

meters (from a few yards to a maximum of under 2 miles) away from existing schools. Additionally, new schools have generally been built in proximity to illegal Bedouin encampments, with the intention of making these population clusters permanent, and as a means of attracting and anchoring population growth around the school.

From every aspect, there is no justification for the construction of a new school for a small number of residents. One of the inevitable outcomes of living in a small, remote location is that the regional school will be located at a considerable distance from one's home. In fact, many Israeli children live in small communities and travel considerable distances to attend school. Thus, for example, children from the Upper Galilee community of Amukah travel to school in Sassa, a distance of nearly 18 kilometers (over 11 miles). The children of Kramim, in the Bnei Shimon Regional Council, attend school at Gva'ot Bar, located some 24 kilometers (nearly 15 miles) away, while many of the children of Hatzerim study at the Kibbutz Naveh Midbar school – 40 kilometers (25 miles) away from home. Children from Vered Yericho study at Kibbutz Qaliya, nearly 18 kilometers (11 miles) away, and the children of Neot HaKikar study in the Neveh Zohar schools located 32 miles away from their home community. Even in the Modi'in Region in central Israel, children from the Gimzo community study in Nehalim, some 20 kilometers (over 12 miles) away.²⁵

25 This data was collected as reported on the internet sites of the schools or the regional councils in which these schools are located. The distances between the schools and the home communities was measured on Google Maps.

E. The Schools: Exemplar Cases

The following are brief descriptions of 12 of the 100 illegal schools that serve as an illustration of the Fayyad Plan's method as a whole.

1. The School at Khan al Ahmar: The Prototype

The school at Khan al Ahmar is a test case, in which all the characteristic parameters of the method we have described may be observed in full bloom. The case of the school at Khan al Ahmar, which has become an international cause celebre, also illustrates the necessity of contending with these schools swiftly and decisively.

Khan al Ahmar is an illegal outpost made up of dozens of residential structures, located near the Jewish communities of Nofei Prat and Kfar Adumim, within the municipal lines of Kfar Adumim on the western shoulder of Route 1, the main traffic artery connecting Jerusalem to the Dead Sea. In 1988, a scattering of tents were pitched by Palestinian Bedouin who found employment in the nearby Jewish communities. In the 1990s, and in the years since, the tents were replaced by dozens of structures that were erected illegally, without permits, on state land – in Area C, under full Israeli jurisdiction.

The Khan al Ahmar School is one of the first of its kind, built soon after the Palestinian Authority launched the Fayyad Plan. The school, which eventually became a "regional school," serves as a central tool for anchoring the Bedouin population. Khan al Ahmar is the most famous in the Palestinian Authority's network of Bedouin outposts – clusters of illegal structures that constitute de facto annexation of territory in a strategically crucial point in Area C. In this particular case, which over the years has developed into an endless saga, extensive exploitation of any and every legal procedure has succeeded in "postponing" the demolition of the school and the structures that have sprung up around it. Illegal interference by a host of international actors has been a key element of Khan al Ahmar's story – from the actual construction of the illegal structures through the lawfare against their demolition, from the campaign of massive, blatant pressure on the State of Israel through the cynical manipulation of the residents of the encampment as pawns in the Palestinian Authority's game of wits against Israel.²⁶ The government's failures in this case – its repeated backpedalling

26 See Bassam Tawil, Gatestone Institute: "EU and Palestinian Illegal Facts on the Ground," 31 May 2018: <https://www.gatestoneinstitute.org/12416/palestinian-illegal-building>. Also see H. Hazony, "The Real Reason Khan al Ahmar is Still Standing," Makor Rishon (Hebrew), 20 November 2020: <https://bit.ly/3jllaad>.

and unfulfilled commitments to enforce the law by demolishing the illegal structures – are particularly glaring, given the repeated decisions of the High Court of Justice in this matter.

In June 2009 the residents of the outpost began to build a school and a kindergarten.²⁷ Some of the structures were built partially on land included in an approved regional plan for expansion of Route 1 (Plan 905/4) between Mishor Adumim and the Good Samaritan site, and partially on a no-construction zone adjacent to the highway.²⁸ The Civil Administration issued a demolition order, but the building offenders petitioned the High Court of Justice against its implementation. The Kfar Adumim community and the Regavim Movement also petitioned the High Court to issue and enforce demolition orders for the illegal structures, including the school.²⁹ Pursuant to the High Court's intervention, the structures built on the highway shoulder were demolished, but were rebuilt immediately with the assistance of an Italian organization,³⁰ in the non-construction area, only 30 meters (less than 100 feet) from their original location. The state informed the High Court that because of its location, demolition of the school



The State of Israel invested millions developing residential and public-area plots adjacent to Abu Dis, for the relocation of the residents of Khan al Ahmar. Photo credit: Regavim

27 See HCJ case 6288/09 Suliman Ararah v Yoav (Poli) Mordechai and others, 2 March 2010: <https://bit.ly/3ijW7W9>.

28 As per "Order Prohibiting Construction, 18 June 1996," which prohibits construction of structures within 120 meters of roadways.

29 HCJ Docket No. 7264/09 Kfar Adumim Collective Community Inc. and others v Minister of Defense Ehud Barak and others (unified with case 6288/09, above).

30 See Gatestone, above, note 25.

was designated a high enforcement priority, but nonetheless would not destroy the structure until the end of the school year on 30 June 2010. This round of legal proceedings – the first of at least six – concluded when the High Court removed the petition from the docket.

The 2010 school year ended, but the structures remained standing, and the Kfar Adumim community turned to the Civil Administration and demanded enforcement of the demolition orders. The Civil Administration responded that the "demolition orders would be enforced according to standard enforcement priority criteria." When the 2011 school year also ended without any sign of enforcement, another petition filed by Kfar Adumim received a similar response. The Kfar Adumim community was forced to submit a second petition to the High Court of Justice, seeking enforcement of the demolition order that had been issued against the school structures.³¹ To avoid carrying out the order, the state's lawyers this time argued that the Minister of Defense had initiated steps to find an alternative location for the school in the coming months. A follow-up hearing of the petition was scheduled for September 2012; another school year came and went. At this hearing, the state informed the High Court that it intended to relocate the entire Khan al Ahmar compound to an agreed-upon location, and that if this relocation was not completed within one year the Civil Administration would consider relocating the school, and only the school, to an alternative location, even without the agreement with the squatters; alternatively, the Civil Administration would take steps to find educational solutions for the children of Khan al Ahmar in existing schools in Jericho or Abu Dis. In the course of the hearing, the state's representative stated that the objective was to begin relocating the school before the opening of the coming school year in September 2013. On the basis of this commitment, Kfar Adumim's second High Court petition was denied.

The state's "objectives" aside, when September 2013 arrived, a new school year began at the Khan al Ahmar school. For the third time, Kfar Adumim petitioned the High Court, hoping to compel the demolition of the school and bring this years-long saga to an end. Once again, the state described its alleged efforts to reach a mutually accepted resolution for relocation of the entire compound, including the school structures, and noted once again that planning processes are long and painstaking. Although the High Court expressed its dissatisfaction with the situation, it deferred to the government's position and once again rejected Kfar Adumim's petition.³²

Another year passed, followed by yet another. It was now 2016. Once again, Kfar Adumim petitioned the High Court of Justice – for the fourth time – to demolish the illegal school. Once again, the construction offenders petitioned to prevent the

31 HCJ Docket No. 5665/11 Kfar Adumim et al. v Minister of Defense et al.: 37ddl7E/ly.bit.ly/https.

32 HCJ Docket 7969/13 Kfar Adumim et al. v Minister of Defense et al.



International flags at Khan al Ahmar, adjacent to Route 1: A picture worth a thousand words. Credit: Regavim

enforcement of the demolition orders. This time, the state informed the High Court of its intention to enforce demolition orders against all of the structures at Khan al Ahmar no later than June 2018. The state testified before the High Court of Justice that it had considered all practical alternatives, had exhausted all channels of dialogue, and had spent considerable resources developing a new neighborhood, complete with infrastructure and residential plots which were now available to the residents of the Khan al Ahmar encampment, free of charge. In a decision handed down on 24 May 2018, the High Court of Justice rejected all petitions filed by both sides, citing the considerable effort the state had invested in resolving the issue. Noting the impending enforcement of the demolition orders in the near future, pursuant to the residents' agreement to the technical aspects of evacuation of the illegal outpost, it was no longer necessary, the High Court decided, to demand that the state present a precise timetable for enforcement of the demolition orders.³³

The squatters and their sponsors did not throw in the towel. In July 2018 they petitioned the High Court of Justice, once again, to prevent or postpone the enforcement of the demolition orders; this time, they asked that the orders be held in abeyance until a final decision was announced on a detailed construction plan they had attempted

33 HCJ Docket 3287/16 Kfar Adumim et al. v Minister of Defense et al.

to submit – a full nine years after building the school at Khan al Ahmar illegally.³⁴ At the same time, the construction offenders, represented by the Palestinian Authority's lawyer, submitted another petition to block the evacuation of the squatters of Khan al Ahmar.³⁵ The Regavim Movement petitioned the High Court to seal off the school – the fifth petition to the court to compel the authorities to enforce the law against the illegal school at Khan al Ahmar. These petitions, like those before them, were rejected, on the grounds that a final judgement for the demolition of the structures had been issued and there were no grounds for reopening the case or revisiting the judicial decision.³⁶ Once again, the High Court did not require the state to commit to a precise date by which the demolition orders would be carried out.

Yet another year passed; despite the state's assurances that demolition of the illegal structures at Khan al Ahmar was a high priority, and despite the declaration made by then-Prime Minister Benjamin Netanyahu in October 2018 in his opening remarks before a working-meeting of government that "Khan al Ahmar will be evacuated, either consensually or non-consensually. It will not take many weeks; it will take much less time than that,"³⁷ weeks turned into months with no enforcement in sight. In April 2019 the Regavim Movement once again petitioned the High Court of Justice – for the sixth time – for enforcement of the demolition orders and the government's commitment to uphold the law, both of which had been given the weight of judicial decision.³⁸ Time and time again, the hearing of the petition was postponed at the request of the government, and was eventually held on 29 November 2020. But in the course of the hearing, the court acquiesced to the state's request for a closed-door ex parte' hearing of its reasons for delaying enforcement of the demolition orders and its failure to carry out final judgements – behind closed doors and without the plaintiff (Regavim) in attendance. This round ended with the court requiring the state to submit an update on progress in July 2021, amounting to an additional eight month extension for the squatters and the illegal structures.

How did the state justify its inaction to the court? What were the confidential arguments it presented behind closed doors? Only the state's representatives and the judges know. What is known, on the other hand, is that foreign governments and international bodies continue to meddle at will, to intervene on behalf of the squatters and to take an active role in the Khan al Ahmar case. It is clear that the State of Israel's behavior

34 HCJ Docket 5193/18 The Residents' Committee of al-Khan al Ahmar et al. v Commander of the IDF Forces in the West Bank et al.

35 HCJ Docket 5257/18 Rabhi Abd al Haq Ibrahim Abd al Latef et al. v Commander of the IDF Forces in the West Bank

36 Decision of 5 September 2018: [:37vLVDT/ly.bit://https](https://37vLVDT/ly.bit://https)

37 See, for example, news coverage in Israeli English-language media: "As right fumes, Netanyahu vows Khan al Ahmar 'will be evacuated.' Times of Israel 21 October 2018: <https://bit.ly/3GmKK8M>.

38 HCJ Docket No. 2387/19 Regavim v Prime Minister of Israel et al.



Exhibit of antisemitic art at the Khan al Ahmar school, attended by representatives of the UN and foreign diplomats.

not only allows but encourages this blatant violation of its sovereignty, from funding the construction of the illegal structures through funding the lawfare campaign waged against the integrity of Israel's judicial and law enforcement systems. This foreign involvement also includes staging events and international conferences at the illegal school, some of which are platforms for virulent antisemitic content. In September 2018, for example, senior representatives of the United Nations and UNESCO, as well as European diplomats from Norway, Great Britain and Germany participated in a "cultural exhibition" at Khan al Ahmar at which blatantly antisemitic art was displayed, including an animated depiction of the State of Israel as a monstrous octopus whose tentacles are choking an Arab child and simultaneously uprooting a school, a church and the Al Aksa mosque. Other exhibits portrayed IDF soldiers pointing their weapons at little girls.

If that weren't enough, after the High Court of Justice handed down its ruling, a flood of threats and international pressure sought to block enforcement in a campaign of undisguised meddling in Israel's internal affairs: Federica Mogherini, High Representative of the European Union for Foreign Affairs, called on Israel to refrain from demolishing the illegal encampment at Khan al Ahmar, while stressing that the

EU is opposed to demolitions of the illegal structures in the squatters' camp and is equally opposed to Israeli construction in the settlements.³⁹ British Prime Minister Theresa May called upon Israel from the podium of the British Parliament to refrain from demolishing the illegal compound⁴⁰ and Edwin Samuel, Spokesman for Great Britain for the Middle East and North Africa (MENA) went even further, declaring the UK's support for the illegal outpost.⁴¹

Fatou Bensouda, then-Prosecutor of the International Criminal Court, announced in October 2018 that she was "monitoring with concern" the planned evacuation, which would, in her words, constitute a war crime. She went so far as to threaten, "I will not hesitate to take any appropriate action within the framework of my authority."⁴²

In the final analysis, the Palestinian Authority and the European Union continue to make cynical use of the residents of Khan al Ahmar, as if they were no more than pawns on a chessboard. They have positioned themselves as the representatives of the residents before the Israeli courts and have kept them from accepting any of the State of Israel's offers for alternative living arrangements or for respectable, humane relocation – despite their publicly-expressed desire to do so. The Palestinian Authority and the EU will stop at nothing to create anti-Israel propaganda opportunities by forcing the situation to a violent confrontational evacuation and demolition.⁴³

39 "EU's Mogherini: Israeli Demolition of West Bank Village Endangers Two-state Solution," <https://bit.ly/3FuVtNS>.

40 As reported on Kan Israel News: <https://bit.ly/33oNMvu>.

41 Senior UK diplomat delivers statement in Arabic at illegal outpost: The British Government is working to stop the evacuation of Khan al Ahmar." <https://bit.ly/3tPL10X>.

42 Yotam Berger, "ICC Prosecutor Warns Israeli Demolition of Bedouin Village Could Be War Crime." Haaretz, 17 October 2018: <https://bit.ly/33oRKEo>.

43 See note 26, above.