

PIJ POLICY PAPER - ISRAELI SETTLEMENTS AND THE TWO-STATE SOLUTION

EXECUTIVE SUMMARY

Israeli settlements in occupied Arab land in the West Bank, East Jerusalem and the Golan Heights are illegal and constitute a major obstacle to the achievement of a political settlement to the Israeli-Arab conflict. In the Palestinian case, settlements constitute a major obstacle on the road to achieving the two-state solution, which is the focus of this paper.

The viability of a Palestinian state depends on territorial contiguity, integrity and control. A two-state solution requires secure borders for both the State of Israel and the State of Palestine. International supporters of the peace process have, therefore, expressed their concern that continued Israeli construction of settlements, especially in the East Jerusalem area, would make a permanent solution difficult to reach or even unrealistic.

By the end of 2009, the number of Jewish settlers in the West Bank, including East Jerusalem, will pass the 500,000; out of these, more than 200, 000 are in East Jerusalem and 300, 000 in the rest of the West Bank. Today, there are 121 settlements according to the Israeli Central Bureau of Statistics and over 200 settlements according to Palestinian sources. Palestinian sources name some 239 illegal outposts in the West Bank, including in East Jerusalem. Israeli sources report more than 100 such outposts. The Palestinians refuse to distinguish between the legality of the settlements and that of the outposts and consider all of them illegal according to international law and the Fourth Geneva Convention.

For a two-state solution to be realized, the Israeli settlement project needs to be challenged, stopped and eventually reversed.

This paper is based upon a one-day closed roundtable discussion by a prominent group of experts from Israel, Palestine and the international community, from all colors of the political spectrum. The discussion was held under the well-known Chatham House rule.

Recommendations

This paper recommends a set of political actions to the international community, Israel and the Palestinians. It also outlines the need for civil society to lobby and campaign as an essential part of the effort to counter settlement activities. The major conclusion of the project is that, in spite of existing challenges, there still are opportunities on which to build in order to make attainable the solution to the settlement problem.

Efforts made should be consolidated. The United States should lead at the political level. The U.S. government needs to define more specifically and firmly its position on the settlements, including those in East Jerusalem. It could and should take legal and political action against non-governmental organizations and groups in the United States, which support Israel's settlement activity. The European Union (EU) should play a similar role. In addition, due to their geographical position and extensive economic relations with Israel, EU member states could and should intensify their use of legal, economic, and political tools in order to raise the costs of the settlement project. Steps have been made in this direction. However, there is need for a greater and more comprehensive effort. A strict ban should be imposed by the U.S., the EU and other countries on NGOs and individuals that support settlement activity in the Occupied Palestinian Territories (OPT), including East Jerusalem, to dry up financial support to the settlement movement. NGOs that use tax-payers' money for funding activities that violate international law and, specifically, the Fourth Geneva Convention and the relevant United Nations Security Council

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(UNSC) resolutions should be prohibited by law from doing that and should be subjected to legal prosecution as is the case with the funding or support of terror activities. Actions proposed include tightening the restrictions on the agricultural and industrial products of the settlements; campaigning against academics and other individuals who directly support settlement activities; and campaigning against colleges and institutions based in the settlements. The Palestine Liberation Organization (PLO) can harden its line on the settlement freeze. It could approach the Israeli public through lobbying and campaigning and through explaining the implications of settlements, namely, their forming an impediment to a two-state solution and their creating a de facto one-state solution. It should also take action and provide for Palestinian labor alternatives to working in settlements. Finally, it should ban Palestinian commercial interactions with settlements. The Israeli government should clarify its position on outposts and remove them in accordance with its obligations outlined in the Road Map. The Israeli peace groups could and should expand their lobbying campaign among the Israeli public, explaining the implications of settlements to the two-state solution. The Israeli government should stop subsidizing and supporting settlers. Settlers should not be given any incentives or benefits which induce them to move to live in the settlements, or which make their lives in the West Bank easier or more convenient than in Israel proper.

The proposed evacuation-compensation law which would enable settlers to voluntarily leave their homes in the West Bank in exchange for equivalent homes within Israel proper should be promoted in the Knesset and encouraged and supported by the international community.

The Palestinian prime minister announced recently a detailed plan about building the institutions and capacity of the future Palestinian state in the next two years. It will be helpful to have a detailed plan which speaks more specifically about land swaps, the location and quality of the land to be swapped, taking into account border contiguity, water and other natural resources, as well as economic viability rather than mere percentages. In other words, the land swaps would need to be justified by political and economic viability.

All efforts should be enhanced and strengthened, consolidated and coordinated and clearly geared at making Israeli settlements in the West Bank, including in East Jerusalem, an unpopular phenomenon and a costly enterprise for the Israeli government, the settlers and all bodies involved in the settlement project.

I. GENERAL FRAMEWORK

The *Palestine-Israel Journal* held an expert roundtable on July 16th, 2009, to tackle the question of the Israeli settlements and their impact on a two-state solution. The roundtable was one of three European Commission-funded policy-oriented roundtables. It sought to come up with specific measures which the international community, in general, and the Palestinians and Israelis, in particular, could or should take for a two-state solution to remain viable and to be implemented as soon as possible.

Following a presentation by Israeli and Palestinian experts on the existing situation and the facts on the ground, the roundtable participants presented their views on the threats and challenges of the current situation, as well as the opportunities and possibilities for mitigating its risks. The discussion was divided into three sessions which answered three major questions:

- How to challenge the settlement project and increase its costs (political, financial, etc)?
- What are the key final status modalities for resolving the settlement question?
- What is the most effective path for sequencing and coordinating international, regional and local policy on settlements?

The choice of the settlements topic, with this particular timing, was made in the context of an intensive and highly visible exchange between the Obama administration and the Israeli government on the question of a settlement freeze, including a particular disagreement over the nature and meaning of previous understandings reached between the Israeli government and the United States.

With this increased interest of the policy community in the background, this policy paper was produced with the aim of providing decision makers with a clearer understanding of the situation on the ground as of mid-2009, and with settlement-focused progressive policy recommendations towards the resolution of the conflict within the two-state paradigm.

The paper is divided into four parts. Part I provides the reader with some **context about the roundtable** discussions themselves and their rationale. Part II presents an overview of **the situation on the ground** and, specifically, the growth trends of the settlement project, the sociological composition of the settler community, as well as settler techniques and Israeli governmental policies enabling continued construction. Part III discusses the **settler-related threats and challenges to the two-state solution** and the means to counter them. Finally, Part IV presents the **recommendations towards a viable two-state solution**. The names and bios of the experts and references to relevant publications can be found in the Annexes to the paper.

It is worth noting that the roundtable was convened under the Chatham House Rule and, therefore, no specific statement is attributed to any particular expert. When a disagreement was identified and the conversation failed to yield any agreed-upon conclusion, the disagreement is noted in the text. When appropriate, minority and majority views are noted.

II. SITUATION ON THE GROUND

- **Growth trends of settlers, settlements, outposts and land use**

Though broadly similar, Israeli and Palestinian settlement watchdogs report somewhat different numbers. Among other reasons, this relates to questions of definitions and, specifically, whether Jewish settlements and outposts in East Jerusalem should be counted separately or jointly with the West Bank figures.

In 1993, when the Oslo Accords were signed, there were roughly 100,000 settlers in the West Bank and 155,000 in East Jerusalem. **By the end of 2009, the number of settlers in the West Bank will cross the 300,000 and in East Jerusalem the number will cross the 200,000.** In addition, during 2009, 60,000 new housing units received the Ministry of Housing and Construction's approval and are awaiting the approval of the Ministry of Defense. The settlements' population is growing at a rate of 3.4% per year (compared to the 1.6% growth rate in Israel proper). Already today, nearly 10% of Israeli Jews are settlers, when one includes those living in the post-1967 Jerusalem neighborhoods in East Jerusalem (there are 20,000 Jewish settlers in the Golan Heights, but they were not the subject of the discussion).

Settlement construction started around the Jordan Valley and East Jerusalem, but, subsequently, moved at a more accelerated pace to the heart of the West Bank. It is noteworthy that, since 1990, Israeli construction in the West Bank and Gaza has not received the status of "formal settlement" from the State of Israel (aside from the construction in East Jerusalem, there were only 2-3 exceptions). **Today, there are 121 settlements according to the Israeli Central Bureau of Statistics and over 200 settlements according to Palestinian sources** (aggregating the numbers of both settlements and outposts).

In addition to government-sanctioned settlements, the settlers have built housing units without formal government permits. Labeled as "illegal outposts" by the Israeli government and considered as illegal as any other settlement from an international law perspective, these small and sparsely populated dwellings include today, according to **Palestinian sources, some 239 outposts (including in East Jerusalem). Israeli sources report there are more than 100 such outposts.** Regardless of their exact number, only a few thousand settlers live in them. Additionally, these outposts have rendered inaccessible large areas of Palestinian land. Their spatial distribution is such that, like scissors, they cut through Palestinian land, preventing the contiguity of the future Palestinian state.

As for the **actual use of land**, it is important to emphasize that, **though the built-up area of the settlements is less than 5% of the area of the West Bank, the actual area they exclusively control** — according to Israeli municipal lines — **is more than 40% of the West Bank.** Furthermore, in more than half of the Palestinian governorates, the total Jewish built-up area is larger than the Palestinian built-up area.

In the **Gaza Strip**, after the disengagement, Israel expanded the security zone by an additional 300 meters from the fence (except in the north where it has remained the same); thus, altogether about 24 square kms or **about 6.6% of Gaza have become inaccessible to the Palestinians.**

- **Sociological composition of the settler community**

The settler population is composed of ultra-Orthodox (≈30%), ideological (≈30%), non-ideological (≈30%) and mixed (≈10%). As with demographic trends in Israel in general, the ultra-Orthodox and ideological communities have higher growth rates than the non-ideological. The ultra-Orthodox is currently the largest and fastest growing settler community. These settlers are concentrated, in particular, in the area west of the Wall/Fence, while the ideological national-religious settlers form the overwhelming majority east of the Wall/Fence. The so-called non-

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ideological “quality-of-life” settlers also live mostly near the Green Line (the settlement of Ariel, southwest of Nablus and north of Ramallah, being the key exception).

- **East Jerusalem**

Israeli settlement policy in East Jerusalem is coupled with severe limitations on Palestinian construction. Since 1967, some 50,000 permits have been issued to Israelis to build in East Jerusalem and only 16,000 to Palestinians. While in 1967 there were 65,000 Palestinians in East Jerusalem, today there are roughly 260,000 — the result of natural growth. The fact that the 260,000 Palestinians have been awarded only 16,000 building permits reflects the dramatic situation this population is experiencing. In 2008, only 125 permits were granted to Palestinians, while the actual yearly need is about 1,800. As a result, roughly 20,000 Palestinian homes are built without municipal licensing and are considered illegal from an Israeli perspective; more than 2,000 have received demolition orders.

Since the Annapolis process began, we have witnessed the largest expansion of settlements in East Jerusalem. According to the Israeli Central Bureau of Statistics, there are today 190,000 Jewish residents in the city. In addition, there are increased focused efforts to establish Jewish presence in parts of the Holy Basin which are seen to be of importance to Jewish history — especially in Silwan and the areas immediately around the Old City walls. Intensive efforts are continuing to also create a Jewish presence in the heart of Arab neighborhoods in Jerusalem, such as Ras il-Amoud, Sheikh Jarrah and the Mount of Olives. Some construction, as in the Mt. Scopus Park, takes place with the intent of disconnecting the territorial linkage between the Arab neighborhoods while creating Jewish expansion (towards E-1, between Maaleh Adumim and East Jerusalem, and other significant areas).

- **Settler techniques & Israeli governmental policies enabling continued construction**

Given the illegality of settlement and outpost construction, and given international pressure attempting to halt such continued construction, it is important to be aware of the settlers’ techniques and the Israeli government’s policies which, nevertheless, enable continued construction.

As noted above, Israeli construction in the West Bank continues in the form of outposts, alongside continued building in the settlements proper. The policy of the Israeli Ministry of Defense, to whom responsibility over the occupied territories reverts, is engaged in **bargaining with the settlers over the number of outposts to be removed in return for the legalization of others**. Increasing the number of outposts serves the settlers’ purposes in bargaining. The capacity of thinly populated outposts to take control over large areas of land is noteworthy in this context.

Another settler technique is **referring to “natural growth” as a legitimate need** of the settler community. However, most of the population increase in the settlements (5.7% per year) is the result of new families moving in rather than a result of births (estimated at only 1.7% per year). It is noteworthy that, when speaking about the so-called natural growth, there is no mention of the empty housing units in the settlements, which number several thousands.

Yet another tool is **“filling in” inhabited spaces within existing zoning borders of the settlements**, which technically then is considered not an “expansion.” Thus, ostensibly, “new neighborhoods” of existing settlements are being built. Obviously, the increase in the settler population caused by such construction pattern is real.

Another significant tool is the Israeli Civil Administration’s tendency **not to grant the Palestinian Arabs construction permits in Area C**, which makes up some 60% of the West Bank, transforming de facto this large tract of land into a reserve for future settlement construction.

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A final argument used by both the settlers and the Israeli government is that **certain settlements will supposedly be part of the land swap which will take place in any agreement between Israel and the Palestinians within a two-state scenario; therefore, expanded construction should be possible** there. The problem with this argument is that Israel has decided unilaterally which areas will be swapped. Furthermore, it is de-contextualized and does not come with a clear and formal declaration regarding borders and, thus, also falls short of a full construction freeze in those areas that will not be part of the State of Israel.

- **East Jerusalem - Settler techniques & Israeli governmental policies**

Today, Palestinians make up 33% of the population within Jerusalem's municipal area and their part of the population increases steadily. The **Israeli strategy to ensure a clear Jewish majority in East Jerusalem includes** the following:

- Freezing land registration since 1968;
- Declaring large parts (two-thirds) of East Jerusalem green areas and then establishing settlements on these areas;
- Confiscating absentee property;
- Building the separation Wall/Fence and, thus, incorporating three major blocs: Gush Etzion, Ma'ale Adumim and Giv'at Zeev, and excluding some 120,000 Palestinians living in Palestinian towns or villages (e.g. Abu Dis, Azariyya, Anata, Shu'fat and Hizmeh);
- Increasing construction for Jews (10,000 more units were built since the Annapolis talks began and roughly 6,000 are in the pipeline); and
- Providing governmental financial support (Israel's Cabinet Resolution 4090 for the bolstering of the Old City and the Mount of Olives, allocating NIS 50 million in each yearly budget from 2006 to 2013 to bolster Jerusalem as the capital of Israel).

As for the **Holy Basin**, a new plan suggests that **all around the Old City there will be Jewish religious-biblical parks**, which will include some minor Christian sites but not Islamic ones. This move is explicitly aimed at consolidating Jewish control over the Holy Basin and is in contradiction with UNSC resolutions pertaining to Jerusalem, to the Fourth Geneva Convention, to international law and to the logic of the two-state solution, with Jerusalem as the capital of both states — Israel and Palestine.

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III. RISKS AND OPPORTUNITIES: The major difficulties and possibilities for a solution

Clearly, the issue of settlements is a complex one that involves contradictory trends. On the one hand, there are clear and formal messages from the international community that settlements are illegal and are an obstacle to the peace process. On the other hand, Israeli expansion of settlements and new outposts continues and, thus, friction increases dramatically in areas like East Jerusalem and Hebron. These contradictory trends present those struggling to implement the two-state solution both with diverse threats and opportunities.

Existing Threats	Existing Opportunities
Jewish settlements in and around East Jerusalem may make it impossible to negotiate a settlement on Jerusalem , which calls for East Jerusalem as capital of the Palestinian state — a <i>sine qua non</i> for the Palestinian public to support the two-state solution.	U.S. President Barack Obama's clear call that settlements go counter to U.S. national interests , emphasizing more than ever U.S. interest in a settlement freeze.
Jewish settlements in the West Bank threaten the viability and contiguity of the future Palestinian state and, thus, cause a shift in Palestinian public opinion towards the one-state rather than the two-state solution. A transformation of the struggle from national liberation to one for equal rights means the abandonment of the two-state solution.	The European trade policy distinguishing between Israeli produce and settlement produce is a positive basis to build on in commercial and other fields.
The presence of violent Jewish settlers in East Jerusalem and the West Bank breeds friction and radicalization and, thus, provides an unsupportive context for a meaningful peace process.	Since 2001 , figures reveal that there have been settlement expansions and new outposts, but no new settlements have been established . A focused effort to evacuate outposts and to prevent settlement expansion is needed.
The absence of Israeli public awareness of the dangers and the implications of West Bank settlements gives a boost to the one-state solution by creating a de facto one state (i.e. if settlers/settlements are not any different than any other citizen/town, then it is a one-state reality).	The PLO has highlighted the need for a settlement freeze, including in East Jerusalem , and has declared it a precondition for resuming talks with Israel. The American administration, the EU and European governments have also protested Israeli settlement activity in East Jerusalem and have opposed construction in the E-I area.

Specific Dangers and Challenges Requiring Attention:

- Settlements in **East Jerusalem** which were built in a manner that isolates Palestinian communities and prevents Palestinian natural growth and normal life are a major instability factor in both the short and the long term. Palestinian experts consider such settlements a major obstacle because any solution for Jerusalem in which they remain in existence will be totally unacceptable to the Palestinian public.

- Palestinian experts also considered **outposts** a more dangerous threat than settlements because they imply that large pieces of land (as well as resources) are controlled by a small minority of people and that, with time, may develop into large settlements. More than anything, this statement was meant to highlight what they believed to be an issue that did not receive the required attention. Indeed, at the same time, it was emphasized that, from a legal perspective, there should be no legal distinction between so the so-called "illegal outposts" and the regular settlements with respect to their legal status and the danger that all settlements pose to a two-state solution. All settlements are illegal under the Fourth Geneva Convention, in terms of the occupying power moving its civilian population to occupied land. From a political perspective, settlements threaten the integrity and contiguity of the land and a peace predicated on the two-state solution. Moreover, they present a situation of chaos and an absence of law and order. It was also highlighted that settlements create a mini-state within the Palestinian state. Outposts were considered immoral as they also create a de facto culture of ghettos and discrimination with respect to resources and, thus, breed a sense of apartheid among the Palestinian population.
- The Israeli experts also paid considerable attention in the discussions to the **moral dimension**. From their perspective, the main question was arguably: How aware is the Israeli public of the implications of the settlements? The idea of increasing awareness by referring to "apartheid" rather than "occupation" was raised and explored but, eventually, abandoned as being counter-productive in terms of Israeli public opinion. After discussing the various alternatives, including "light apartheid," "creeping apartheid," "discriminatory ethnic regime" and an "ethnic security regime," the participants agreed that "occupation" is still a more appropriate term, both because of its strong implication with regard to the oppression which prevails in the occupied territories, and due to the risk that using the term "apartheid" would weaken the two-state formula in favor of changing the struggle into one of "equal citizenship in one state."

IV. RECOMMENDATIONS

▪ ***How to challenge the settlement project and increase its costs (political, financial, etc).***

There is a clear (U.S.-led) international effort to call on Israel for a settlement freeze. In addition, the Palestinian Authority (PA) and the PLO have highlighted the issue as a precondition for peace. In Israel, a significant number of columnists and political leaders have supported this position. Simultaneously, there is no clear direction in Israel, neither in terms of government policy nor of general public opinion, to declare settlements a major obstacle to a two-state solution.

Therefore, in order to achieve progress and bring significant change, there needs to be a consolidated effort and a firm position on the issue of settlements, leading to a dramatic increase in their actual and perceived costs. The effort should include (1) political and diplomatic moves, (2) lobbying and campaigning, and (3) other economic, cultural, educational and social actions.

In the short, immediate term, the international community needs to hold firm to its call for a full settlement freeze. Such a freeze must be linked directly (with no interim phases) to progress on final status issues.

It is important to recall that, in addition to its importance for ensuring the viability of a two-state solution, a settlement freeze increases the costs of the settlement project both in terms of highlighting the illegality of the entire project and of putting practical limitations on the prospects for “normal” and prosperous life for the settlers.

Given the dramatic importance of **the United States**, efforts to affect U.S. policy should receive particularly high priority. Crucially, **President Obama has already explicitly declared that Israeli-Palestinian peace and, specifically, a settlement freeze is a U.S. national interest.**

In order to **build on this momentum**, actors working towards the two-state solution should

- Encourage the U.S. to continue pushing Israel for a settlement freeze. The U.S. has the capacity to pressure Israel in spite of U.S. domestic constraints. The example of the U.S. preventing Israel from selling Falcon airplanes to China is instructive.
- Ensure that such a freeze will not be a stand-alone step. Instead, the aim should be a final status agreement and, in particular, a full evacuation/removal of all settlements. Interim modalities and phases should be avoided.
- Keep up Congressional and Senatorial outreach and, thus, keep the settlement issue on the table: what it is, what it means and why all previous attempts for partial settlement freezes did not work.
- Work to ensure that the U.S. policy of settlement freeze explicitly includes East Jerusalem, specifically in the context of the risk to the viability of the two-state solution.
- Consider settlements no longer a legitimate strategy for providing Israeli security. While providing guarantees for Israeli security, the international community should recognize that, to the extent that settlements are justified by Israel as part of the security control mechanism, they have to be replaced with alternatives that do not involve domination over the Palestinian people and the Palestinian territories.

Given this momentum in the U.S., the international community can play a significantly more effective role and should do so urgently.

The role of the United Nations Security Council can be significant. The example of the Arab foreign ministers during the Annapolis Conference (November 2007), pushing for a UNSC vote on settlements is instructive and can be built upon. Furthermore, as elaborated below, the bold call by EU Foreign Policy Chief Javier Solana — after a fixed deadline, a UN Security Council resolution should proclaim the adoption of the two-state solution, accept the

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Palestinian state as a full member of the UN and set a calendar for implementation — presents additional UNSC-based strategies that are well worth exploring.

Engaging the religious right in Israel as part of broader diplomatic efforts is much needed to mitigate their sense of exclusion and their ensuing desire to topple the peace process. Official international delegations could meet the religious and political leadership of this increasingly powerful community. Creative ways to bring them on board the peace process should be explored. Where unbridgeable gaps are found, international diplomacy should engage the Israeli elite, encouraging it to consider what price it is willing to pay for getting the religious right out of the West Bank and getting the secular communities in Israel to be willing to pay this price.

A set of legal and financial incentives and disincentives should be considered on both an international and a local level.

- **Challenge** on legal grounds at the United Nations and the International Court of Justice **the conversion of private lands into Israeli state lands** and then their use for settlement construction.
- **Dry up financial support to the settlement movement**, especially in the United States. It may be useful to challenge NGOs which use tax-payers' money legally (for funding activities that contradict international law) and politically (draw attention to the fact that they contradict official U.S. policy).
- Use increased EU readiness to **distinguish between produce from settlements and produce from Israel proper** in order to ensure the government of Israel clarifies the labeling on settlements produce and to exclude such produce from the beneficial trade agreement between Israel and the European Union. The EU should make it a priority to find a solution to the technical problems which limit a full implementation of this modality.
- Initiate by European civil society a non-governmental **public campaign in Europe (and elsewhere) aimed at a consumers' ban of settlements produce**.
- Initiate **an academic campaign restricting the West Bank-based Jewish academic institutes and teaching staff** (such as Ariel College). This can be effective.
- Promote on **legal grounds sanctions in the U.S. and Europe against specific Israeli individuals who have directly promoted or promote the settlement project**.

Obviously the conflict parties themselves should move at maximal pace towards a two-state solution and a fundamental transformation of the realities in the West Bank, including East Jerusalem and Gaza.

The PLO should condition further negotiations with Israel on a full settlement freeze. This was contested by some of the experts on the ground of the risk this entails in losing the momentum that currently exists among the international community. Moreover, the latter argued that such a precondition effectively undermines the need for both the PA and Israel to address the substantive issues of settlements, borders, Jerusalem, refugees and security. These experts, therefore, recommended that, **while maintaining its demand for a settlement freeze, the PLO engage in the negotiations which the Obama administration hopes to begin and, in this more effective way, address the issues of borders, settlements, Jerusalem, security and refugees.**

Palestinian negotiators need to gather concrete data to present to Israelis and internationals regarding **a detailed planned design for a Palestinian state**, including roads, schools, villages, etc.; the exact number of Israeli outposts and settlements that need to be evacuated, and what they would want in return for annexed settlement blocs and in case of loss of control over natural resources. Having a clear vision of and a plan for what the State of Palestine will look like can enhance the Palestinian position and accelerate the move toward statehood. Specifically, it can shift the negotiations dynamic from that of bargaining over percentages of land to that of principled negotiations over clear interests. Some participants cautioned that drawing such detailed plans may be risky, given the

heightened expectations this will cause in a context in which an actual implementation of the plan is largely impossible under occupation.

The PLO should come up with a strategy that finds a way for settlers who do not wish to evacuate to remain in the West Bank under Palestinian rule, possibly with a Palestinian citizenship. Such a strategy can include conditions for the acquisition of citizenship, such as having no history of violence against Palestinians and living on land that was not private Palestinian property. The strategy should also consider how Jews can have access to Jewish religious sites in the West Bank, assuming they accept to abide by Palestinian law while visiting. The feasibility of this effort was deemed highly important even if only a very small number of Jews would actually opt for such an arrangement.

Israeli and Palestinian civil societies should continue to play a central role in drawing attention to this important topic.

The Israeli public must be made aware of the implications of settlement activities. Campaigning in Israel should be targeted at a total abandonment of settlements, providing information on the reality of the situation in the West Bank, while arguing that settlements are creating a de facto one-state solution which jeopardizes and undermines the character of Israel as a Jewish state. Also emphasizing that control of land conflicts with security and that settlements are a burden — rather than an asset — to security has merit.

Palestinian public campaigns targeted at the Israeli public, as done by the PLO in the context of the Arab Peace Initiative, can also be effective. Specifically, the assumption that Israel's security can be achieved only via control over the West Bank, including the role of the settlements in this control mechanism, has to be challenged. **The Palestinian Authority and Palestinian civil society need to campaign also within Palestinian society** against Palestinian labor in settlements and against the purchasing of settlements products.

Israeli and Palestinian civil societies should increase their preventive measures and, specifically, **campaign against construction projects that are already in sight.** In the immediate future, one key priority should be the Jerusalem Holy Basin Plan. Two other key points are E-1 and Ma'ale Adumim. Making Israeli violations of international commitments and international law visible is crucial and the mass media should be harnessed for this effort.

Israeli civil society should lobby for passing a **compensation-evacuation law in Israel**, granting financial compensation to settlers who evacuate willingly and commit to settle within the Green Line. The evacuation-compensation law proposed to the Knesset during the Gaza disengagement should be studied carefully as important lessons may be learned. It was noted that a voluntary withdrawal can have a domino effect as workplaces will be closed, the economy will slow down and social life will be transformed. The international community should work to support efforts in this direction and consider supporting a private fund providing similar compensation to settlers leaving voluntarily.

Palestinian and Israeli archeologists need to cooperate and share information on illegal construction in East Jerusalem and the West Bank, bilaterally and with the international community.

- ***What final status modalities are key to resolving the settlement question?***

There was agreement among the experts that the **1949 Armistice Line (Green Line) is the basis for any final status engagement with the question of settlements.**

Various **links between the settlement issue and other final status issues** were flagged as significant. The obvious link is between the question of the settlements and that of **Jerusalem**. To a large extent, this link was in place in previous attempts to negotiate a final status agreement. In both, the guiding principle for resolution should be the Green Line.

Another possible and relatively obvious link is between settlements and borders. One way to create this link is to follow the path of the European Union's Javier Solana and **use the UNSC to definitely set the borders** and determine once and for all which settlements are illegal and which are not.

The majority of the participants rejected the wisdom behind **linking the settlement issue to Arab-Israeli normalization**. Three main arguments were used to support the need to de-link the two: First, the absence of such normalization enables Israel to avoid a settlement freeze and provides it with a convenient pretext to evade its legal obligations; instead, a settlement freeze should be presented as an independent obligation Israel has to fulfill under international law. Second, the PLO's commitment to not going back to negotiations without a settlement freeze is very entrenched in terms of Palestinian domestic politics and, according to some, cannot be taken back without risking the PLO's legitimacy among the Palestinian population. If such normalization is to bring the parties back to the negotiations table without a settlement freeze, the PLO will be further delegitimized and weakened. Third, it is preferable to **link the settlement freeze to final status issues** than to such interim normalization, including flagging the importance of such a freeze for ensuring the viability of a two-state solution. Even then, as noted above, such a link should not necessarily be a precondition to negotiations, but rather a persistent PLO and international demand in parallel with final status negotiations on the core conflict issues.

A minority view argued that visible **high-profile contacts between Arab (especially Saudi) leaders and Israeli leaders** would be constructive, especially in alleviating concerns of the Israeli public and, thus, enabling popular support for Israeli-Palestinian negotiations within the context of the Arab Peace Initiative. It is worth noting that, even those experts objecting to such a modality, supported an increased involvement of regional and, specifically, Arab actors in the process of resolving the conflict. Indeed, there was clear support in **conceptualizing the settlement issue as more than a bi-national Israeli-Palestinian problem and ensuring the involvement of regional and international actors**, including in the role of arbitrators and monitors.

The **link between security and settlements**, both clear final status issues, was arguably less clear in the past and some participants have urged for more explicit linkage between the two, explaining that from the perspective of the Israeli government the settlements are a part of a control apparatus working to ensure Israeli security. According to this view, without an alternative security paradigm, one that does not call for Israeli control over the Palestinian land and population, progress with the settlement question is highly unlikely. One specific way of doing so is **linking the settlement freeze to international security guarantees for Israel**. This may provide the Israeli public with a sufficiently strong incentive for supporting a settlement freeze.

Another link between final status issues was flagged as a potential opportunity in future negotiations — between the question of the **refugees and the settlements**. Specifically, the language the Jewish settlers have used and continue to use of "a right of return," for example, when initially settling in Hebron presents an opening for linking the Palestinian right of return to the question of the settlements. This hitherto under-emphasized link may be a constructive avenue to explore, especially in the context of some mutual recognition of historical rights.

Finally, it was argued that the crux of the problem relates to the actual presence of the settlements and the settlers and not to freezing construction or other limited moves. In this regard four complementary strategies were identified:

- **Land Swaps:** The Palestinian participants insisted that, on principle, Israel should withdraw to the lines of the 4th of June 1967. Swapping land of equal size and value was raised by some as a possibility, but the Palestinian participants argued that such an option should not be made explicit before actual negotiations, as it opens the door to an Israeli settlement policy east of the Green Line, with the argument that these lands will be part of Israel as a result of a future land swap. Other caveats flagged with regard to this strategy included a sense that the PLO and the Palestinian public do not have a sufficiently clear knowledge about the precise pieces of land west of the Green Line in which they are interested. For example, identifying places in which a land swap would enable Palestinian sovereignty over the lands of a destroyed Palestinian village and, thus, make possible a return of refugees to it may be a worthwhile exercise.
 - **Evacuation-Compensation:** An Israeli legislative move, possibly as a result of behind-the-scenes international pressure, assuring Israeli citizens living in the West Bank of financial compensation large enough to purchase a house within the Green Line may have dramatic consequences if done before the final status agreement. According to public opinion polls, over 40% of the settler population is willing to leave if offered alternative lodging within the Green Line. It is likely that such a mass departure will cause a domino effect and weaken the settlement project economically, politically and socially.
 - **Remaining as Palestinian citizens:** So far no significant leader of groups of settlers has voiced support for this option. Nevertheless, it is worth noting that, during 2009, several leading Palestinian figures, including Prime Minister Salam Fayyad and former Head of the Negotiations Team Ahmad Qurei' have publicly stated this was a real option from their perspective. This change of position may mean that such a strategy merits serious consideration. Even if providing a solution only to a small number of settlers, its symbolic potential is very significant.
 - **Forced evacuation:** All the settlers whose status and location was not resolved as a result of the above-mentioned strategies would have to be evacuated by force. The forced evacuation from Gaza during the disengagement plan has taught all parties several crucial lessons which have to be studied carefully when such forced evacuation is carried out again.
- ***What is the most effective path for sequencing and coordinating international, regional and local policy on settlements?***

It appears that, while there are some significant initiatives in place working to challenge the settlement project and to find creative ways to address it within the context of a two-state solution, an overall strategy does not exist. Instead, the effort is fragmented among Israeli, Palestinian and international actors and lacks the kind of coherence which enables the whole to become larger than the sum of its parts. Such an overall strategy is much needed and should be accompanied by increased cooperation among various non-governmental and governmental actors sharing similar goals.

Such an overall strategy should be based on three pillars: first, a clear and creative image of the endgame (including borders, land swaps, compensation for settlers who evacuate voluntarily and, perhaps, even modalities for Jewish life within the State of Palestine); second, a set of carrots providing incentives to the State of Israel and to the settlers themselves to evacuate settler presence to alternative agreed-upon locations that do not jeopardize the viability of the Palestinian state; and third, a set of sticks and sanctions that increase the financial, political and social costs of the settlement project (such as various financial and legal sanctions towards financial and political settler efforts).

Further careful and rigorous work is needed in order to create such an overall strategy and donors should consider convening the key actors engaged in this arena for an exercise of joint strategic planning.

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ANNEX I – EXPERTS NAMES AND BIOGRAPHIES

Israeli Experts

Prof. Elisha Efrat – Emeritus professor at the Department of Geography and Human Environment, Tel Aviv University. Winner of the Israel Prize for the Research of Geography, 2007. Published tens of books, including *The West Bank and Gaza Strip: A Geography of Occupation* (2002).

Dr. Menachem Klein – Senior lecturer, Department of Political Studies, Bar Ilan University. Geneva Initiative signatory.

Hagit Ofra – Director of Settlement Watch, Peace Now.

Benny Raz – Director of One Home, an Israeli NGO working to legislate an evacuation-compensation scheme in which settlers willingly leaving their houses will be financially compensated by the Israeli government.

Palestinian Experts

Abdel Rahman Abu Arafah – Director, Arab Thought Forum” refers, an independent Palestinian organization committed to the goal of establishing an independent democratic state for the Palestinian people.

Dr. Jad Ishaq – Head of the Applied Research Institute of Jerusalem (ARIJ), a Palestinian organization dedicated to promoting applied research, technology transfers, sustainable development and the self-reliance of the Palestinian people through greater control over their natural resources.

Dr. Sufyan Abu Zaydah – Professor at Al-Quds University. Former PA minister for prisoners affairs.

Dr. Nazmi Jubeh – Director of Riwaq, Centre for Architectural Conservation. Has recently published a book on Jerusalem.

Internationals

Anna Brodin – Consul/Political Affairs, Consulate General of Sweden.

Ali Riza Guney – Deputy chief of the Turkish Mission.

Robert Dann – Head of regional political affairs, UN Special Coordinator for the Middle East Peace Process (UNSCO).

Sara Hamood – Senior policy advisor, Oxfam.

Nicholas Pelham – Senior analyst, International Crisis Group

Damien Cristofari – Consul adjoint, French Consulate.

Stefan Szepesi – European Commission representative to the Quartet Representative Office

Moderators

Ziad AbuZayyad – An attorney-at-law, is co-editor of the *Palestine-Israel Journal*. He is a former Palestinian Authority minister and a former member of the Palestinian Legislative Council.

Hillel Schenker - Hillel Schenker is co-editor of the *Palestine-Israel Journal*. A journalist who writes for the local and international press, he was a co-founder of Peace Now and a member of the Executive of the Younger Generation in the Kibbutz Artzi national kibbutz movement. He is vice chair of Democrats Abroad - Israel.

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ANNEX II – FURTHER READING AND WEBSITES

Following the facts on the ground

Monitoring Israeli Colonization Activities in the Palestinian Territories

http://www.arij.org/index.php?option=com_content&task=view&id=295&Itemid=26&lang=en

or <http://www.poica.org/>

PLO Negotiation's Affairs Department – Palestinian Monitoring Group (August 2005)

<http://www.nad-plo.org/pmg/special/PMG.report.n.24.08.05.pdf>

PLO Negotiation's Affairs Department – Settlement Outposts: Realities and Myths (July 2009)

<http://www.nad-plo.org/facts/col-sett/NSU%20Outposts%20FS%20Jul%202009%202.pdf>

Peace Now – Settlement Watch Department

<http://peacenow.org.il/site/en/peace.asp?pi=51>

Foundation for Middle East Peace (Regularly publishes a report on Israeli settlements in the Occupied Territories)

<http://www.fmep.org/>

Who Profits? Exposing the Israeli Occupation Industry (Exposing companies involved in the occupation)

<http://www.whoprofits.org/>

The sociology and politics of the settler community

Israel's Religious Right and the Question of Settlements, International Crisis Group, Middle East Report N°89, 20 July 2009

<http://www.crisisgroup.org/home/index.cfm?id=6228&l=1>