



Shady Dealings in Silwan

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Ir Amim (“City of Nations” or “City of Peoples”) is an Israeli non-profit, non-partisan organization founded in order to actively engage in those issues impacting on Israeli-Palestinian relations in Jerusalem and on the political future of the city. Ir Amim works to render Jerusalem a more sustainable and equitable city, while promoting the conditions for a more stable political future.

TABLE OF CONTENTS

Introduction: Why Silwan?	5
Chapter 1: Historical background	7
Chapter 2: The struggle over the lands of Silwan	9
2.1 Background	9
2.2 The Custodian of Absentee Property	11
2.3 Dubious purchases in Silwan	15
2.4 Settlement in national parks	19
2.4.1 Control above ground	19
2.4.2 Control under ground	22
2.4.3 Pulling the land out from under the residents' feet	23
Chapter 3: Archaeology and historic memory	27
3.1 Whom do the salvage excavations salvage?	27
3.2 Rewriting historic memory	27
3.3 Military study tours: at Elad's expense	28
Chapter 4: On the way to Disneyland: the future Silwan as an archaeological amusement park	31
Chapter 5: The second annexation of East Jerusalem	35
Conclusion	39
Appendix 1: The settlers' "private police:" life under the watch of security cameras	41
Appendix 2: The refusal of the Ministry of Justice to reveal Elad's financial sources	42
Appendix 3: A private organization as an arm of government: the case of Elad	44
Appendix 4: The responses of the public institutions mentioned in the report	46

SILWAN VILLAGE



Photograph: Ahmad Sub Laban

INTRODUCTION: WHY SILWAN?

The issue of Jerusalem is the most complicated issue on the Israeli-Palestinian negotiating table, and embodies the essence of the conflict over territory, religion and nationhood. It is so significant that a resolution on Jerusalem would pave Israel's way to an agreement with the Arab and Muslim world at large. The problems of Jerusalem are fundamental and practical and involve questions of sovereignty, division, integration or separation of the city from the urban continuity surrounding it, and more. But all parties agree that the heart of the dispute beats in the Holy Basin: the Temple Mount (al-Haram al-Sharif), the Old City and its surroundings.

The potential for conflict to erupt at the Temple Mount is well known: among other things, the opening of the Western Wall tunnel in 1996 ended with dozens of Israeli and Palestinian fatalities, and in September 2000 the second intifada broke out following Ariel Sharon's ascent to the Temple Mount. However, while the area of the Temple Mount is scrutinized under a magnifying glass, the neighborhood of Silwan, which is adjacent to the Old City and the Al-Aqsa Mosque to the south, and which is located in the heart of the Holy Basin, has been the site of drastic changes in the status quo: Silwan has undergone an accelerated process of Israeli takeover, primarily in the area of the City of David, as it is known by Israelis, or Wadi Hilweh, as it is known by Palestinians.

In recent years, significant parts of the area have been wrested away from the local population. Public land and property have been "privatized" without tenders and handed to private organizations from the ideological right. These organizations act as contractors that receive the protection of government agencies, but they are not held accountable to the public or subject to the legal and administrative restrictions that apply to government bodies.

Israeli policy openly discriminates against the Palestinian residents of Silwan and aims to displace them. This informs the most recent plan by the Jerusalem Municipality to evict the residents of the al-Bustan neighborhood of Silwan and destroy their houses, on grounds of illegal construction, and establish an archaeological park in their place. The goal of this process is to transfer additional land from Palestinian residents to Israeli control, relying on a dubious legal pretext to advance a political agenda.

This policy has been inciting tensions between Jews and Palestinians in the neighborhood, and its continuation could add a religious and communal dimension to a national conflict. The lands of Silwan are already bisected by archaeological excavations, which, despite their historical, national, and universal significance, have been entrusted to private bodies. Some of the excavations are closed to the general public. These activities raise suspicions that the archaeological excavations are a means of gaining control of village land, while their findings serve to rewrite historical memory. Recently, a tunnel has begun to be excavated, beginning at Siloam Pool, and it is supposed to bisect the neighborhood until its summit and extend to the edge of the Temple Mount.

This is a massive settlement enterprise. Is it the product of an official government decision, accepted following exhaustive discussions and presented in its entirety to public discussion? It does not seem so. Yet, nevertheless, as documented in this report, the process of gaining control is being carried out with the initiative, encouragement, aid, funding, support, and protection of the authorities, and their national and municipal arms.

Town Plan Scheme 11555, presented by the Jerusalem Municipality, lets the cat out of the bag regarding Israel's intentions for Silwan and the Palestinian areas surrounding it.

Silwan is a case study of Israeli policy in East Jerusalem. At the same time, there is a growing impression that Silwan is the keystone to a sweeping and systematic process, whose aim is to gain control of the Palestinian territories that surround the Old City, to cut the Old City off from the urban fabric of East Jerusalem, and to connect it to Jewish settlement blocs in northeast Jerusalem and the E-1 area.¹

These plans have a decisive political and international significance, because their implementation would further complicate the possibility of arriving at a viable agreement between Israel and the Palestinians, and they are likely to bring Israeli-Palestinian relations in Jerusalem to the boiling point.

This report aims to present to the general public the developments in one of the most sensitive areas of Jerusalem, to expose the problematic nature of Israeli government actions in the area, and to warn of the risks of continuing the process.

¹ This process has already accelerated the economic, cultural, and social degeneration of East Jerusalem. See Ir Amim's report: "Jerusalem 2000: State of Affairs," [http://www.ir-amim.org.il/Eng/_Uploads/dbsAttachedFiles/AnnualReport2008Eng\(1\).pdf](http://www.ir-amim.org.il/Eng/_Uploads/dbsAttachedFiles/AnnualReport2008Eng(1).pdf)

CHAPTER 1: HISTORICAL BACKGROUND

The origin of the name “Silwan” is apparently the name “Siloam,” which appears in the writings of Josephus Flavius, and is the Latin form of “Shiloah,” the name of the pool to which the famous channel leads. To Palestinians, the name “Silwan” denotes the area of 2,194 dunams in southeast Jerusalem that is home to 31,000 people, most of whom are Palestinian.² Silwan borders on the southern wall of the Old City and Mt. Zion to the north; the neighborhood of Abu Tor to the west, the Mount of Olives to the east, and the neighborhood of Jabel Mukaber to the south and southeast. The neighborhoods of Wadi Qadoum, Ras al-Amud, Wasat al-Balad, Kharat al-Tank, Bir Ayoub, al-Yaman, Ein al-Louzah, al-Bustan, and Wadi Hilweh are all considered parts of Silwan in terms of the familial and geographic links between their residents.

Since the beginning of Israeli settlement in the area in the 1990s, Israeli officials and media have widely used the name “City of David” to describe part of Silwan. In the narrow sense, the name City of David refers to the hill upon which stood ancient Jerusalem, bordered by the Temple Mount to the north, by Wadi Hilweh Street (or its Israeli name, Ma’alot Ir David, or City of David Ascent) to the west, and by the Kidron Valley and the Gihon Spring to the east. For the Palestinians, the City of David area is a part of the Wadi Hilweh neighborhood, which is part of greater Silwan.

In the second half of the 19th century, archaeological missions began excavating this hill, which slopes down from the Dung Gate toward the Gihon Spring and the Siloam Pool.

The excavations, which have continued on and off to this day, have revealed that the area has been inhabited almost continuously since the fourth millennium BCE. Impressive fortifications revealed on the slope of the hill, as well as a sophisticated water system that was excavated, all testify that a sizable city stood in this place as early as the 18th century BCE – the Canaanite Period, which preceded the Israeli conquest by 700 years.

Researchers are divided over the significance of the city in the 10th and 11th centuries BCE, the period of the “united kingdom” of David and Solomon. According to Samuel 2, David conquered the city from the Jebusites and named it after himself, the City of David. Archeologist Eilat Mazar claims that she discovered, at the peak of the hill, remnants of the palace of King David, but most researchers say the findings are weak and insufficient to prove the existence of a governmental center from that period on that hill.³

On the other hand, it is agreed that the area was used as a Hebrew governmental center in the period of the late Judean Kingdom (the 6th-8th centuries BCE): thus, in 1880 a Hebrew inscription was found marking the completion of the excavation of the Siloam Channel, which carried water from the Gihon Spring to the Siloam Pool, and was quarried during the reign of King Hezekiah (8th century BCE).

² 2006 Statistical Yearbook

³ For the archaeologists’ dispute and a discussion of the findings of Professor Yigal Shiloh of Hebrew University and Professors Ronny Reich and Eli Shukrun of the Israel Antiquities Authority, see section 3.2 as well as <http://www.cityof david.org.il/images/pdf//8.pdf> [Hebrew].

The archaeological excavations have revealed evidence of the destruction of Jerusalem after Nebuchadnezzar conquered the city in 586 BCE. The area was populated later, in the days of Ezra and Nehemiah (6th century BCE). In the time of the Second Temple, most of the Jewish population resided within the walls of the city. According to archaeological and historical findings, settlement in the area continued after the destruction of the Second Temple (70 CE). In the Byzantine and early Muslim periods (the Abbasid period), the settlement in the area was quite developed, including a Karaite neighborhood. The area was destroyed in an earthquake in 1033, and from then until the start of the modern era the hill was only sparsely populated. Over the years, the village of Silwan grew on the hill east of the Kidron River Valley, and its residents continued to cultivate the land of Wadi Hilweh, west of the river. According to British maps, in the 1930s some twenty houses stood in Wadi Hilweh. Silwan was apparently included in Jerusalem's jurisdiction only in the Jordanian period, in 1951-1952.

At the beginning of the 20th century, Baron de Rothschild acquired land on the eastern slopes of the Wadi Hilweh hill with the intention of dedicating it to archaeological excavations. A short time earlier, in the 1880s, a group of Jews purchased lands in southern Silwan, where they established a community known as Kfar Shiloah (Shiloah Village). At its height, over a hundred Jewish families of Yemenite origin lived there. During World War I, residents began abandoning the village and by the late 1920s (the 1929 riots) and the "Arab revolt" of 1936, Kfar Shiloah emptied of its Jewish residents. As far as we know, during this period, only a single Jewish family lived in Wadi Hilweh itself, in a house known today as the "Meyuhas house," and left during the 1930s.

* * *

The "area of contention" covered in this report is the slope upon which stands the historic City of David, including the eastern slopes of Mt. Zion and the al-Bustan neighborhood, located in the valley between the hill of Wadi Hilweh/City of David and the ancient part of Silwan (Wasat al-Balad). The area encompasses only 117 dunams. According to estimates, approximately 2,600 Palestinians and 60-70 Jewish families live in the area, in addition to around 10 Jewish families who live in two buildings in the "Yemenite neighborhood," in the Wasat al-Balad neighborhood (see map of Silwan).

CHAPTER 2: THE STRUGGLE OVER THE LANDS OF SILWAN

2.1 BACKGROUND

Since the occupation and annexation of East Jerusalem in 1967, Israel has deepened its control of the eastern part of the city. Most of Israel's effort has been official: Israel has expropriated tens of thousands of dunams in East Jerusalem from Palestinian owners in a process known as "expropriation by the Ministry of Finance." The Ministry of Housing has planned and built nearly 50,000 housing units on these lands, and municipal planning institutions have advanced the establishment of the new neighborhoods, which today house approximately 190,000 people, nearly all of them Jewish.

Teddy Kollek, who was mayor of Jerusalem from the occupation and annexation of East Jerusalem in 1967 until 1993, opposed Jewish settlement in Palestinian neighborhoods, fearing that such a step could lead to friction and violence that could threaten Israel's very rule over East Jerusalem, and that a change in the status quo of the holy sites could ignite a religious conflagration and lead to international intervention. The one exception to this policy was settlement in the Jewish Quarter of the Old City, which began immediately after June 1967.

Things changed in the mid-1980s. Ariel Sharon, Minister of Planning and Construction, encouraged Jewish settlement in East Jerusalem. Sharon himself purchased a house in the Old City, and his office orchestrated the transfer of dozens of properties in the Old City and throughout East Jerusalem to settler organizations, which implement right-wing national-religious policies as part and parcel of their declared world view. This policy was temporarily delayed following the Klugman Commission's presentation of its conclusions in 1992 (see below), but from the late 1990s, the momentum accelerated again. Nonetheless, in light of the relative failure of Israeli settlement in the Old City, which remained sparse despite attempts to increase it,⁴ settlement efforts were redirected outside of the Old City walls, most of all to the Wadi Hilweh/City of David neighborhood of Silwan.

This effort has been motivated by two main forces. The first is the national-religious motive, which draws its strength from deep currents in the religious right. It is complimented by the political will, which significantly intensified after the 1993 Oslo Accords, to thwart any possibility of dividing the city as part of a future peace agreement between Israel and the Palestinians.

As we will see below, the main settlement momentum in East Jerusalem has been aided, directly and indirectly, by senior government officials in the various Israeli administrations in the 1980s, 1990s and 2000s.

* * *

Since 1967 the number of residents in Silwan has increased significantly, and the village has assumed a more urban character. Over the years, the village suffered from neglect on the part of Israeli authorities: Silwan ranks at the bottom of areas in Jerusalem according to the Central Bureau

⁴ As of August 2005, 35,000 Palestinians lived in the Old City, compared to 60 Jewish families and 400 yeshiva students, not including the Jewish Quarter (source: report by the Public Committee for the Examination of the Protection and Security of East Jerusalem Sites).

of Statistics' socio-economic index.⁵ Many of Silwan's roads are unpaved. The village lacks regular garbage collection and some of its houses are not connected to the sewage system. One high school serves 31,000 residents, and students are forced to travel to distant schools in the city. The neighborhood does not have a public youth center or community centers in general, nor does it have a single public park.

But the main tool with which Israel has managed to gain control over sizable parts of Silwan on the one hand, and to undermine residents' hold on their land on the other, was and is: laws in general, and construction laws (and the lack thereof) in particular.

In the 42 years of Israeli control over East Jerusalem, the planning institutions have approved a scant number of town planning schemes, which refer to a small fraction of Silwan's territory. In the Wadi Hilweh and al-Bustan area, not a single town planning scheme has been approved, except for a general plan called Eastern City Plan 9 (AM/9), which designates the area as a "special public area," where construction requires special permission, and another plan, AM/6, which is also mainly a preservation plan, and is quite similar to plan AM/9. Since 1967, fewer than 20 construction permits have been issued to Palestinians in the Wadi Hilweh area, and those too were mainly for minor additions to existing construction.

The lack of town planning schemes is a decree by which a community that wishes to live and grow simply cannot abide. In the absence of any town planning schemes – which are the **necessary** legal basis for any construction plan – as of 2009, **the vast majority of buildings in Silwan in general and in al-Bustan in particular were built without permits**, and thousands of residents of the village are construction offenders in theory and in practice. Since 1967, hundreds of Palestinian residents have been convicted for building without permits and have been fined for amounts ranging from a few thousand to tens of thousands of shekels, and hundreds of houses have been demolished. Against this background, the Jerusalem Municipality announced that it intends to carry out massive house demolitions in the al-Bustan neighborhood on the grounds of their being "illegal."⁶

The policy of enforcing construction laws is completely different when it comes to settlers' homes in Silwan, as is seen in the case of "Beit Yehonatan," a seven-story building built by a Palestinian contractor for the Ateret Cohanim organization in the heart of the Yemenite Neighborhood in Silwan. The building was erected without a permit and deviated from the regional outline plan, which permits building up to two stories. The legal counsel of the Municipality of Jerusalem testified in writing that he was under heavy pressure from right-wing Knesset members and even from senior officials of the Municipality of Jerusalem to "legalize" Beit Yehonatan. Despite the illegality of its very existence, the entrance to Beit Yehonatan received constant police protection,⁷ and until today its tenants continue to receive ongoing security protection, financed by the Housing Ministry (see appendix).

⁵ Central Bureau of Statistics, "Characterization of geographical units and their classification by the socio-economic level of the population." 1995 Population and Housing Census, Publication no. 13 (table 7), Jerusalem, 2000.

⁶ That is Israeli policy in East Jerusalem in general. See Ir Amim's report, "Jerusalem 2008: State of Affairs," *ibid*.

⁷ In January 2007, the Jerusalem Civil Court for Local Affairs ordered the house to be sealed. Since then, the case moved through all the instances of the court system and they all upheld the ruling. Since July 2008 there has been an "active order," i.e., a court order that the municipality executes immediately (criminal file 7470/05, Judge E.Z. Ben Zimra, Jerusalem Civil Court for Local Affairs. Judge G. Canfy-Steinitz of the Jerusalem District Court rejected the appeal, and the defendants were not allowed to appeal to the Supreme Court); on the attempts to "legalize" the house, see Advocate Havilio's letters to the minister of housing, to the attorney general, and to the police commissioner, August 22, 2005 and October 15, 2007. On the police protection during the entry/break-in to the building, see deposition by Police Superintendent Shalom Moha from April 21, 2004; on the Housing Ministry's financial support, see criminal file 7470/05 and Appendix 3 of this report.

* * *

While Israel systematically undermines the legal connection between the residents of Silwan and their homes and lands, it has deepened its control of the village in three stages, all of which are connected to land and houses:

- * Until 1992, by seizing houses, some of which were declared “absentee property,” on the basis of the Absentee Property Law.
- * After 1992, by buying houses from Palestinians, through a process which involved, according to witnesses and accomplices—and according to Israeli court rulings—threats, false depositions, forged documents, and posthumous witness signatures (!).
- * Since the late-1990s, by the massive transfer of properties and public lands of great (historical and archaeological) national and universal importance, to the exclusive control of organizations from the ideological right, which act to physically assert Israeli presence both above and below ground.

2.2 THE CUSTODIAN OF ABSENTEE PROPERTY

The first settlers from the Elad (an acronym for El Ir David, “To the City of David”) organization entered the City of David/Wadi Hilweh in October 1991 after comprehensive preparation by Ariel Sharon, then the Minister of Construction and Housing, and with the active help of his ministry. Ministry companies transferred properties inhabited by Palestinian residents to Elad in exchange for nominal sums of money, after some of those properties were taken away from their Palestinian owners on the basis of the Absentee Property.⁸

The main (but not only) execution contractor of this policy was the Elad organization, founded in 1986 by David Be’eri, former deputy commander of the Duvdevan Special Forces Unit, with the goal of “redeeming land and returning Jewish awareness to the City of David.”⁹ Elad, there should be no doubt, is part and parcel of the settlement movement,¹⁰ but as this report shows clearly, in the saga of Silwan and the settlements in East Jerusalem, Elad serves for all purposes as a government agency.

The method of taking control of property worked like this: Be’eri, the Jewish National Fund, and Hemanuta (a subsidiary of the Jewish National Fund) reached an unwritten agreement that Be’eri would identify property that had been owned by Jewish families in Silwan in the early 20th century, and the Jewish National Fund would act to evict the Palestinians who lived in them for decades

⁸ The Custodian of Absentee Property is a body formally belonging to the Ministry of Finance. Under the law, it is allowed to register property as “absentee” if it has been proven that the owner of the property was absent on the effective date in May or June 1948. The registration process of the property as absentee is not public and the owner of the property has no way to know that his property was registered as absentee; he cannot stop the expropriation with legal measures; and he is not entitled to compensation for property registered as absentee. However, he can go to court and ask to cancel registration of the property as absentee if he can prove that the owner of the property was not absent on the effective date in 1948.

⁹ Elad statement, Registrar of Nonprofit Associations.

¹⁰ The members of Elad’s board included among others Uri Elitzur, Adi Mintz and Avi Maoz, members of the settlers’ YESHA Council leadership. And in 1999 it received from Amana, the Gush Emunim settlement movement, a NIS 750,000 donation.

since. Elad undertook to compensate the Palestinians who were evicted from their homes and in exchange to rent or lease the properties from the Jewish National Fund for token fees- usually protected tenancy - for an unlimited period of time. Those agreements were reached and made without tender.¹¹

So, for instance, in 1987 an agreement was signed between the Jewish National Fund and Elad that the organization would pay eviction compensation to the Gozlan family who lived in a property that had belonged in the past to the Jewish National Fund, and in exchange the Jewish National Fund would give Elad a protected tenancy contract for the property.¹² The fact that the father of the Gozlan family saved Jewish lives in the 1929 riots did not help Mohamed Gozlan and in 2005, after exhausting protracted legal procedures, he was evicted from his home with his family.¹³

Another method of acquiring houses was by the Absentee Property Law: The Custodian of Absentee Property would declare certain Palestinian properties “absentee property,” as a result of information that he received, among other things, from the very same settler organizations and a Palestinian who worked in their service and signed a series of depositions, some of which were false.¹⁴ The “absentee” homes were transferred to the Israel Lands Authority’s Jerusalem Development Authority and from there to the Amidar Company or another branch of the Housing Ministry, which, in turn, transferred them to Elad under protected tenancy contracts and in exchange for minute sums.

It is important to note that as early as 1968, Attorney General Meir Shamgar forbade the Absentee Property Law to be applied to Palestinians from East Jerusalem living in Judea and Samaria (i.e., under Israeli rule), but after the administration of Menachem Begin was established in 1977, at the initiative of then-Agriculture Minister Ariel Sharon, the law was reactivated “as a temporary arrangement until it is reviewed.” In 1992, following the Klugman Commission report (see below), Attorney General Harish ordered that the use of the law be terminated; in 2004 the Sharon government decided to activate it again, but a year later Attorney General Mazuz ordered application of the law to “stop immediately,” while quoting Shamgar’s arguments.¹⁵

In the course of taking over property in Silwan, the problematic law was applied extensively. One of the properties the custodian seized in Silwan was the Abbasi family home (later called the “Castle House”), near the Gihon Spring, which included nine apartments and two warehouses.

¹¹ For full details of the “method,” see petition 4747/91 submitted by Elad to the High Court of Justice, where it demanded to remain in the properties it took over in this way.

¹² Petition 4747/91, *ibid.*

¹³ Directly after the occupation of East Jerusalem in 1967, a Yedioth Achronoth correspondent arranged a meeting between Yosef Maimoni, the son of Shlomo Maimoni, the Rabbi of Kfar Hashiloah in the 1920s, and Mohamed Gozlan, who possessed a letter from Shlomo Maimoni, saying that his [Gozlan’s] father had rescued the neighborhood’s Jews in 1929. At the time, Maimoni told Gozlan that he “feels the need to honor my late father’s signature... God forbid we should be ungrateful, we will do anything for you” (Yedioth Achronoth, September 20, 1967).

¹⁴ In an opinion from November 1991, Attorney General Harish stated that the Palestinian, on the basis of whose depositions the properties in Silwan were declared absentee property, had once been suspected of submitting a deposition “without any basis.” Whereas Aharon Shakarji, then the Custodian of Absentee Property, testified to the Knesset oversight committee that a certain Palestinian had declared “maybe ten or fifteen” absentee properties in East Jerusalem, and that he [Shakarji] declared the properties absentee following those depositions; Shakarji added that he was willing to accept depositions from someone who “it was known that in the past had committed perjury.” “Is it enough for you to get a letter from somebody and you grab the property?” Member of Knesset Haim Oron asked him. “Yes,” replied Shakarji.

¹⁵ “We see no justification for the annexation of East Jerusalem, and it alone, to lead to the seizure of the property of a person who is not actually absent, but has been, since the time the property fell into our hands, in the area under the control of IDF forces,” Shamgar is quoted in Attorney General Mani Mazuz’s opinion from February 1, 2005. <http://www.justice.gov.il/MOJHeb/YoezMespati/News/nifkadim.htm> [Hebrew].

David Be'eri of Elad had his eye on the Abbasi house and posed as a tour guide so he could see the house from the inside.¹⁶ In September 1987 the Abbasi house was declared "absentee," as a result of the pressure that the Israel Lands Administration and Be'eri put on the Custodian of Absentee Property, according to the latter's testimony.¹⁷ In July 1991 the Amidar Company rented the property to Elad and on October 10 that year, members of Elad broke into the house in the middle of the night while the family was sleeping. The intruders suspended themselves by rope from a window in the roof, broke door locks, threw furniture into the courtyard and ascended on the roof, where they broke into song and dance and waved the Israeli flag in the light of the breaking day.¹⁸

The Jerusalem District Court ruled that the declaration of the Abbasi home as absentee property was based on a false deposition, without any factual or legal basis, and the entire process was tainted by "extreme lack of good faith."¹⁹ Nevertheless, to this day that property is subject to convoluted legal procedures and Elad people live in it.

Altogether, in this manner 68 properties in East Jerusalem were transferred to the hands of right-wing organizations, including 14 in Silwan that were transferred to Elad. According to figures collected by Advocate Daniel Seidemann of Ir Amim, the Jewish National Fund and the Custodian of Absentee Property transferred 28 dunams in Silwan to Elad. In addition, according to Seidemann's figures, the government gave Elad two more dunams that it owned in Silwan, a legacy of land that the British mandate government had expropriated and lands that the State had purchased at the settlers' request. All in all, the State and the Jewish National Fund gave Elad 36 dunams of the total area (about 116 dunams) of the City of David/Wadi Hilweh, or **one quarter** of the the neighborhood's land.

In light of the findings of the Klugman Commission (1992)²⁰, we can outline the dynamic by which properties such as the Abbasi house were transferred from Palestinian hands to Israeli ownership, under the auspices and support of government agencies:

1. Representatives of the settlers organizations (Elad, Ateret Cohanim) identified Palestinian properties and were involved in the process of declaring the property as absentee. Some of the depositions were signed before the organizations' own lawyers and many of them were signed by a serial deposer who was proven to be unreliable.

¹⁶ "Abbasi was the guard of the spring... [so] Davida'leh took a tour guide card and put in his picture, and for a long time he would take bogus tourists on a tour... and slowly he befriended Abbasi... of course it was all staged" (conversation with Michal Be'eri, David Be'eri's wife, the Elad archive).

¹⁷ At the Jerusalem District Court hearing in the case of the legacy of the late Ahmad Hussein Musa al-Abbasi et al v. the Development Authority et al, civil file 895/91, Shakarji testified that he was satisfied with the deposition placed on his desk and did not personally check whether the Abbasi house was an absentee property; he added that the Israel Lands Administration pressured him to declare properties in Silwan as absentee property and transfer them to the Jerusalem Development Authority. Shakarji testified that Be'eri himself was involved in that pressure.

¹⁸ Arieh Dayan, "The Book of Silwan," (unpublished).

¹⁹ "Not only was the good faith of the custodian [of absentee property] not proven," wrote Justice Brenner in his ruling, "but it has been proven beyond doubt that both the declaration of the entire property as absentee property and its sale to the JDA are both unacceptable because they were done in an extreme lack of good faith and there is no factual or legal basis to legalize them." Legacy of the late Ahmad Hussein Musa al-Abbasi et al v. the Jerusalem Development Authority et al, civil file 895/91

²⁰ Report of the committee to examine buildings in East Jerusalem, September 10, 1992 [at the time Klugman was the director general of the Ministry of Justice].

2. The Custodian of Absentee Property (Ministry of Finance) declared the property to be absentee without checking the veracity of the depositions.
3. The custodian 'sold' (for nothing) the property to the Jerusalem Development Authority (of the Israel Lands Administration).
4. A joint committee of the Amidar Company and the Ministry of Housing decided to whom to lease or rent the properties. The committee included representatives of the right-wing organizations such as David Be'eri (Elad) and Avi Maoz (Elad and later the director general of the Ministry of Housing under Minister Natan Sharansky) who were involved, as mentioned above, in "marking" the properties as absentee; as Amidar project managers they also determined the amounts of money that would be allocated for renovating the said properties before they were handed over to the tenants, and approved their security budgets. All told it amounted to tens of millions of shekels.²¹
5. The same committee members also decided to lease or rent the properties to Ateret Cohanim (in the Old City) and to Elad (Silwan) - that is, to the organizations they headed.

In theory, Elad continued to be a private political organization; in practice, it served as an arm of the government. The Klugman report (ibid.) may have defined those practices as "a serious conflict of interest," but the emerging picture is of an identity of interests: senior government officials initiated the policy, official agencies funded it and supported it; and Elad carried it out. In the words of Doron Spillman, Elad's development manager: "We are almost a branch of the Government of Israel."²²

* * *

Police initially objected to settlers moving into Silwan out of concern for "public welfare," and the settlers were evicted from most of the compounds in which they lived. But in December 1991, as a result of pressure from right-wing ministers, the government ordered the return of the settlers to the Silwan compounds "until their rights were clarified." To this day most of the Jewish families in the City of David/Wadi Hilweh are living in those properties.

Following the findings of the Klugman Commission, the government, headed by then-Prime Minister Yitzhak Rabin, instructed the State Comptroller's Office to investigate the affair, but the investigation was discontinued at the request of the security cabinet.²³

In May 1998 Avraham Haleli, then a senior Jewish National Fund official, explained the organization's policy towards Elad and Silwan in testimony he gave in court: "This is the Jewish National Fund's land policy: that [land] be leased to Jews with the goal of settling Jews in the Land of Israel [...]."²⁴

²¹ The Klugman report states the sums of NIS 23,403,504, 15 million old shekels, \$807,000 and 270,000 Jordanian dinars, but speculates that the total sum may have been higher. The Klugman report, ibid.

²² Conversation with Doron Spillman, January 2008.

²³ According to Haim Oron, the Minister of Agriculture in the Rabin administration, August 2008; prima facie, the instruction to discontinue the investigation was illegal. In November 2008, a source in the state comptroller's office, who asked to remain anonymous, said that the investigation was stopped because its findings "could have seriously embarrassed the State."

²⁴ Testimony of Avraham Haleli at the District Court, civil file 000746/1993 from May 25, 1998.

It is interesting to note that Ariel Sharon, the Housing Minister and eventually the Prime Minister, chose to present his views as part of a petition submitted by Elad: “The City of David is a place of immense importance to the Jewish people from many aspects including the historic, national and religious aspects [...] The site is close to the walls of the Old City and to the Jewish Quarter and it could fit in well with the areas of Jewish settlements around it [...] Settling Jews in homes in the City of David [...] can make a significant contribution [...] In light of the aforementioned and in accordance with government policy, my ministry has welcomed and continues to welcome the petitioner’s activities to purchase the rights in the houses in the City of David and to populate them.”²⁵

Sharon’s answer and the various reports on the affair show clearly that settlement in Silwan was made possible by an explicit but undeclared Israeli policy involving senior figures in various government ministries, the Finance Ministry (the Custodian of Absentee Property), the Housing Ministry, the Israel Lands Administration, the Jewish National Fund and other government companies, and with help from the security forces (see below) and cooperation from the Jerusalem Municipality. Those systems all worked to expropriate properties from their Palestinian owners in the Old City and Silwan and transfer them to private Jewish organizations. That policy generated a dramatic change in the political situation in East Jerusalem in general and in Silwan in particular, without being openly discussed by the public, the Knesset or the government.

2.3 DUBIOUS PURCHASES IN SILWAN

After the conclusions of the Klugman Commission were published in 1992, the actions of the “shadow cabinet” were curbed, and in the following decade Israel’s settlement enterprise in Silwan switched to a different method: the direct purchase of properties from their Palestinian owners in Silwan. That is how the area called the “Givati parking lot” was bought in the northern part of the neighborhood, bordering on the wall of the Old City and near the Dung Gate; part of the “Aderet compound” in the middle of Wadi Hilweh Street, which the municipality calls the “Ma’alot Ir David” (“the ascent of the city of David”), and which was bought by Irving Moskowitz’s Everest Foundation, as well as the area containing “Beit Yehonatan,” built for the Ateret Cohanim organization in southern Silwan, with a pending order for evacuation and sealing. Likewise, representatives of the settlers have claimed in various interviews that they have bought additional properties in Silwan but haven’t moved into them, in order to protect the lives of the Palestinian sellers. This report has no information that could refute or confirm those claims.

In 2008 David Be’eri, head of Elad, said: “To this day our purchases have been tested with dozens of legal tests and never has any doubt been cast on our conduct, not even once.”²⁶ Reality presents a different picture.

At least in some of the transactions where Palestinians supposedly sold properties in Silwan to Jews, the buyers made use of fake documents. In at least one case the court nullified such a transaction.

²⁵ High Court of Justice 4747/91.

²⁶ Interview in Maariv, June 23, 2008.

In another case police are investigating suspected criminal aspects in a transaction to Jews. There is also proof of pressure being placed on Palestinians to sell properties to Jews.

The house purchases are conducted with the precision of military operations. "When I enter a house," Be'eri told Minister Avi Dichter,²⁷ "I go in as if it were a military operation [...]. Always with a gun, with radio, with someone with me and with somebody outside that knows." Before the purchase an intelligence network is used to find out about, among other things, conflicts and disputes among Palestinian families in Silwan that could help to buy a property. A central figure in that intelligence network is Asaf Nechmad (see below). Mohammad Maghara, a Palestinian who served as a straw-man in transactions between Palestinians and settlers from Ateret Cohanim, testified that he had been recruited to work for the settlers after he got in trouble with the law. His recruiter was a member of the Jerusalem Police Department's minority division. Eventually, another senior officer from the minority division drafted a "pact of silence" between Maghara and the settlers, in which Maghara was paid a silence fee so he would not tell about his activity for Ateret Cohanim.²⁸ According to Maghara, many of the Palestinian "straw-men" used by the settlers have criminal records.

Following is a representative sample of those "transactions":

In June 1994, Jamil Siyam, whose house is on the main street of Wadi Hilweh/City of David, passed away. In January 1996 a man named Yehoshua Harling approached members of the family and claimed that the house belonged to him by virtue of an agreement signed with their father in 1991. The members of the family claimed they knew of no such agreement. Harling sued the family. In a trial held at the Jerusalem District Court it emerged that in the negotiations with Jamil Siyam, Harling was actually a straw-man on behalf of Elad and David Be'eri. Ultimately, Judge Ruth Orr rejected Harling's lawsuit and ruled that Harling and Elad "concealed" from the court material documents and only admitted to their existence "after they were discovered by accident by the respondents." The judge said of Be'eri that "his testimony [...] was not credible."²⁹

And the members of Siyam family? "My brother lost his job," Samira Siyam said in a conversation in August 2008. "They destroyed our lives. We got a bad name..."

A house in Wadi Hilweh was sold to the settlers, among other things, on the basis of documents signed posthumously by the owner of the property. "They stamped two of my grandmother's fingers, from her left hand and her right hand, on six documents," testified Lutfi Siyam, one of the mukhtars of Silwan (appointed by the Israeli government and confirmed by the police and the General Security Services), in court. "Everybody saw it and everybody witnessed it... I don't know whose idea it was."³⁰

A key decision-maker in the purchase transactions of the right-wing organizations in Silwan is Asaf Nechmad,³¹ who introduces himself as a "real estate broker."

Nechmad worked for Elad from 1994 to 1999 and, among other things, was involved in the procedures to buy two plots of land from Palestinians in the "Yemenite neighborhood" in Silwan for Ateret Cohanim. As part of that transaction, letters were sent to the land owner from "Advocate Aviad Nachman" warning that he, Maraji, had debts to the tax authorities. But according to an examination

²⁷ Conversation between David Be'eri and Avi Dichter, "Ir David," November 2008.

²⁸ The testimony of Advocate Namir Hussein, who was involved in drafting the pact. Acre Magistrate Court, civil 1084/06.

²⁹ She added: "Suffice it to read his testimony in court to realize how unconvincing it is." Civil file (Jerusalem) 1185/96.

³⁰ Jerusalem District Court, criminal procedure 325/96.

³¹ See testimony of Asaf Nechmad, Jerusalem Magistrate Court, civil file 19168/91, where he related that he "collects information from various sources" about the personal lives of Palestinian residents of Silwan.

by the Azimut Institute, which specializes in document verification and gives services to the Israel Police, the letter was found to be forged: the Israel Bar Association has no registered lawyer named Aviad Nachman, no person of that name lives at the address that appears on the document, and the forged letter was printed with the same printer used to produce an authentic letter from Asaf Nechmad, signed with his hand.³² A police investigation into the matter was transferred to the state prosecution and returned to the police for completion. It included the interrogation under warning of Mati Dan, head of Ateret Cohanim.

Asaf Nechmad is also involved in another affair of forged documents, on which the supposed “purchase” of the “disputed house” in Hebron was based.³³

As reported above, due to the lack of town plan schemes in Silwan, most of the Palestinian construction in the area is done without building permits; and legal procedures, fines and demolition orders are pending against many residents. Residents of Silwan say that representatives of the settlers approach them and promise that if they sell their real estate to Jews, the legal procedures against them will be dropped. Senior officials in the Jerusalem Municipality confirmed that settler representatives approached them more than once to find out whether and how they could close illegal construction cases, **after** the real estate was sold to Jews.

Following is the transcript of a conversation between Asaf Baruchi, the Ateret Cohanim “operations officer,” and a Palestinian contact person, about buying a property in the “Yemenite neighborhood” of Silwan. This conversation seems to indicate that a representative of a rightist organization claims to be **initiating** the opening of files against Palestinians, to use them to apply pressure to sell real estate. Following is an excerpt from the conversation:

Contact: “The guy [the Palestinian seller] asked if you are willing to get the police and the city off his back and close his file. He’s willing to sit and talk.”

Baruchi: “He has to talk first.”

Contact: “But can you close his file?”

Baruchi: “Of course we can... we can close all of his files because we are the ones who opened them.”

Contact: “**You** opened them, or the city and the police?”

Baruchi: “... it is not exactly that they opened them.”

Contact: “Is this on Mati’s word?” [Mati Dan, head of Ateret Cohanim].

Baruchi: “My word first of all.”

Contact: “And then Mati.”

Baruchi: “Yes.”³⁴

³² Haaretz, January 1, 2005.

³³ Nechmad operated in Hebron on behalf of the Tal Construction and Investment Company, which supposedly bought the “disputed house” from its Palestinian owners. In the police investigation it was discovered that at least five documents the company presented, including documents of vital importance for the transaction, were “systematically forged,” some by forging signatures and some by “double forgery” of signatures and stamps. In this affair Nechmad was interrogated under warning. In August 2007 Nechmad was interrogated by the Hebron police on suspicion of forging documents and fraudulent receiving, and that is where he admitted that it was he who “cooked” the papers. The file is presently under the prosecution’s review.

³⁴ Phone call between contact man and Baruchi, May 2006.

* * *

Despite the suspicions of criminal activities in the Silwan transactions, no charges have so far been brought in these cases. It should be noted in this context that when members of these organizations enter or invade Palestinian homes, as in the case of the houses in the “Yemenite neighborhood” - they receive police guard, without the police checking the legality of the transactions or the legal status of the buildings into which the Jews move. On the other hand, these cases illustrate the complaints of the Palestinians that the Jewish organizations, and the “straw men” who operate on their behalf, enjoy immunity before the law, and that their chances of winning legal disputes are scant when the settlers present purchase papers of their properties. Moreover, the legal procedures take many years and most of the Palestinians, whose properties have been seized, have difficulty paying for them.

* * *

In an interview given to a local Jerusalem newspaper about a year ago Be’eri claimed that he has excellent relations with the local residents. “There is a lot of trust between us... really excellent neighborly relations.”³⁵ Nonetheless, the settlement in Silwan is guarded by Modi’in Ezrahi company for 20 million New Israeli Shekels a year (as of 2005), funded by the Housing Ministry (see appendix).

According to the Palestinian residents, the Modi’in Ezrahi guards serve as a “private police force” of the settlers: they supervise the movement of the Palestinians in the neighborhood with cameras, restrict their movement and in some cases even arrest them. Following are a few examples:

“A month ago the guards wanted to arrest a boy who had uprooted an iron pole,” said Jawad Siyam, a community activist and one of the heads of the elected committee of the residents of Wadi Hilweh. “One of the guards grabbed the boy and said: ‘you’re under arrest.’ I said to him: ‘how can you arrest him? You are not a policeman.’ The guard said to me: ‘you be quiet,’ aimed a gun at the boy’s head and told him if he went back there he would shoot him. Then a few more guards came and shot in the air. The next day the police arrested the boy.”³⁶ Siyam and other Palestinian residents said that the guards prevent them from parking near their homes and even throw up roadblocks at the entrance to the neighborhood, allowing only Jewish residents to pass through. Recently the security company installed 53 cameras throughout Wadi Hilweh, some above private Palestinian homes, which broadcast to a control center in one of the buildings that is under the control of Elad in the village.

The supervision by the private guards employed by the settler organizations augments the restrictions of movement imposed by the police on the residents of Wadi Hilweh. On Jewish holidays, including Jerusalem Day and Independence Day, the police erect checkpoints at the entrances of Silwan and do not allow vehicles owned by residents to pass through, even though the police had issued them special IDs as residents of Wadi Hilweh. Said Abed Shaludi, a resident of Silwan: “I go into the street and feel it is no longer mine.”

³⁵ Interview with local Maariv newspaper <http://www.nrg.co.il/online/54/ART1/750/203.html> [Hebrew].

³⁶ Conversation with Jawad Siyam, October 2008.

In March 2009 a British television station filmed a confrontation between a resident of Silwan and a settler, who was living in the (former) Gozlan family's house in Wadi Hilweh. The settler demanded the Palestinian to get out of the street, and when the latter refused, the settler threatened to bring "my guards," and did so.³⁷

2.4 SETTLEMENT IN NATIONAL PARKS:

2.4.1 CONTROL ABOVE GROUND

As described above, in the first stage of the settlement in Silwan the government took properties from Palestinians and transferred them directly to the settlers, until the Klugman Commission blocked that channel. The second stage, of direct purchase of property from Palestinians, had only modest success.³⁸ The third stage of the policy began in the 1990s. It sought to take control of the public space in Silwan by transferring the national park that was under the control of the Israel Nature and Parks Authority, including the archaeological excavations in the area, to the exclusive control of Elad. As we shall see below, settlement in the national park is an effective and sophisticated instrument for the de facto takeover of land, and for rewriting the historic memory of the area.

The area of the City of David National Park is 24 dunams. It is located at the heart of the Wadi Hilweh/City of David neighborhood, and includes sites such as Siloam Channel, Siloam Pool and the excavation site at the City of David. In historical values it is exceptionally significant, both nationally and universally. The park is one of the components of the Walls of Jerusalem National Park, whose area is 1100 dunams.³⁹

For many years the Israel Nature and Parks Authority delegated management of the Walls of Jerusalem National Park to the Jerusalem Municipality. But in October 1997 – a year after Benjamin Netanyahu was elected prime minister and Ariel Sharon was appointed Minister of Infrastructure – an "authorization contract" was signed between the Israel Lands Authority and Elad, giving the organization the "guardianship and maintenance" in the confines of the City of David National Park for seven years. The contract was signed without being preceded by a tender, and its existence was hidden from relevant government bodies such as the Israel Antiquities Authority. In its wake, the Jerusalem Municipality, which at the time was headed by Ehud Olmert, transferred its powers in the park to Elad. That contract too was made without a tender.⁴⁰ The transfer of powers was done contrary to the opinion of the senior professional echelon in the Israel Nature and Parks Authority, but with the declared support of the Minister of the Environment, Rafael Eitan.⁴¹

³⁷ Eyewitness testimony, M.R.

³⁸ According to an internal Elad document, as of 2005 only five properties in the City of David/Wadi Hilweh were "private property," meaning property that had been bought from Palestinians. From "New Settlement, the City of David Today," City of David Library, June 2005.

³⁹ At the end of 1968 the National Parks Authority, which eventually merged with the Natural Reserves Authority, submitted Eastern City Plan AM/6, and since 1970 the Walls of Jerusalem National Park has been an official national park.

⁴⁰ The description of the evolution of the signing of the contract: from a letter by Jerusalem Mayor Ehud Olmert, May 10, 1998.

⁴¹ According to Aharon Vardi, director general of the Israel Nature and Parks Authority, "Elad does whatever it wants... no planning goes through us." Vardi even threatened to go to the attorney general (summary of the meeting between Vardi and Amir Drori, Director General of the Israel Antiquities Authority, undated). As for the written summary of a tour for the bureau of the Minister of Environment on April 1, 1998, it said: "The minister was impressed by the settlement activity in the City of David [...] The minister supports transferring responsibility for operation of the national park at City of David to Elad [...] and has ordered the process to be expedited."

The move drew opposition from among archaeologists and the Israel Antiquities Authority, who objected to the park being handed over to a private organization with a clearly political orientation, which is being investigated, along with its director, for illegal construction and destruction of antiquities.⁴² Following a petition to the High Court of Justice, the Israel Lands Administration canceled its permission, and the attorney general told the court that control of the park would be restored to the National Parks Authority, as it had been in the past. It is noteworthy that the Jerusalem Municipality explained the transfer of its powers over the park by saying that it viewed Elad as “an arm of the municipality.”⁴³ In July 1999 the High Court of Justice recorded the Israel Lands Administration announcement, stating that “the petition had reached a satisfactory conclusion” and expressed the hope that in the future “the authorities will act in this matter [the City of David] according to the law.”⁴⁴ In February 2001, following additional proceedings, the prosecution told the High Court of Justice that the authorization to Elad had been canceled and attached to its statement was a contract between the Israel Lands Administration and the National Parks Authority.

Despite the commitment to the High Court of Justice, in 2002⁴⁵ the Israel Nature and Parks Authority renewed the agreement with Elad to manage the City of David National Park. The Minister of the Environment, with whom the Israel Nature and Parks Authority is affiliated, was at that time Tzahi Hanegbi. The agreement was made without a tender and without a discussion in the plenary of the Israel Nature and Parks Authority, which is supposed to oversee its activity.⁴⁶ According to Prof. Eran Feitelson, chairman of the Council of National Parks and Nature Reserves, which is supposed to supervise the Israel Nature and Parks Authority, the City of David is the only case in which the administration of a national park was delegated to a private political body.⁴⁷ To this day Elad has managed the site, has collected entry fees that are transferred to its coffers, and its people guide the visitors, on tours that include a visit to the Siloam Channel. “Receiving the visitors, the payments, the guided tours, all that is handled by Elad. The Israel Nature and Parks Authority sees only to the signage and the streetfront of the site.”⁴⁸

There is a connection between Elad and the Israel Nature and Parks Authority through Evyatar Cohen, head of the Israel Nature and Parks Authority’s Jerusalem region, formerly the director of the Elad visitors’ center.⁴⁹ The irony is that the Israel Nature and Parks Authority sought someone who could manage the park and oversee the “problematic” conduct of Elad in the area, and therefore they hired Cohen. Only in retrospect did they learn about his past with Elad.⁵⁰

⁴² High Court of Justice 695/98. One file, 2670/98, refers to building without a permit on 135 m², another one, 2667/98, refers to a building extension without a permit of 26 m², and the third, criminal, file 3138/97, refers to two counts of damaging antiquities at the City of David.

⁴³ For the response of the Jerusalem Municipality see: statement by Jerusalem Municipality to High Court of Justice, February 1999. As for the Israel Antiquities Authority, it opposed transferring the control of the park to Elad, because it is a private organization whose behavior is not impeccable, and in any case is a private body that is not controlled or audited by the government (see letter from attorney Yoram Bar-Sela of the Israel Antiquities Authority, December 17, 1997, and the response of Amir Drori, Director General of the Israel Antiquities Authority to the High Court of Justice on September 2, 1998).

⁴⁴ High Court of Justice 6954/98.

⁴⁵ Ha’aretz, April 3, 2009, <http://www.haaretz.co.il/hasite/spages/1075986.html> [Hebrew].

⁴⁶ Conversation with Ori Orr, Chairman of the Israel Nature and Parks Authority, September 2008.

⁴⁷ Conversation with Prof. Eran Feitelson, Chairman of the Council of National Parks and Nature Reserves, September 2008.

⁴⁸ Conversation with Menachem Fried, Director of the Walls of Jerusalem National Park, Israel Nature and Parks Authority, research for the Koteret school, 2005.

⁴⁹ The Elad report to the Registrar of Nonprofit Organizations, 1998.

⁵⁰ Phone call with a senior Israel Nature and Parks Authority official, September 2008. Cohen, whose work puts him in extensive contact with Palestinians, says he was responsible for the decision not to let Arabs from the West Bank and East Jerusalem enter Ofra. He also initiated the establishment of illegal outposts. Conversations with Ha’aretz, June 28, 2001 and on other dates.

The handover of the control of the City of David National Park is significant for several reasons. First of all it reduces the public space for the residents of Silwan: about a quarter of all of the public areas, that in the past were open to all, are now closed to the local residents and entry into them requires a fee and a security check.

In addition, the transfer of the park to Elad marks its transformation from a national park to “a park of the Jewish nation only,” while subordinating its history and archaeology to the service of the Jewish narrative. Hundreds of thousands of visitors visit the park every year, including tens of thousands of soldiers, on various joint programs run by Elad and the Israel Defense Forces. The importance of these “heritage tours,” when conducted by tour guides informed by a declared national religious ideology, cannot be overstated, (see detailed discussion in Chapter 3).

But the greatest significance of the handover is, simply, territorial. Two examples illuminate what is in store for the public areas of Silwan:

- As early as the 1990s Elad revealed its intentions, when it submitted a plan to build 200 housing units on the archaeological site of Ofel, which housed the government center of the historic City of David, and therefore has great archaeological importance.⁵¹ The Housing Ministry supported the plan and it was approved by the Israel Lands Administration, but was disqualified by the various planning committees, for reasons including archaeological objections.
- The case of “Plot #44.” This plot is east of the main road of the neighborhood of Wadi Hilweh. For many years the Kara’in family that lived nearby cultivated the plot and planted it with olive, almond and other trees. When the national park was declared at Silwan in 1974, the plot was included in the boundaries of the park, but the family continued to cultivate it. In 2002, recounted the family’s father, Khaled Kara’in, people of the Israel Nature and Parks Authority entered the plot with David Be’eri, and Be’eri said “there will be a nice kindergarten here.” A month later all of the trees that Khaled’s father had planted in the plot were uprooted and the land was leveled. Shortly thereafter several mobile homes were placed on the land, which serve Elad as offices and warehouses. Next to them is a large tent that serves as a synagogue and a space for social functions. Five years later, on December 17, 2007, Elad submitted to the Jerusalem planning committee a town plan scheme, in which the organization asked to build on Plot #44, as well as on the nearby plot, a synagogue, kindergarten classrooms, 10 housing units and underground parking for 100 cars,⁵² even though the Israel Nature and Parks Authority’s law forbids any “degradation” of a national park, “including... a change of the terrain, including digging, constructing a building or facility,” unless a written permit is received from the authority.⁵³ We do not know of any permit Elad received from the authority, and if so on what grounds. It should be noted that Plot #44 is adjacent to the Aderet compound, under the private ownership of the Irving Moskowitz Everest Foundation.

The Israel Nature and Parks Authority’s inspectors are less forgiving towards Palestinians. Thus, in October 2008, when Ahmad Kara’in built a step out of soil in the area next to his house, so that his old father could reach the olive trees he cultivates, he received a letter signed by Evyatar Cohen, in which

⁵¹ Interim report for the Housing Ministry, “locating, planning and developing residential neighborhoods, the greater (East) Jerusalem,” Gideon Harlap, January 1992.

⁵² Town Plan Scheme 12953, Municipality of Jerusalem.

⁵³ The Law of National Parks, Nature Reserves, National Heritage Sites and Memorial Sites, 5758-1998, section 30 (d).

he is ordered to remove the dirt step, or else legal proceedings would be taken against him. Other residents of Wadi Hilweh report cases in which Israel Nature and Parks Authority's inspectors entered their homes in the neighborhood and confiscated birds in cages, claiming they were protected birds; and cases in which Israel Nature and Parks Authority's inspectors who find garbage next to Palestinian homes fine them, claiming that they, the Palestinians, are degrading the national park.

2.4.2 CONTROL UNDER GROUND

The Israeli takeover of Silwan goes beyond the above-ground sphere of the "nature and parks" to the underground area of archaeological digs. By virtue of the agreement with the Israel Nature and Parks Authority, Elad is deeply involved in all of the archaeological excavations at the City of David and Mount Zion, usually as underwriter and sponsor. These excavations greatly expanded over the last years. Most of them are fenced off and closed to the general public, preventing the entrance of residents to large spaces that, until the 1990s, were part of the public space of Silwan.

We can learn about Elad's attitude towards archaeology from comments Be'eri made to Minister of Domestic Security Avi Dichter during a visit to the site: "I decided to build a visitor center here... So I said 'let's break this wall,' and I went to the Israel Antiquities Authority and said: 'we will do repairs up to the terrace.' We started digging until the terrace that was up here and at night I would move the terrace. And they [the Israel Antiquities Authority] would come in the morning and say: 'wait a minute, something here [...] it didn't look like this, but there is a terrace.' [And that is how we progressed] terrace by terrace until we got to that door over there."⁵⁴

Except for the dig at the visitor center, all of the excavations in the City of David area are defined as "salvage excavations." As opposed to an excavation license, issued by the Archaeological Council of Israel, an independent body headed by professionals, "salvage excavations" are approved as part of an internal process inside the Israel Antiquities Authority called an "authorization," with no external and independent oversight of the digging. By law, it is the Israel Antiquities Authority that performs "salvage excavations" in areas designated for construction, to prevent the destruction of antiquities and to check how, if at all, the antiquities can be preserved. The Israel Antiquities Authority is allowed to completely forbid construction at a site if it finds antiquities of unusual value in it.

As opposed to normal procedure, the "salvage excavations" at the City of David are being performed at sites where there are no approved building plans, and in some cases no such plans were even submitted. This behavior contradicts the procedure declared by Dr. Yuval Baruch, the Jerusalem District Archaeologist at the Israel Antiquities Authority, in comments he made as part of a report by the Knesset Research and Information Center surrounding the Mugarbi Bridge affair.⁵⁵

At an Israel Antiquities Authority board meeting in February 2008, the authority's legal counsel, Radwan Badhi, explained that by law "where there is no building permit, we must inform the [local

⁵⁴ A conversation between Be'eri and Dichter, November 2008.

⁵⁵ "The Israel Antiquities Authority conducts excavation of a site (with a permit from the director of the Israel Antiquities Authority) after the entrepreneur presents it with a construction permit that is supposed to attest to a proper planning and building process." <http://www.Knesset.gov.il/MMM/data/docs/m01689.doc> [Hebrew]

planning] committee within 14 days of the beginning of digging" [Regional Forum, Israel Antiquities Authority, February 28, 2008]. As far as we know, all of the "salvage excavations" taking place at Silwan are being done without building permits and without notice to the appropriate committees.

Beyond the legal question, the proliferation of "salvage excavations" in as sensitive a place as Jerusalem, without independent external oversight and in suspected surrender to the pressure of entrepreneurs such as Elad, has provoked discomfort among leading archaeologists.⁵⁶

It should be noted in this context that, as of 2006, Elad was the source of 10% of the total revenues of the Israel Antiquities Authority from "archaeological projects," which reached 75.5 million shekels that year.⁵⁷ Israel Antiquities Authority director general, Shuka Dorfman, promised that the Israel Antiquities Authority would, in any case, "release" to Elad land for construction in the area of the Givati parking lot, a site of great historic and archaeological significance.⁵⁸ It is no wonder then that the impression created is that the excavations are only the first stage in a takeover of the land, with the second stage being massive development by contractors, both through tourism projects and for the benefit of the Jewish residents of the neighborhood. For instance, it has become clear that, under cover of the archaeological excavation at the Givati parking lot, massive infrastructure work was done in preparation for the construction of a large commercial center, without a town plan scheme and without the necessary permits (see below). This impression only increases, given the submission of Town Plan Scheme 11555, discussed in the next chapter.

2.4.3 PULLING THE LAND OUT FROM UNDER THE RESIDENTS' FEET

Some of the excavations were carried out under residents' homes in an apparent violation of the law and in a way that caused harm to their property. In January 2008, parts of the road on Wadi Hilweh Street sank; and only then did the residents discover that the excavation in the area, begun by the Israel Antiquities Authority in 2007, went under their homes and the land they owned. The Israel Antiquities Authority refused to provide details about the excavation, or to allow the residents to examine it. Seven local residents filed a petition to the High Court of Justice to stop the work. The day after the petition was submitted, the police arrested five of the petitioners on suspicion of "damaging the City of David visitor center." They were released the next day; and to this day no charges have been brought against them.

⁵⁶ At a meeting of the Archaeological Council in February 2007, Archaeologist Prof. David Ussishkin said: "I don't think it can be argued that this is a salvage excavation if it has gone on for ten years already. This is a deliberate excavation in every respect." Prof. Eliezer Oren said: "It is not proper that the Archaeological Council does not issue licenses for the most important excavations [like the excavations in Jerusalem]." Prof. Ephraim Stern, vice chairman of the Archaeological Council, said: "There needs to be a procedure for excavating in Jerusalem. Every five years the excavator should submit an application and meet the requirements of processing the findings and publishing them, as is done everywhere in the country" (summary of Archaeological Council meeting, February 20, 2007).

⁵⁷ More than half of the Israel Antiquities Authority budget comes from external sources, almost all from contractors who underwrite salvage excavations as a condition for receiving building permits. In 2006, the last year for which there is an authorized report, Elad invested NIS 4 million in archaeological excavations and another NIS 3 million in "environmental development" in the City of David. Moreover, in 2007 Elad underwrote four of the 24 sites that the Israel Antiquities Authority lists as "main digs." Another excavation is underwritten by Ateret Cohanim (Ohel Yitzhak) and two others by the Western Wall Heritage Foundation, a government organization whose heads are close to the settler right (Israel Antiquities Authority website, http://www.antiquities.org.il/about_heb.asp?Modul_id=3 [Hebrew]).

⁵⁸ In reference to the Givati parking lot, where extensive excavations are taking place with Elad funding, Dorfman said: "There is a problem in generating a plan right now, but the intention is unequivocal. As for the Givati parking lot, a parking lot will ultimately be built" (summary of Archaeological Council meeting, February 20, 2007).

Following a petition submitted by the residents, the High Court of Justice issued an order nisi to stop the work,⁵⁹ despite the Israel Antiquities Authority's objection. That excavation too was underwritten by Elad.

On the same note, 25 Palestinian families living next to the Givati parking lot petitioned the High Court of Justice in November 2008 to stop work at the site. The petitioners complained that the excavation at the site was causing various kinds of damage to their homes: floors sinking, parts of ceilings collapsing, cracks opening in the walls and floors. Moreover, the work was being performed from 7 a.m. to 7 p.m. without a break, using heavy machinery and causing intolerable noise. The petition went on to argue that the excavation was part of the groundwork for construction of a giant 115,000 m² commercial center; even though such a building does not have a construction license, nor was a town plan scheme submitted for it, so that in any case it was never discussed in the planning and construction committees.⁶⁰ In an order nisi issued by Justice Edna Arbel, she allowed the archaeological excavation itself to continue but forbade any drilling, digging and construction at the site, and instructed the Jerusalem Municipality to check whether work at the site was licensed, and if it was not, to stop it immediately.⁶¹ Residents of Wadi Hilweh also claimed that, at least in the past, minors were employed at the dig.⁶²

Since Elad and the Israel Antiquities Authority are hiding the extent of the underground digging, its dimensions can only be deduced from what David Be'eri himself told Avi Dichter. Be'eri said the iron constructions "are holding up the mountain... we found ourselves with 5 km of iron soldering inside... the price of iron went up because of us."⁶³

In at least one case Prof. Reich and Prof. Shukrun exceeded the excavation permits they were issued by the Israel Antiquities Authority itself, when they proceeded in digging a tunnel next to Siloam Pool that exposed a Roman street and drew wide public attention. Ultimately the excavation was stopped because it ran into the foundations of residents' houses.⁶⁴ That dig, like the others, illustrates the personal ties and ideological affinity between the Israel Antiquities Authority and Elad.⁶⁵

⁵⁹ The petition claims that the work was done "secretly, without asking the permission of the owners of the homes under which the Israel Antiquities Authority dug, as required by law, while risking the lives of the owners and the members of their families, trespassing on the petitioners' land without the respondent having the authority to do so by law." High Court of Justice 1308/08.

⁶⁰ High Court of Justice 9253/08; according to a publication on the project database of the Eshkol Business Information Ltd. company, the building is supposed to include four or five stories of underground parking, a function hall, guest rooms and a commercial center.

⁶¹ High Court of Justice 9253/08, *ibid.*

⁶² Testimonies of Palestinians referring to the excavations done at the "Fountain House" in 2000, run by Elad and Eli Shukrun. The Palestinians claim they employed teenagers, without special clothing, protective glasses or helmets, in violation of the Israel Antiquities Authority regulations.

⁶³ A conversation between Be'eri and Minister Avi Dichter, November 2008. In February 2009, part of the stairwell leading from the City of David visitor center to the Gihon Spring collapsed, along with an electric pole that stood next to the stairs. Huge amounts of dirt were cleared from the site, including many antique pottery vessels. The collapse was apparently caused by horizontal digging from the direction of the "fountain house" to the stairs, under the homes in the area.

⁶⁴ "The excavation you conducted over the last weeks in the form of a tunnel is not included in any way in the points agreed upon at the beginning of the year as part of the application to renew the authorization," Dr. Gidon Avni, head of excavations and surveys at the Israel Antiquities Authority, wrote archaeologists Reich and Shukrun in December 2006. "Therefore it constitutes an unlicensed excavation with everything that implies." Dr. Zvika Zuk, the Israel Nature and Parks Authority archaeologist, also wrote in December 2006 that the excavation in the tunnel next to the Siloam Pool was taking place "without a license" and demanded to stop it immediately. Despite the excesses, the Israel Antiquities Authority ultimately decided to extend Shukrun and Reich's excavation license.

⁶⁵ All those involved in the excavation tell of a close relationship between Eli Shukrun, an Israel Antiquities Authority employee, and the members of Elad. Shukrun's office is next to the Elad offices at the visitors' center and Meir Shukrun, Eli's brother, builds iron constructions to fortify the excavations for Elad at a cost of millions of shekels.

BEIT YEHOANATAN



Photograph: Ahmad Sub Laban

MEYUHAS HOUSE



Photograph: courtesy of Emek Shaveh organization

THE GOZLAN HOUSE AFTER EXPANSION BY THE SETTLERS



Photograph: courtesy of Emek Shaveh organization

THE ABBASI HOUSE (THE "CASTLE HOUSE")



Photograph: courtesy of Emek Shaveh organization



CHAPTER 3: ARCHAEOLOGY AND HISTORIC MEMORY

3.1 WHOM DO THE SALVAGE EXCAVATIONS SALVAGE?

In 1994 Elad began to underwrite excavations at the City of David. The first excavations, carried out by the Israel Antiquities Authority, were in the area of the “Fountain House,” next to the Gihon Spring, on the eastern slopes of the City of David Hill. Since then the excavations in the “Fountain House” area have been going on for 15 years straight, all underwritten by Elad, and carried out by the Israel Antiquities Authority. In the last years, excavation activity expanded to other sites in the City of David/Wadi Hilweh, including Siloam Pool, the Givati parking lot, and more. According to the authorization that Elad received for managing the City of David National Park, it is the main underwriter of the excavations at that site, whose historic importance is enormous; and Elad has the power to influence their location, dimensions, and goals. Moreover, Elad decides almost exclusively how the findings will be presented to the visitors at the City of David National Park and the content of the guided tours: visitors to the park do not receive “regular” history lessons about the area’s past, including its Canaanite, Jewish, Byzantine and Muslim history, but a lesson in Jewish history, with almost exclusive emphasis on the periods of Jewish settlement at the site. The tours are led by Elad guides, for whom, according to Rafi Greenberg, a Tel Aviv University archaeologist who excavated the City of David in the 1980s, “history began with the Kingdom of David and ended with the destruction of the Second Temple, and began again when they [Elad] settled here at Silwan.”⁶⁶

3.2 REWRITING HISTORIC MEMORY

Extremely important findings were uncovered in the excavation of the City of David by the Israel Antiquities Authority. For example, it was learned that ancient Jerusalem in the middle Bronze Age or the Canaanite period (the 17th and 18th centuries BCE) was much more developed than had been thought, and included extensive fortifications and waterworks.⁶⁷ The excavations also discovered findings from the end of the First Temple period (the 6th and 7th centuries BCE), including important signets;⁶⁸ and excavations at the Givati parking lot revealed the ruins of a palace dated to the Hellenistic period (323-31 BCE), a crowded neighborhood and an impressive structure from the late Byzantine or early Muslim periods (6th-8th centuries CE), including a rare treasure of golden coins.⁶⁹

The members of Elad, who underwrote the excavations, preferred to give the findings a kosher Jewish interpretation. For example, during the “salvage excavations” held at the site in 1998, Professors Ronny Reich and Eli Shukrun of the Israel Antiquities Authority found a cistern. “I found a Byzantine water pit,” related Prof. Reich. “They [Elad] said it was Jeremiah’s pit. I told him that was nonsense... sometimes they [Elad] make all kinds of things up.”⁷⁰ Meanwhile, Elad tour guides at the City of David used to tell visitors that it was the pit into which the prophet Jeremiah was thrown; and

⁶⁶ Digging For Trouble, Israel/Palestine, <http://www.youtube.com/watch?v=aRNAJCHxa7w>

⁶⁷ Prof. Ronny Reich, Etmol, May 1999.

⁶⁸ Including signets inscribed in Hebrew, in addition to the signets discovered by Prof. Yigal Shiloh in excavations on behalf of the Hebrew University in the 1970s and 80s.

⁶⁹ http://www.antiquities.org.il/article_Item_ido.asp?sec_id=25&subj_id=240&id=1462&module_id=#as

⁷⁰ Conversation with Ronny Reich, December 2005.

that is how it was presented on the organization's website,⁷¹ until the text was changed as a result of pressure from archaeologists.

For another example, archaeologist Dr. Eilat Mazar, who is excavating at the City of David, with the funding of Elad and the Shalem Center, claims she has found King David's palace as well as the pipe through which David's warriors entered when they conquered the city from the Jebusites.⁷² On the other hand, most scholars claim that, to this day, no evidence has been found of the presence of David or Solomon at the site. "They [Elad] want King David. But I don't have King David; what can I do? So they say 'King David conquered this,'" says Reich.⁷³ Indeed, during a tour guided by Doron Spillman of Elad, he caresses the stone wall of the tunnel and says: "When I lay my hand on this stone I feel the hand of King David."⁷⁴ Statements like that illustrate, says Dr. Rafi Greenberg, how an important archaeological site of historic value became a site with sacred features.⁷⁵

In another example of "selective history," there was suspicion of a grave incident in the excavations managed by Dr. Doron Ben Ami of the Israel Antiquities Authority at the Givati parking lot. According to reports in the Haaretz newspaper, in May 2008 human bones from the 8th or 9th century, namely the early Muslim period, were found. The skeletons were cleared from the site without being reported to the Ministry of Religious Affairs, as required by the Israel Antiquities Authority's own regulations, which require stopping an excavation as soon as bones are found and informing the Ministry of Religious Affairs of the findings. The Israel Antiquities Authority called the incident a "grave mishap."⁷⁶

In another case, for a long time, on the "timeline" on the City of David website, no event was marked between the destruction of the Second Temple in the year 70 CE and the settlement of Yemenite Jews at Silwan in 1882; even though the Byzantine and early Muslim periods were, inarguably, among the area's most thriving eras. Only after pressure from archaeologists was the timeline changed so that it included dates from non-Jewish historic periods. In the words of Prof. Binyamin Ze'ev Kedar, chairman of the Israel Antiquities Authority Council: "The Israel Antiquities Authority is aware that Elad, an organization with a declared ideological agenda, presents the history of the City of David in a biased manner."⁷⁷

3.3 MILITARY STUDY TOURS: AT ELAD'S EXPENSE

The City of David is one of the most visited sites in Israel. According to figures provided by Elad, 360,272 people visited the City of David National Park in 2007, and of them, 152,527 received guided tours from the Elad visitor center. Many of those visitors were soldiers. In the financial statements for 2006 that Elad submitted to the Registrar of Nonprofit Organizations, the organization says it spent 1.7 million New Israeli Shekels on "instruction and entrance to sites" and 2.3 million New Israeli Shekels on "tours for soldiers."

⁷¹ www.cityofdavid.co.il

⁷² Nadav Shragai, "Has the pipe through which David entered Jerusalem been discovered?" October 30, 2008.

⁷³ Conversation with Ronny Reich, December 2005.

⁷⁴ Digging For Trouble, Israel/Palestine, *ibid.*

⁷⁵ Raphael Greenberg, "Towards an Inclusive Archaeology in Jerusalem: the Case of Silwan/The City of David," *Public Archaeology*, Vol. 8, No. 1, pp. 35-50.

⁷⁶ Ha'aretz, June 1, 2008.

⁷⁷ Letter by Prof. Kedar, August 8, 2008.

The tours for soldiers are part of two separate projects jointly run by the Israel Defense Forces and Elad: the Moriah project, as part of the education corps, and a project by the chief military rabbinate.⁷⁸ Many different parties are involved in the Moriah project. One of them is the “City of David Visitor Center,” namely Elad.⁷⁹

An officer from the education corps information unit (stationed in the Jewish Quarter), who served in the Moriah project, related that the tour, the buses, the entrance to the sites and lunch are all at the expense of Elad.⁸⁰ As for the contents, Elazar Stern, then chief education officer, instructed the information unit to cooperate with Elad. “It was important to the information unit to present the three religions in Jerusalem, but they [Be’eri and Dvir Kahane of Elad] insisted only on Judaism. You could not pick between the periods. You had to take Second Temple. They demanded that every tour go through the City of David,” said another officer who served in the project.⁸¹ An officer who served in the information unit said that he “was given training” by Elad, and in it “they talked only about the Jewish narrative. They didn’t mention the Palestinian residents; as if they jumped over 2000 years of history.”⁸²

Despite those testimonies, in May 2005 Deputy Defense Minister Matan Vilnai claimed: “The Israel Defense Forces does not conduct tours through it [Elad]. If the tour was coordinated with the organization at a lower level, it was against Israel Defense Forces policy.”⁸³

A National Service guide, who lived in Elad’s Ateret compound, described in a newspaper interview what she says to the soldiers: “I guide mainly soldiers so it is important for me to emphasize that we have to be here,” said the guide. “On one of the tours I said that it was a village of terrorists and murderers until we settled here, and then an Arab neighbor started yelling at me...”⁸⁴

* * *

Elad’s presence at the City of David National Park was a springboard to activity throughout the national parks surrounding the walls of the Old City of Jerusalem. The Israel Nature and Parks Authority handed to Elad the management of the Roman aqueduct running under the Armon Hanatziv Promenade. Elad operates a visitor center on the Mount of Olives, which may be part of the national park, but was built without a building license and is currently undergoing a 30 million shekel overhaul, funded by the Jerusalem Development Authority and the Ministry of Tourism. In addition, Elad holds regular activities at the Emek Tzurim National Park north of the Mount of Olives, between the neighborhoods of Wadi Joz and the Hebrew University on Mount Scopus; and it is underwriting a project of filtering the waste from the renovations on the plaza of the Temple

⁷⁸ The military rabbinate also runs a parallel joint project with Elad, in which the rabbinate underwrites free weekends in Jerusalem for units, during which they hold tours jointly with Elad. The contents of the tours, according to a memo distributed by the military rabbinate in August 2008, are mainly about Jerusalem, motivation and fighting spirit in Judaism. Amos Harel, Ha’aretz investigative report, October 23, 2008.

⁷⁹ <http://www.aka.idf.il/chinuch/klali/default.asp?catId=42817&docId=46667> [Hebrew].

⁸⁰ Conversation with S.B., from an inquiry about the City of David for the Koteret school, 2005. According to Elad statements for 2006, the organization spent at least NIS 642,000 on busing soldiers in the year that preceded the report.

⁸¹ Phone call with the officer, September 2008.

⁸² Phone call with the officer, September 2008.

⁸³ Ido Sharir, head of the deputy defense minister’s bureau, in answer to a query by Knesset member Yossi Beilin, May 18, 2008.

⁸⁴ From inquiry for Koteret, 2005.

Mount mosques, in which tens of thousands of youths have taken part under the auspices of Bar-Ilan University. In 2004 the Jewish National Fund gave Elad a five-dunam compound in the Forest of Peace between East Talpyiot, a-Tur and Silwan, even though the Jewish National Fund had signed an agreement promising to give the buildings to the Hadvir Hechadash organization to open a school for handicapped children. Instead, Elad operates a visitor center there, to which the Israel Defense Forces send soldiers for tours and lectures. Activity at the site does not have the required permits from the Jerusalem Municipality.⁸⁵

The picture that emerges from this report is that in the last decade, Israel's official agencies delegated without tender a huge area of national parks of immense historic and archaeological importance to a private organization from the heart of the settlement movement, which is rewriting the historical memory of those sites from a pronounced political perspective. The tours held at the City of David and the Holy Basin are meant to make visitors feel "the Jerusalem of the days of the Temple... that it all began here..."⁸⁶ At the same time, as David Be'eri explained during an advertising campaign to encourage visits to the City of David: "The goal of the campaign is for the public to know that the City of David is only 200 meters from the Old City and therefore in any negotiations it must remain in Israel's hands... We must not give it up."⁸⁷

⁸⁵ Be'eri agreed to evacuate the site only if the Hadvir Hechadash organization obtained permits from the Jerusalem Municipality for the buildings Elad is using, and the matter is currently under legal review (transcript of meeting between Be'eri, Jewish National Fund chairman Effi Stenzler and head of Hadvir Hechadash, Lia Natan Marciano, August 28, 2007).

⁸⁶ <http://www.cityof david.org.il/about.asp>.

⁸⁷ Ha'aretz, April 21, 2006.

CHAPTER 4: ON THE WAY TO DISNEYLAND: THE FUTURE SILWAN AS AN ARCHAEOLOGICAL AMUSEMENT PARK

The continuing expropriation of the geographical space and historic memory of Silwan in favor of Jewish Jerusalem is about to reach a new record in the form of Town Plan Scheme 11555, deposited with the local building and planning committee at the end of 2007, and referring to 548 dunams of the area of Silwan, including the eastern slopes of the Wadi Hilweh/City of David Hillside, and most of the al-Bustan neighborhood. This plan stands at the center of a development project promoted by the Jerusalem Municipality and several government ministries, regarding the areas surrounding the Old City from its three Palestinian sides.

Town Plan Scheme 11555, developed by the Municipality of Jerusalem and planned by the office of architect Moshe Safdie, intends to transform the whole area of the City of David/Wadi Hilweh from a Palestinian neighborhood into an Israeli and Jewish archaeological park, while building 100,000 m². Implementing the plan requires destroying the neighborhood of al-Bustan (the municipality says 21-22 houses will remain standing in it after the demolition), evicting more than one thousand of its residents and expropriating very large areas from the Palestinians. As opposed to plan AM/9, which is currently valid in the area, and designates it as an “open public area, special public area and area reserved for archaeological excavations,” the new plan designates it as “areas for roads, parking lots, paths, a promenade, open areas, a special public area, public buildings and institutions, engineering installations and housing.”⁸⁸

Among the main features mentioned in the plan: on the ruins of al-Bustan, an archaeological garden in the spirit of the Second Temple will be built;⁸⁹ a promenade will be built from Mount Zion to Dung Gate; a cable car connecting the City of David to the Mount of Olives or between the City of David and Armon HaNatsiv; and a tunnel (“a three-dimensional compound,” in the words of the plan) will be dug, that will expose the city’s drainage system from Herod’s time. That tunnel will begin at Siloam Pool, ascend under the residents’ homes up to the Givati parking lot, run under the Dung Gate and exit at the archaeological park in the southern Western Wall, a few meters from the Temple Mount and only a few dozen meters from the opening of the Western Wall Tunnel (the “Haseanean Tunnel”). The Western Wall Tunnel itself is also undergoing a significant expansion, and was recently connected by tunnels to a synagogue on al-Wad Street (HaGay) in the Muslim quarter, on the way to which it runs under the homes of Palestinian residents. This plan is being carried out in cooperation with the East Jerusalem Development Authority, and even though the excavation of the tunnel has not yet been approved by any official planning body, already two years ago the Israel Antiquities Authority began the work to excavate it, underwritten by Elad. The excavation stopped on an order

⁸⁸ Town Plan Scheme 11555, Jerusalem local planning district, local outline plan with detailed provisions.

⁸⁹ In the town plan scheme, al-Bustan is called “area cell 309” and it will “be developed as a continuous garden... using historic elements and combining the water flowing from the Siloam Pool” and will include “shady sitting areas, various paths such as wooden decks and stairs... escalators and visitor transportation systems,” after a “landscape rehabilitation, including construction of traditional terraces” with an emphasis on the “historic and cultural significance of the valleys, water works, necropolis and vegetation that characterized the site” (Town Plan Scheme 11555, *ibid.*). It should be noted that there are two types of national parks in this area: the declared national park that does not expropriate ownership rights (and for that matter al-Bustan, like all of the City of David, is already part of the national park and there is no status change here). The second kind is the park inside of Wadi Hilweh, owned by the State of Israel, whose control was handed to Elad. In the case of plan 11555 there are no current signs of an intention to hand the control to Elad in the way the organization was given control of the park inside Wadi Hilweh.

of the High Court of Justice, after the Palestinian residents appealed against it. However, visitors to the site in March 2009 saw work going on there.⁹⁰ The political significance of this tunnel is tremendous.

Town Plan Scheme 11555 appears also to discriminate between the settlers and the Palestinian residents in the realm of building rights. The upper part of the City of David hill (under settler control), where most of the archaeological findings are concentrated and whose landscape value is the greatest, is designated for intense construction; whereas the Palestinian real estate down the hill, where the concentration of archaeological findings is significantly thinner, received a much lower building density.⁹¹ Homes in the possession of settlers are already receiving much more extensive building permits than their Palestinian neighbors today.⁹²

Added to this plan is a plan by the Jerusalem Municipality, born in a government decision from August 2001,⁹³ and being carried out in cooperation between Elad, the Ministry of Transportation and the East Jerusalem Development Authority, to invest 30 million shekels in upgrading the road ascending from Siloam Pool to the Givati parking lot. This plan includes building nine parking lots in Wadi Hilweh, most of which are supposed to be built on private Palestinian land, whose expropriation the Jerusalem Municipality announced in 2008. The residents, who asked to postpone the work, petitioned the court, with the help of The Association for Civil Rights in Israel and Bimkom, and asked for the land they owned to be used to build vital services for the residents and not as parking lots for tourists coming to the City of David. In accordance to a decision of the court, the work was stopped tempora.⁹⁴

A special emphasis is placed in Town Plan Scheme 11555 on an area called “area cell 309.” According to the map attached to the plan, “area cell 309” coincides with the location of the present-day neighborhood al-Bustan, also known by its Israeli name, King’s Valley or King’s Garden. The neighborhood extends through the valley between the City of David/Wadi Hilweh and the ancient part of Silwan. About one thousand Palestinians live in the area in about one hundred houses, on land that is mostly Palestinian owned. In the absence of a detailed building plan in the area, many of these homes were built without permits.⁹⁵

The idea to destroy al-Bustan and build a national park on its ruins was proposed in 1995 by the steering committee for the development of tourism in Jerusalem;⁹⁶ but only in 2004 did Jerusalem city engineer Uri Shetreet instruct the building inspection department to clear the “illegal structures

⁹⁰ March 2009, eyewitness.

⁹¹ Detailed blueprint of the City of David/Wadi Hilweh area from Plan 11555.

⁹² For instance, the Jerusalem Municipality’s licensing authority allowed Elad to carry out a 127 m² “sanitary expansion” in a building whose existing area is 188 m², even though according to Eastern City Plan AM/9 the entire area is defined as a “special open area” where all construction is prohibited; but it rejected a request by a Palestinian neighbor for a 23 m² “sanitary expansion” of a 249 m² building, on the grounds that the expansion is against AM/9 (file 3/500.0) Jerusalem Municipality Licensing Authority.

⁹³ Resolution 597 called for “promotion of a multi-annual plan to develop infrastructure and public services in East Jerusalem.” See Moriah site: <http://www.moriah.co.il/project.aspx?cid=42&id=366> [Hebrew].

⁹⁴ Administrative petition 8938/08, Jerusalem District Court.

⁹⁵ The boundaries of the plan as approved include the al-Bustan neighborhood, but according to reliable information we received, the area was excluded from the boundaries of the plan’s blue line. Since the plan has not been deposited for public review yet, we cannot determine with certainty whether the neighborhood is included in it or not.

⁹⁶ The committee included representatives of the Ministry of Tourism, the Jerusalem Municipality, the Ministry of Religious Affairs, the Government Tourism Company, the Israel Antiquities Authority, the Israel Nature and Parks Authority and the East Jerusalem Development Authority. The authors of the plan understood that demolition of a Palestinian neighborhood in order to build an “open archaeological museum” would not be welcomed by the Palestinian public and therefore decided to maintain a “low-profile” while doing the work (committee summaries, 1995).

in Kings' Valley," and the inspection department announced its intention to demolish 88 houses in the neighborhood. Some of the demolition orders were issued on the basis of Article 212, which allows demolition without conviction. We know of no such use of that draconian article to demolish residential homes in West Jerusalem. Publication of the intention to demolish the homes drew Palestinian and international protest and Uri Lupolianski, the mayor at the time, suspended the plan. Meanwhile negotiations were held between the residents of al-Bustan and the municipality on preparing of a town plan scheme that would legalize the illegal construction in the area and that the city would act to license it.⁹⁷

The residents hired architect Ayala Ronel to prepare a town plan scheme for them and at the end of 2005 they submitted Town Plan Scheme 11641. After three years of negotiations between the residents and the municipality and the Interior Ministry, the Regional Planning and Construction Committee announced that Town Plan Scheme 11641 "meets the threshold requirements of the planning bureau." But within less than a year the planning committee retracted its position and informed the residents that the plan was going to be rejected because "it emerged that the plan in question contradicts the planning policy of the district committee."⁹⁸ In February 2009, i.e. three months **after** the committee informed the residents and Ronel of its intention to reject the building plan they had submitted, the planning committee held a discussion on the proposed town plan scheme, at the end of which it was rejected. At the discussion itself a municipal representative said the municipality had designated the area for a "green area," even though Advocate Ziyad Qawar, a representative of the residents, testified to the committee that the municipality had promised to further the plan.⁹⁹

Meanwhile, the demand to demolish the neighborhood's houses was raised at a discussion of the State Control Committee, held in August 2008 by Committee Chairman Knesset member Zevulun Orlev (National Religious Party/National Union); in the last months of 2008 the demolitions in al-Bustan resumed and in November 2008 city bulldozers, accompanied by a large police force, came to the neighborhood to destroy the home of the Siyam family in the neighborhood. The eviction was very violent.¹⁰⁰

Fakhri Abu Diab, head of the al-Bustan residents' committee, said in a conversation in January 2009: "The settlers got close to us so we can see the difference. The young people say: 'Why do they destroy our homes?' These young people don't listen to us anymore. They say: 'We will die and not let them demolish [our homes].'" Abu Diab said residents of al-Bustan are afraid to go on vacation because they don't know "if their houses will still be there when they get back."

* * *

⁹⁷ Testimony of Advocate Qawar to Regional Planning and Construction Committee, February 2009.

⁹⁸ Acceptance of the town plan scheme, from a letter by Hagit Zahavi, plan examiner at District Planning Committee, February 24, 2008; rejection of the town plan scheme, from a letter by Guy Dayagi, plan examiner at District Planning Committee, December 5, 2008.

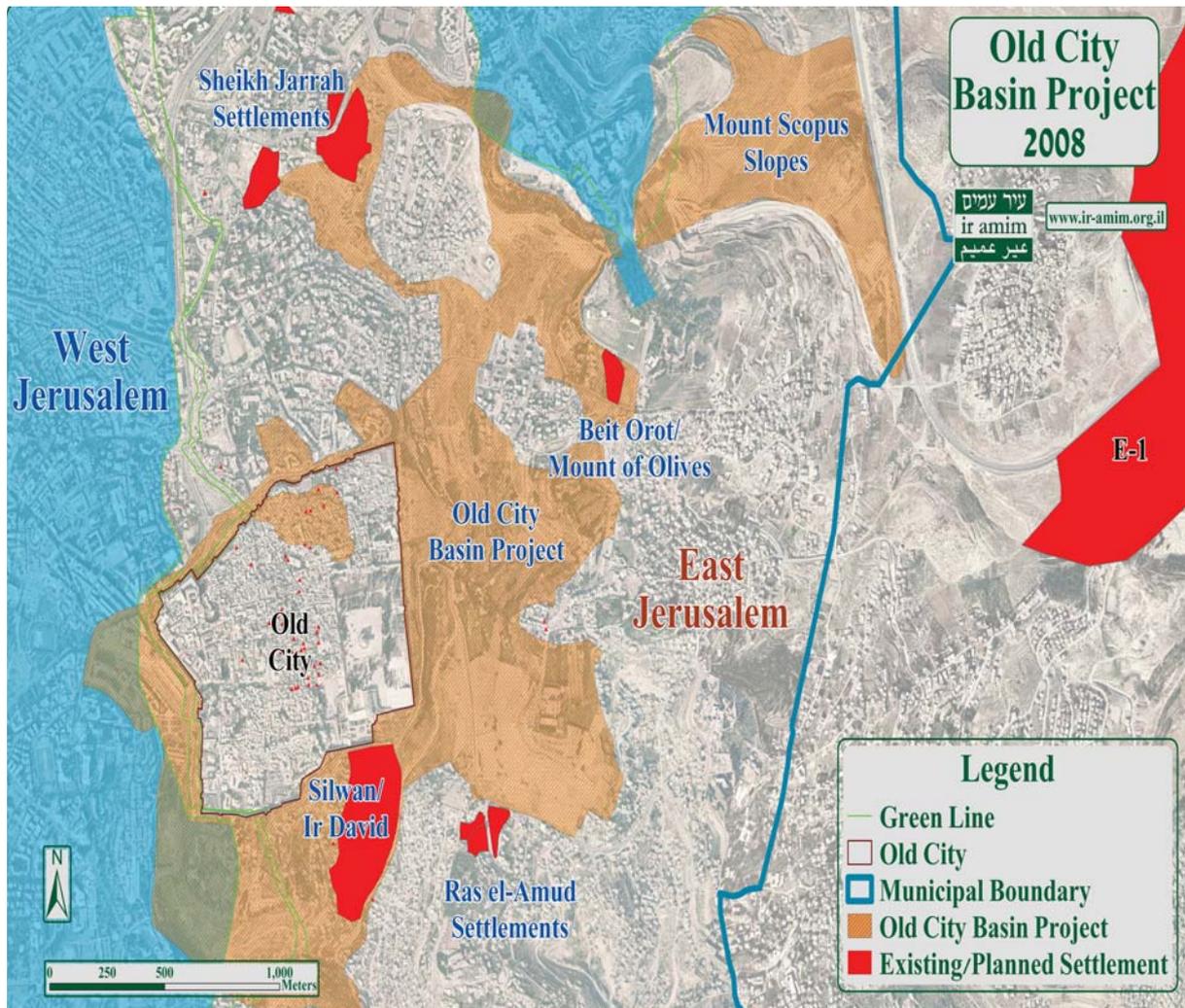
⁹⁹ Minutes of Regional Planning and Construction Committee, Jerusalem District, February 17, 2009.

¹⁰⁰ During the eviction and demolition of the house a border policeman was recorded butting a young Palestinian resident of Silwan in the head with his helmet, without any provocation on her part, as well as another resident who came to her rescue. The young woman was injured. The police investigation unit charged the policeman with assault (<http://www.ynet.co.il/articles/1,7340,L-3661467,00.html> [Hebrew]).

After the recent elections for mayor of Jerusalem, the municipality began a new drive and offered the residents of the neighborhood to evacuate voluntarily to another part of East Jerusalem. The idea was brought up by Yakir Segev, in charge of East Jerusalem for the Jerusalem Municipality (and a founding member of the Habayit Hayehudi party). The residents rejected the offer. On March 1, 2009 a commercial strike took place in East Jerusalem and the West Bank in protest against the intention to demolish the al-Bustan homes and Hillary Clinton, the new Secretary of State in the Obama administration, mentioned the issue during her visit in Jerusalem, when she said that demolishing the homes was “not helpful” to the peace process.¹⁰¹

* * *

The following chapter takes a broader angle and offers a regional overview of East Jerusalem. This overview shows clear signs of the existence of a comprehensive plan, with Silwan being one part, which upon implementation will surround the Old City with a Jewish/Israeli geographical and demographic area and disconnect it from the Palestinian region that surrounds it from the north, east and south, with everything that implies.



¹⁰¹ On March 7, 2009 the Jerusalem Municipality issued a notice on demolishing homes in Al-Bustan, saying that there were effective demolition orders against three houses and legal proceedings were under way against another 57 buildings.

CHAPTER 5: THE SECOND ANNEXATION OF EAST JERUSALEM

In October 1991 settlers invaded 11 residential homes in Silwan in a quasi-military operation. So began the open settlement outside of the walls of the Old City, accompanied by a parallel settlement process in the Old City.

Today, 18 years later, about one third of the “disputed area” in Wadi Hilweh/City of David Hill is under settler control: all of the state-owned land, including the City of David archaeological park and extremely important archaeological sites, was handed to the settlers’ possession without tender, and not on the basis of an agreed government policy. The settlement enterprise in Silwan receives comprehensive government backing in the form of funding, security and selective law enforcement that protects it and discriminates against Palestinians. The settlement momentum was curbed by the Klugman Commission. After the election of the Netanyahu government in 1996 attempts were made to renew it, but government aid resumed at full force only after the election of the first Sharon government in 2001. **This raises grave suspicion that Silwan is but the cornerstone of a policy that exceeds far beyond the City of David, both geographically and politically.**

* * *

In December 1968, a year and a half after the Six Day War victory, plan AM/6, drafted by the National Parks Authority, was submitted to the Jerusalem planning institutions, designating the area surrounding the walls of the Old City as a national park.¹⁰²

In 1997, a year after Benjamin Netanyahu was elected as Israel’s prime minister, the Israel Lands Administration transferred control of the City of David National Park to Elad. Following a petition to the High Court of Justice the transfer was canceled, but shortly after Sharon was elected prime minister in 2001, control of the park was given again to Elad, and remains with the organization to this day.

During the last decade the government took a number of **official** steps which are of critical importance to East Jerusalem:

- In August 2001 the government passed Resolution 597 for the development of infrastructure and services in East Jerusalem. By virtue of that resolution the Moriah Company (Jerusalem Municipality) and the Ministry of Transportation have been carrying out a comprehensive joint project of paving roads in East Jerusalem, including a ring road from south to north connecting all of the Jewish settlements east of the Old City.
- In August 2005 the government passed Resolution 4090 for “strengthening the status of Jerusalem [...] and the comprehensive development of the Old City and the Mount of Olives.”¹⁰³ The annual budget of the plan for the years 2006-2013 presently reaches 75

¹⁰² “The Israel Nature and Parks Authority considers the preservation of the City of David, and the prohibition on any construction, essential, and that is its definitive policy.” From a letter to the attorney general submitted to the High Court of Justice.

¹⁰³ Resolution 4090, Government of Israel, August 9, 2005.

million shekels, besides “external contributions.” The purpose of this plan is “to create a contiguity of [9] parks around the Old City,” from the slopes of Mount Scopus in the north through the Mount of Olives, King’s Valley (the al-Bustan neighborhood) in Silwan to the Valley of Hinnom in the South. According to the resolution, large parts of those areas have already been transferred to settler control (Ateret Cohanim).

- In 2007, Town Plan Scheme 5610 “came back to life” in the Regional Planning Committee, suggesting massive development of Tzurim Park east of the Old City, between it and the Mount of Olives. The plan had originally been submitted in 1995 by the Jerusalem Development Authority, the Nature and Parks Authority and the City of Jerusalem, and it includes comprehensive contractor development of 50 dunams, including a visitor center, a hotel/commercial/entertainment center, a park and a huge underground water reserve.
- During 2007, Town Plan Scheme 11555, which has not yet been revealed to the public, was submitted to the regional planning committee. It seeks to transform a large part of Palestinian Silwan into Jewish Israel and connect that area with a network of roads, tunnels, escalators, cable cars and paths to the settlement areas around Silwan. There is evidence for the involvement of Elad both in the planning and in the financing of the scheme.

A senior government official who was party to developing those plans says that the settler organizations were central partners in their preparation. The source said that the senior government echelons adopted the settler plan out of the shared goal of “strengthening Jewish sovereignty in the Jerusalem area... this is a national project: here is the cradle of the Jewish people.”¹⁰⁴

Not surprisingly, Elad’s map of the Old City of Jerusalem is astonishingly similar to all of the aforementioned plans.

Advocate Sami Ershied adds that a senior Jerusalem municipality official told him that was the original intention of plan AM/6 – the “national park surrounding the walls of Jerusalem” plan - “to establish Israeli control around the Old City.”¹⁰⁵

* * *

The implementation of these plans will lead to entrenching Israeli hegemony in the strip of land surrounding the Old City from the south, the east and the north, encircling the Old City and assimilating it in Jewish Jerusalem. That hegemony reflects the world view of the religious and national right. It is doubtful whether it reflects the Israeli interest as seen by most of the Israeli public.¹⁰⁶ Furthermore, realization of those plans will create an interface of daily and possibly

¹⁰⁴ Face-to-face conversation, Jerusalem, October 2008.

¹⁰⁵ Conversation with Advocate Sami Ershied, October 2008.

¹⁰⁶ A Dahaf poll from April 2009 found that 78% of the Israeli public supports a two-state solution. <http://news.walla.co.il/?w=/1/1472110> [Hebrew].

intolerable friction between Israeli settlements and the Palestinian residents. That friction has high potential for explosivity and good chances of imposing a religious dimension on the national conflict. If that were not enough, it can be assumed that the implementation of these plans will not go over quietly with the international community, the vast majority of which supports a two-state solution including a compromise in Jerusalem. Therefore, it invites confrontations for Israel with the U.S. administration, the European Community and the Arab world.

The plans indicate the existence of a super-plan of an Israeli takeover of the Old City basin, massive expropriation of private and public land from the Palestinians and its transformation into an Israeli-Jewish area with extensive building for housing and commerce, parks, transportation systems and so on. On the local level this plan will infinitely expand the friction in the interface between Jews and Palestinians and greatly elevate the level of animosity between the two communities - the one, dispossessed from its houses and land, and the other encroaching on them. But the story does not end above ground: the planned tunnel, which according to Town Plan Scheme 11555 will begin at Siloam Pool and end in the heart of the Old City under Temple Mount, has real potential for a conflagration.

Strategically, implementation of this policy will lead to the encircling of the Temple Mount from its three Palestinian sides and the assimilation of the Old City into a continuity of Jewish settlement that will be connected to West Jerusalem; and this strip of land will be connected to the Jewish settlement blocs in the north to Mount Scopus and from there to the E-1 bloc (see map on page 34).

Politically, since the Temple Mount and the Holy Basin are the matters that have stood and will stand at the center of any negotiations between Israel and the Palestinians, this process will make it very difficult in the future to reach a compromise on Jerusalem, and actually undermines the chances of successful negotiations between Israel and the Palestinians.

Furthermore, laying out a Jewish strip of territory from north to south in this area will create pressure eastward on the Palestinian population that will find itself trapped between a rock (the Jewish settlement strip in the Old City basin) and a hard place (the separation barrier and settlement blocs in the East).¹⁰⁷

¹⁰⁷ The settlement strip surrounding the Old City is meant to connect with the E-1 bloc (Maaleh Adumim) and from there to the settlement blocs in the heart of the West Bank. This arm will sever the Palestinian territorial contiguity in the West Bank and create two Palestinian cantons (along with the third canton in the Gaza Strip). It would be hard for three Palestinian cantons to generate the critical political mass to achieve Palestinian sovereignty with East Jerusalem as its capital.

CONCLUSION

In the last 20 years the Wadi Hilweh/City of David neighborhood in Silwan has undergone a dramatic transformation. Until the early 1990s not a single Jew lived in it. In 1991 settlers invaded 11 houses in the neighborhood. As of April 2009 settlers controlled about one quarter of the Wadi Hilweh neighborhood's land. They were given that control by the Government of Israel, which annexed the land in 1967 after conquering East Jerusalem. The area is of unusual historic and archaeological importance, both nationally and universally. Nonetheless, the land was handed over to the control of private organizations that do whatever they want with it. Government and city institutions, agencies and ministries were all part of that process (for details see appendix 3).

Despite, and perhaps because, of the great importance and potential consequences of that process, it was done in the dark, in flagrant violation of the rules of good government and in some cases in violation of the law, without open and official decisions by the government or Knesset and without public discussion, inquiry or scrutiny.

In this way significant national assets were handed without tender to settler organizations. Some of them were expropriated from their Palestinian owners in ways the court declared illegitimate and devoid of legal basis, and given to the settler organizations without tender and for a token fee. The Israel Antiquities Authority carries out excavations for the settler organizations, defined as "salvage excavations" at sites where they do not have construction permits, sometimes under Palestinian homes without their agreement. All of the excavations carried out by the Israel Antiquities Authority for the settler organizations, except one, lack excavation licenses and scientific oversight by the Archaeological Council, and therefore are not committed to exposing their findings. The Silwan settlement enjoys private security costing the State of Israel millions of shekels a year. The Jerusalem Municipality leads an open policy of discrimination against the Palestinians and in favor of the Jewish settlers; the Israel Police does not investigate complaints of document forgery by settlers; and a police officer who was party to writing an agreement to silence a Palestinian who wished to testify against the settlers remains in his position.

As revealed in this report, the Jerusalem Municipality is promoting Town Plan Scheme 11555 (discussed in Chapter 4), which lets the cat out of the bag regarding Israeli intentions in Silwan: this plan calls for the demolition of an entire neighborhood in Silwan, turning part of the village into a tourism park and allowing massive public and private construction exclusively for Jews and tourists.

And so, from a Palestinian neighborhood connected to the Palestinian expanse of East Jerusalem, Silwan/City of David is becoming a neighborhood under Jewish-Israeli control, connected to the Jewish Quarter of the Old City and to West Jerusalem. Today, no more than 400 Jews live in the narrow "disputed area" of City of David/Wadi Hilweh, compared to 2600 Palestinians, out of the 4400 Palestinian residents of all of Wadi Hilweh. The attempt to expedite the takeover process of the neighborhood on the one hand, while edging out the Palestinians and demolishing their homes on the other, will deepen the friction between Jews and Palestinians and has an almost definite conflagration potential. The tension over the last months surrounding the intent to demolish

the neighborhood of al-Bustan portends the future. The danger is multiplied considering the neighborhood is only hundreds of meters away from Temple Mount.

“When they reach the boundaries of Silwan,” wrote Advocate Daniel Seidemann on behalf of Ir Amim to Attorney General Meni Mazuz, “the official government systems in Israel collapse: explicit provisions of the law, rules of public administration, basic values of the State of Israel, the presence of the investigative branch and the bodies in charge of the rule of law and its enforcement - are in a multi-system collapse.”

Furthermore, an analysis of a series of government decisions on East Jerusalem and the practical policy of the government authorities gives the impression that the government of Israel is acting to Israelize the Palestinian areas surrounding the Old City while encircling it, severing it from the Palestinian fabric of life and actually assimilating it into West Jerusalem.

This policy will have a definite impact on the chances to reach a viable political solution between Israel and the Palestinians in general and in Jerusalem in particular.

To the best of our knowledge, no government policy was ever made by explicit decision, nor was any such policy ever discussed by the Knesset, government or Israeli public. The purpose of this report is to shed light on what is happening in Silwan. Whatever Israel’s policy regarding this sensitive area will be, it must not take place in the dark, without public discussion or public review.

APPENDIX 1: THE SETTLERS' "PRIVATE POLICE:" LIFE UNDER THE WATCH OF SECURITY CAMERAS

When the settlers entered the building complexes in Silwan that they received from the state in 1991, Elad announced, in a petition submitted on behalf of the organization by advocate Dan Avi Yitzhak (High Court of Justice 4747/91), that it did not intend to ask the state for funding to guard the Jewish residents and that it would pay for the required security arrangements itself and not demand "even a single policeman."

At first the state opposed that private arrangement. "It is unacceptable for the petitioners [Elad] to pay for their own guards," Attorney General Yosef Harish wrote in an opinion, especially "in a place as sensitive as the Shiloah (Silwan) neighborhood, where the involvement of armed civilians who are not members of the security forces should be prevented... that in itself could constitute a fermenting factor."¹⁰⁸ Even so, the Amidar Company funded the settler security out of the Housing Ministry budget and in 1995 the government decided officially to allocate 7.5 million shekels to the Housing Ministry for that purpose. Over the years the security budget swelled. A committee appointed by Minister Herzog headed by Major General (reserves) Ori Orr found that in 2005 it reached 40 million shekels, to pay for 350 guards at 56 sites in 11 complexes, half of which are in Silwan.

The committee, which was created in response to the public criticism of the state funding a "private police force" for the settlers, found that the funding of the settlers' security guards out of the Housing Ministry budget had no real legal basis and recommended handing responsibility for guarding Jews in East Jerusalem to the Israel Police and the Ministry of Domestic Security.¹⁰⁹ In June 2006 the government approved the committee's recommendations but in January 2007 reversed its decision and the Housing Ministry continues to fund the settlers' security guards as it always has.

¹⁰⁸ From a letter by Attorney General Harish to the police commissioner, November 24, 1991.

¹⁰⁹ In 2005, 55 families were guarded in the City of David and 13 families in the Yemenite Village. Report of the Public Committee to Review the Security and Protection of East Jerusalem Sites, August 2005.

APPENDIX 2: MINISTRY OF JUSTICE REFUSES TO REVEAL ELAD'S FINANCIAL SOURCES

In the financial statement for 2006 that Elad submitted to the Registrar of Nonprofit Organizations, it said that the total of Elad assets was more than 159 million shekels. Its revenue cycle in 2006 was 91 million shekels. 84 million shekels of the revenues - more than 92% - came from donations.¹¹⁰

To this day, the identity of Elad's main donors remains a mystery. In the past, some of Elad's funding came from the casino profits of Nissan Hakshuri and Moshe Bublil in Greece.¹¹¹ Lev Levayev and Roman Abramovich have also been present at Elad events in the City of David and a year ago it was reported that Yevgeny Schwidler, the second man in line in Abramowitz's business empire, donated \$7 million to the City of David.¹¹²

According to the 2002 amendment of the nonprofit organization law, every donation above 20,000 shekels has to be identified; and in May 2007 accountant Eli Goff from the Registrar of Nonprofit Organizations asked Elad to reveal the identity of some of the donors mentioned in the organization's statement of 2005 as having donated a total of 31 million shekels, 75% of Elad's total revenues that year.¹¹³

"A detailed account of the identity of the donors is necessary to inform the public about those who support the organization's activities," Goff wrote to Elad. "Providing names that are not familiar to the Israeli public, while refusing to give details about them is a kin to making that important public information irrelevant."¹¹⁴

Meanwhile it turned out that Farleigh International, listed in the 2005 statement as donating \$2 million to Elad (8.8 million shekels according to the exchange rate at the time), operated in the United Kingdom. In response to a query from Ha'aretz the CEO of the company said he had never heard of Elad, and that the company's volume of money was £500,000 a year, so that even if it had wanted to it could not donate such amounts to Elad.¹¹⁵

Elad refused to reveal its donors and in a letter from October 2007 Goff informed Elad that the Registrar of Nonprofit Organizations could deny the organization a certificate of proper management and possibly even dissolve it. On November 1, 2007 Goff received a letter from Advocate Ze'ev Scharf, representing Elad, saying that the information as to the identity of the donors "is not known to my client [Elad] except for the addresses of the bodies mentioned therein." Scharf attached a post office box number but without saying what country the box was in. In response, Goff scolded Elad

¹¹⁰ Elad financial statements, Registrar of Nonprofit Organizations, 2006.

¹¹¹ Hakshuri told Gidi Weitz that he estimated "nearly NIS 14 million in casino money went to Elad." Haaretz, February 2, 2007.

¹¹² Maariv, February 4, 2008. The article said that Russian Jewish oligarchs had recently discovered the area of the Old City and are donating to various Jewish projects in the area.

¹¹³ Elad financial statements, Registrar of Nonprofit Organizations, 2005. Goff referred to the five following donors: Farleigh International, Dwide Limited, Leiston Holding, Ovington Worldwide Limited, Jacobson.

¹¹⁴ Letter from accountant Goff to Elad, September 17, 2007

¹¹⁵ Letter from David Bowen, CEO of Farleigh International, October 7, 2007.

for evading the provision of the required information and announced that if his demand to reveal the names of the donors was not met, the Registrar of Nonprofit Organizations would consider appointing an investigator for Elad.¹¹⁶

At the beginning of 2008 the Registrar of Nonprofit Organizations said that the Deputy Registrar of Corporations (the body to which the Registrar of Nonprofit Organizations belongs) decided to accept Elad's request to give it privilege over the names of the donors. Advocate Shavit from the Registrar of Nonprofit Organizations said that it is within the registrar's powers to grant such privilege and he does not need to explain it.

The Justice Ministry said that "the organization (Elad) was asked by the Registrar of Nonprofit Organizations to provide the names of the donors that gave it more than 20,000 shekels a year. Subsequently on December 23, 2007 the organization submitted the names of the donors and requested privilege over the names, among other reasons claiming damage that could be caused to the organization and to the donors if the names were revealed. After an inquiry into the matter it was decided to approve the organization's request for privilege. To this day there have been dozens of requests to the registrar to receive privilege and, as far as we know, in all cases the registrar's representatives accepted the requests, the policy being to maintain as far as possible the privacy of donors who ask to do so."

Following that decision, in the statement for 2006, donations that exceeded the 20,000 shekel threshold were not enumerated and in any case the names of the donors were not published.

¹¹⁶ Letter from accountant Goff to Elad, November 21, 2007.

APPENDIX 3: A PRIVATE ORGANIZATION AS AN ARM OF GOVERNMENT: THE CASE OF ELAD

An analysis of the pattern of Israeli settlements in Silwan in East Jerusalem in its various aspects shows that Elad, which is officially a private organization, serves as a direct executive arm of the Government of Israel, and enjoys comprehensive and deep backing by the Israeli administration.

Following is a short list of government ministries and government and municipal agencies and the connection between them and Elad, not necessarily in order of importance:

The Custodian of Absentee Property (Ministry of Finance): declared the properties absentee based on depositions provided to him, among others, by representatives of Elad, without verifying the veracity of the depositions and without checking the properties themselves.

The Israel Lands Administration, the Development Authority and Amidar (Housing and Infrastructure Ministries): underwrote renovation of absentee property for millions of shekels; leased or rented those properties to Elad for nominal rent without tender; handed land in Silwan to Elad's management without tender; are funding to this day, at 40 million shekels a year, the settlers' private security guards in East Jerusalem.

Jewish National Fund, Hemanuta: leased or rented to Elad (and Ateret Cohanim) properties without tender on the basis of a declared policy of discrimination.¹¹⁷

The Israel National Parks Authority (Ministry of the Environment): gave Elad the exclusive management and maintenance of the City of David National Park without tender, without the matter being discussed by the authority's management bodies and in violation of a High Court of Justice ruling from 1999.

The Israel Antiquities Authority (Ministry of Culture): conducting excavations at the City of David with almost exclusive funding of Elad and under a self-license for "salvage excavations," allowing it to excavate without license or supervision of the Archaeological Council and without commitment to revealing the findings.

Ministry of Tourism, East Jerusalem Development Authority, Ministry of Transportation: conducting joint construction and renovation projects for tens of millions of shekels, such as renovating the visitor center on the Mount of Olives (built without a building license), repairing the main street of Wadi Hilweh that serves the settlement there and more.

Jerusalem Municipality: enforces the building laws in a tendentious and discriminatory way in Silwan, in order to demolish Palestinian homes and expropriate their land, and fails to enforce those laws in the case of building violations by the settlers.

The Steering Committee for the Development of Jerusalem (the Ministries of Tourism, Religion, Israel Nature and Parks Authority, Israel Antiquities Authority, East Jerusalem Development Authority and

¹¹⁷ Senior Jewish National Fund official Avraham Haleli: "As far as I know, all of the Jewish National Fund land in Silwan was leased by the Israel Lands Administration to Elad... It is the policy of the Jewish National Fund for the land to be leased to Jews for the purpose of settling Jews in the Land of Israel," (testimony in court in May 1998); and if the Jewish National Fund is supposed to act on behalf of the Jewish people, Amidar is a government company required by law to provide full equality to all of the citizens of Israel.

the Jerusalem Municipality): responsible for the plan to destroy the al-Bustan neighborhood and build an archaeological-biblical park in its place.

The Israel Defense Forces (education corps, chief rabbinate): conducting joint education programs with Elad.

Registrar of Corporations (Ministry of Justice): prevents exposure of Elad's donors.

The Regional Planning Committee, Jerusalem (Ministry of the Interior): since 1967 has systematically prevented the adoption of a town plan scheme for Silwan, forcing the residents to break the law.

Defense Ministry (in conjunction with the Ministry of Transportation and the Jerusalem Municipality): partially funding a north-south artery road connecting all of the Jewish settlements east of the Old City.¹¹⁸

* * *

Other cooperative projects:

Shalem Center: key partner in financing the excavations at the City of David National Park Visitors' Center.

Bar-Ilan University: Elad's partner in sifting through the waste of the Muslim Trust in the Ein Tzurim Valley.

* * *

In light of the above one can understand the words of Doron Spillman, Elad's director of development, who says candidly: "This is a government project... we are not an official government organization [but] we work here in close conjunction with government agencies. All of these stones, all of these sidewalks, were built in conjunction of two parties. One is government subsidy and the other is private subsidy... we are almost a branch of the government of Israel [but] without getting buried under government bureaucracy."¹¹⁹

¹¹⁸ <http://www.moriah.co.il/project.aspx?cid=42&id=357> [Hebrew]

¹¹⁹ Conversation with Doron Spillman, January 2008.

APPENDIX 4: THE RESPONSES OF THE PUBLIC INSTITUTIONS MENTIONED IN THE REPORT

Following the findings of the report “Shady Dealings in Silwan,” Ir Amim asked a number of bodies mentioned in the report for their reactions. Following are the comments of some of those bodies:

THE ISRAEL ANTIQUITIES AUTHORITY:

“The Israel Antiquities Authority operates on the basis of the 5738-1978 Antiquities Law and issues excavation licenses and authorizations on the basis of that law. Archaeological excavations do not require building permits according to the Planning and Building Law since they do not consist of building. Furthermore, there are cases when the planning of certain sites cannot proceed, especially in the area of the Old City, because there is a very high likelihood of the presence of findings that will have a material impact on the planning. In such cases the Israel Antiquities Authority does not agree to further town plan schemes and demands preliminary excavations to provide archaeological information, on the basis of which a decision can be made whether to allow construction at the site and on what conditions. In such cases town plan schemes cannot be furthered, nor can building permits be issued, because the Israel Antiquities Authority does not allow the planning to proceed [...].

“The Givati parking lot presents a dilemma that concerns the Israel Antiquities Authority every time construction and development projects are proposed in sensitive places saturated with valuable antiquities, where without definite information about the presence of ancient ruins and their nature it is impossible to develop an opinion on the extent of construction [that should be permitted], if any. Therefore, the Israel Antiquities Authority opposed the furthering of a plan allowing construction on the Givati parking lot until the excavations were completed and until there was full information about the extent of the ruins. It is already clear that any construction allowed at the site will be contingent on preserving and reconstructing the findings and maybe also an obligation to open them to public visits [...].

Even though the Israel Antiquities Authority believes the City of David National Park should be operated by the Israel Nature and Parks Authority, it was decided, against the opinion of the Israel Antiquities Authority and despite its objection, that Elad would operate the City of David National Park according to a contract with the Israel Nature and Parks Authority, with the approval of Israel's Minister of the Environment. Once the official decision was made, the Israel Antiquities Authority cooperated with the body chosen to manage and operate the park, since the decision is the sovereign matter of the government and the Israel Nature and Parks Authority.”

THE EAST JERUSALEM DEVELOPMENT AUTHORITY (EJDA): (on the wish of the East Jerusalem Development Authority to use the drainage canal discovered beneath the homes of City of David/Wadi Hilweh, leading from the southern Western Wall to Siloam Pool, and on Elad's role in developing the renovation plan being carried out by the East Jerusalem Development Authority in the City of David/Wadi Hilweh area):

“The matter was heard by the Supreme Court as part of High Court of Justice 1308/08. My client [East Jerusalem Development Authority] expressed and will express its position on this matter as part of those proceedings. I expect the High Court of Justice ruling to answer your questions on this matter. [...] My client definitely thinks that the drainage canal in question has historical and touristic value, but since the matter is not within its power, I advise you to direct your questions on this matter to the Israel Nature and Parks Authority and/or the Israel Antiquities Authority.”

THE MINISTRY OF ENVIRONMENTAL PROTECTION: (on the Minister of the Environment approving the agreement between the Israel Nature and Parks Authority and Elad on managing the City of David National Park, as claimed in the Israel Antiquities Authority's reaction):

"The Israel Nature and Parks Authority is a statutory corporation and an independent legal entity. The Ministry of the Environment is not a party to contracts of the sort signed by the Israel Nature and Parks Authority. The question should be directed to the Israel Nature and Parks Authority."

ISRAEL POLICE JERUSALEM DISTRICT:

"Roads in the City of David/Wadi Hilweh area are blocked on days when there are large and heavily-attended events in the Old City and around it, and this refers mainly to holy days and occasions of the various religions. On such days, extensive police deployment is needed to maintain public order, security and the safety of the people using the roads in those areas. Even in such a deployment the local residents and East Jerusalem public transportation are allowed through, as far as possible."

"In principle, there is no difference between the passage permits issued to Arabs and Jews. Residents are given priority in passing through the aforementioned checkpoints, based on the address in their identity cards."

"[...] the Old City is a difficult area in terms of transportation infrastructure and therefore it is necessary to close roads when there is increased traffic of people there."

"The police are not involved in the activity of the organizations working to settle East Jerusalem. The question of moving into "Beit Yehonatan" has been checked before. It was found that shortly before the building was populated, police were given notice of the intention to move into it and documents were presented to police bodies, apparently confirming the organization's ownership of the property [...]."

"According to the information given to the police, the buildings into which the organization intended to move were vacant. District officials did not know that one of the buildings had been built without a building permit. The question of whether one building or another was built without a building permit is not within the scope of the police's knowledge and treatment. That matter is treated by the local authority. In light of the aforementioned and based on the information presented to the police before moving into the building, it appeared to be a legal action of owners moving into their property [...]."

"Claims about the involvement of minority division policemen from the Jerusalem District in transactions involving Ateret Cohanim were forwarded to the Military Police Criminal Investigation Department, which decided not to open an investigation and to transfer the material to the Police Unit for Public Complaints. The unit's checks found no basis for the claims that have been raised [...]."

"The claim that 'Ateret Cohanim opens and closes police cases for residents of East Jerusalem for building offenses' has no basis, the police does not investigate illegal building offenses and, as mentioned above, these matters are handled exclusively by the local authority."

The Jerusalem Municipality, the Israel Nature and Parks Authority, the Ministry of Construction and Housing and the Modi' in Ezrahi Company all chose not to respond to Ir Amim's questions following the report's findings.

