
Israel: Expanding Settlements in the Occupied Palestinian Territories

Letter to President George W. Bush

December 27, 2005

Office of the President
The White House
1600 Pennsylvania Ave. NW
Washington, DC 20500

Dear President Bush,

I am writing to you with respect to multiple Israeli announcements of its plans to continue expanding settlements in the Occupied Palestinian Territories (OPT). This directly contravenes international law and Israeli commitments under the Road Map.

You recently reiterated Israel's obligations to stop expanding settlements when you said, on October 20, 2005, following your meeting with Palestinian President Abbas: "Israel should not undertake any activity that contravenes its road map obligations, or prejudices the final status negotiations with regard to Gaza, the West Bank, and Jerusalem. This means that Israel must remove unauthorized outposts and stop settlement expansion." Israel has acted contrary to these obligations, escalating the building of settlements in 2005. According to the Israeli Central Bureau of Statistics, in the first half of 2005, there was a 28% increase in settlement housing starts compared to the same period in 2004. Israel now proposes to further expand West Bank settlements in the coming year.

We urge you to use U.S. diplomatic and financial influence to stop this trend in 2006.

On December 26, the Ministry of Housing released tenders for the construction of 228 housing units in the West Bank settlements of Beitar Ilit and Efrat; on December 19, the Ministry of Housing published tenders for constructing 137 new housing units in the West Bank settlements of Ariel and Karnei Shomron; and on December 14, Israeli Defense Minister Shaul Mofaz's approved the construction of approximately 300 new homes in the West Bank settlements of Maale Adumim, Bracha and Nokdim. Maale Adumim is one of the largest and fastest growing settlements in the West Bank, with some 30,000 inhabitants. The settlement is located east of Jerusalem and adjacent to the much-publicized area of "E-1," the last remaining site for potential Palestinian development around settlement-encircled East Jerusalem. The Israeli government also has made clear that, despite U.S. opposition, it plans to build 3,500 housing units in E-1 and to include Ma'ale Adumim and E-1 on the western side (the "Israeli side") of the metal and concrete barrier that Israel is building, mostly inside the OPT (hereinafter, the "wall"). Such actions would effectively sever the West Bank in two by cutting the already limited Palestinian north-south access routes through the West Bank. In addition, a wall encircling E-1 and Ma'ale Adumim would make access to East Jerusalem, the center of Palestinian economic and religious life, virtually impossible from the rest of the West Bank, except through limited checkpoint crossings in the wall, most of which Israel has not yet funded or built.

Israel's continuing settlement activity is a violation of international humanitarian law (IHL), United Nations Security Council resolutions, and Israel's own commitments under the U.S.-sponsored Road Map of April 2003. The Israeli government's policy of encouraging, financing, establishing, and expanding Jewish-only settlements in the OPT violates two main principles of IHL: the prohibition on the transfer of civilians from an occupying power's territory to the occupied territory, and the prohibition of creating permanent changes in the occupied territory that are not for the benefit of the occupied population. In particular, Article 49(6) of the Fourth Geneva Convention states that "[t]he Occupying Power shall not ...transfer parts of its own civilian population into the territory it occupies." Under the road map, Israel agreed to freeze all settlement activity, including "natural growth," and to dismantle all settlement outposts created since March 2001.

No one but Israel disputes the fact that its settlement policy violates IHL. Yet the international community, including the United States, has failed to hold Israel accountable to its obligations under the Fourth Geneva Convention to, at the very least, immediately cease current Israeli settlement activity. The wrongfulness of the settlement expansion is compounded by evidence stemming from the construction of the wall within the OPT that suggests an Israeli intention eventually to annex the territory in question. Israel claims that the wall is being built for security reasons, but the deep intrusion of the wall into West Bank territory, and the capture of major settlements on the "Israeli side" of the wall, suggest otherwise. The International Court of Justice, in a view shared by many

international legal commentators and every major human rights organization in the world, concluded in its June 2004 advisory opinion that Israel's construction of the wall within the boundaries of the OPT contravenes IHL and is tantamount to an illegal annexation of the settlements on the Israeli side of the wall.

Peace Now has published a list of seven settlements where large-scale construction (hundreds of units) is occurring. All but one of them are located on the Israeli side of the wall. In a similar list of seventeen settlements where medium-scale construction (tens of units) is occurring, all but three are on the Israeli side of the wall. In addition, two Israeli human rights organizations, *B'Tselem* and *Bimkom*, recently published a report that documents the fact that 55 settlements, including 12 in East Jerusalem, housing approximately 75% of all settlers, would fall on the Israeli side of the wall. The report shows that Israeli officials established the wall's route hundreds to thousands of meters east of the existing boundaries of these settlements to allow for maximum future expansion. The organizations conclude that "contrary to the picture portrayed by the state, the settlement-expansion plans played a substantial role in the planning of the Barrier's route."

The Israeli government has recently sought to justify its construction of the wall inside Palestinian territory, and beyond the Green Line, as based on its sovereign duty to protect Israeli citizens, notwithstanding their presence in settlements. But Israel can well protect these citizens by dismantling the settlements and bringing its settler citizens back within the legitimate borders of its state. Such a measure would satisfy Israel's duty to protect its citizens without undermining its duty to respect and uphold international law and would end the severe humanitarian and economic harm inflicted on the Palestinian population by virtue of the wall's construction.

Even the Israeli government has now stated that the wall is not being built just for security purposes but also to establish its territorial claims on OPT land. On December 1, news reports quoted Tzipi Livni, the Israeli Minister of Justice, as saying that the future borders of Israel will roughly follow the route of the wall. This statement by an Israeli public official was the first to explicitly link the route of the wall with Israel's political, not security, aims.

We urge you to take immediate action to end U.S. support of Israel's unlawful policies. According to an investigative report by the Israeli newspaper *Ha'aretz*, based on government ministry budgets, Israel spends about NIS 2.5 billion a year (\$550 million) for the non-military aspects of settlement maintenance and expansion. Furthermore, the Knesset has projected that Israel will spend about \$3.4 billion in total on construction of the wall, 80% of which is inside the occupied West Bank. (Israel has not made public a breakdown of the portions of the costs attributable to construction of the wall inside the West Bank, on the Green Line, or inside Israel). Recent experience with the Rafah border-crossing deal confirms that when the United States is determined to change problematic Israeli conduct, Israel will comply. To avoid U.S. financial complicity in policies that the U.S. Government opposes and that international law prohibits, we therefore call on you and other key government officials, first, to state in unequivocal terms that the United States will not tolerate any further settlement expansion and, second, to announce that the administration will deduct from U.S. financial aid to Israel - about \$2.58 billion in fiscal year 2005 -- an amount equal to Israel's expenditures on the settlements and on the construction and maintenance of such portion of the wall that is inside the West Bank.

Yours sincerely,

Sarah Leah Whitson
Executive Director, Middle East North Africa Division
Human Rights Watch