

# JTA daily news bulletin

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**ISRAEL'S SUPREME COURT RULES ELON MOREH IN SAMARIA MUST BE REMOVED**  
**Says There Is No Security Reason For The Settlement; Settlers Must Leave In 30 Days**  
By Gil Sedan

JERUSALEM, Oct. 22 (JTA) -- The Supreme Court, in an unprecedented decision, ruled unanimously today that the Gush Emunim settlement of Elon Moreh in the Samaria district of the West Bank must be removed because there was no security justification for its establishment on Arab-owned lands expropriated for the purpose. The court gave the settlers 30 days to evacuate and ordered the confiscation of private land abolished.

The decision represented a landmark in the Israeli judicial process with long-range effects on the government's settlement policy. It was the first time Israel's highest court has ruled in favor of an appeal by Arab landowners against Jewish settlement. Elon Moreh will be the first Jewish settlement dismantled by court order.

The ruling was the first in which the court not only rejected the claim by the Chief of Staff, the highest non-civilian military authority, that a settlement was necessary for security purposes but implied strongly that the military commander had tailored his views to suit the political demands of the Gush Emunim.

There was no immediate comment on the decision by government officials. Premier Menachem Begin was reported closeted with several of his ministers this morning to consider what steps to take in light of the Supreme Court's ruling. The settlers at Elon Moreh and the Gush in general were reported stunned by the decision. There was some talk among the settlers of defying the court order. (See separate story this page for reactions and P. 4 for implications of the court order.)

**Says Settlement Was Influenced By Politics**

Justice Moshe Landau, President of the Supreme Court, announced the decision which was concurred in by the four other justices who comprised the five-member panel that heard the appeal. Landau stated that the driving force behind the establishment of Elon Moreh six months ago on a hill top overlooking the Arab town of Nablus was the persistent demands of the Gush Emunim, not the military opinion of the Chief of Staff.

He said that both the Ministerial Defense Committee and the Cabinet majority that had approved the settlement were influenced by the reasoning of a "weltanschauung" that supported Israel's hegemony over the entire "Land of Israel" and not security reasons. The view of the right of the people of Israel to the "Land of Israel" is founded on Zionist ideology but it does not justify the take-over of private property in an area which is under military government, Landau said.

He said that the written testimony of Chief of Staff Gen. Raphael Eitan gave the impression that it was the army that had initiated the establishment of Elon Moreh at its particular site. However, as a result of the court's inquiry, it was discovered that the process was the other

way around. The initiative came from political echelons which asked the Chief of Staff for his professional appraisal. It was then, Landau said, that the Chief of Staff gave a favorable opinion with respect to security in accordance with his concepts.

Landau pointed out that the Ministerial Settlement Committee, a political body, had selected five possible sites for the new settlement. The army then selected one of them. This means, the Chief Justice said, that it was not the army that determined the site but a political body which limited the army's choice. The court's conclusion was, therefore, that the lands were not seized "for security reasons."

Landau said the court was further influenced by the fact that the Gush Emunim insisted from the outset that the question was not security but its "God-given right" to settle the territory. The seizure of land for security reasons is, by definition, a temporary measure, Landau noted. However, the written testimony submitted to the court by the Gush Emunim claimed that Premier Begin had promised it that Elon Moreh would be as permanent as Deganya, a pioneer kibbutz on the Sea of Galilee or Nahariya, a large city north of Haifa.

**Military Experts Differed**

Justice Alfred Witkon, another member of the panel, said the case of Elon Moreh differed from similar cases dealt with in the past by the Supreme Court because there were sharp differences of opinion among military experts as to the security value of the settlement. In this case, Defense Minister Ezer Weizman did not agree with the Chief of Staff nor did two prominent Reserve Generals, former Chief of Staff Haim Barlev and Gen. Mattityahu Pelé.

There was no reason to give greater weight to the Chief of Staff's opinion than to that of the Defense Minister, he said. He recalled that in the past the Supreme Court had upheld the legality of settlements in the Rafah salient and Beit El but in those cases, the court assumed the settlements were necessary to combat terrorists. In the case of Elon Moreh that security function could be fulfilled by other means, he said.

Witkon also referred to statements by the Gush Emunim settlers who declared openly that they had not come to Elon Moreh for security reasons or at the suzerainty of the army. Justice David Behor said the action of the military commander who seized the land was in contravention of international law. Justices Miriam Ben Porat and Shlomo Asher concurred in the arguments of their colleagues. The court ordered the military government to pay IL 5000 to cover the cost of the appeal borne by the appellants.

The appeal was brought by Arab residents of Rufeib village whose land was confiscated for the settlement. It was the first ever to succeed. The first appeal of its kind was heard by the Supreme Court nine years ago and involved the seizure of land in the Rafah salient of Sinai. That appeal, and all others since then were rejected. Today's decision put a final legal stamp on the Cabinet's decision of Oct. 14 not to seize privately owned land for the expansion of seven existing or projected Gush settlements on the West Bank.

**MIXED REACTIONS TO COURT ORDER**  
By Gil Sedan

JERUSALEM, Oct. 22 (JTA) -- The Supreme

Court's ruling that the Gush Emunim settlement of Elon Moreh must be removed from the confiscated Arab land on which it was built was greeted with sharply mixed and emotional reactions today.

At the same time, the court ruling created a serious political dilemma for the government. If the court order is implemented to the letter, the Begin government risks a head-on confrontation with the Gush Emunim and its supporters. If it ignores the ruling -- and there may be no legal way to do so -- it will face unprecedented internal and international protests and open the government to charges that it has abandoned the rule of law.

The villagers of Rujieb who stand to get their land back were jubilant over the success of their appeal. The Gush members were angered but defiant and indicated that they would welcome a showdown with the government on the issue. Gush supporters in the Knesset were demanding prompt enactment of a law that would retroactively nullify the high court's decision. Opponents of the Gush praised the court and warned that to defy it would mean abandonment of the rule of law.

Benny Katzover, a Gush leader and settler at Elon Moreh declined to say whether the settlers would resist the court-ordered evacuation by force but expressed confidence that the settlement would continue to exist. "The court ruling does not apply to us, it applies to the government and it is up to the government to decide what to do next," he said. Another Gush leader, Rabbi Moshe Levinger, welcomed the court's decision because it forces the government to face the fact that it cannot use security to justify settlement needs.

#### Views Pro And Con

Interior Minister Yosef Burg of the National Religious Party which supports the Gush Emunim said the government would have to study the Supreme Court ruling and "perhaps find a way to reverse the decision that called for the abolishment of a settlement." Shimon Peres, chairman of the opposition Labor Party, said the court's ruling must be implemented to the letter and promised that the Labor Alignment would prevent any attempts to circumvent it.

The newly formed, ultra-nationalist Tehiya Party, headed by Prof. Yuval Neeman, said the Knesset must pass a bill within 30 days -- the deadline for the evacuation of Elon Moreh -- that would permit the government to confiscate land "for public purposes." Likud MK Dov Shilansky said there was nothing illegal about retroactive legislation that would prevent the evacuation of Elon Moreh.

Yehuda Ben-Meir, chairman of the NRP's Knesset faction, called the court decision "very serious." He said the NRP would have to consider what steps to take. Likud MK Amnon Lin said the court's ruling should be implemented out of respect for the law but urged new laws that would prevent the Supreme Court from deciding where and when settlements may be established.

A spokesman for the Peace Now movement hailed the court decision as an important milestone in "the rule of law." He said the ruling gave legal support to the movement's own position and political concepts.

Deputy Premier Yigael Yadin, leader of the Democratic Movement, said he approved the court's decision because he was always opposed to settlements that were not for security purposes. Outgoing Foreign Minister Moshe Dayan said he would not comment on the issue before his resignation takes effect tomorrow afternoon. He said

he would have something to say later as a private citizen.

#### Hopes For Full Implementation

Elias Khouri, the lawyer who represented the Rujieb villagers in their successful appeal, said today, "I have always believed that the Supreme Court would not deviate from its principles which have been firm since the establishment of the State." He expressed hope that the ruling would be carried out fully. He could not say how the court's decision would affect the landowners who did not participate in the appeal which involved only some 30 acres. He explained that because Elon Moreh was scattered over 125 acres of expropriated land, there was no choice but to dismantle the entire settlement.

(In Cairo, Egypt's Minister of State for Foreign Affairs, Butros Ghali, said the Israeli Supreme Court ruling and the resignation yesterday by Israeli Foreign Minister Moshe Dayan "indicate the change in Israeli public opinion for achieving peace." He told reporters that the court decision could have significance for the autonomy talks between Egypt, Israel and the United States. The three delegations are to meet this week in London.)

#### NO COMMENTS FROM WASHINGTON

By Joseph Polakoff

WASHINGTON, Oct. 22 (JTA) -- U.S. government spokesmen refused today to comment on the impact of the Israeli Supreme Court's decision declaring a settlement on seized Arab lands illegal or on Moshe Dayan's resignation yesterday as Israel's Foreign Minister.

The State Department's chief spokesman, H. R. H. Carter, said "I have noted the (Supreme Court) decision and I will have no comment." When pressed by reporters who pointed out that he has frequently commented when new settlements on the West Bank were in question, Carter observed that "It is not a productive thing for me to comment on a court decision within another country's borders." He also characterized Dayan's resignation as an "internal affair of Israel," but quoted Secretary of State Cyrus Vance's statement yesterday in which he expressed high praise of Dayan on a personal level.

Carter said he would not "speculate on the possible effects" on the Camp David accords of Dayan's resignation. He pointed out that Vance, Egyptian Prime Minister Mustapha Khalil and Israel's Interior Minister Yosef Burg will meet in London Thursday and Friday, "to go over informally the status of the problems facing the negotiations" over autonomy on the West Bank and Gaza Strip.

In another development, the State Department spokesman announced that the U.S. is seeking the assistance of the Vatican and the French government in finding a solution to the problems in Lebanon. Carter announced that former Undersecretary of State Philip Habib left today for Beirut on the first leg of a nine-day "fact-finding mission" that will also take him to Jordan, Syria and Israel in that order.

Carter said Habib would spend a day or two in each country and "he may stop at the Vatican and Paris" to solicit the views of governments and other leaders in Europe and the Middle East before returning to Washington on Nov. 1. Carter refused to identify the individuals Habib will meet on his trip but said "these conversations will be with leaders with influence on the situation."

Asked if Habib will try to obtain the views of Palestinian Arabs, Carter said "He will not meet with the PLO leaders or discuss any ways to open talks with them."

## VOTE OF CONFIDENCE DUE TUESDAY

TEL AVIV, Oct. 22 (JTA) -- Defense Minister Ezer Weizman will interrupt his five-day visit to Cairo tomorrow to fly back to Jerusalem to participate in a Knesset vote of confidence in the government of Premier Menachem Begin. He will return to Cairo afterwards to continue his talks with Egyptian officials on the military aspects of Israel's withdrawal from Sinai. Weizman arrived in Cairo yesterday before Moshe Dayan announced his resignation. After a long telephone conversation with Begin today, he decided to return to Jerusalem after a scheduled meeting with President Anwar Sadat where he is expected to raise the issue of Sinai oil supplies for Israel.

The Knesset opened its winter session today under the shadow of the Foreign Minister's resignation and the Supreme Court's decision declaring the Gush Emunim settlement of Elon Moreh illegal. Tomorrow's debate, however, will be over a motion of no-confidence presented by the Labor Alignment based on the deteriorating economic and social conditions and the government's alleged failure to take proper action.

# FANIA FENELON RAPS CBS FOR HAVING REDGRAVE PORTRAY HER IN TV MOVIE

By David Friedman

NEW YORK, Oct. 22 (JTA) -- Fania Fenelon, whose memoirs of her experiences in Auschwitz are being made into a three-hour movie for CBS-TV, reiterated today her strong opposition to being portrayed by Vanessa Redgrave, the British actress who is a supporter of the Palestine Liberation Organization.

"She is not me," Fenelon told a press conference here sponsored by the Simon Wiesenthal Center for Holocaust Studies at Yeshiva University of Los Angeles. "She is a fanatic. I do not accept to be played by a woman who is the opposite of what I am."

The press conference was held after Fenelon, Rabbi Marvin Hier, dean of the Wiesenthal Center, and Rabbi Abraham Cooper, director of the Center's outreach program, met this morning with Gene Jankowski, president of CBS. The three later discussed the meeting with the Jewish Telegraphic Agency in a special interview as well as at the press conference.

Hier said he told Jankowski that CBS was guilty of "insensitivity" to Fenelon and other Holocaust survivors as well as the 11 million persons who died in the Holocaust by not considering Redgrave's unsuitability to the role before she was hired. He said the Center is seeking a public apology from CBS. "Even corporate giants make mistakes," he said. He also criticized CBS for not consulting experts on the Holocaust as did NBC-TV for its four-part film, "Holocaust."

## Organizing National Campaign

A national campaign is being organized to convince viewers not to watch the program, Hier said. More than a million postcards are being sent to CBS chairman William Paley protesting the program. Fenelon was also scheduled to meet with leaders of national and local Jewish organizations here this afternoon. Similar meetings are scheduled for Chicago on Wednesday and in Los Angeles on Friday. Hier said college students are being enlisted and they are meeting with local CBS affiliates.

Fenelon and Hier denied that they were supporting blacklisting. Hier noted that the media focus has been on Redgrave's "rights," but he said no one considers the rights of Holocaust victims.

Hier said it is Redgrave who is politicizing the issue, not those who oppose her appearance. He noted that when she won the Academy Award for "Julia" she used it to promote her pro-PLO stand. Noting that Redgrave told Fenelon that she would remain in the role even if she was not paid, Hier said the actress wants to play a Holocaust survivor in order to "legitimize" her claim that she is only anti-Israel and not anti-Semitic.

Fenelon, who came here from Paris, was accompanied today by two sisters, Lily Assael and Yvette Lennon, formerly of Greece and now living in New York, who, like her, were forced to play in the inmate orchestra at Auschwitz while other prisoners marched to the death in the gas chambers. She said that she would not object to Redgrave playing other parts in the film such as the SS members. "To be a fanatic is to be a fascist," Fenelon said.

## Incensed Over "60 Minutes" Show

Fenelon told the JTA she told the CBS president that she was incensed by the way CBS-TV's "60 Minutes" had distorted her meeting with Redgrave which was held in London at CBS's request. She said she was quoted only as saying, "I am for Israel" when she had actually added, "I am for the Palestinians, I am for the Puerto Ricans, I am for the Blacks, I am for everybody who suffers." Fenelon said the program also gave the impression that she and Redgrave left as friends which, she said, was not true.

Fenelon charged that Linda Yellen, head of the company which is making the film for CBS, never answered the five letters of protest she wrote to her. She said Yellen first contacted her after she heard she was coming to the U.S. to speak out against the program and then offered to have her act as a consultant.

Fenelon said she sold her memoirs, "Playing for Time," to a literary agent and had nothing to do with its sale for a television program. She said she has now read the script and finds it distorted and false. She wrote to playwright Arthur Miller, who did the script, but has never received an answer.

Fenelon denied that she was making her protest at the request of the Center. She told the JTA that she first learned of the dispute when she read about it in a newspaper. The Center sponsored her trip after she asked to come to the U.S. to lodge her public protest because she was upset over the situation.

## HEAVY SENTENCES FOR TWO ARABS

TEL AVIV, Oct. 22 (JTA) -- Two Arabs convicted of planting a bomb on a bus and belonging to the El Fatah received heavy sentences yesterday by a military court in Lod. Jamil Abu Dakka, 27, of Khan Yunis in the Gaza Strip, was sentenced to 25 years in prison. Jebri Muhammed Abu Hani, 32, a Bedouin from the Negev, received a 17-year sentence.

According to the charges, Abu Hani, a former waiter in a Tel Aviv hotel, planted a booby-trapped parcel under a seat on a bus traveling from Beersheba to Tel Aviv. He tried to get off the bus but the driver told him there were no stops. When the bus stopped because of a punctured tire, he jumped off the vehicle with the parcel and threw it into a field where it exploded, the prosecutor said. Abu Hani told the court he planned the bomb attack with Abu Dakka.

**BEHIND THE HEADLINES****IMPLICATIONS OF SUPREME COURT RULING**

By Gil Sedan

JERUSALEM, Oct. 22 (JTA) -- Paradoxically, perhaps, one could sense today a large measure of satisfaction among Gush Emunim members over the Supreme Court's ruling on Elon Moreh. One Gush leader, Beny Katzover, who is a member of the settlement, said that the ruling applied more to the government than to the settlers. There was a lot of truth to his words.

The Gush has been saying ever since its members settled Kiryat Arba shortly after the Six-Day War that the reasoning behind the settlement of the territories should be the right of the people of Israel over the Land of Israel -- and not security needs. The Gush has always rejected what it regards as a limit on its settlement plans.

The court ruling today made it crystal clear that if the government wants to continue a massive settlement effort in the territories it can no longer hide behind the security veil.

It must decide whether to go ahead with such a massive effort based on historical rights-taking into consideration the internal and international implications of such a decision -- or it must limit its settlement efforts and face the Gush and its supporters in a confrontation. The Gush feels ready for such a confrontation. The reason for its satisfaction was therefore that the hour of decision could no longer be postponed.

**Options Facing The Government**

The government, therefore, must decide, and any possible decision will not be easy. Theoretically, the government could try and pass a special law which would nullify the court's decision retroactively and enable the continued existence of Elon Moreh.

Retroactive laws have been passed in the past, but on much less controversial issues -- such as the elections to the Chief Rabbinate. According to Shai MK Amnon Rubinstein, a professor of law, "retroactive legislation would mean the end to the rule of law, the end of the independent legal system in Israel which we are so proud of and in effect, the end of the democratic society in Israel."

Many coalition members, of course, do not accept Rubinstein's interpretation of retroactive legislation. But political pundits in Jerusalem said today that it was unlikely that the government would take such extreme measures in order to leave the settlement in place at a time when some Cabinet ministers, including Defense Minister Ezer Weizman, have questioned the wisdom of Elon Moreh in the first place.

The solution that seemed most likely today was that the government would decide to relocate the settlement, this time on State-owned lands. This would be in accordance with the Cabinet decision of Oct. 14 that settlements would be established only on State-owned lands.

Assuming that such lands exist in the vicinity of Nablus, the weak point of such a government decision is that it leaves the door open for Arab landowners to challenge the argument that the lands confiscated are State-owned. New appeals could be expected in the future, once again embroiling the government in a legal controversy which it would rather avoid.

**Coalition MKs Are Angry**

Coalition MKs said angrily today that it

was unacceptable that the Supreme Court determine the settlement needs of the State. This is solely the prerogative of the government, Likud MK Amnon Lin said.

Lin repeated a demand he made several months ago that the Knesset pass appropriate laws which would exclude the right of the Supreme Court to interfere. In practical terms, that would mean allowing the confiscation of land "for the needs of the public." A similar law exists in Israel proper. Under this law, the State does not have to explain in court the nature of public needs. The law was not applied to the occupied territories because in accordance with international law, Jordanian law still applies to the West Bank.

The present government, like its predecessors, considers the administered territories to be under military occupation by force of international law, and thereby excluded from Israeli jurisdiction. According to another legal authority, Prof. Amos Shapiro, "The integration law, which is an integral part of internal Israeli law, states clearly that private land will not be seized unless for obvious security reasons."

If, however, the majority in the Knesset rules that Judea, Samaria and Gaza become an integral part of the State of Israel, the laws of Israel could be applied to the territories, possibly in contravention of international law.

Rubinstein explained that "this would mean a change in the status of Judea and Samaria and the imposition of Israeli laws directly by the Knesset. This is annexation of the West Bank in the worst possible way. An open breach of the Camp David accords."

Under the existing internal and international situation, it is hardly likely that Israel would take such measures. Any move in that direction would strain even further the relations inside the Cabinet, not to speak of international pressures, and the time left to the Begin regime would run out even faster than it seemed yesterday when Foreign Minister Moshe Dayan announced his resignation.

**3 EX-NAZIS TO GO ON TRIAL**

PARIS, Oct. 22 (JTA) -- Hundreds of French Jews are preparing to attend the trial of three former Nazis, including Kurt Lishka the former Paris area gestapo chief, when it opens tomorrow in Cologne, West Germany. Lishka and his two accomplices, Herbert Hagen and Ernst Heinrichson, are charged with the forced deportation of more than 50,000 Jews from France, most of whom never returned.

Lishka, who has been living quietly in Cologne since the end of the war, has become a symbol for many French Jews of unpunished and unrepentant former Nazis. Lishka had been sentenced to life imprisonment by a French court in absentia but had escaped trial in Germany till now due to a technicality.

**TWO FLOOD VICTIMS IDENTIFIED**

TEL AVIV, Oct. 22 (JTA) -- The two persons killed in the flash flood that inundated Sham el-Sheikh and Ophira in southern Sinai yesterday were identified today. One victim, 19-year-old Ruth Fishbein of Ramat MaSharon, a soldier, was drowned when a wall of water sweeping down from the hills destroyed the telephone exchange room at the army camp where she was on duty. The other victim, Tzvi Ben-Nathan, 35, was electrocuted by a downed power line on the beach at Ophira. Two other persons, a young Bedouin, Ahmed Jouma, and a West German tourist are missing and were the objects of a helicopter search today.