

ISAVING THE TWO STATE SOLUTION

IMPLEMENTING A GENUINE SETTLEMENT FREEZE

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I. Introduction

The ongoing creation and expansion of Israeli settlements in occupied Palestinian territory poses the *single* greatest threat to the establishment of an independent, viable and contiguous Palestinian state, and hence, to a just and lasting peace between Israelis and Palestinians. Yet despite the Roadmap's call for a freeze on "all settlement activity", Israel is intensifying its colonization of the West Bank, particularly in and around occupied East Jerusalem, threatening the Quartet's vision of two states living side-by-side in peace.

II. The Need for a Settlement Freeze^[11]

The establishment of Israeli settlements in occupied territory is illegal under international humanitarian law^{[12][13]}. Article 49(6) of the Fourth Geneva Convention states: "The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies."¹ The illegality of Israeli settlements in occupied Palestinian territory (OPT) was affirmed *unanimously* by the International Court of Justice (ICJ) in July 2004. Indeed, Judge Thomas Burgenthal (USA), despite being the only jurist to vote against the ICJ Advisory Opinion on the Wall, nevertheless wrote: "I agree that [the Fourth Geneva Convention] applies to the Israeli settlements in the West Bank and that their existence violates Article 49, paragraph 6. It follows that the segments of the wall being built by Israel to protect the settlements are *ipso facto* in violation of international humanitarian law."²

In addition to the illegal nature of ongoing Israeli settlements and settlement activity, a full and immediate settlement freeze is also needed for the following reasons^[14]:

- ***Israeli settlement activity is incompatible with the "land for peace" formula^[15] and severely prejudices permanent negotiations.***

Under the "land for peace" formula contained in UN Security Council Resolutions 242 and 338 and on which the peace process is based, Israel is to withdraw from the territories it occupied in 1967 in exchange for full peace and recognition from its neighbors. The goal of Israel's settlement enterprise, however, has been to deliberately and artificially alter the status of the OPT, both physically and demographically, so as to prevent its

¹ Contrary to Israeli claims, this provision is not concerned solely with "forcible transfers" but includes cases where the Occupying Power, through a combination of political and economic incentives, actively encourages its own population to relocate to occupied territory, thereby altering its physical and demographic character. According to a commentary of the Fourth Geneva Convention, the prohibition on establishing settlements:

is intended to prevent a practice adopted during the Second World War by certain Powers, which transferred portions of their own population to occupied territory for political and racial reasons or in order, as they claimed, to colonize those territories. Such transfers worsened the economic situation of the native population and endangered their separate existence as a race.

See Jean S. Pictet, ed., *Commentary on IV Geneva Convention Relative to the Protection of Civilian Persons in Time of War* (Geneva: ICRC, 1958).

² See "Declaration of Judge Burgenthal," *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* (9 July 2004).

eventual return to Palestinians. Therefore, a full and immediate settlement freeze, such as the one called for in the Roadmap, remains the only way to ensure Israeli good faith and minimally ensure that no further harm is done to the viability of the two-state solution *prior to* (or in the absence of) actual negotiations.

Nearly all efforts to move Israelis and Palestinians toward peace, both bilateral and multilateral, have recognized that no meaningful negotiations between the parties can proceed whilst Israel continues building and expanding its settlements in the OPT. Under the terms of the **Oslo Accords**, both parties agreed that “[n]either side shall initiate or take any step that will change the status of the West Bank and the Gaza Strip pending the outcome of the permanent status negotiations.”³ Accordingly, Israel’s late Prime Minister, Yitzhaq Rabin, himself imposed a formal—albeit incomplete—ban on Israeli settlement activity.

Since the breakdown of formal negotiations, moreover, third-party attempts to revive the peace process have explicitly called on Israel to end settlement activity. Upon concluding his six-month fact-finding mission into the causes of Israeli-Palestinian violence in May 2002, former Senator George Mitchell echoed the words of former U.S. Secretary of State James Baker: “I don’t think there is any bigger obstacle to peace than the settlement activity that continues not only unabated but at an enhanced [pace](#)[16].” Chief among the **Mitchell Committee’s** recommendations, therefore, was that “[t]he GOI should freeze all settlement activity, including the ‘natural growth’ of existing settlements.”

More importantly, the **Quartet Roadmap**, which all parties have accepted as the most effective path to peace negotiations, reiterated the need for a full settlement freeze as a preliminary step *prior to* [negotiations](#)[17]. Thus, parallel with Palestinian security obligations in Phase I, is the Roadmap’s requirement for Israel to “freeze[] all settlement activity (including natural growth of settlements).” While Palestinians have taken some steps toward implementing their Roadmap obligations, Israel has yet to undertake any of its own Phase I obligations.

➤ ***Israeli settlements severely restrict Palestinian freedom of movement and impede economic [development](#)***[18].

More than 38 years of government-directed colonization has led to the marginalization of 2.4 million Palestinians on their own land in order to benefit the approximately 420,000 Israeli settlers who illegally reside in the occupied West Bank, including East Jerusalem. The presence of Israeli settlements and severely impedes both short- and long-term Palestinian development.

By fragmenting Palestinian territory into numerous non-viable cantons and enclaves and imposing increasingly severe restrictions on Palestinian movement, Israeli settlements settlement-related infrastructure (e.g., by-pass roads, perimeter fences/walls, and the “separation” wall, etc.) deny Palestinians access to vital land and water resources, along with commercial markets and essential social, educational and health services.

According to the United Nations, Israel has imposed some 376 checkpoints, roadblocks, concrete blocks, and other barriers throughout the West Bank,⁴ as part of its regime of *internal closures*, which is heavily concentrated around Israeli settlements. In addition, in order to ensure unfettered settler freedom of movement Israel, to numerous West Bank

³ *Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip* (28 September 1995), Art. XXXI(7).

⁴ UN OCHA, [\[VERIFY & CITE SOURCE\]](#)

roads. A recent report by the Israeli human rights organization B'Tselem found that Palestinians are currently restricted or prohibited from 41 roads, comprising some 732 km, in the West Bank. These include at least 17 roads (124 km) from which Palestinians are completely prohibited. The report further states:

The regime, based on the principle of separation through discrimination, bears clear similarities to the racist apartheid regime that existed in South Africa until 1994. In the regime operated by Israel, the right of every person to travel in the West Bank is based on his or her national origin.⁵

Similarly, Israel severely limits Palestinian access to large portions of Palestinian territory of high settlement priority, including areas west of the Wall, most of the Jordan Valley⁶ and all of East Jerusalem, by constructing massive checkpoints and “crossing terminals” and enforcing increasingly restrictive permit requirements.

➤ ***The presence of Israeli settlements and settlers promote instability and violence.***

Israeli land confiscation and home demolition policies, restrictions on Palestinian movement and other harsh measures aimed at safeguarding and facilitating Israel’s settlement enterprise at the expense of the indigenous population, constitute ongoing provocations against Palestinians. Meanwhile, Palestinians routinely are subjected to attacks and humiliation by armed Israeli settlers, as well as by the soldiers charged with protecting them.

As such, the presence of Israeli settlements and settlers are a primary source of Palestinian resentment, militancy, and even violence. Noting the connection between settlements and violence, the Mitchell Report observed that “a cessation of Palestinian-Israeli violence will be particularly hard to sustain unless the GOI freezes all settlement construction activity. The GOI should also give careful consideration to whether settlements that are focal points for substantial friction are valuable bargaining chips for future negotiations or provocations likely to preclude the onset of productive talks.”

The Mitchell Report went on to add: “Beyond the obvious confidence-building qualities of a settlement freeze, we note that many of the confrontations during this conflict have occurred at points where Palestinians, settlers, and security forces protecting the settlers, meet... Settlement activities must not be allowed to undermine the restoration of calm and the resumption of negotiations.”

Unbridled settlement activity erodes Palestinian confidence in the political process and a negotiated resolution of the conflict. Only a genuine settlement freeze can provide hope to Palestinians and demonstrate that an alternative to violence and armed conflict exists, one that offers them the prospect of genuine freedom and, more importantly, a state that is actually worth having.

⁵ B'Tselem, *Forbidden Roads: The Discriminatory West Bank Road Regime*, p. 3.

⁶ See UN OCHA, Humanitarian Update, “Special Focus: The Jordan Valley” (October 2005).

III. The Failure of “Partial Freeze” Arrangements

Any arrangement that does not entail a full settlement freeze necessarily cannot limit the expansion of Israeli settlements. Indeed, such partial-freeze arrangements in the past have led to unprecedented settlement growth, thereby prejudicing the outcome of permanent status negotiations and undermining chances for a viable Palestinian state.

A. The Oslo Years: A Period of Unprecedented Settlement Growth

Similar partial-freeze arrangements during the Oslo years led to unprecedented rates of settlement growth. Between 1993 and 2000, Israel’s settler population grew by more than 72%, while the number of settler housing units increased by 52%.⁷ Moreover, the settler population grew by 8-10% a year, or three times that of the Jewish population inside Israel, which has an average annual growth rate of 2-3%.⁸ Similarly, during this period, the Israeli government confiscated some 215,700 dunums (~54,000 acres) of Palestinian land, allowing settlements such as Bitar ‘Illit, Mitzpe Rahel, and Giv‘at Ze’ev to more than triple in size.⁹

- **Rabin/Peres Governments (1992-96):** The 1992 arrangement between Prime Minister Yitzhak Rabin and the U.S. government allowed Israel to continue settlement construction at a rate unparalleled during the previous 26 years of Israeli occupation. Under Rabin, settlement construction proceeded at an average rate of 3,800 housing units per year—triple the historical rate of 1,200 per year.¹⁰ In addition, by mid-1996, the settler population in the West Bank, excluding those in and around occupied East Jerusalem, increased by 50% to approximately 153,000.¹¹

Though Rabin promised he would build “no new settlements” without government approval and prohibit private construction, the Bush Administration acquiesced to Israeli demands to allow completion of 11,000 units under construction and unrestricted settlement construction in and around occupied East Jerusalem and the Jordan Valley, as well as for unlimited “natural growth needs”. In particular, the agreement exempted construction of housing units and settler-only bypass roads for settlements in the “Greater Jerusalem” area, such as Ma‘ale Adumin, Gush ‘Etzion, Betar, Giv‘at Ze’ev—key settlements designed to sever northern and southern West Bank territory and further isolate Palestinian East Jerusalem.

- **Netanyahu Government (1996-98):** Similar understandings allowed the Netanyahu government to increase housing starts in 1998 by 100% to 4,210, the highest rate of settlement growth since Ariel Sharon’s term as Minister of Housing in 1991-92. Rather than insisting on a full freeze, U.S. officials asked only that Israel avoid “substantial or meaningful” expansion, and to limit growth to “contiguous areas” and avoid building “beyond the periphery”. Israel exploited the arrangements by disguising the creation of new settlements as “new neighborhoods” and encouraging the creation of settlement “outposts” that expanded from hilltop to hilltop, in addition to establishing several new “official” settlements. The partial freeze also allowed Israel to continue building major settler-only bypass roads and other settlement infrastructure and to enlarge its settler presence in occupied East Jerusalem. In all, during his brief 32-month tenure,

⁷ Peace Now.

⁸ Peace Now.

⁹ MOPIC, GIS and Mapping Unit Data Base (2000).

¹⁰ See Foundation for Middle East Peace, “Reports on Israeli Settlement in the Occupied Territories” (1996).

¹¹ FMEP, “Report on Israeli Settlement in the Occupied Territories” (July 1996), Vol 6, No. 4; (March 1999), Vol. 9, No. 2 (available at: <http://www.fmep.org/reportsjul1996>).

Netanyahu's policies led to the construction of more than 20,000 housing units, more than 14,000 of which were sold, and increased the total settler population (*not* including those in East Jerusalem), by more than 20% (from 153,000 to 180,000).¹²

- **Barak Government (1998-2000):** Prime Minister Ehud Barak surpassed both of his predecessors in accelerating the rate of settlement expansion in the OPT during the lead-up to permanent status negotiations. In addition to approving Netanyahu's plans for 11,000 new apartments and 2,830 housing tenders,¹³ Barak "legalized" 32 of the outposts established under the previous government and established three additional "official" settlements of his own.¹⁴ In addition, Barak authorized the construction of approximately 4,800 additional housing units throughout the OPT.¹⁵

B. Settlement Freeze "Loopholes"

Nearly half of the roughly 420,000 Israeli settlers now living in the OPT, and a full one-third of the more than 200 settlement "localities" scattered throughout the OPT, were established during the Oslo period. This is because the various "partial freeze" formulas employed during this time provided numerous "loopholes" that allowed continued settlement growth, effectively negating the impact and intent of the freeze. Following are some common freeze "loophole" arrangements that have repeatedly failed to curb settlement growth over the years.

- **"Natural Growth"** – There is nothing "natural" about Israeli settlement growth, which is precisely why it is explicitly excluded by the Roadmap. Rather, "natural growth" is a politically expedient term invented by Israel in order to by-pass its freeze obligations. Due in large part to Israeli government financing and incentives, the growth rate of Israel's settler population in the OPT is *several times higher* than that of Israel itself. In addition to unrestrained settler population growth, this formula also allows for the kind of territorial and infrastructural expansion ostensibly needed to accommodate that growth.

*E.g.: Whereas towns and cities inside Israel grew at a rate of 1.7% between 2003-04, Israeli settlements in the Occupied Palestinian Territory grew by 5.5%—or more than 3 times as fast—during the same period. Meanwhile, individual settlements grew at far higher rates, such as Bet Aryeh (36.6%), Yitzhar (21.4%), and Geva' Binyamin (12.8%), and others.*¹⁶

- **"No new settlements"** – This formula allows for the continued creation of new settlements under the guise of building settlement "neighborhoods" or "outposts", as well as for ongoing territorial, physical and demographic expansion of existing settlements. Moreover, while all settlements are illegal under international law, when it comes to maintaining and expanding settlements, Israel continues to violate its *own* laws and regulations, as shown by the *Sason Report* regarding the more than one hundred settlement outposts scattered throughout the West Bank.

¹² See FMEP, "Report on Israeli Settlement in the Occupied Territories" (November-December 1997), Vol. 7, No. 6 (available at: <http://www.fmep.org/html>).

¹³ Peace Now (<http://peacenow.www.peacenow-org.il>).

¹⁴ FMEP, "Report on Israeli Settlement in the Occupied Territories," (November-December 1999, Vol 9, No. 6, (available at: <http://www.fmep.org/reports/v9n6.html>).

¹⁵ B'Tselem, *Land Grab: Israel's Settlement Policy in the West Bank*, May 2002.

¹⁶ Israeli Central Bureau of Statistics (2004).

In a letter addressed to Sason, the director of Israel's Administration for Rural Construction stated that "when, because of international relations, it is not possible to establish new settlements in Judea and Samaria, policymakers decided that existing settlements would instead be expanded, even if the expansion is not contiguous with an existing settlement."¹⁷ Moreover, since most land allotted for settlement construction *and* future expansion is already under settlement "jurisdiction", comprising 42% of the entire West Bank,¹⁸ and most settlement "master plans" have already been approved by past Israeli governments, this would allow existing settlements to continue expanding by several times their current size.

E.g.: Three new settlements ("neighborhoods") have been established near the settlement of Talmon (northwest of Ramallah): 'Talmon B', 'Talmon C', and 'Talmon D'. All are non-contiguous and lie between .5-1.5 km from Talmon itself.

- **"No construction beyond the construction line"** – Variations on this formula include limiting settlement growth to within "the periphery" or existing "built-up" areas of settlements. In addition to the inherent subjectivity involved in identifying exactly where a "construction line" might be drawn, this formula would still allow for practically unlimited growth in settler population by permitting increases in the population density. Moreover, regardless of where a line may be drawn, it would allow Israel to continue expanding settlements territorially as well, by incorporating non-contiguous settlement areas, including by-pass roads, outposts, industrial sites, and other settlement structures within a single, expanded "construction line."

E.g.: By incorporating the non-contiguous built-up areas inside the "municipal" boundary of Ariel, located in the very center of the northern West Bank, Israel could expand the settlement to up to 3.5 times its current size.

- **"No land expropriation for construction"** – As noted above, Israel has already expropriated most of the land it seeks for settlements and their future expansion, leaving Israeli settlements with an expansion reserve amounting to more than 40% of the West Bank. Nonetheless, this provision allows Israel to continue seizing Palestinian land for "non-construction purposes," such as agriculture, settlement by-pass roads and fences, and unspecified "security" reasons, as well as to execute outstanding confiscation orders.

E.g.: In April 2005, the Israeli army ordered the confiscation of 280 dunums (~70 acres) around the settlements of Avne Hefetz and 'Enav near Tulkarem for the construction of fences around the two settlements, while effectively seizing an additional 1,550 dunums (~388 acres) of land situated inside the settlements' new perimeters belonging to nearby Palestinian villages.

- **"No special economic incentives for settlements"** – Israeli settlements continue to receive substantial financial support and economic incentives from various Israeli government ministries, as documented by the *Sason Report*.¹⁹ Moreover, this formula *excludes* private financing and construction, which is responsible for most settlement construction activity in the OPT.

¹⁷ Sason interprets this to mean that "the Administration for Rural Construction, according to its director, with permission of the various Ministers of Housing, ignored government decisions and assisted in the establishment of unauthorized outposts in the guise of neighbourhoods and expansions of existing settlements." See Talia Sason, *Opinion Concerning Unauthorized Outposts* (Unofficial Translation), p. 148.

¹⁸ B'Tselem, *Land Grab*, p. 116.

¹⁹ See Sason, *Summary of the Opinion Concerning Unauthorized Outposts*.

E.g.: The Israeli government grants 'National Priority' status to settlements in the OPT as part of its efforts to encourage Israeli citizens to settle in the West Bank (including East Jerusalem), entitling the settlements to millions of dollars in government funding and subsidies annually.

- ***Exempting East Jerusalem*** – East Jerusalem, like the rest of the West Bank, is occupied territory. As such, it is subject to the same provisions of international law that prohibit the establishment of Israeli settlements as any other part of occupied Palestinian territory. Thus, despite the extension of Israeli law to East Jerusalem and surrounding villages, nearly all nations of the world, including the United States, do not recognize Israel's illegal annexation of East Jerusalem. Nevertheless, for reasons of political expediency, Israeli settlements in East Jerusalem, which contain some 180,000 of the approximately 420,000 settlers (42%) in the OPT, typically have been exempted from past freeze arrangements. This has severely prejudiced final status negotiations, not only because of the intensity with which Israel continues to create "facts on the ground" in Palestinian Jerusalem, but also because no Palestinian state can be truly viable—territorially, economically, or politically—without it.

III. Elements of a Genuine Settlement Freeze^[19]

As the above illustrates, “partial freeze” arrangements that allow loopholes for continued settlement growth or that apply only to certain settlements and not others, *necessarily* prejudice the outcome of permanent status negotiations and undermine prospects for a viable and contiguous Palestinian state. Hence, only a full settlement freeze, such as that required by the Roadmap, can prevent further erosion to the peace process and save the two-state solution.

The basic requirements for a settlement freeze are spelled out clearly in Phase I of the Roadmap:

- “Consistent with the Mitchell Report, GOI freezes all settlement activity (including natural growth of settlements).”
- “GOI immediately dismantles settlement outposts erected since March 2001.”
- “GOI takes no actions undermining trust, including deportations, attacks on civilians; confiscation and/or demolition of Palestinian homes and property, as a punitive measure or to facilitate Israeli construction...”

These requirements are consistent with UN Security Council resolutions and international humanitarian law, both of which prohibit establishing or expanding settlements in occupied territory.

More specifically, however, there are four primary elements that are essential to a genuine settlement freeze:

- Ending all settlement-related construction;
- Eliminating all government subsidies and incentives for settlements and settlers;
- Ending all government planning for settlements; and
- Ceasing all land confiscations, home demolitions and other property destruction.

In addition, for the freeze to be both meaningful and effective, its territorial scope, duration, and timing cannot be subject to artificial limitations or exemptions. Thus, a settlement freeze must apply to *all West Bank territory* occupied by Israel in 1967, including East Jerusalem. Second, the freeze must be *permanent*, which is to say it should remain in place through the conclusion of permanent status negotiations. Finally, implementation of the freeze must be *immediate*, in accordance with the principle of parallelism contained in the Roadmap.

A. Ending all settlement-related construction.

An end to all construction associated with Israeli settlements in the occupied West Bank, including East Jerusalem is among the most essential—and basic—elements of a settlement freeze. This includes halting construction on new settler housing units, as well as on settlement roads, infrastructure and commercial projects. Were it not for the extensive settlement infrastructure projects now being undertaken in the OPT, such as settler roads, industrial zones and the “separation” Wall, the current rate of Israeli settlement expansion could not be maintained.

Whereas building additional settlement housing units is intended to alter the demographic balance in Palestinian territory, Israeli economic and infrastructure projects in the OPT serve to deepen the settlement enterprise as a whole. For example, Israel’s elaborate network of settler by-pass roads, which is designed to integrate the settlements with Israel and with each other, is vital to settlement growth. Construction of these roads usually entails confiscation of private and public Palestinian land. In addition, the roads themselves, on

which Palestinian access is either restricted or prohibited altogether, further restrict Palestinian development and freedom of movement. Similarly, the construction of perimeter fences around Israeli settlements typically involves the seizure of vital Palestinian land and water resources, while simultaneously expanding the settlements' physical boundaries.

A settlement freeze must therefore include a halt to any and all Israeli construction, both public and private, associated with Israeli settlements in the OPT, including an end to building:

- settlement housing units (including outposts, caravans/trailers, etc.);
- settler by-pass roads and other West Bank roads that reinforce settlements (such as so-called “connectivity” roads and tunnels for Palestinians);
- “security” or other perimeter fences or walls around Israeli settlements;
- industrial, archeological, tourist, agricultural, or commercial facilities or structures in Israeli settlements; and
- the “separation” Wall (including crossing terminals, “back-to-back” stations, and other permanent infrastructure along the Wall).

B. Eliminating government subsidies/incentives for Israeli settlements and settlers.

The massive growth in Israel's settler population in recent years is among the most harmful and prejudicial aspects of Israeli settlement expansion. In 2001 alone, the Israeli government allocated more than NIS 2.2 billion (~US\$ 500 million) to settlements in the OPT (excluding those in East Jerusalem) from non-military budgets.²⁰ An additional NIS 2.5 billion in government funds is transferred to settlements (excluding those in East Jerusalem) each year to finance settlement councils and to provide education, health care, roads, electricity, water and other concealed expenditures.²¹ As a result, the growth rate of the Israeli settler population in the OPT is about 3-4 times higher than that of towns and cities in Israel itself. In addition, about 1,000 new settlers arrive in the OPT each month.

Thus, as part of a settlement freeze, Israel must eliminate government subsidies and special incentives for settlements in the OPT. This includes:

- Removing Israeli settlements in the OPT from the “National Priority Areas” (A/B) program, which provides direct benefits to designated Israeli communities, such as extra funding for education and tax breaks for local industries, as well as personal economic benefits like mortgage grants/loans, tax exemptions, free pre-schooling and other economic incentives to Israelis who reside in them;²²
- Eliminating any additional government incentives, including tax breaks and tax-exempt status, low-cost loans and mortgages for Israeli individuals/institutions, as well as government subsidies for Israeli agricultural, industrial or commercial projects in Israeli settlements in the OPT;
- Ending privately-funded construction and development projects in the OPT and removing advertisements for Israeli settlements. [\[ASK BADER\]](#)

²⁰ Dror Zaban, *Israeli Government Budget Expenditures for the Settlements 2001-2002* (January 2003).

²¹ *Ha'aretz*, “The Extra Civilian Price-Tag: At least NIS 2.5 Billion a Year,” 25 September 2003.

²² The “National Priority” program offers benefits through six government ministries: Ministry of Housing and Construction, Ministry of National Infrastructure (through the Israel Lands Administration), Ministry of Education, Ministry of Industry and Trade, Ministry of Labor and Social Affairs, and Ministry of Finance.

C. Ending government authorization and planning for Israeli settlements.

The massive growth in Israel's settler population in recent years is also due in large part to official government planning for Israeli settlements. The presence of more than 420,000 Israeli settlers in the occupied West Bank, including East Jerusalem, is a direct result of Israeli government planning and other policies designed to maintain and expand Israel's settlement enterprise.²³ Thus, in addition to preventing its citizens (or those eligible for Israeli citizenship) from relocating to the OPT, Israel must also cease all formal and informal planning for Israeli settlements in the OPT, including:

- Refraining from providing authorization by the "political echelon" (esp. the Prime Minister and Minister of Defense) for the creation of new settlements or expansion of existing ones;
- Freezing all planning activities for Israeli settlements in the OPT by government ministries or offices (e.g., Ministry of Defense, Ministry of Housing & Construction, Israel Lands Administration, etc.), as well as by any non-governmental or quasi-governmental bodies, such as the WZO's Settlement Division, YESHA Council, etc.
- Ceasing to issue building permits for Israeli settlements, and canceling permits already issued;
- Ceasing to issue tenders for any construction associated with Israeli settlements (including infrastructure), and canceling all current or pending tenders;

D. Ceasing all land confiscations and property destruction, regardless of the pretext.

Israel continues to seize thousands of dunums of Palestinian land each year for settlement creation and expansion under various pretexts, such as designating them "state lands," declaring them to be "closed military areas," or citing unspecified "security" reasons. In addition, since 1967, some 12,000 Palestinian homes have been demolished by Israel, leaving about 70,000 homeless.²⁴ These policies are aimed at making life unlivable for Palestinians in areas slated for future settlement growth, and ultimately at encouraging them to *leave* these areas. Extremist Israeli settlers often contribute to this process by attacking Palestinians, seizing their homes, or damaging and destroying Palestinian cultivation and other property.

Thus, equally important to a settlement freeze is for Israel to cease confiscating Palestinian land and demolishing Palestinians homes, particularly in and around East Jerusalem, regardless of the pretext. This includes:

- Nullifying all pending land confiscation/requisition orders of Palestinian property in the West Bank, including East Jerusalem, and a moratorium on new orders;
- Ceasing to declare and register Palestinian lands as "state land";
- Ceasing all expropriation of Palestinians lands for "public purposes" that in fact are used for settlement activity, including by-pass road and infrastructure construction;

²³ For more on Israeli government collusion in creating/maintaining Israeli settlements, in violation of its *own* laws, see Sason, *Summary of the Opinion Concerning Unauthorized Outposts*.

²⁴ Israeli Committee Against House Demolitions (available at: <http://www.icahd.org/eng/>).

- Allowing Palestinians to access and register their lands²⁵ so as to prevent Israel from citing “unregistered” or “abandoned” land as pretexts for their expropriation;
- Nullifying all current or pending demolition orders against Palestinian homes and other structures in the West Bank, including East Jerusalem, and a moratorium on issuing new orders.

²⁵ The land registration and regulation process was abolished by Israeli military order in 1968 (Order Regarding the Regulation of Land and Water (Judea and Samaria) (No. 291), 5729-1968). As a result, only about one-third of West Bank land had been registered, primarily in the Jenin area and the Jordan Valley. See B’Tselem, *Land Grab: Israel’s Settlement Policy in the West Bank* (May 2002), pp. 47-64.

IV. Enforcing a Freeze: Monitoring and Verification Mechanisms^[110]

In order to ensure Israeli compliance with its Roadmap obligations to freeze all settlement activity, an effective monitoring and verification mechanism will be needed, ideally with the involvement of third parties.

A. Overall Objectives

The purpose of any monitoring mechanism should be to facilitate implementation and ensure overall compliance by either party of its obligations under the Roadmap and to provide objective feedback to the parties and other stakeholders on the status of such compliance (or non-compliance). With regard to a settlement freeze specifically, the aim of such a monitoring mechanism should at a minimum be to:

1. Identify specific aspects within the four components of a settlement freeze (i.e., ceasing settlement-related construction, preventing the influx of additional settlers, land confiscations / property destruction, and eliminating government planning and incentives for settlements) that are to be monitored;
2. Establish timetables and other benchmarks for determining or verifying compliance with the specific terms of a freeze;
3. Provide regular, objective assessments of Israeli measures taken to comply with these terms (or conversely, Israeli violations) to the political leaderships (and other relevant actors) of both sides, as well as to Quartet members (via their envoys);
4. Recommend a suitable course of action regarding specific violation(s) in accordance with the Roadmap and/or other agreed upon guidelines; and
5. Resolve disputes between the parties that may arise regarding differing interpretations over compliance/non-compliance, recommended courses of action, etc.

B. Possible Options

There are various possibilities for structuring a monitoring/verification mechanism for Israeli settlements. Such a mechanism could be *bilateral* (i.e., jointly between Israelis and Palestinians) or *multilateral* (i.e., involving Israelis/Palestinians plus other stakeholders), either of which could also involve third-party actors (e.g., in the area of dispute-resolution). A third option would be to create an exclusively (or primarily) third-party mechanism, similar to the EU mission agreed to for the Palestinian-Egyptian border crossing at Rafah, for example.

Regardless of the specific composition or structure of the mechanism, third-party involvement, even at the technical level, can help to re-establish both sides' confidence in the political process. The role of Special Envoy Wolfensohn, for example, as well as that of Secretary Rice, in securing an agreement on access and movement in connection with Israel's disengagement plan was critical to the success of that process. Moreover, just as General Ward (and his newly-appointed replacement, Major-General Keith Dayton) has been tasked with working with Palestinians to ensure compliance with their Phase I obligations on security, a similar third-party mechanism can be established to ensure Israel's compliance with its Phase I obligations, namely the implementation of a full settlement freeze and dismantling of all outposts.