) Ibid, Judgement, December 25, 2014.
The civil lawsuit: the State recognizes the injustice it caused to the landowners (2008-2014)

In December 2008, while the petition to remove the entire outpost was being litigated, the Palestinian landowners sued the State of Israel in the Jerusalem Magistrate Court.\(^{37}\) The lawsuit, filed with the assistance of Yesh Din, asked the court to award damages to the landowners because Israeli authorities had evaded their duty to enforce the law upon serial offenders who stole the plaintiffs’ land.

The petitioners claimed that not only had the State evaded its fundamental duty to enforce the law, but it had aided and supported settlers who established the illegal outpost Amona, thereby infringing upon the landowners’ rights to dignity, equality and property. The suit also claimed that political considerations interfered with professional considerations for law enforcement, considerations that are extraneous and potentially dangerous.

\(^{37}\) CC 22252-08, Hamad et al v the State of Israel, Statement of claim, December 31, 2008.
For moral and ideological reasons, the Palestinian landowners decided not to sue for damages resulting from the settlers’ use of the land, valued at millions of shekels, because they did not seek to profit from the invaders’ residence on their land.

In its defense, the State confirmed that Amona was an illegal outpost that was built on private land registered by Palestinians, without an approved master plan and construction permits. The State claimed that it was the settlers’ duty to evacuate and demolish the buildings because they had established the outpost under false pretenses vis-à-vis the authorities.\(^{38}\)

The State and the settlers traded allegations during the civil lawsuit. While submitting its defense, the State filed a third-party notice against the Amona Cooperative Association, claiming that if ordered to compensate the plaintiffs, the Cooperative and its members would have to pay the State the sum ordered by the court, partially or in full. The State argued that the third-party claim was based on three grievances it claimed the settlers committed: breach of statutory duty, negligence and trespassing on real estate.\(^{39}\) The settlers of Amona claimed in their defense that the State could not blame them, since the outpost was established with the initiative, support and endorsement of authorized government officials, as well as with public funding.\(^{40}\)

In June 2014, after several Palestinian landowners testified before the court, the State recognized its responsibility for the damage caused by its actions and failings. The landowners and the State signed an agreement whereby the State would pay the plaintiffs 300,000 ILS in damages. The State admitted that the outpost Amona was built on private, registered land owned by the Palestinian plaintiffs, and that “Government bodies provided funding for investing in the site’s infrastructure” even though the structures are illegal. The State also acknowledged that the Civil Administration’s lack of law enforcement “prevented the plaintiffs from accessing their land and impeded their ability to farm it.”\(^{41}\)

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\(^{40}\) Ibid, Statement of defense by the Amona Registered Cooperative LTD, March 12, 2009. In May 2015, the Jerusalem Magistrate Court rejected the State’s third-party lawsuit against the settlers of Amona “given the lack of evidence for establishing the Cooperative’s role in the damage” (Ibid, Judgement, May 6, 2015).

\(^{41}\) Ibid, Statement and request on behalf of the plaintiffs and the defendant, June 24, 2014.
Not peaceably: delays in executing the judgement, the “Amona Plan” and evacuation of the outpost (2016-2017)

Despite the lengthy (two-year) period the HCJ granted the State to evacuate the outpost Amona, as the deadline named in the judgement approached, in October 2016 the State requested a seven-month extension. The State claimed that an additional extension was necessary to examine relocation alternatives for Amona residents. This, the State claimed, would enable implementing the judgement “by agreement and peaceably” (this wording is identical to that in the State’s response from 2011 addressing the evacuation of Amona, which was never undertaken).42

The petitioners responded that the State’s request was political and that approving it would harm the real victims, the Palestinian landowners who had been waiting for 20 years to return to their land, as well as detrimental to the rule of the law and the High Court of Justice’s stature.43

The HCJ justices rejected the State’s request and stayed the deadline for evacuation, reiterating that the State must do so by December 25, 2016. In the decision, the Court noted that, “It seems that accommodating the request would lead to additional requests for delays such as ‘we did not manage to yet.’” The justices added that, “Though we do not treat lightly considerations of agreement and a peaceable evacuation, this consideration is not paramount. We must consider other important concerns, chiefly harm to private property and to the rule of law.”44

And yet, five days before the deadline for evacuation, the government submitted another request to delay the evacuation, this time for 45 days. The State claimed it had reached an agreement with the Amona settlers: the outpost would be relocated to private Palestinian land on a nearby hill for two years - land that would be found to be “abandoned property.”45

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42 HCJ 9949/08, Request on behalf of the State for a seven-month extension of the deadline for implementing the judgement, October 31, 2016.

43 Ibid, Response on behalf of the petitioners to the request on behalf of the State for a seven-month extension of the deadline for implementing the judgement, November 6, 2016.


45 The Order concerning abandoned property (private property) (no. 58) determines that an abandoned property is a property whose legal owner is absent from the West Bank Area. The Supervisor of Governmental and Abandoned Property in the West Bank (the custodian staff officer at the Civil Administration is a representative of the Israel Land Authority in the West Bank) temporarily holds in his trust the property of Palestinian residents temporarily absent from the occupied territory.
while the government would consider the option of authorizing long-term settlement on this alternative site. In return, residents of the illegal outpost agreed to evacuate “peaceably” and abide by the deadline regardless of the plan’s legal feasibility or implementation. 46

The petitioners objected to the State’s request and argued that not only was delaying the evacuation unjustified, but the plan proposed to effectively steal land owned by other Palestinians and award it to offending settlers who invaded the petitioners’ land. 47

The justices held that “Everything being done now could have been done earlier” but approved the State’s request for a delay because the settlers submitted an unconditional undertaking to the Court for “a peaceable evacuation, devoid of conflict or resistance.” 48

On January 23, 2017 the Palestinian landowners submitted an additional petition to the HCJ, also with the assistance of Yesh Din, after Israel began carrying out the aforementioned plan (agreed upon with the settlers) by way of military orders. 49 The HCJ accepted the petition in a majority ruling and revoked the plan proposed by the State because it caused disproportionate harm to the Palestinian petitioners’ right to property and right to a hearing. 50

In early February 2017, over 20 years after the Civil Administration issued the first orders for illegal construction in Amona, the State of Israel evacuated the outpost, which was built on private Palestinian property. The settlers reneged on their unconditional undertaking to evacuate peaceably and 57 civilians and security forces personnel were wounded in violent clashes during the evacuation. 51

46 HCJ 9949/08, Request on behalf of the State for a 45-day delay for implementing the judgement, December 20, 2016.
47 Ibid, Response on behalf of the petitioners to the request on behalf of the State for a 45-day delay for implementing the judgement, December 21, 2016.
49 HCJ 794/17, Ziada et al v. Commander of IDF forces in the West Bank et al, Urgent petition for an order nisi, an interim order and a temporary injunction.
50 Ibid, Judgement, February 1, 2017. While the Court accepted the petition and revoked the plan, the reasoning for the judgment included statements to the effect that the Military Commander bears the authority to infringe upon the rights of Palestinians in the West Bank to property to serve the exclusive goals of Israeli settlement. This contradicts international law and HCJ jurisprudence and potentially permits grave infringements on the human rights of Palestinians in the oPt. Because the reasoning for the judgement changed the longstanding legal position on this matter, the Palestinian landowners with the assistance of Yesh Din requested a further hearing in the petition in an extended panel. In May 2018, High Court President Esther Hayut determined that the remarks were in fact made as an obiter dictum which was not required for the judgment in the petition, and therefore did not set a new rule or have the force to serve as a precedent. For further discussion see: Yesh Din, Infringement of Palestinians’ property rights for the benefit of Israeli Settlers in the West Bank, July 2018.
Evacuation and compensation (2016-2018)

The Israeli settlers who invaded private Palestinian property and built on it unlawfully were doubly compensated by the Government of Israel: they received a personal monetary award and a new settlement.

Israel compensated each family evacuated from Amona over 800,000 ILS on average due to “The state authorities’ profound involvement in establishing the outpost.” In total, the government granted 40 million shekels of public funds to the 40 families who resided in the outpost Amona in violation of the law (as well as the families who resided in the nine houses evacuated in the settlement Ofra\[^{52}\].\[^{53}\] Absurdly, the government resolution which breaks down the payment components notes that:

An examination of the [status of the] outpost Amona according to the criteria determined in the past by the special committee for unrecognized [Israeli] settlements in the Gaza Strip shows that the outpost was established unlawfully and does not conform with any of the conditions that could confirm its legality. For example:

1. Land status – the land is private Palestinian property;
2. Municipality – the outpost Amona is not in the area of jurisdiction of any recognized settlement;
3. Planning – the outpost was built without an approved master plan;
4. Political – no government resolution was passed to establish the outpost Amona;

In addition, in March 2017 the Government of Israel decided to build the settlement Amihai for the Amona settlers. The settlement Amihai was settled in March 2018 and it is the first Israeli settlement in the West Bank established pursuant to a government resolution since 1992.\[^{54}\] As noted, all Israeli settlements and outposts in the West Bank are illegal under international law.

\[^{52}\] Nine houses in Ofra were evacuated following HCJ 5023/08, Shehadeh v the Minister of Defense (Judgement handed down February 8, 2015).

\[^{53}\] Government Resolution no. 2178 of December 18, 2016; Government Resolution no. 3598 of February 25, 2018, Annex 582. Two high court petitions were submitted against the decision to compensate the settlers and were eventually stricken: HCJ 10112/16, Atty. Shachar Ben Meir et al v the Government of Israel et al (Judgement handed down November 30, 2017); HCJ 1915/18, Atty. Shachar Ben Meir et al v the Government of Israel et al (Judgement handed down August 1, 2018). See also Moshe Gorali, “High Court petition against the State and Amona evacuees: ‘should every citizen who built unlawfully be compensated?’” (Hebrew), Calcalist, December 27, 2016.

\[^{54}\] Government Resolution no. 2583 of March 30, 2017.
In total, evacuating the illegal outpost Amona, compensating the offending settlers and establishing the new settlement in the oPt cost Israeli taxpayers approximately 250 million ILS.\textsuperscript{55}

\textbf{The settlement Amihai, March 11, 2018 (Photograph: Dvdhl, \url{Wikimedia Commons} CC BY-SA4.0)}

\textsuperscript{55} Yotam Berger and Chaim Levinson, “Israel’s PM Seeks Huge Budget Hike for Relocation of West Bank Settlement”, \textit{Haaretz}, August 18, 2017.
Demarcation order and prevention of access for Palestinians, but not Israelis (2017-?)

Miriam Hamad, Silwad

We’ve been prohibited from going there for years. We were desperate and filed petitions to court. Thank God, the petitions succeeded but we still didn’t gain anything. We’re still prohibited from going there. My heart aches that I cannot go there with my family. The day the settlers left, I was so happy, I felt like I was born again, I was delighted. I was hoping to God that we will return to the land, now that they left it. But unfortunately this happiness was incomplete, we couldn’t go to our land, farm it or even come close to it.

The GOC Central Command issued a demarcation order on January 30, 2017 for the evacuation of Amona, pursuant to the Order concerning unauthorized buildings, prohibiting any person, Israeli or Palestinian, from entering the area of the illegal outpost. The army explained that the order was issued for the purposes of evacuating the outpost, “enforcing law and order in the area”, preventing structures from being built illegally, as well as “friction and incidents”. The army did not revoke the demarcation order after the outpost was evacuated and Israel continues to prevent the Palestinian landowners from accessing their land.

Encouraged by senior public officials, many Israelis choose to violate the demarcation order and repeatedly visit the privately-owned Palestinian land where the illegal outpost Amona once stood. Such visits involve prayers, events, repeated attempts to resettle and tending to the agricultural invasions there.

56 The full testimony (see film): In First Person – A Body of Testimonies, “Building the outpost Amona on private land”.
57 Order concerning unauthorized buildings (Temporary Provision) (Judea and Samaria) (No. 1539), 5744-2003. The order was issued to attempt to cope with illegal construction undertaken by Israeli settlers in the West Bank.
58 From the Office of the Legal Advisor to the West Bank Area to Yesh Din, “Your letter concerning your clients, the petitioners in HCJ 9949/08”, July 2, 2017.
59 The situation in the Palestinian village Burqa, on land where the evacuated Israeli settlement of Homesh once stood, is similar; law enforcement authorities all but ignore – and Israeli public figures encourage - the activities. For more information see: Yesh Din: A world turned upside-down: The residents of Burqa’s struggle to return to their land where the evacuated settlement Homesh once stood (September 2020).
Haaretz wrote that as early as March 2017, approximately six weeks after the evacuation, “The road between the outpost and the adjacent settlement Ofra remains open, with Israeli cars traveling freely between the two sites, and the reporter had no trouble driving in from Ofra [...] In the days after the evacuation, a roadblock was set up on the road to the outpost, and the Border Police prevented Israelis from climbing the hill to reach Amona, but now the roadblock is unmanned”. Further, the reporter’s attempt to “drive in from the nearby village Deir Jarir was blocked by soldiers and Ofra security guards, who said the area was closed off.”

In January 2018, Rabbi Yair Frank, who served as rabbi of the illegal outpost Amona published the following: “On the first Friday after the banishment we went to Amona for afternoon prayers on the eve of holy Shabbat. [...] Since then, we go to Amona without fail every Friday afternoon at 2 pm, week after week.”

Several days later, a group of Israelis entered the area subject to the demarcation order to mark the anniversary of Amona’s evacuation. The illegal event was organized and advertised, *inter alia*, by the Binyamin Regional Council, which is funded by the State. Speakers at the event included the Head of the Binyamin Regional Council Avi Roeh.

Yesh Din addressed the army prior to the event and alerted it as to the planned violation of the demarcation order and trespassing, yet the event was held and law authorities did not attempt to enforce the law in any manner. In the army’s response provided before the event,

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a representative of the legal advisor to the West Bank area confirmed that entry permits had not been issued for the area subject to the demarcation order – not for the anniversary of the evacuation or for repeated Friday visits as described by Rabbi Frank.63

Lack of enforcement by the army and legal authorities led to attempts to resettle Amona. In December 2018, scores of settlers entered the privately-owned Palestinian land and set up two mobile homes, trespassing and violating the demarcation order; needless to say, they did so without construction permits. **Knesset member Bezalel Smotrich, Head of the Binyamin Regional Council Yisrael Gantz and Head of the Shomron Regional Council Yossi Dagan** visited the site. And a week later, **Minister Miri Regev** came to celebrate the new illegal outpost “Havat Amona” (Amona Farm).64 History repeats itself, and the non-profit Ofek Lehityashvut, which is funded in part by the State, established this new illegal outpost too.65

The Jerusalem District Court and the HCJ rejected the settlers’ petitions against the evacuation of the new outpost. The judgment held that the “mobile structures were installed without a permit” and that the court was approached “in bad faith”. The justices added that the claims that part of the land had been purchased by Israeli settlers had not been established.66 In January 2019, army and police forces evacuated the illegal outpost after a violent struggle.67

Even after the resettled outpost was evacuated, many Israelis continued to violate the demarcation order and stay on Palestinian land where the illegal outpost Amona once stood in violation of the order and trespassed. For example, during Passover in April 2019, many Israelis visited the site of the evacuated outpost. In response to Haaretz newspaper’s query as to why it permits settlers to enter Amona in violation of the demarcation order, the army said: “The order is enforced by the security forces and any entrance without permission is handled accordingly”.68

63 From Yesh Din to the Legal Advisor to the West Bank Area et al, “Violation of demarcation closed military area orders and trespassing on Silwad land in the West Bank in the area where the unauthorized outpost Amona once stood”, January 25, 2018; From the Office of the Legal Advisor to the West Bank Area to Yesh Din, “Your letter concerning violation of the demarcation order and trespassing on the land where the outpost Amona stood”, January 29, 2018.


66 HCJ 9235/18, Ofek (Sha’ar Binyamin Industrial Zone) LTD v the Minister of Defense et al, Judgement, September 11, 2019.


In March 2020, Israeli settlers returned and set up an illegal structure on the privately-owned Palestinian land at the site of the evacuated outpost Amona. Several young men stayed for a month and a half, and “families came to stay for Shabbat to tighten the grip on the land”. In late April 2020, the Civil Administration demolished the structure.69

In July 2020, dozens of Israelis violated the demarcation order to celebrate the wedding of Rabbi Yehoshua Shapira’s son in Amona.70 The prohibition on entering the site where the outpost once stood was repeatedly violated in other instances, documented by the offenders and posted in various Facebook groups.71

In addition, during the 20 years that settlers unlawfully resided in the outpost Amona, they took over Palestinian land for farming. In February 2017, former outpost residents petitioned the HCJ against the uprooting of crops in the outpost area after it was evacuated. The petition was deleted, and the settlers were directed to request a permit from the army to enter the area subject to the demarcation order. The army rejected the settlers’ request, and they were denied entry. A similar request was submitted in February 2019 and was also rejected.72

Although these requests were denied, settlers have successfully cultivated crops on no less than 26 farming plots in the area subject to the demarcation order. They have done so consecutively since 2017 with the State’s knowledge and without authorities taking action to prevent violation of the law (see “farmland” in the State’s aerial photograph from 2019 on page 35). In a HCJ hearing in December 2019, the State’s representative admitted that farming, or agricultural invasions, still exist and that in practice the army does not enforce the demarcation order and permits Israelis to enter and leave the area to cultivate it “at the discretion of the commanding officer”.73

Israel continues to prevent the Palestinian landowners from accessing their land years after the outpost was evacuated. Outrageously and in violation of its own rules, Israel allows Israeli settlers to invade private Palestinian property and continue to reap its stolen fruit.

69 “Young men evacuated again from their home in Amona after a month and a half of building and joy” (Hebrew), Hakol Hayehudi, April 30, 2020.
70 “Rabbi Yehoshua Shapira’s son married in Amona” (Hebrew), Kipa, July 7, 2020.
71 For example, Facebook groups “Amona” and “The people stand with Amona, Ofra, Netiv Ha’avot and Tapuach Ma’arav” (Hebrew).
72 HCJ 1250/17, Yedidiya Spitz et al v the Minister of Defense et al (Judgement handed down January 22, 2019); HCJ 88/19, Hamad et al v Commander of IDF Forces in the West Bank (hereinafter: HCJ 88/19), Response on behalf of the respondents, December 2, 2019.
73 HCJ 88/19, Response on behalf of the respondents, December 2, 2019, Ibid, Protocol, December 9, 2019.
Petition against restriction of access and the demarcation order (2019-?)

As noted, in early 2017 the army issued a demarcation order prohibiting any person – Israeli or Palestinian – from entering or staying in the area where the outpost stood.

During 2017, in response to Yesh Din’s correspondence on behalf of the landowners, the army reiterated that the demarcation order was valid for two years and could be extended as necessary. The army referred the landowners to the DCO (District Coordination Office) in order to request permits to visit their (own!) land and added that the policy for issuing permits to the area is “extremely limited” given “the relatively short time since Amona was evacuated”.

Approximately a year and a half after the evacuation, once the evacuation was no longer a recent event and while Israeli settlers remained illegally on Palestinian-owned land in the area subject to the demarcation order, the landowners petitioned the army again. The landowners demanded to be allowed to exercise their rights to their land, yet there was no response. The army did not respond to additional correspondence several months later either.

In January 2019, the Palestinian landowners and heads of the villages of Ein Yabrud, Taybeh, Deir Jarir, and Silwad petitioned the HCJ with the assistance of Yesh Din demanding the State of Israel allow them free and uninterrupted access to their land. The petition came nearly two years after the outpost was evacuated and the demarcation order was issued, and over 20 years after Israeli settlers took over private Palestinian land and built the illegal outpost Amona.

The petitioners claimed that Israel prevents Palestinians from accessing their privately-owned land but allows Israelis to enter the area in violation of the demarcation order and trespass. The petition also claimed that failing to enforce the law upon settlers and failing to use criminal procedures for deterrence leads to a vicious circle, creating a pretense to forbid access to the Palestinian landowners due to concerns of “friction and incidents”.

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75 From Yesh Din to the Legal Advisor to the West Bank et al, “Request to exercise the landowners’ ownership and property rights and revoke the demarcation order”, September 16, 2018, December 16, 2018.

76 HCJ 88/19, Petition for order nisi, January 3, 2019.
The landowners also claimed that the demarcation order, which precludes them from accessing, cultivating and reaping the fruits of their land, contradicts the army’s duty to protect the private property of protected persons in the occupied territory and infringes upon their right to livelihood and to freedom of movement, rights enshrined both in IHL and Israeli constitutional law.

The State responded to the petition, saying that the demarcation order had been extended for two more years because “there had been repeated instances of illegal construction [by Israeli settlers] in the area subject to the order during the past two years.” The State added that, “the military commander will enforce the law [upon settlers] according to his discretion and the priorities he is given.” The response also noted that an iron gate had been installed on the road leading from the settlement Ofra to the area where the outpost Amona used to stand, but had been “broken and repaired several times, and currently the gate is broken, and vehicles are able to pass”.77

In practice, the State’s response served to underscore the petitioners’ claims: Israeli settlers engage in offending activities, Israeli law enforcement agencies do not prevent the offenses or prosecute the perpetrators, and the only party harmed is the Palestinian landowners – whom Israel prevents from going to their land because of the offending Israelis.

Absurdly, the State demonstrated the enforcement authorities’ incompetence and ineffective treatment of offending settlers: “There is no practical way to completely prevent persons from entering the area. For example, on August 2, 2019 Israeli citizens went to Amona before Shabbat, stayed there overnight in tents and were evacuated immediately after Shabbat. These citizens received summons by the police, were investigated and then released.”78

After the hearing in the petition in the High Court, in January 2020, the State announced that the demarcation order would be divided into two zones. Palestinians would be allowed to access the eastern part of the area subject to the order, “except areas where there are still Israeli crops”. For the western part, “permanent permits [will be provided] for the purpose of agricultural cultivation for the rightsholders to the land and a small number of persons on their behalf for a year, also excluding areas where there are Israeli crops”. The State attached an aerial photograph clearly displaying the 26 plots where Israeli settlers continue to cultivate privately-owned Palestinian land and which they have lived off uninterrupted, even years after the illegal outpost was removed and the demarcation order issued.79

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78 Ibid.
Yesh Din, on behalf of the petitioners, claimed that the State’s response preserves the demarcation order and significantly restricts Palestinian landowners who seek to cultivate their land and exercise their right to property. It also noted that the State continues to evade its duty to actively enforce the law upon persons who violate the orders. The aerial photograph proves that during the three years after the outpost was evacuated, the State allowed settlers to cultivate their crops without interruption, crops which constitute agricultural invasions.81

On June 21, 2020, the High Court of Justice accepted the petitioners’ request and issued an order nisi, ordering the state to explain why it will not revoke the demarcation order’s application to the Palestinian landowners, and why the demarcation order would not be enforced in cases of Israeli illegal construction and agricultural invasion on the land subject to said order.82

In December 2020, the petition was still being adjudicated.

80 Ibid.
81 Ibid, Response on behalf of the petitioners to the respondents’ announcement, March 11, 2020.
82 Ibid, Order nisi, June 21, 2020
The outpost Amona, the State claims, is an unauthorized outpost built in August 2005 near the settlement Ofra. The land on which the outpost and its buildings were constructed is registered land, privately-owned by local residents in the Judea and Samaria area [West Bank]. The structures were erected without construction permits and in violation of the zoning plan in force in the area, which designates the area as farmland.

The High Court of Justice, February 2006.83

In a proper administration which operates according to norms of law and justice, a determination such as this one in the HCJ’s judgement should have resulted in the evacuation of the illegal outpost Amona and returning the land to the Palestinian owners in 2006. In fact, the outpost should have been evacuated a decade earlier, had the Israeli army enforced the demolition orders it issued starting in 1996 for the illegal structures Israeli settlers constructed on private Palestinian property.

Yet the Israeli policy of taking over Palestinian land and advancing the settlement enterprise in the West Bank is neither proper nor lawful. The outpost Amona was built and expanded on Palestinians’ private property; it was not evacuated for many years because of the collaboration of three powerful forces: the Government of Israel, Israeli settlers, and legal and military authorities.

The Palestinian landowners, whose private property was usurped by the outpost and who were completely ignored in all decision-making processes, were forced to repeatedly petition the Court to uphold their fundamental rights. Yet even after the High Court’s decision finally compelled the State to evacuate the outpost, Israel continues to frustrate Palestinian landowners’ efforts to reach their privately-owned land, 25 years after it was stolen from them.

Israel’s land grab system is self-sustaining: the State fails to prosecute offending settlers and on occasion even compensates them, thus encouraging their unlawful activities. And, as part of a long-term process, Israel shapes the appropriation of Palestinian land into its official - and allegedly - legal policy through authorized settlements and by retroactively authorizing outposts in the West Bank.

83 HCJ 1019/06, Judgement, February 1, 2006.
The Amona affair has become a symbol of Israeli settlement in the occupied Palestinian territories. And it is a symbol. Amona represents offending settlers who use violence and a variety of unlawful means to take over private Palestinian land and treat it as their own property. It stands for military and law enforcement agencies’ policy of non-enforcement when Israelis harm Palestinians and their property. It is an example of the millions of shekels in funding, and of the tacit and overt legitimacy the Government of Israel extends to illegal settlement in the occupied Palestinian territory. And it is an icon of Israel’s regime of colonial occupation trampling Palestinians’ rights for over 53 years.

The Palestinian landowners from Ein Yabrud, Taybeh, Deir Jarir, and Silwad are still struggling to return to their privately-owned land, stolen by Israelis 25 years ago.