

# UNLAWFUL FOUNDATIONS: THE MASS REGULARIZATION OF ILLEGAL OUTPOSTS IN THE WEST BANK

JANUARY 2025

## What are illegal outposts in the West Bank?

- A singular building or series of buildings constructed without building permits and without approved plans.
- Illegal outposts are built by settlers to create facts on the ground and promote Israeli expansion in the West Bank.

The buildings in illegal outposts are constructed without building permits and therefore, by law, may NOT be connected to infrastructure.

## What happened to illegal outposts?

- Israel's security cabinet adopted a decision on February 12, 2023, to gradually legalize outposts in Area C of the West Bank, initially approving legalization of 10 illegal outposts.
- Bezalel Smotrich, a minister in the Ministry of Defense's Settlement Authority, in coordination with the Prime Minister's Office, is now empowered to declare additional outposts as "sites for regularization."

## What do "sites for regularization" mean?

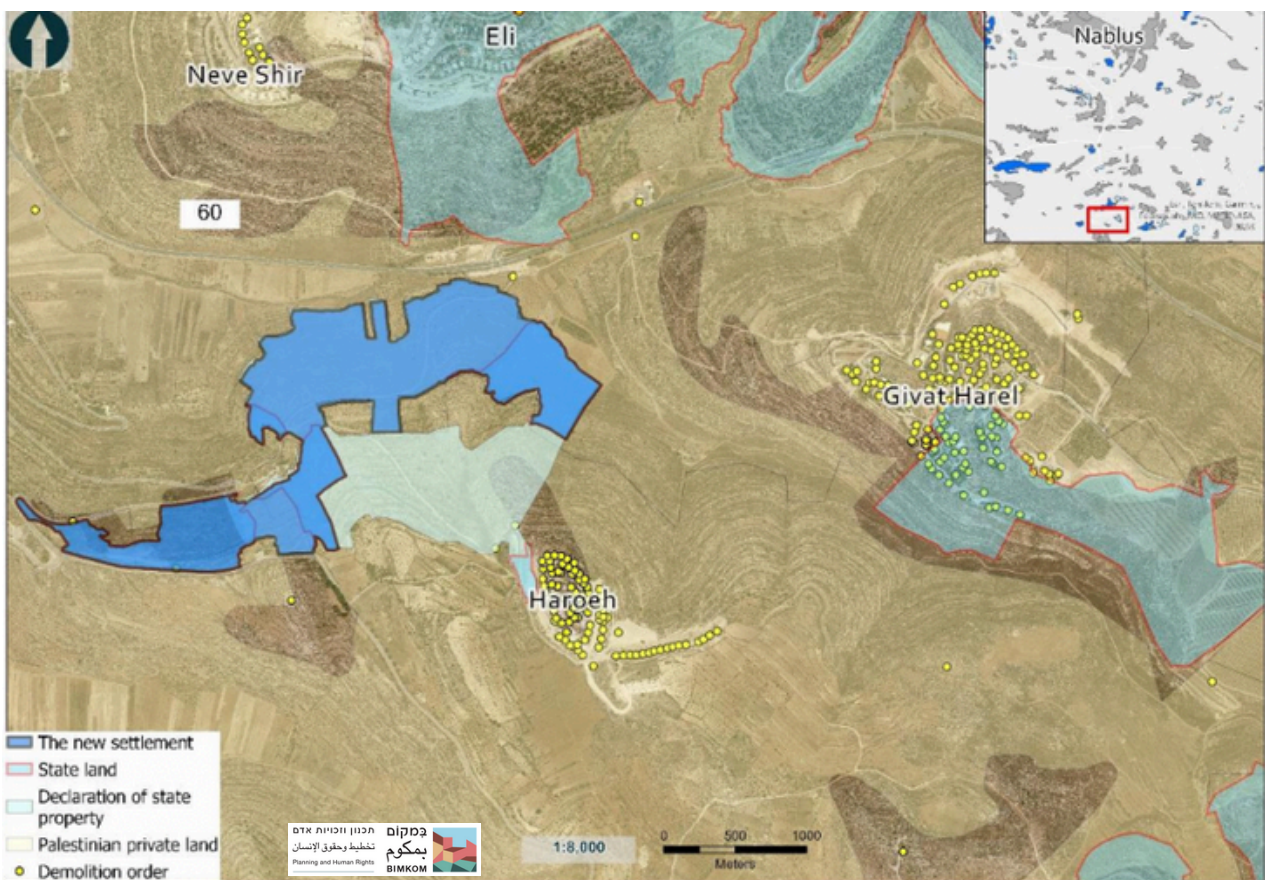
- Minister Smotrich ordered the Israeli Civil Administration to initiate planning procedures to regularize these outposts. These outposts may be connected to infrastructure and public buildings may be established in them, without waiting or completion of legalization processes. Enforcement proceedings against these outposts have also been frozen.
- Regularization is itself a form of support for illegal construction.

## Why is this important right now?

- On February 23, 2024, Minister Smotrich announced that **70 of 236 existing illegal outposts are sites for regularization**. He emphasized that this list is not exhaustive, and that legalization of additional outposts may be examined at a later stage.
- Israel is already involved and unofficially supports the construction of these illegal outposts by granting them services and allocating them funds.
- The current legislative move simplifies procedures for supporting illegal outpost development and, through rendering the outposts official by regularization, allows for allocation of larger budgets without ever having a plan approved prior to building.

## A Closer Look: Illegal Outposts – Givat Haroeh and Givat Harel

In February 2023, the security cabinet decided to regularize the outposts of Givat Haroeh and Givat Harel together as one settlement, and in October 2023 it was defined as an independent settlement by decree. The settlement area marked in the decree does not include the actual existing outposts, most of whose buildings were built on Palestinian private land and whose access roads pass through Palestinian private land. Thus, entire outposts slated for connection to infrastructure cannot be legalized in their current location and will have to be demolished as part of establishing the new settlement in a different location.



### Bottom Line:

The State of Israel is officially encouraging illegal construction by settlers in order to push Palestinians out of their homes and lands. The fact that regularized outposts will be connected to infrastructure before building permits have been issued sends a clear message that it pays to commit building offenses (if the offenders are Israelis). The current legalization process is nothing more than a tool for regulating illegal construction, the sole purpose of which is to expel Palestinians from their land and thwart the possibility of establishing a Palestinian state.



## Why haven't these outposts been regularized up to now?

- Regularization has not succeeded until now due to issues of land status.
- The decision to connect outposts to infrastructure is linked to processes for their regularization, and the implication is that their legalization is feasible.
- An examination of the outposts defined as "sites for regularization" shows that, in the vast majority of cases, the most basic conditions for advancing a regularization plan do not exist. Most of the outposts and/or their access roads are built to varying degrees on private Palestinian land.

## What happens if Palestinian villages in Area C want to be connected to infrastructure such as electricity and water through a similar process?

It is impossible. Palestinians cannot connect to infrastructure because the Civil Administration does not plan or allow plans to be made for their villages. An outline plan, which is required before any building can occur, is designed to regulate the various land uses at the community level. Since 2011, Palestinians have submitted 115 plans to regularize existing construction in established villages; only 7 of these plans have been approved. Of the 240 Palestinian communities whose built-up area is situated entirely within Area C, only 21 have a valid outline plan.

To complete the picture, it is important to note the enormous gap in the scope of land zoned for development for Palestinians and Israeli settlers. While areas in which Palestinians can build legally account for just 0.5% of Area C, the approved plans for settlements cover 28% of the area.

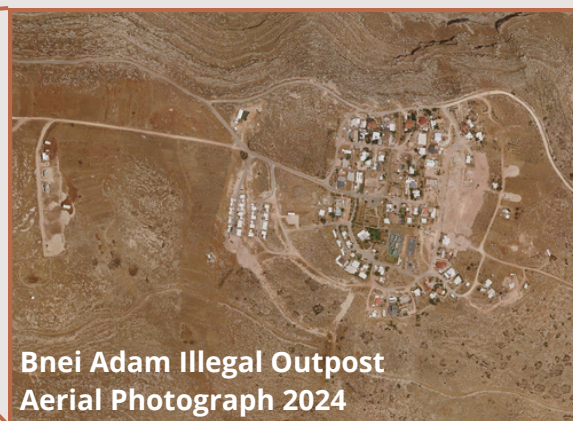
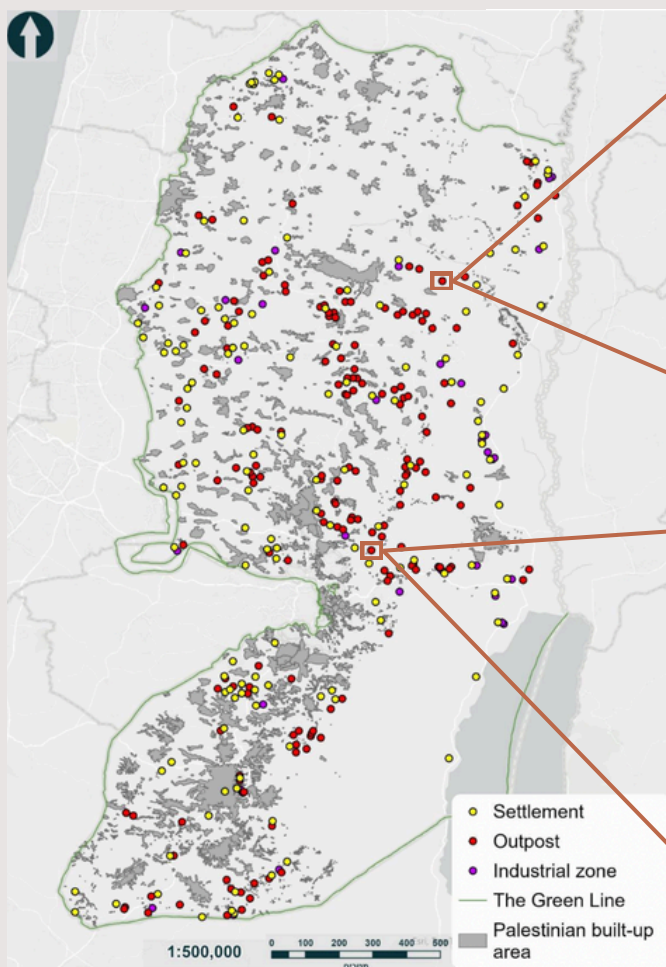
## A Closer Look: Palestinian Village - Daher al-Maleh

Daher al-Maleh (Jenin governorate) was founded in the 1920s, but the Civil Administration began to prepare a plan for the village only in 2011, 44 years after Israel occupied the West Bank. Without an approved plan, the village could not be connected to electricity. Israel stalled an additional 5 years in preparing the plan, and in 2016 a High Court petition was submitted demanding the Civil Administration exercise its authority and order that the provision requiring presentation of a building permit as a condition for connection to electricity not apply to Daher a-Maleh. Despite the reply dated May 26, 2016, from the Head of the Civil Administration which insisted that no connection to electricity could be made without a plan for the village, the village was connected to electricity due to legal pressure.

*How can the state justify large-scale connection to infrastructure of outposts, including some 3,700 buildings constructed illegally, while attempting to obstruct a Palestinian village established more than 100 years ago to be connected to electricity?*



Regularization exacerbates discrimination against the Palestinian population. Israel fast tracks infrastructure connection of illegal outposts yet in cases of unauthorized construction by Palestinians, it consistently and firmly adheres to the principle that planning must precede building, and regularly introduces new tools to restrict the Palestinians' ability to legalize construction.



### Key issues of regularizing illegal outposts

- The government decision to regularize outposts shows that illegal building by settlers is guiding spatial planning in Area C. The settlers create facts on the ground, and the planning system steps in retroactively to approve and expand construction.
- The planning system thus effectively serves as a tool for the settlers to secure their objectives (which are also state objectives – the seizure of as much land as possible, the displacement of Palestinians, and the creation of spatial fragmentation that prevents the possibility of Palestinian development.
- The Civil Administration is legally responsible for making planning considerations for the benefit of the protected Palestinian population, but it undertakes virtually no planning for Area C Palestinian communities, and plans submitted by Palestinians themselves are not approved.



**Palestinians in Area C face planning restrictions, home demolitions, and struggle to access fundamental necessities like water and electricity while Israeli settlers successfully circumvent the law, build outposts in illegal areas and connect to infrastructure. Regularizing illegal outposts undermines the rule of law, perpetuates two unequal legal systems for Israelis and Palestinians, and fosters further territorial and infrastructural chaos which exacerbates tensions and instability in the region.**

In its 19 July 2024 Advisory Opinion on the Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, the International Court of Justice specifically confirms that Israeli planning and demolition policy is discriminatory and among the policies and practices which infringe on the right to self-determination of the Palestinian people. The advisory opinion concluded that Israel must, inter alia, repeal all legislation and measures that discriminate against Palestinians and/or aim to alter the demographic composition of the occupied territory.

Image Description: The beginning of the building of an illegal outpost taken from inside the village of Ras Ein Al Auja

