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**Nonviolent civil
evacuation:
Rethinking an
end to Israel's
settlements in the
West Bank**

Nonviolent Civil Evacuation: Rethinking an End to Israel's Settlements in the West Bank

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EXECUTIVE SUMMARY

Israel's settlements in the West Bank are the single greatest obstacle to a peaceful resolution of the conflict with the Palestinians. For decades, opponents of a peaceful agreement have disavowed the territorial nature of the conflict and denied the key role of the settlements in preventing a compromise. Surprisingly, they have been joined over time by Israelis who support an agreement but, for practical or ideological reasons, have come to view the settlements as a *fait accompli*. However, coming to terms with the settlements means accepting that the violent conflict will continue - whether in the form of ongoing military occupation or when a civil war breaks out after the West Bank is annexed to Israel.

Although the State of Israel actively supported the establishment and growth of the settlements, they are still championed primarily by a small sector of society whose messianic vision is not shared by the vast majority of Israelis. Nevertheless, many Israelis have grown willing to accept the settlements, despite the price, thanks to the mythology that has sprung up around them.

This paper unpacks two of these myths:

1. Irreversibility - the Jewish settlement project in the West Bank has gone beyond the point of no return, and therefore the settlements can no longer be evacuated.
2. Risk of confrontation - evacuating the settlements would necessarily entail a violent clash between state and settlers, which may escalate into civil war.

The two myths are intertwined: those who oppose territorial compromise believe that a major reason the settlements cannot be evacuated is that any evacuation will lead to a major clash between the parties.

This study refutes the myth of irreversibility regarding the settlements and proposes a practical approach to evacuating them: **nonviolent civil**

evacuation. We propose that the accepted model, of employing military force to evacuate settlers, be replaced by use of civil powers - i.e., relying on the state's administrative, financial and legal capabilities. Our approach is based on recognizing the fragility of the settlements. These communities, artificially scattered throughout hostile territory for political reasons, have failed to fulfill their three main goals: 1) changing the legal status of the West Bank; 2) achieving economic independence; and 3) convincing the general public to oppose partition of the land into two states. Given these fundamental failures, we argue not only that the settlements can be evacuated - but this can be done without catapulting Israel into a domestic crisis.

The first part of the paper provides a theoretical analysis of the question of partition. We refute the idea that the settlements are irreversible, showing the flawed empirical assumptions and distorted reading of political reality underlying it. Partition has been a key issue for Zionism from the outset, and the major dividing line in Israeli politics since the 1967 war. The argument that the settlements have gone beyond the point of no return is hardly new, either. It first emerged in the 1980s and has since gained traction in Israeli, Palestinian and international public opinion. Although this vociferous argument is the result of political despair rather than of logical reasoning, it has strongly impacted public opinion regarding possible solutions to the conflict.

Partition skeptics argue that the main reason the settlements cannot be evacuated is the size of their population. The truth is that the actual number of settlers is not necessarily related to whether or not they can be evacuated. However, since this argument has been made in public, it should be debated based on figures and facts. In 2021, there were approximately 660,000 Israelis living in the West Bank. Of these, some 220,000 live in East Jerusalem and its environs and would not be candidates for evacuation in a peace agreement. Of the remaining 440,000 - who make up only 14% of the West Bank population - most live in what are known as the "settlement blocs". These areas are adjoined to Israel's sovereign territory and would not be up for evacuation, either. This leaves the number of settlers who would have to leave their homes at 115,000 to 175,000. In other words, about 80% of Jewish settlers in the West Bank would stay in their homes under a future agreement. While

the remaining 20% make up more than the number of settlers evacuated from Gaza in 2005, comparing evacuation from the West Bank with the disengagement from Gaza is only relevant if the same evacuation measures are used in both cases.

Beyond the demographic debate, an economic and legal analysis reveals that the settlement enterprise is much more vulnerable than commonly believed. The early settlers understood this and noted openly that establishing settlements would not create an irreversible reality. Over years, the settlers' leaders have stressed that their project will survive only if they manage to "settle in the hearts"— i.e., win the public over to their cause. In that mission, they have undoubtedly failed. Although the settlements are being increasingly normalized in Israeli discourse, the messianic vision that fuels them is still confined to a sub-section of religious Zionism (10% of Israelis, at most).

While the settler lobby skillfully leverages political power to shape government policy and seize surplus funding, these temporary gains have not made inroads into mainstream Israeli opinion on the settlements. A broad public survey commissioned for this study found that Israelis are somewhat sympathetic to the settlers and their cause, and that the settlement movement has managed to cement the myth that Jewish presence in the West Bank is good for national security. It also found that nevertheless, most Israelis still believe the evacuation of settlements is a legitimate way to establish Israel's borders, whether unilaterally or as part of a peace deal. The settlers learned this painful lesson in the 2005 disengagement from Gaza, when the general public remained indifferent to their protestations.

Although the settlement enterprise is widely viewed in Israel as a success story, the truth is that after more than half a century, it has failed to attain economic independence and prosper. Most settlers depend entirely on urban hubs within Israel to run their daily lives, and their communities function merely as "bedroom communities". The organic employment that does exist within settlements is largely provided by regional councils and local educational institutes, which enjoy special government funding. The entire settlement project relies heavily on the state, which keeps it on financial "life support". While this fact is lacking from public debate, it means that the

government has much more power over the settlements than is commonly assumed. Therefore, we argue, the government does not have to deploy military or police force to evacuate settlements - but only to leverage their absolute dependence. Without the state's massive, ongoing support in all areas - financial support, military protection, legal shields and civilian services - the settlements in the West Bank are not only reversible, but unsustainable.

Legally, the settlements exist thanks to a convoluted system of laws and regulations tailored to fit the needs of Israeli citizens living outside the country's sovereign territory. Although the end goal of the settler movement has always been to extend Israeli law over the entire West Bank, the state has never annexed this territory and its laws do not apply there. A plethora of specialized legislation and administrative-military orders render the settlers equal in legal status to citizens living within Israel. The difference between an Israeli living in Hebron and an Israeli living in Berlin or Miami is a handful of legal acrobatics that can be cancelled with surprising ease. Here, too, the popular image is far from reality: not only can the state evacuate the settlements, it would only take a simple decision to do so.

All this leads to one clear conclusion: the settlements **can** be evacuated. Population size is not an obstacle, despite claims to that effect, given the financial feebleness of the settlement enterprise and its complete reliance on government funding. Due to this dependence, any future government will be able to quickly reduce the number of people living in settlements, as a first step towards full evacuation. Moreover, due to the exceptional legal status of the settlements, the government can destabilize the settlers' relatively normal way of life to the point of making it undesirable. The government actually has ample, effective means at its disposal to evacuate settlements.

Therefore, the relevant question becomes not **whether** settlements can be evacuated, but **how**. The second part of the paper discusses practical aspects of this question and proposes a new approach: nonviolent civilian evacuation of settlements. Adopting this approach would mean a new government policy that reflects a change in national priorities and relies on the state's administrative abilities rather than on military force.

There are three options for the future of the settlements once Israel signs an agreement with the Palestinians to evacuate them. One is evacuation by force, like the withdrawals from the Sinai Peninsula and the Gaza Strip. In that scenario, the government would set a single date on which all preparation, energy and public attention would focus; meanwhile, opponents of the evacuation would respond in a variety of ways, ranging from lack of cooperation to passive resistance and even violent protest. Despite the many disadvantages of this approach, the government may well choose it again in future.

The second option is to leave the settlements in place within the Palestinian state, based on a pre-agreed outline. With Trump's "deal of the century" off the cards, this scenario no longer seems realistic. Neither Israel, the Palestinians, nor most of the settlers would want to leave settlements within the Palestinian territory once an agreement is signed.

As the first option (forced evacuation) is problematic and the second (leaving the settlements in place) is unrealistic, there is a need to lay out the principles of a third option: nonviolent civil evacuation, which can bring an efficient and fair end to the settlement enterprise. This option would utilize the state's capacity for organization, cutting the settlements off from their financial life support in an orderly, controlled fashion. We argue that the evacuation does not have to be rushed, thereby backing the settlers into a corner. On the contrary: that would cause unnecessary friction and spur violence that would do a disservice to both the settlers and the state.

Carrying out a peace agreement will take more than a few days - it will take several years, estimated at anywhere from five to fifteen. The state will have ample time to prepare for the complicated tasks it will face, chiefly laying the groundwork for absorbing the evacuated settlers within its territory: preparing land for construction, farmland, community frameworks, schools and preschools, jobs, a mental health support system and more. Once the conditions are in place for signing an agreement, the government will be able to move on to the next stage of nonviolent evacuation: starting the civil process, which is essentially bureaucratic. This process will include: gradually scaling back the state's special grants and subsidies to the settlements until

they are entirely cancelled, while offering benefits from the beginning to settlers who agree to leave of their own accord; cancelling the orders and specialized legislation that apply to Israeli citizens in the West Bank; preparing physical infrastructure at the designated sites for relocation within Israel; and finally, redeploying the IDF along the new border.

How and in what order these stages will be carried out will depend on the needs and abilities of the state. Its key aims will be to soften the blow of evacuation, to ensure the evacuees "land on their feet", and to spread the process out over time. Unlike the withdrawals from the Sinai and from Gaza, the government will not set a single date for the entire evacuation. Instead, the evacuation will be carried out in prescheduled stages, and settlers will be encouraged to leave willingly with optimal support by state institutions. Public opinion surveys in the past have found that many settlers will cooperate with such a policy and agree to leave in advance - both because some of them did not move to the West Bank for ideological reasons, and because most are law-abiding citizens. If the circumstances allow for Israel and the Palestinians to sign an agreement, the public mood is likely to be different from what it is today; the settlers may very well come under public pressure to leave willingly, and those who do so will receive sympathy and support.

What if the evacuees resist? The images of settlers barricading themselves on rooftops in the Sinai settlement of Yamit in 1982 and in the Gaza settlement of Kfar Darom in 2005 have become a powerful collective memory for Israelis - thanks to active efforts by the settler movement to turn the evacuees' pain into a national trauma. As a result, although resistance on the ground did not put a major dent in either evacuation, fear of a violent confrontation between Israeli civilians and uniformed forces continues to feed the public imagination.

This fear continues to inform the myth that the settlements cannot be evacuated. In reality, the state and the settlers share an interest in generating such heartrending scene. Both parties wish, each for their own reasons, to turn the evacuation of settlements into a visual drama and sell it to the public as such. There is no real need for evacuation to take such a drastic form. Civilians do not have to be evacuated within the space of a few highly-televised, sensationalist moments that generate rating - and great potential

for conflict. By managing the withdrawal as a staggered process, the state can avoid many of the flaws that marred previous evacuations. An evacuation based on civil and administrative measures rather than military might is not only more likely to succeed – it is also more ethical towards the settlers and healthier for Israeli society as a whole.

Clearly, this step would meet with resistance, some of it aggressive, by extremists. It is hard to assess whether they are in the hundreds or thousands, but some will undoubtedly refuse to leave. It is this group that the public fears. Indeed, the threat of civil war – sometimes issued explicitly, at other times implied – is a major strategic success of the settler movement in its battle over public opinion. Yet while foreseeable extremist resistance should not be taken lightly, it should also not be blown out of proportion. The opposition these settlers would put up may be a hindrance, but would not prevent the evacuation.

Historical experience around the world offers similar conclusions. The French withdrawal from Algeria (which is the most similar example to the Israeli case), and to a lesser degree Britain's withdrawal from Hong Kong and Portugal's withdrawal from Macau, were all carried out gradually and without unusual violence. These cases show that the most efficient way to execute a broad evacuation of civilians is to set a series of clear administrative deadlines. In Israel, the settlements' utter dependence on the state will enable the government to carry out the evacuation along two simultaneous avenues: preparing to absorb the settlers within the country, while gradually ending the settlement enterprise within the future Palestinian state. This kind of evacuation will not be carried out as a rushed emergency mission that turns into a fiasco, leaving trauma and scars in its wake.

While the idea of evacuating settlements from the West Bank is hypothetical at present, one thing is clear: avoiding a discussion of its practicalities serves opponents of the two-state solution. In fact, questioning whether evacuation is even possible is a self-fulfilling prophecy: the more Israelis come to believe the settlements are irreversible, the lower the chances of the two-state solution coming to fruition. Yet despite skepticism on the right and left, two states remain the only viable way to resolve the conflict without violence.

As this solution cannot be achieved without evacuating settlements, failing to discuss the best ways to do so plays into the hands of the opposition and amplifies the impact of the conflict on victims from both sides. Moreover, as the state commission of inquiry that examined the treatment of settlers evacuated from Gaza showed, many of the flaws in the 2005 disengagement were the result of hasty planning and execution. Organized planning in advance is therefore key to the success of a future evacuation.

To conclude: evacuating settlements is not only possible but necessary, and can be carried out using nonviolent civilian measures, based on the state's administrative abilities. This radically different approach to handling the challenges of evacuation may lead the public to reassess the chances of fulfilling the two-state solution.

This paper does not provide a full, detailed program for civil evacuation. It lays the foundations for a new kind of discussion about evacuating settlements. Our main goal is to push the conceptual boundaries of public debate on the issue, and to enrich the political imagination of two-state supporters when it comes to the settlements. Using the general outline proposed here to develop a full-fledged plan is a key mission of two-staters in the coming years.

INTRODUCTION

Recent years have seen growing support for the claim that the land between the Jordan River and the Mediterranean Sea can no longer be divided into two states based on the 1967 borders, as the number of Israeli settlers in the West Bank has gone beyond the point of no return. Apparently, the sheer quantity of settlers makes evacuating them from their homes, as Israel did in the Sinai Peninsula and in the Gaza Strip, no longer feasible. Critics of the two-state solution tout several other arguments in addition to this supposedly irreversible reality: the power the settlers have accrued in state institutions, including the IDF; the massive cost of relocating them within Israel; and the unprecedented public conflict that may arise from a decision to dismantle the settlements. All these, they claim, leave Israel no choice but to abandon the idea of partition and consider alternative solutions to the conflict with the Palestinians.

It is, indeed, hard to imagine Israel and the Palestinians reaching a two-state agreement in the current political and diplomatic climate. Yet that is likely to remain the only solution that enables Jews and Palestinians to live in safety and dignity in historical Palestine. Other proposed frameworks for sharing the land - a single democratic state, an apartheid state or a confederative framework - do not take into account the core issues driving the conflict and the national aspirations of both parties. Moreover, they do not explain how the shared framework will provide basic security, equality and dignity for all citizens. Even after years of failed negotiations and growing mutual distrust, the truth remains that two states are still the only realistic way to end the conflict. It follows that the conflict cannot be resolved without addressing the matter of the settlements.

It is, indeed, hard to imagine Israel and the Palestinians reaching a two-state agreement in the current political and diplomatic climate. Yet that is likely to remain the only solution that enables Jews and Palestinians to live in safety and dignity in historical Palestine

In this paper, we show that the skepticism over Israel's ability to evacuate the settlements is based on a flawed analysis, and propose a different approach. Our key argument is that the settlements are entirely dependent on significant, steady government backing. Without the state's massive financial, military, legal and administrative support, they would struggle to subsist. A government that chooses to evacuate the settlements, therefore, can do so by shutting down this special support.

The settlement enterprise is widely viewed as a success story. Yet this is far from true, especially with regards to the settlements that will be dismantled under a two-state agreement – i.e., those that lie outside the main settlement blocs east of the Separation Barrier (these blocs would remain under Israeli sovereignty due to land swaps).¹ These communities were artificially planted in politically strategic locations, with no civic or geographic rationale and zero contribution to national security.² To sustain daily life – security, education, public transportation, housing and so on – they depend on a steady stream of exorbitant state funding that far exceeds the cost of these services within Israel. Should the government choose to change policy by rearranging national priorities and scaling back funding for settlements, most settlers would be unable to maintain anything like their current standard of living. The settlements are also propped up by a convoluted legal framework that extends the body of law organizing life within Israel to the West Bank, so that it applies to settlements and settlers but not to their Palestinian neighbors. This artificial construct can easily be cancelled, which would fundamentally change life in the settlements and make them easier to evacuate.

In short, the popular narrative of Israel having to use massive force to evacuate settlements is a myth that serves the settler movement. Most

1 We use the term 'settlement blocs', problematic in both form and content, as it is the accepted designation in Israeli parlance for the settlement clusters close to the Green Line.

2 For a detailed analysis of the connection between the settlements and national security, see previous Molad publication: Avishay Ben-Sasson Gordis, "Israel's National Security and West Bank Settlements," **Molad**, December 2017: <http://www.molad.org/en/articles/Israeli-security-pays-price-for-settlements>.

of the relevant settlements can actually be dismantled administratively, by reallocating state budgets, taking away their legal props, preparing for compensation and relocation within Israel, and scaling back civilian services.

Also, although the settlements are spread far and wide, the settlers have failed their main mission: to change the legal and normative status of the West Bank. Their political and ideological leaders have acknowledged that taking over hilltops is far less important than "settling in the hearts of the people" - i.e., winning over the Israeli public at large. As we show below, attempts to garner enough popular support to change the status of the West Bank have met with limited success, at best, and the result falls far short of the goal.

After more than half a century of holding the West Bank under military occupation, Israelis are still divided over its future. Most support withdrawal as part of a peace deal with the Palestinians. Israel's most important allies - and the international community as a whole - agree that the settlements are unlawful and must be removed. In such circumstances, there is no cause to believe that the land can no longer be divided. Taking a real look at what allows the settlements to keep going, instead of bowing to the myth of violent evacuation, reveals that the future of the West Bank and the settlements is in the hands of the Israeli public and its leaders. Where there is a will - there is a readily-available way.

This point is crucial to the debate over the viability of the two-solution, which often confuses claims about the will to evacuate settlements with claims about the ability to do so. The claim that Israel can no longer evacuate the settlements feeds into public opinion trends among Israelis and Palestinians: If you believe the settlements cannot be removed, you will seek alternative solutions or despair altogether. On the other hand, realizing that the settlements can be removed, and without a violent clash between the settlers and the state, may have the opposite effect.

The future of the West Bank and the settlements is in the hands of the Israeli public and its leaders. Where there is a will - there is a readily-available way

The first part of the paper analyzes the thesis that Israel's civilian presence in the West Bank is irreversible, which has recently gained traction. We show how it relies on a narrow, incomplete understanding of the factors that will ultimately decide the future of the West Bank and the settlements. In reality, the settlers have failed to change the objective status of the West Bank - i.e., to advance its annexation to Israel both legally and in the public consensus.

The second part outlines an alternative approach to removing settlements: discarding the myth of violent evacuation and instead focusing on the implementation of administrative procedures and the optimal use of civilian measures.

Part 1: Can the land still be divided?

For more than 80 years, since the 1937 Peel Commission report, the debate over solving the Israeli-Palestinian conflict has centered on partition. Although both Jews and Arabs see the territory between the Jordan River and the Mediterranean Sea as their indivisible homeland, most serious attempts to resolve the conflict have proposed to divide the land. The early Zionists envisioned a Greater Israel stretching even beyond the boundaries later espoused by Jabotinsky's movement: The map submitted to the 1919 Paris Peace Conference spanned not only Transjordan, but also southern Lebanon. Yet the Zionist dream of a national Jewish home stretching from Sidon (in present-day Lebanon) to el-Arish (in present-day Egypt) vanished once the Emir Abdullah was given control of Transjordan in 1922 and Jews had to abandon the idea of settling there. Many Zionists saw this as the first partition of Greater Israel.³ While the Zionist mainstream gradually came to terms with surrendering the part of the Jewish homeland to the east of the Jordan River, opposition to this move led to the formation of the Revisionist right wing of the Zionist movement in the mid-1920s. More than two decades before the State of Israel was founded, partition came to mark the major difference between right and left among Zionist Jews.

In 1937, in the throes of the Arab Revolt, the Peel Commission recommended the land be divided into two nation-states as a solution to the national conflict. The commission concluded that the conflict between Jews and Arabs in Mandatory Palestine could not be resolved within a single political framework: "The disease is so deep-rooted that in the Commissioners' firm conviction the only hope of a cure lies in a surgical operation." The commission also found partition necessary as "[t]here can be no question of fusion or assimilation between Jewish and Arab cultures" and "neither

3 On the 1919 proposal, see Itzhak Galnoor, **The Partition of Palestine: Decision Crossroads in the Zionist Movement**, SUNY Press, 1994, pp. 35-40. On Transjordan, see Tom Segev, **One Palestine, Complete: Jews and Arabs Under the British Mandate**, Picador, 2001, pp. 116-118; Benny Morris, **One State, Two States**, Yale University Press, 2010, pp. 38-41.

of the two national ideals permits of combination in the service of a single State."⁴

Most Arab leaders flatly rejected the commission's conclusions. The Jewish leadership found it harder to decide. Partition meant ceding most of the land on which the Jewish state was supposed to be established, but some Zionist leaders – headed by Chaim Weizmann and David Ben-Gurion – held that adopting the commission's recommendations was an important first step on the way to Jewish sovereignty in Palestine.⁵ In the summer of 1937, the 20th Zionist Congress effectively adopted partition as the basis for negotiation over establishing a Jewish state – and in doing so, enshrined the legitimacy of partition as a means to realize the ends of Zionism.⁶ Other Zionist institutions later passed various resolutions reaffirming this principle. In August 1946, for example, the heads of the Jewish Agency decided that "The Executive is prepared to discuss the proposal to establish a viable Jewish State in an appropriate territory of the land of Israel."⁷ The partition plan proposed by the United Nations Special Committee on Palestine in 1947 was also broadly supported by the pre-state Jewish community in Palestine.⁸

Eventually, the land was divided not by international intervention but through war. This led to the establishment not of two independent nation-states, but only of a Jewish nation-state, with Jordan controlling the West Bank and Egypt controlling the Gaza Strip. Israel's strategy throughout the 1948 war reflected the leadership's understanding that partition was necessary. As historian Benny Morris put it:

Like most Israelis, Ben-Gurion had given up the dream of the whole land and had internalized the necessity, indeed inevitability, of partition and a two-state solution,

4 The Peel Commission Report, Jewish Virtual Library, July 1937, <http://www.jewishvirtuallibrary.org/jsource/History/peel.html>.

5 Segev, pp. 402-403.

6 Galnoor, pp. 183-205.

7 Galnoor, pp. 280.

8 Galnoor, pp. 286-287.

be it because the Great Powers would not allow Israel to have it all or because of the unattractive prospect of cooping the more than half a million additional Arab inhabitants of the West Bank in the Jewish state.⁹

Both considerations – Israel’s relationship with the international community and the large number of Palestinians living in the relevant territory – still inform the Israeli debate over partition to this day.

When the 1967 war broke out, Israel had existed within its original borders for less than 20 years. After the ceasefire, the young state suddenly found itself larger, controlling many of the territories the Zionist leaders had ceded decades earlier. The clash between those favoring a Greater Israel and those supporting territorial compromise quickly revived, with the same arguments for and against partition. Some ministers believed that controlling more than one million Palestinians in the West Bank and the Gaza Strip would jeopardize the Zionist project and draw international criticism. This reignited public tension between expansionist religious and national aspirations, on one hand, and the array of legal, diplomatic, moral and demographic reasons for returning to Israel’s original borders, on the other.

Despite various political upheavals in the half-century since, the debate remains essentially unchanged. Each side adheres to more or less the same vision and policy proposals that emerged in the immediate aftermath of the 1967 war; in fact, most of the current arguments for and against compromise were first formulated before Israel was founded. The tension is exacerbated by independent forces working outside the Knesset and the media to sway the outcome of

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⁹ Morris, pp. 79.

the debate. Attempts to bypass the Israeli political system and create facts on the ground, often with the covert cooperation of political, military and judicial institutions and without a clear electoral decision, are nothing new. In fact, they began almost as soon as the 1967 war was over. The highlight of these efforts is, of course, the settlement movement.

A short history of the settlements

The early settlements: 1967–1977

In July 1967, soon after the war ended, Minister of Labor Yigal Allon proposed a plan to annex sparsely-populated parts of the West Bank, establish Jewish settlements there, and keep the rest of the land as a bargaining chip. Although the plan was never formalized, it became the guiding principle for the policy decisions of Labor Party governments in the following decade. On September 27, 1967, a group of young religious-Zionists took up residence in Gush Etzion after receiving permission to resettle the area, which was abandoned by Jews in 1948.¹⁰ In April 1968, another group received military permission to celebrate the first Passover since the war at the Park Hotel in Hebron and leave immediately afterwards. When the feast was over, they refused to vacate the premises and declared the establishment of a Jewish settlement in Hebron. A month later, the settlers agreed to relocate to a military administration building in the city. This compromise paved the way for retroactively approving their illegal action and forming a permanent settlement in Hebron. By December 1968, the government had approved the establishment of Kiryat Arba, a settlement located near Hebron on land expropriated for security needs. In other words, the settler movement gained its first foothold thanks to hesitant government policy combined with a determined few breaking the law.

The 1973 war was a turning point for the burgeoning settler movement. The public mood was despondent and the sobering outcome of the war had dissipated the euphoria of the previous one. Harsh criticism was leveled at the political leaders, who hailed from the Labor movement. In this atmosphere, national-religious avant-garde groups felt an urgency to maintain Israel's control over the Occupied Territories and use the demise of Labor leaders to

¹⁰ Segev, 1967, pp. 577.

create a new elite leadership.¹¹ Settlers began trying to expand beyond Gush Etzion and the Hebron Hills towards Samaria, in the north. The "Elon Moreh" group first tried to settle near Nablus in 1974, but were forcefully removed. They repeatedly tried to take over the old train station in Sebastia until late 1975, when Minister of Defense Shimon Peres spearheaded a compromise that relocated them to a military camp in Qadum. This paved the way for the establishment of several settlements deep within the Palestinian environs of Nablus: Kedumim, Elon Moreh and Itamar. During the attempts to take over Sebastia, the settlers merged with a faction of the National-Religious Party (Mafdal) to form Gush Emunim ("Bloc of the Faithful"). Within years the new group, informed by the messianic nationalism of Rabbi Zvi Yehuda Kook, had become the ideological force driving the settler movement.

Gush Emunim continued trying to settle the area of Nablus while also expanding elsewhere. In April 1975, they formed a work force to set up a military camp north of Jerusalem. Planning to become the founding core of a new settlement, the team asked permission to sleep on the premises and selected an unfinished Jordanian military camp nearby. After Gush Emunim leader Hanan Porat met urgently with Shimon Peres, the team was permitted to stay the night. In a pattern that would recur, Peres ordered the military not to provide the settlers assistance other than basic protection, but did not prevent the influx of private help that eventually turned the camp into the "flagship" settlement of Ofra. Less than a year later, Peres was a guest of the settlement for the festival of Tu Bishvat.

The settlements from the political "revolution" to the Oslo Accords: 1977–1993

In 1977, the Likud Party overthrew Labor to form the first right-wing government in Israeli history, led by Menachem Begin. This raised high hopes among the settlers, who believed the new prime minister would fulfil his promise

11 "Actually, We Did Settle in the Hearts", *Nekuda*, 187, July 1995, pp. 16 (see parts by Yoel Bin Nun and Gershon Shafat) (Hebrew).

to create "many Elon Morehs". Yet US pressure forced Begin to freeze new settlement attempts, even though he authorized the establishment of Kedumim. In any case, the freeze was short-lived. Ariel Sharon, appointed to head the Ministerial Committee for Settlement Affairs, led a settlement surge. In 1979, he presented the government with a plan to build settlements throughout the West Bank, in locations that would prevent the establishment of a Palestinian state. At the same time, the settlers' expansionist strategy gained new steam. After the High Court of Justice limited the state's ability to expropriate land on security grounds in the Elon Moreh ruling, the legal framework was expanded to allow expropriation of land for public needs based on mid-19th century Ottoman law. Some 90% of the land the settlements currently control was expropriated with this euphemistic use of "state land".¹²

After Israel signed the peace treaty with Egypt, the settlers concentrated on fighting against the evacuation of settlements in the Sinai Peninsula. Gush Emunim and their partners feared the precedent of removing Jews from territories occupied in 1967 and the agreement over Palestinian autonomy that is prominently featured in the Camp David Accords. In April 1982, a group of settlers, among them Gush Emunim activists, took up positions within homes in the Sinai settlement of Yamit, turning the evacuation violent. As we show further on, the public indifference to this struggle led the settler leadership to conclude that in decisive moments, most Israelis would choose peace over settlements. Two years after Yamit was evacuated, the settlers suffered another blow from the exposure of the Jewish Underground, whose members hailed from the national-religious elite. The Jewish terrorist group planted explosives that gravely injured three Palestinian mayors and carried out a shooting attack at the Islamic College in Hebron, killing three students and injuring dozens; they were also caught planting explosives on Palestinian buses in Jerusalem. Several of the leaders were planning to blow up the Temple Mount. Many in the settlement movement condoned the terror attacks while calling for a quick pardon as the acts were driven by the government's

12 Ian Lustick, "Israel and the West Bank After Elon Moreh: the Mechanics of De Facto Annexation", *Middle East Journal*, Vol. 1981 ,(4)35, pp. 557-577; Ami Pedahzur, *The Triumph of Israel's Radical Right*, Oxford University Press, 2012, pp. 53-55.

"helpless" approach to Palestinian violence against settlers. Most members of the group received relatively light sentences. Although several leaders were sentenced to life, they were all pardoned and the last was released in 1990 after less than seven years in prison.

The first wave of settlements was markedly ideological and few Israelis joined the ranks of Gush Emunim in the West Bank. Yet the 1980s saw a rise in "lifestyle settlement" and the settler population grew sharply. The vision of reclaiming the homeland was replaced with the bourgeois dream of a villa 20 minutes from central Israel along with state subsidies. In 1972, there were some 1,500 Israelis living in the West Bank and the Gaza Strip. By 1983, the number had gradually risen to 23,700, and by the end of the decade spiked at some 82,000¹³ (the figures do not include the residents of Jewish neighborhoods Israel built in annexed East Jerusalem).

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The settlements from the Oslo Accords to the present day: 1993–2021

After the Oslo Accords were signed, despite Israel's undertaking in Oslo II not to alter facts on the ground, construction in the settlements continued almost unabated and even increased. From 1990 to 2009, the number of settlers grew from some 82,000 to almost 300,000. About 100,000 of these new residents moved to the West Bank after the accords were signed and before the Second Intifada broke out in 2000.¹⁴ The Rabin government's policy, which the settlers adamantly opposed, was to build no new settlements. However, in

13 Israeli Central Bureau of Statistics, **The Population of Israel 1990–2009**, https://www.cbs.gov.il/en/Statistical/isr_pop_eng.pdf.

14 Ibid.

the spirit of the Allon Plan, this did not include expansion in East Jerusalem and in the Jordan Valley or construction for "natural growth". This enabled the establishment of "neighborhoods" that were, in fact, new settlements. In addition, Rabin's government did not fight the establishment of illegal outposts. In the years after the Oslo Accords, many bypass roads were paved for settlers, some on private Palestinian land expropriated to that end. To justify the expansion while negotiations were underway, Israel argued that as the future of the Occupied Territories was on the verge of resolution, there was no need to focus on settlement activity at the time.

After the Camp David Summit failed in 2000, the Clinton Parameters presented several months later became the leading approach to resolving the conflict. Under this plan, Israel would annex the settlement blocs, in which some 80% of the settlers live, as part of a land swap. When the Second Intifada broke out the talks ground to a halt, and Ariel Sharon's victory in the 2001 direct elections seemed to shelve the idea of settlement removal. Yet after the intifada was reined in, Sharon came under growing domestic and international pressure to restart negotiations. Finally, in late 2003, he declared his intention to unilaterally disengage from Gaza. Sharon's advisor Dov Weisglass explained the move was a response to the Geneva Initiative, to the threat of conscientious refusal in the IDF, and to strong international pressure in the form of President Bush's Road Map.¹⁵ In addition to all the settlements in Gaza, as part of the disengagement Israel dismantled four settlements in the northern West Bank, enabling Palestinians territorial contiguity from Jenin to Nablus.

Weisglass explained that Sharon had evacuated these West Bank settlements as a symbolic act meant to thwart future pressure to withdraw from more areas. The public struggle the settlers waged against the disengagement made waves, but did not prevent the withdrawal from Gaza in the summer of 2005. The settlers' threats of "civil war" turned out to be baseless. In fact, the public supported Sharon and his policy, and although Sharon himself

15 Ari Shavit, "Top PM Aide: Gaza Plan Aims to Freeze the Peace Process", **Haaretz**, October 6, 2004, <https://www.haaretz.com/1.4710372>.

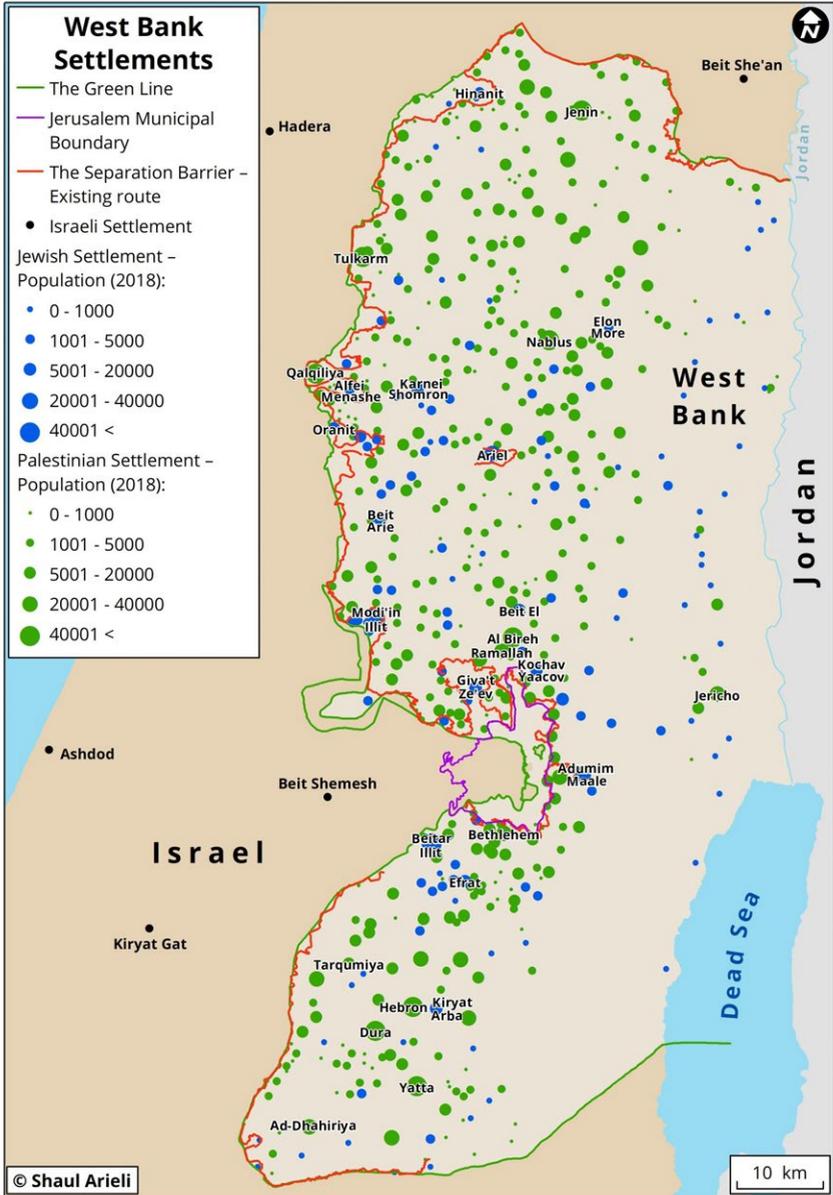
suffered a stroke, his party – Kadima – won the 2006 elections with a campaign that openly called for further withdrawal from the West Bank (Ehud Olmert’s Convergence Plan).

After winning the 2009 elections, Binyamin Netanyahu caved to US pressure and for most of 2010, officially froze construction in all settlements except in East Jerusalem. After the 10 months allocated to the freeze were up, his government renewed the issuance of building permits. In 2013, Secretary of State John Kerry’s efforts to restart the peace process were met with another freeze, although informal. In late 2018, after almost 10 years under Netanyahu, there were already 428,000 Israelis living in the West Bank – a 47% increase since the 2008 Annapolis Process.

Trump’s four years in office encouraged this trend. According to his Peace to Prosperity Plan, even once a Palestinian state was established, not a single settlement would be removed and they would all remain under Israeli sovereignty. In 2020, a total of 441,600 Israelis were living in 132 settlements and 124 illegal outposts (114,000 of them east of the Separation Barrier). Another 220,000 or so Israelis currently live in neighborhoods built in annexed East Jerusalem. Since 1993, when the Oslo Accords were signed, the relative proportion of settlers out of Israel’s general population more than doubled – but they still make up less than 5% of all Israelis. Settlers currently make up some 14% of the West Bank population.¹⁶ About 40% of West Bank land is under settlement jurisdiction, although only 1% consists of built-up settlements.

16 Peace Now, Settlement Watch data, <https://peacenow.org.il/en/settlements-watch/settlements-data/population>.

Map of West Bank settlements by size



(courtesy of Shaul Arieli)

Proposed land swap based on previous negotiations, incl. settlements to be annexed [to Israel]



(courtesy of Shaul Arieli)

Have the settlers already won?

Thanks to the demographic growth and the geographic expansion of the settlements, their main institutions – Gush Emumin, the Yesha Council, Amana and others – have become powerful players in Israeli politics. The settlers now enjoy a mythological status of having almost supernatural powers, as though you can change reality forever with prefab homes. This glorification serves their political goals, but also allows their political opponents to avoid reckoning with past failures and current challenges.

This chapter delves into the supposed success of the settlements. Have they really created an irreversible reality? Has the movement “settled in the hearts of the people” and won over the public? How was it affected by the crisis that followed the disengagement? And why did the plan to annex the West Bank fail?

The irreversibility thesis

In September 1982, the **New York Times** ran an article on the massive changes taking place in the West Bank under Begin’s right-wing government, based on fresh figures from the West Bank Database Project.¹⁷ Meron Benvenisti, the former deputy mayor of Jerusalem, historian and intellectual who devised and led the project, passed away in 2020. In an interview for the article, he described the creative methods the government had come up with to administratively and legally take over West Bank land and clear it for settlements. “It’s not that

The settlers now enjoy a mythological status of having almost supernatural powers, as though you can change reality forever with prefab homes. This glorification serves their political goals, but also allows their political opponents to avoid reckoning with past failures and current challenges

17 David Shipler, “Israel Changing Face of West Bank”, **The New York Times**, September 12, 1982, pp. 14 ,1, <https://www.nytimes.com/12/09/1982/world/israel-changing-face-of-west-bank.html>.

it's beyond the point of no return," he concluded. "It is five minutes before midnight."¹⁸ A month later, Benvenisti presented his findings in Washington DC¹⁹ and argued that Israel's policy was leading to de facto annexation of the West Bank.²⁰ By the late 1980s, Benvenisti's clock had struck midnight and he started touting the "irreversibility thesis" for which he is still known: partition is no longer possible due to changes in the Occupied Territories. Over the years, Benvenisti gained international attention and his analysis likely affected political and diplomatic developments.

It may be Benvenisti's perspective as a historian that made him view dynamic political processes as inevitable linear developments. Whatever the reason, assuming that the Israeli-Palestinian conflict has crossed some kind of Rubicon is not only pessimistic regarding a resolution and Israel's future - it is a relinquishment of politics as a sphere of action. Once the situation in the West Bank was declared irreversible, public intellectual and peace activist Benvenisti, along with many who followed his lead, went from political activism to armchair criticism.

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Over the last decade, as two-staters despair and the settlements continue to expand, the notion of irreversibility has gained mainstream traction. Leading Israeli pundit Nahum Barnea embraced it after a 2012 visit to the outpost of Migron.²¹

18 Ibid.

19 Anthony Lewis, "5 Minutes to Midnight", **The New York Times**, November 1, 1982, p. A19.

20 The term "de facto annexation" was coined by political scientist Ian Lustick in 1981 (see Lustick, footnote 13). Interestingly, he argued that one implication of the 1979 High Court ruling in the case of Elon Moreh was that "creating facts on the ground" cannot change the legal status of the Occupied Territories (pp. 563).

21 "Nahum Barnea: The Reality in Judea and Samaria Is Irreversible - full footage", Yesha Council Youtube channel, August 28, 2012, <https://www.youtube.com/watch?v=t6-5WXT3RKA> (Hebrew).

Prominent novelist A. B. Yehoshua – one of the first Israeli intellectuals to support the two-state solution after 1967 – suggested we prepare for a binational future.²² In 2013, Benvenisti featured in a Channel 2 News story asking whether dismantling settlements and dividing the land was still possible.²³ Academic thinkers on the political fringe also use Benvenisti's analysis to argue for a one-state solution.²⁴

Surprisingly, irreversibility is also where the Left converges with the settlers, whose leaders eagerly adopted the notion that the settlements are here for good. Dani Dayan, chairman of the Yesha Council and later Consul General of Israel in New York, wrote in the **New York Times** in 2012 that the presence of settlers throughout Judea and Samaria is an "irreversible fact".²⁵ Another public figure to recently jump on the one-state bandwagon is Jewish-American journalist Peter Beinart, who in 2020 published a much-discussed article in the **New York Times** titled "I No Longer Believe in a Jewish State". The article urged liberal Jews in the US to give up on the idea of two states, relying on the same assumptions Benvenisti put forth 40 years earlier. "In practice, Israel annexed the West Bank long ago," wrote Beinart. "Israel is already a binational state."²⁶

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- 22 A. B. Yehoshua, "Time to Say Goodbye to the Two-state Solution. Here's the Alternative", **Haaretz**, April 19, 2018: <https://www.haaretz.com/israel-news/.premium.MAGAZINE-time-to-nix-the-two-state-solution-and-stop-israel-s-apartheid1.6011274->
- 23 Dany Cushmaro, "Two States for Two Peoples' – Are We Too Late?", **MAKO**, May 31, 2013, <http://www.mako.co.il/news-military/politics/Article-e6957ca0fabfe31004.htm> (Hebrew).
- 24 Yehouda Shenhav, **Beyond the Two State Solution: A Jewish Political Essay**, Cambridge, Polity Press, 2012; Ariella Azoulay and Adi Ophir, **The One State Condition: Occupation and Democracy in Israel/Palestine**, Stanford University Press, 2013.
- 25 Dani Dayan, "Israeli Settlers are Here to Stay", **The New York Times**, July 25, 2012, <http://www.nytimes.com/26/07/2012/opinion/israels-settlers-are-here-to-stay.html?hp>.
- 26 Peter Beinart, "I No Longer Believe in a Jewish State", **The New York Times**, July 8, 2020, <https://www.nytimes.com/08/07/2020/opinion/israel-annexation-two-state-solution.html>.

De facto annexation?

The claim that Israel is already binational is now bandied about so often that it merits critical examination. Beinart asserts: "The territory under [Israel's] control contains two nations, one Jewish and one Palestinian, of roughly equal populations. The Israeli government rules in different ways in different parts of the land between the Mediterranean and the Jordan, but everywhere, it rules."²⁷ What Beinart is actually describing is one country's military occupation of another country's territory. The marked difference between the modes of control Israel applies within the Green Line and beyond it shows precisely that it **has not succeeded** in annexing the West Bank. Beinart inverts this reality by citing the difference as evidence of a deeper truth. Yet no such thing exists. The fact is that Israel rules the West Bank with military force. The situation is neither fair nor stable, leading to only two long-term possibilities: full annexation (including naturalization) or partition. Even under Trump, the most pro-settlement administration imaginable, Israel's right-wing government did not dare take an actual step towards annexation.

The purpose of depicting the situation as "de facto annexation" is to lend the military occupation an air of stability. If Israel's control of the Palestinian territories has created an enduring reality, then resolving the moral, legal and political implication does not require the upheaval of ending the occupation and establishing a Palestinian state. It is enough to legalize the current situation by introducing democracy and equal rights throughout the land. Q.E.D. Yet reality in the West Bank is far from stable. Israeli security experts and top defense officials all agree that the next Palestinian uprising is only a matter of time. The Palestinian majority and the Jewish minority are physically and legally segregated in all walks of life. The settlements are still a geographical, economic and legal anomaly within the West Bank, and dismantling them is still more probable than believing they can survive indefinitely. True, the Israeli occupation has lasted a long time; but two centuries of British control over India did not make India and Britain a single state.

27 Beinart, "Yavne: A Jewish Case for Equality in Israel-Palestine", *Jewish Currents*, July 7 2020, <https://jewishcurrents.org/yavne-a-jewish-case-for-equality-in-israel-palestine>.

Benvenisti and his followers tend to get two kinds of facts mixed up. The evidence they cite is empirical, or at least purports to be – changes on the ground, the settlers' rise to political power and the growing cost of dismantling settlements. Yet claiming "de facto" annexation shifts the discussion from facts to norms. Empirical facts simply exist; normative facts require agreement between people. The existence of the settlements is an empirical fact, whether most Israelis and the international community like it or not. Yet the political and legal status of the West Bank is normative by definition. As such, it is dictated by the relevant parties: Israel, the Palestinians, the US, the Arab world, international institutions and so on.

Determining whether the occupation is reversible does not only – or chiefly – depend on the 'facts on the ground' that shaped Benvenisti's thesis. If Israel's control of the West Bank has gone beyond the point of no return, it is because enough Israelis, Palestinians and regional and international actors have come to see the West Bank as integral to Israel. It relies on the agreement of the public and of the political and legal institutions that represent its opinions. As we show below, framing irreversibility as a question of norms rather than physical facts reveals that the settlers' colossal efforts fell short: The status quo has not become permanent.²⁸

"Settling in the hearts of the people"

The settlers are well aware that their growing presence on the ground has not transformed the normative status of the West Bank. This fundamental disparity was captured by the slogan "settle in the hearts of the people" – a call to arms that differentiates physically settling in the West Bank from

28 In his book **The Sling and the Club (Hebrew)**, Meron Benvenisti argues that 50% of the West Bank cannot be evacuated as it is a part of the national consensus (pp. 48). This argument highlights Benvenisti's feeble interpretation of normative facts. The national consensus has changed several times since then, and even now, with the settlement movement at the height of its power, most Israelis are willing to surrender much more than 50% of the West Bank. In fact, almost 90% of the territory lies beyond the Separation Barrier.

winning over public opinion. It was coined by Gush Emunim leader Yoel Bin-Nun in an article he published in **Nekuda** in the mid-1980s. The journal, founded in 1980 and closed (by merging with the daily **Makor Rishon**) in 2010, was the settlement movement's key platform for exchanging ideas and arguments. Reading the journal offers a fascinating glimpse into the changing moods of the settlers and their leaders over three eventful decades.

The theme of "settling in the hearts" runs throughout the journal, coming to the forefront at times of crisis and weakness. Writer after writer worries over the alienation between the ideological fervor of Gush Emunim and the "materialistic", "immoral" aspirations of other Israelis. Since the withdrawal from the Sinai in the 1980s, if not earlier, the settlers have been gripped by fear that public disaffection will one day destroy their sprawling enterprise.

In March 1984, Bin-Nun wrote:

The domain in which outcomes will be decided is the hearts of the people and the public-political mood. That realm may be tougher than land and construction, but it is where the decisions will be made... My main conclusion from the destruction of Yamit was that we cannot succeed without support from the vast majority of the people... It is ridiculous to assume that any number of people (i.e., settlers) or houses can serve as a guarantee.²⁹

A letter to the editor a year earlier raised the same concern:

It is strange we have not learned the lesson of Yamit, that concrete cannot withstand destruction and ruin, and that the only barrier is massive public support for the idea of settlement that can counter public support for withdrawal... If the ideology of Gush Emunim is based on

29 Yoel Bin-Nun, "In Defense of Security and Faith and Against Weeping", **Nekuda**, March 1, 1984, 84, pp. 10-11 (Hebrew).

the assumption that the Israeli government will not have enough money to compensate the evacuees from Judea and Samaria, and the entire strategy is based on this dubious assumption – I fear unpleasant surprises lie ahead.³⁰

Rabbi Yaakov Ariel, an influential religious-Zionist leader, wrote in 1986 that "one of the most painful disappointments in the battle for Yamit was that so few [Jewish-Israelis] who do not define themselves as religious took part".³¹ As we show further on, the settlers' disappointment with the general indifference to their plight reemerged in their reckoning after the disengagement from Gaza. In 1990, Meir Harnoy, who had headed the Samaria Regional Council in the early 1980s, wrote an article titled "Without the Hearts of the People, We Won't Have the Heart of Samaria" (*Nekuda* 144, October 1990) – stressing the importance of public support for the settlement movement. In the same issue, poet Arie Stav, who edited the right-wing journal *Nativ*, analyzed the reasons for the rift between the settlers and other Israelis:

If you want to understand why Gush Emunim has failed to extend its reach beyond the boundaries of its narrow camp, and to find pathways to the heart of the general public – not to mention enforcing hegemony and a worldview on the majority – you will, sooner or later, conclude that the structural flaw separating Gush Emunim from the secular environment and threatening a dangerous convergence within the four walls of a spiritual ghetto is based, at heart, on the religious ethos of forming a social structure based on Jewish law (*halakha*).³²

30 Ofer Atias, "General Blindness in Gush Emunim", *Nekuda*, June 10, 1983, 59, pp. 6 (Hebrew).

31 Yaakov Ariel, "Extremism Has Harmed the Struggle", *Nekuda*, April 98, 1986, pp. 42 (Hebrew).

32 Arie Stav, "Gush Emunim – A Movement in Distress", *Nekuda*, 144, October 1990 (Hebrew).

Indeed, the ideology and theology of the zealous core of settlers - unlike the "lifestyle settlers" who followed later - created a philosophical, cultural and sociological rift between Gush Emunim and the general public. More or less at the time Benvenisti was declaring the two-state idea dead, the settlers were fretting over the demise of their enterprise. They understood they had failed by not winning over the majority of Israelis. Benvenisti and his supporters thought facts on the ground were paramount; Bin-Nun and likeminded settlers believed only public legitimacy could bolster the settlements enough. These contrasting perspectives may explain why both Israelis who favor withdrawal and those who support the settlements are pessimistic. In any case, the settlers identified the challenges to their goal of consolidating broad support and recognized their future implications.

Some settlers, it should be noted, objected to the idea of pandering to the public. This radical faction, in many ways the spiritual forebears of today's "hilltop youth", proposed to "force the messiah to come forth" by creating facts on the ground. Much like Benvenisti, this school of thought saw settling on the hilltops of the West Bank as a way to dramatically - and possibly irreversibly - change geopolitical reality.

A particularly candid example of this avant-garde approach was offered by Dan Tor, a settler from Ofra, in a 1986 article titled "Continue to force the end of days":

Had we, heaven forbid, refrained from settling in Judea and Samaria, we would have taken part in a decision to forsake the very heart of the Land of Israel. It is clear to anyone who participated in this move from the outset that it had the markings of a renegade revolt. The theory that supposedly, "the people were behind us then", is an attempt at rehabilitation after the fact. Gush Emunim's penetration beyond the Green Line, which effectively abolished the Green Line, was the initiative of a handful of people who took responsibility for determining the fate of the western Land of Israel in our time. They decided to act without the approval of the elected

government, in the face of harsh government objection.
Those are the facts.³³

This passage offers a stark contrast to the current trend, including on the Left, of relieving the settlers of responsibility as they were acting on behalf of successive governments. Even more importantly, it encapsulates the clash between two strategic approaches within the settler movement: "settling in the hearts" - i.e., seeking general approval in the belief that only broad public support will protect the settlements when the time comes - versus taking over hilltops, because creating facts on the ground through avant-garde action will determine the fate of the entire enterprise. Issue after issue of **Nekuda** laments the failure to win over public sentiment, especially given the undeniable success of the hilltop takeovers. Some called for a new reckoning, and others bemoaned the lost cause.

Bin-Nun went so far as to argue, rather presciently, that the very success of the hilltop settlements was spiritually and ideologically undermining Gush Emunim - equating the latter with "settling in the hearts":

Gush Emunim succeeded in establishing many flourishing settlements, but failed utterly in the spiritual realm it held so dear: settling in the hearts, drawing in our brothers - our rivals, softening their resistance, persuading them... In any case, the entire settlement enterprise has turned into a remarkable physical success that is destroying itself with its imbalanced, violent, forceful, materialistic tendency, to the point of sheer wantonness.³⁴

Bin-Nun apparently understood that the settlers' growing desire to take over every available hilltop, while ignoring geopolitical conditions and the political

33 Dan Tor, "Continuing to force the end of days", **Nekuda**, 96, February 21, 1986, pp. 13 (Hebrew).

34 Yoel Bin-Nun, "We Failed to Settle in the Hearts", **Nekuda**, 158, April 1992, pp. 30 (Hebrew).

and moral consequences of their actions, was widening the rift - whether potential or real - between their movement and the general public. "If the people of Israel identify with our mission," he cautioned his friends, "the number of houses will not matter; and if, heaven forbid, they do not want our settlements, numbers will not help." Not all settlers agreed. Uri Elitzur, for example, rejected the doomsday prophecy: "Three hundred thousand Jews in Judea and Samaria will, in and of themselves, bring an end to 'Palestine' by sheer weight of numbers."³⁵

The conflict between the two strategies was never resolved. The secret of the settler movement's power may lie, among other things, in its ability to contain this division.

The crisis of the disengagement

Prime Minister Ariel Sharon announced his 'disengagement plan' in December 2003 and oversaw its execution in August 2005. The operation succeeded thanks to two key factors. One was the Zionist movement's longstanding tendency to resolve political and security crises by retreating to safer borders. Unlike the fervent theology of Gush Emunim, the Zionist movement has a strong pragmatic bent that enables considerable flexibility on territorial issues, especially when faced with an opportunity or crisis (e.g., the debate over partition, the 1948 war, and the withdrawals from Sinai and Lebanon). The other was the settlers' ongoing failure to gain broad public support. The fact that Israel withdrew from Gaza after the settler movement had begun to infiltrate state institutions and take over positions of power made their sense of shock, failure and betrayal all the greater. In fact, the disengagement showed that even at the height of their political power, the settlers could not prevent a major territorial withdrawal.

The settlers' unprecedented public campaign to stop the disengagement began in March 2004. It chalked up several historical gains, chief among them

35 Uri Elitzur, "Time for a Painful Decision", *Nekuda*, 159, May 1992 (Hebrew).

being the split in the Likud Party that led to the formation of Kadima, after Prime Minister Sharon lost the party referendum on the plan. In the months leading up to the disengagement, the country was flooded with orange ribbons symbolizing opposition to the plan. The campaign slogan was "we have love and it will triumph" - a tribute to the belief of pro-state religious-Zionists that "engaging" with the general public or "settling in the hearts" would avert the disaster. According to researcher Eitan Alimi, the strategy of the Gush Katif Action Committee was "to fight for the hearts of the people, engage with the people, engage with the Israeli public as an alternative to the disengagement, an attempt to raise legitimacy with the entire public while refraining from extremism."³⁶ In a June 2004 document, the committee noted that "the real power lies with the masses... [the movement] must disseminate the idea that it is broadly supported by regular Israelis."³⁷

The high point of the public protest, in which hundreds of thousands participated, was a mass march from the town of Netivot in southern Israel to the Kisufim checkpoint on the border with Gaza. The goal was to get tens of thousands of activists into the Gush Katif settlement bloc, which was already under military lockdown, and bodily prevent the evacuation. The march was stopped by security forces about halfway, at Kfar Maimon. The activists remained there, surrounded by forces, for three days, at which point the heads of the Yesha Council, together with an ad hoc forum of rabbis, ordered them to disperse. The decision to leave rather than confront the security forces was a watershed moment in the fight against the disengagement, and in fact in the entire history of religious Zionism in Israel.³⁸ In keeping with the characteristic approach of the settler movement mainstream, the dramatic decision at Kfar Maimon combined the principle of avoiding division among

36 Eitan Alimi, *Between Engagement and Disengagement Politics - The Settlers' Struggle Against the Disengagement Plan and Its Consequences*, Resling, 2013, pp. 42 (Hebrew).

37 *Ibid.*, pp. 98.

38 Anat Roth, "Religious Zionism in the test of state responsibility: From Kfar Maimon to Amona", in: *The Disengagement Plan: An Idea Shattered*, ed. Yaacov Bar-Siman-Tov, The Jerusalem Institute for Israel Studies, 2009, <http://en.jerusalemstitute.org.il/.upload/publications/diseng2009.pdf>

Jews (Rabbi Drukman: "If I threaten the cohesion of the People of Israel, I threaten the Land of Israel as a whole") with the tactical-instrumental considerations not to turn the general public against the settlers (Pinchas Wallerstein: "If the People of Israel hate us - we will lose all of Judea and Samaria").³⁹ For many on the religious right, dispersing the march proved that the settlers and their supporters lacked the power to shape reality without massive public support. As Eliashiv Reichner wrote, four years later:

The march that was supposed to proceed from Kfar Maimon in the direction of Gush Katif was given the tribal name 'To the rescue of our heroic brothers'. It epitomized the painful reality - that, in the end, the fight against uprooting Gush Katif mattered only to the religious-Zionist sector. The symbolic bonfire around which we gathered in Kfar Maimon was nice and warm, but without breaking through the boundaries of the tribe, there was no chance of breaking through Kisufim checkpoint. The people who were there, at Kfar Maimon, created an uplifting religious Zionist atmosphere, but it was the masses who were not there that decided the outcome.⁴⁰

Contrary to the mainstream leadership, some leaders and rabbis called for civil disobedience and beseeched soldiers to refuse the order to evacuate settlers (among them was Rabbi Avraham Shapira, then head of the prominent Mercaz Harav yeshiva). Yet these voices remained on the margins.⁴¹ The settler mainstream, including the Gush Katif Action Committee and the Yesha Council, believed the disengagement could be thwarted by a combination of political maneuvering and the public campaign.

39 Quotes by Rabbi Drukman and Pinchas Wallerstein freely translated from the Hebrew in Roth, "Religious Zionism in the test of state responsibility: From Kfar Maimon to Amona", pp. 56.

40 Elyashiv Reichner, "We're From the Same Village", NRG, July 5, 2009, <http://www.nrg.co.il/online/1/ART044/912/1.html> (Hebrew).

41 Alimi, pp. 72-84.

To understand the lasting impact of the disengagement on the settler movement, it is important to recognize that the Gush Katif settlers and their supporters truly believed it would fall through. Rabbi Mordechai Eliyahu's assertion, "It shall not come to pass", was interpreted as a promise of mystical proportions that reflected the general mindset in Gush Katif. Four months before the withdrawal, the head of the Gush Katif council, Avner Shimoni, wrote: "Public anger is steadily growing, and we have no doubt that when the time comes, the mass struggle will overthrow the evil decree... I have no doubt that a concerted effort by all of us will liberate the original Israeli spirit from the present-day shackles of a foreign culture."⁴²

Hours before the evacuation began, many residents of Gush Katif had not yet packed their bags and were awaiting a mass uprising to prevent the "expulsion". Many settlers believed that the public would not forsake them when the time came: A wave of resistance would wash through Israel grounding security forces, blocking roads and making it clear that the disengagement "shall not come to pass".

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Yet the disengagement not only came to pass - it took mere days to complete and met with sporadic, feeble acts of resistance. One claim that reinforced the myth of the disengagement trauma was that the state had barred settlers from various avenues of protest for fear they would succeed in "swaying the people".⁴³ In fact, critics of the disengagement were afforded a range of legal ways to voice their objection, and shows of nonviolent civil disobedience were treated leniently. The obstruction of protests openly aimed at physically preventing the evacuation was seen by

42 In "BeGush Ehad": The Gaza Communities' Leaflet, vol. 260.

43 Adi Mintz, "Betrayal by the Elite", **The Israel Democracy Institute**, September 22, 2009, <https://en.idi.org.il/articles/10275>.

the public as the legitimate response of a government wishing to see its resolutions carried out.

Adi Mintz, former head of the Yesha Council, cited this claim in retrospect:

(P)sychologists had trained the expellers (i.e., soldiers) to ignore any emotional pressure lest the settler populations influence them and they would be unable to carry out their mission properly... Israeli democracy trained them to disregard the weeping of its children... Given this situation, supporters of the settlement movement and most members of the religious Zionist camp felt that in their existential fight on behalf of their life's work and the minimum rights that were taken away from the Gush Katif exiles, they no longer had any real influence.⁴⁴

Such statements reveal the assumption of mainstream settlers that, at heart, most Israelis identify with their cause. Critics of "settling in the hearts" used the lost fight in Gaza as proof that public outreach had failed. Instead, they argued, it was an opportunity to reembrace the radical strategy of creating facts on the ground. In an essay titled "From Settling in the Hearts Back to Settling", Elyakim Haetzni asked whether, following the disengagement, proponents of settling in the hearts would realize that "something is fundamentally flawed in the attempt to fight evil with love." He described the conduct of the settler leadership:

They also acted out of a belief in their calling to educate the people, to settle in the hearts, in order to instill values in them. Yet if you wish to gain popularity and even love, you must hide your face and actions behind a pleasant, acceptable and friendly veneer. Not, God forbid, "radical" or "provocative", and in no way too far from the "center". That is how we found ourselves

44 Ibid.

back with the tragedy of the exiles – past and future – who were not, and are not, willing to break with the establishment, even though it abandoned and betrayed them, and plans to do so again.⁴⁵

The settlers' crisis of faith, along with the growing rift between the fringe teens who fought against the disengagement and their political and religious leadership, reflect the trauma that shook religious Zionism and the movement's disappointment from the people and the state. "One secret of the Yesha Council's success," wrote Anat Roth, "was firmly convincing the Israeli public and leaders that no government would be able to evacuate a settlement in the Land of Israel."⁴⁶ That held true until the summer of 2005. The disengagement undermined this entrenched idea, proving the settlers far from invincible. For decades, their leaders had invested huge efforts in framing partition as unconscionable to the Israeli mind. The withdrawal from Gaza proved they had failed to achieve this goal, or even to get most Israelis interested in their cause.

After the disengagement, Rabbi Benny Lau, an influential religious-Zionist leader, wrote:

On Thursday, the 27th of Av [September 1st], a national funeral service was held at the HaMashbir square in Jerusalem for the dead of Gush Katif who were uprooted from their resting place. On my way there, I passed through the pedestrian walkway on Ben Yehuda Street. Just three minutes away, but it's like you're in another world. Not the world of Tel Aviv versus the world of Jerusalem. In downtown Jerusalem, nearby, visible, within earshot. The eulogies being read out on loudspeakers could clearly be heard along the street, but the cafes stayed open, the buskers kept on playing,

45 Elyakim Haetzni, "From 'Settling in Hearts' Back to Settling", *Nativ*, vol. 108, January 2006, pp. 12 (Hebrew).

46 Anat Roth, "Religious Zionism Put to the Pro-State Test," pp. 35 (Hebrew).

and hundreds of young men and women reveled with each other. In the square, the sons and daughters of religious Zionism were milling about, with almost no sign of Haredi Jews or the secular public. It was an internal affair, held by a group convinced that they are on a mission on behalf of the public – except that the public doesn't know it. That was just one of many episodes in recent months. The struggle to settle the Land of Israel has become an in-group matter, and those fighting for the Land of Israel have become a threat to the free, democratic, humane state of Israel. As if the residents of Gush Katif were not sent there from the very heart of the Israeli consensus, but from some odd messianic space. What does a passerby think? Their life is not my life, their dead are not my dead, their dream is not my dream.⁴⁷

The annexation that never was

The popular claim that Israel has "de facto annexed" the West Bank stems from a feeling that the very length of the occupation – 55 years, to date – has made the temporary military regime in the Occupied Territories a permanent fixture. Yet what makes a political reality irreversible is not how long it lasts, but how stable it is and whether any alternatives remain.

In that sense, the West Bank is still caught in limbo between withdrawal or annexation. The concept of "de facto annexation" helps camouflage the settlers' continued failure to achieve actual annexation.

What makes a political reality irreversible is not how long it lasts, but how stable it is and whether any alternatives remain

47 Rabbi Benny Lau, *Nekuda*, September 2005, pp. 285 (Hebrew).

In this case, the difference between de facto and de jure annexation lies not only in international recognition, but also in Israel's willingness to accept the implications of annexing the land and its inhabitants. The 2014 annexation of Crimea was not recognized by the international community, yet Russia was quick to apply its laws to the annexed territory and naturalize the population.⁴⁸ The Russian government treats the peninsula as part of the state in every sense. Israel, however, has refrained for more than half a century from naturalizing the residents of the West Bank and the Gaza Strip. Recently, it even held back from partially annexing the West Bank based on the principle of maximum territory and minimum Palestinians. These facts strongly belie the argument that one state effectively exists between the Jordan River and the Mediterranean Sea. Several refutations of this argument have been put forward in the past, albeit without a response from the settlers and other opponents of the two-state solution.⁴⁹

As noted above, annexing the West Bank would have fateful repercussions that would contradict the fundamental principles of mainstream Zionism. Denying Palestinians equal rights would undermine the foundations of Israeli democracy as well as Israel's international legitimacy (thereby jeopardizing national security and the economy). According to Palestinians, equal rights in a binational framework would eliminate the existence of Israel as a Jewish state. For Israeli Jews, the term "Jewish state" is not an abstract ideal, but a tangible expression of their ability to

If pressed to choose between withdrawal and annexation, most Israelis are therefore likely to choose the former – as public opinion surveys have consistently shown for years

48 Taras Berezovets, "Russia didn't Just Annex Crimea. It Took People, Too.", Atlantic Council, July 9, 2018, <https://www.atlanticcouncil.org/blogs/ukrainealert/russia-didn-t-just-annex-crimea-it-took-people-too>.

49 Avner Inbar and Assaf Sharon, "Partition Skepticism and the Future of the Peace Process", *The Daily Beast*, September 2013, 25: <https://www.thedailybeast.com/partition-skepticism-and-the-future-of-the-peace-process>.

live with collective freedom within an independent state. If pressed to choose between withdrawal and annexation, most Israelis are therefore likely to choose the former – as public opinion surveys have consistently shown for years.⁵⁰

In a 1992 article published shortly after Yitzhak Rabin won the election, Talmud scholar Vered Noam – who hails from the Gush Emunim elite and recently won the Israel Prize for Talmudic Studies – wrote that in the post-1967 reality, Israel must choose one of two options: annex the West Bank and the Gaza Strip, or withdraw. The third option, maintaining the status quo (i.e., continuing to fight over the future of the territories), cannot last indefinitely. In the early 1990s, Noam already argued that this interim period was already over and that since the settlers had failed to guarantee annexation, there was no choice but to withdraw. Unlike Benvenisti, Noam recognized that annexation cannot exist “de facto” but requires a consensus that the Occupied Territories are integral to Israel. “The end-goal of settling in Judea and Samaria,” wrote Noam, “is to apply the law to these areas and fully annex them to the State of Israel.” The price of annexation, she noted, would be turning almost two million Palestinians (now almost three million) into Israeli citizens, putting the entire Zionist project at risk. Noam stressed that this risk was worth taking in certain conditions, but admitted that it called into question the public’s willingness to accept the true goals of the settlement movement.

Unlike Israel’s right-wing leaders, who are purposely vague on this issue, Noam explicitly stated Gush Emunim’s master plan:

50 In a broad survey of the Israeli public commissioned by Molad in May 2020, respondents were asked whether they agreed with the following statement: “I prefer the status quo with the Palestinians over any new peace initiative.” Only 30% agreed, and only 11% strongly agreed. When compared with feasible alternatives, support for the status quo dropped even further. One question presented four alternatives for the future of the conflict: two states, one state with no voting rights for Palestinians, one state with equal voting rights for Palestinians, and maintaining the status quo. Only 26% of the respondents supported maintaining the status quo, as opposed to 45% who supported two states (another 19% were in favor of one state with no vote for Palestinians, and 10% of one state with equal rights). When the status quo was removed as an option, a majority of 53% supported the two-state solution, 31% one state without equal rights, and 16% one state with equal rights.

The purpose of settling in Judea and Samaria was, as noted, to gain control of the land and pave the way to full sovereignty, with all that entails. The idea was to start with individuals who would draw after them a mass movement, which would change the distribution of Jews throughout the entire Land of Israel, in general, and the demographic balance between Jews and Arabs in Judea and Samaria, in particular. The hope was that when many Jews from all walks of life came to live in Judea and Samaria, that would considerably take the edge off the demographic problem. The "Territories" and their settlers would become integral to the State of Israel in the public mind and over time, in the eyes of the world. Once these conditions were met, sovereignty would be possible.⁵¹

Noam argued that the window of opportunity for shifting from settlement to sovereignty was short: "The two phases, the practical one and the legal one, cannot be too far apart." In fact, she claimed, the window had already closed. The settler movement had failed to fulfill its overarching mission, and tactical moves such as taking over hilltops could not be justified for long without an end-goal in sight:

Demographically – there are 120,000 Jews in Judea and Samaria. That is a lot, but also very little.
 Psychologically – the Green Line has not been erased; rather, it has deepened. The "settlements" have not become "residential communities" and the "settlers" have not become "people". Ariel has not become Karmiel, and Nablus has not become Jaffa. As Rabbi Yoel Bin-Nun eloquently put it: "We have failed to settle in the hearts."

This reality has been clear for years, including to supporters of the settlements. The majority of the

51 Vered Noam, "The End of the Yellow Wind", *Nekuda*, July 1992 (Hebrew).

political right wing has known for a very long time that we can no longer talk of annexation and of applying the law. That in the current state of affairs, this is no longer a possible outcome. When pressed to formulate its program and outline a general strategy, the Likud offered Palestinian autonomy, which is a step in the opposite direction – towards surrendering ownership. But that was lip service. From that point on, the right-wing government's approach to the settlers, the agents of its vision on the ground, was to absolutely and impossibly separate between the settlements and their end-goal. Between the act and its translation into political status. Between the settlements' achievement and their necessary price: making almost two million Arabs citizens of Israel.

Since then, right-wing governments have continued to disappoint the settlers. First there was the Wye River Memorandum, then the disengagement from Gaza, then Prime Minister Netanyahu adopted the two-state principle in his Bar Ilan speech, and recently, the government adopted the Trump administration's peace plan even as the annexation initiative failed. All the while, successive governments allowed the settlers to use the West Bank as they saw fit. The settlers indeed continued to expand their control over hilltops, usually with the full support of right-wing governments, while gaining increasing power within the state bureaucracy. Yet the chances of settling on hilltops leading to annexation of the West Bank do not seem any higher today than they were 20 years ago.

At face value, in 2019, all the conditions needed to annex the West Bank appeared to be in place: an extremely right-wing government in Israel and a US administration more supportive than ever. Yet even that rare window of opportunity did not help the pro-annexationists. Throughout Trump's four years in power, Netanyahu's government did not annex a single inch of the West Bank. The settler leadership was disappointed twice.

Throughout Trump's four years in power, Netanyahu's government did not annex a single inch of the West Bank

First, when it became clear that Trump's plan did not include full annexation of the West Bank, but only of the settlements; and second, when it turned out that Netanyahu had no intention of carrying out even that partial annexation, which was revealed to be no more than a bargaining chip in the negotiations over normalization with the Gulf States and over the US administration's arms deal with the UAE.

Even though a peace agreement has virtually disappeared from the discussion in recent years, the "facts on the ground" have not been enough to change what Noam terms "the objective status" of the West Bank. It is still clear that if pressed to choose between an agreement that would see the establishment of a Palestinian state or the establishment of a binational state, the vast majority of Israelis would choose the former.

Despite what Benvenisti, Beinart and others claim, this continued limbo does not attest to "de facto" annexation, but to the settlers' failure to bring the state to actually annex the West Bank.

Over the years, the settlers have employed two strategies to change the normative status of the West Bank: settling on hilltops and settling in hearts. Considerable tactical successes notwithstanding, both strategies have failed to achieve the ultimate goal of the settlement movement: expanding Israel's sovereign borders to include the West Bank, and the Gaza Strip before it, both legally and in the public mind. Where Gush Emunim and its successors have, in fact, settled most successfully is in the political imagination of their rivals, who support a compromise with the Palestinians. The two-staters have been trying for years to push for their vision within the warped boundaries of a discourse outlined by the settlers. Gradually, they began to accept the idea of irreversibility and take the threats of a violent confrontation as a given.

Changing the boundaries of this discussion requires a switch: from seeking alternative solutions to the conflict to rethinking how the two-state solution

can be achieved, including how the settlements can be removed.⁵² That is the focus of the second part of this paper.

52 Avner Inbar, "The Courage to Think Inside the Box", **Molad**, July 31, 2016: <http://www.molad.org/images/upload/files/the-courage-to-think.pdf> (Hebrew).

Part 2: How to evacuate settlements? Civil evacuation in principle and in practice

Part 1 provided a historical and theoretical overview of the feasibility of evacuating settlements. Yet the question whether evacuation is feasible is closely linked to the way Israel chooses to carry it out. The only model currently available to Israelis (and to the Palestinians and the international community) is the disengagement model: forceful removal of civilians from their homes, chiefly by soldiers, in a single, short-lived dramatic event. In this model, the evacuation depends on the government's willingness to use sufficient force to uproot settlers. Small wonder that many Israelis question the feasibility of evacuation on a much larger scale than the 2005 disengagement from Gaza - not several thousand settlers, but tens of thousands who will be required to leave the West Bank. However, relying on this model is a fundamental mistake that is based on a distorted analysis of the power balance between the state and the settlements.

In Part 2, we outline a civilian approach to evacuating settlements in the West Bank, which relies on the government using administrative measures rather than military force. The advantages of this approach stem from its recognition of the settlements' dependence on the government's financial, legal and military support. Therefore, it is absurd to assume the government would fail or even fear to evacuate them, should it truly wish to do so.

The civilian approach has the significant advantage of reducing the odds of a violent confrontation between the government and the settlers, eliminating the threat of civil war, and softening the blow of evacuation for the settlers themselves. By offering a realistic assessment of the risks of evacuation, it allows Israelis to take an informed approach to the settlements. Once the public understands that the State of Israel can end the settlement enterprise with administrative measures, attention can be redirected to resolving the old debate over Israel's control of the West Bank.

The model outlined here is not only more respectful towards the settlers, but also more realistic. Translating it into a detailed work plan should be the main goal of proponents of a peaceful resolution to the Israeli-Palestinian conflict.

A general approach to evacuating settlements

The major administrative challenge of a two-state peace deal will obviously be relocating and absorbing the evacuated settlers in a carefully planned and effective process. Here, however, we focus mainly on the preceding step of the evacuation itself. The government should, of course, aim to do this as efficiently and peacefully as possible. Although resistance cannot be entirely prevented, we believe that proper management can minimize the potential for violence and for traumatic repercussions. The key to this is to change national priorities in advance: a government resolution to evacuate settlements should include a clear economic and legal policy that will streamline the process. Below are general, practical guidelines for the nonviolent evacuation of settlements within the framework of a peace agreement.

We believe that proper management can minimize the potential for violence and for traumatic repercussions. The key to this is to change national priorities in advance

At the heart of our analysis lies the special status of the settlements. An entire legal framework has been constructed to prop them up, and the government is heavily invested in financing them. Since the settlements rely on constant, active state support, the government does not really have to evacuate them – it only has to put a stop to them. As detailed below, Israel provides its citizens in the West Bank with unusual financial support and an extraordinary legal status, enabling them to live outside its sovereign territory as though they were within it. Therefore, any government that decides to dismantle settlements will be able to employ a variety of legal and financial measures to expedite the process before a single person is actively evacuated. This will require a gradual, well-planned series of changes to be carried out

with full transparency and complemented by a fair, adequate compensation package. This combination will encourage many settlers to relocate into Israel before the active evacuation begins.

Our goal here is not to provide a detailed program, but to lay the foundations for a new approach. It is important to understand the underlying rationale:

civilian life in the settlements depends entirely on legal and financial anomalies that the state has sustained and periodically renewed for decades. How do public healthcare centers and banks operate in the settlements, beyond Israel's sovereign territory? How are the settlements hooked up to Israel's water and power grids, although they are formally abroad? The answer to these questions, and to many others, lies in the artificial arrangements that keep the settlements on life support. We argue that thanks to these arrangements, the government can easily change the basic conditions of life in settlements - in some cases, by merely choosing not to extend a military order.

Civilian life in the settlements depends entirely on legal and financial anomalies that the state has sustained and periodically renewed for decades

For the approach we propose to succeed, it is crucial to allow enough time to elapse between the civilian and military stages of the withdrawal. A final date should be set for evacuating all Israeli civilians from the settlements. This would be preceded by several interim stages, in each of which the state would gradually scale back its financial and legal involvement in daily life there. Over the course of a set period after the final date for civilian evacuation, the IDF and other security forces would then withdraw.⁵³

53 We assume that the evacuation will be carried out as part of a peace agreement that would lead to an Israeli withdrawal from the West Bank. Yet the approach outlined here can also be used to evacuate settlements in other contexts, such as a decision to scale back civilian presence in the West Bank without withdrawing troops - an approach we have termed "national security without settlements". See Avishay Ben-Sasson Gordis, "Israel's National Security and West Bank Settlements", *Molad*, May 2017, <http://www.molad.org/images/upload/files/settleeng.pdf>.

Between the civilian and the military stages - a period that could last from months to several years - the settlements will lose their legal legitimacy, and daily life there will change accordingly. This contradicts the recommendation issued by the National Security Council following the disengagement from Gaza, that future withdrawals be carried out in quick succession in order to minimize resistance. We believe this approach is wrong. Concentrating the civilian and military evacuation in a single event will actually increase the chances of confrontation. Holding off on the military evacuation will allow time to change the legal and economic status of the settlements, and this will drastically reduce friction between the settlers and the troops sent to evacuate them.

The economic aspect

Our proposal relies on understanding the legal and economic status of the settlements. First, let us take government funding. In the last few decades, the government has provided surplus financing to Jewish communities in the Occupied Territories, and continues to do so.

One form of this ongoing support is government funding of local and regional authorities in the West Bank. Israel's government funds public services that are provided to settlers via local authorities, such as education and welfare. It also gives 'balance grants' to authorities that do not generate enough income to provide basic services such as maintenance and sanitation. These are complemented by special grants and designated subsidies. As many of these funds are channeled through various ministry budgets, it is difficult to compile the full data. This means that the real scope of government funding for settlements may be much larger than presented here.

In 2019, the Adva Center published a comprehensive analysis of the central government's various subsidies for all local authorities from 1997 to 2017. The researchers divided the authorities into five groups: the cities in Forum 15 (affluent local authorities that do not receive 'balance grants'), Jewish development towns, Arab localities, and Haredi vs. non-Haredi settlements in the Occupied Territories. They found that over 20 years, the non-Haredi

settlements expended the most per capita - an average of NIS 8,548 as opposed to NIS 8,291 in the affluent Forum 15.⁵⁴

Unlike Haredi settlements, many non-Haredi settlements among the top municipal spenders lie east of the Separation Barrier. This means it is highly likely they will be evacuated in a future peace deal.

Taken alone, this figure may lead to the mistaken conclusion that non-Haredi settlements are simply very-well managed. Yet a look at these settlements' sources of income reveals the real reason for the high expenditure. In the last two decades, of all Israeli authorities, the non-Haredi settlements were the ones to consistently receive the highest central government subsidies: NIS 2,123 per capita in 1997 and NIS 3,623 per capita in 2017. The gap between these settlements and other authorities remained stable over time, even when the government increased its subsidies for all authorities. A breakdown of the designated subsidies reveals that the largest chunk goes to education. The considerable disparity in favor of non-Haredi settlements is tied, in part, to their unique security needs, such as armored school buses. However, this does not explain the size of the gap. In the end, this is an intentional government policy implemented over years to benefit the settlements - at the expense of other local authorities.

The non-Haredi settlements also head the list of low-income authorities that receive 'balance grants'. While the central government has gradually scaled back the grants over the years, these settlements are still blatantly favored. In 2017, they received 'balance grants' of NIS 1,071 per capita, as opposed to NIS 1,049 in Arab localities, NIS 756 in Haredi localities, and NIS 715 in development towns. The disparity is especially glaring given the economic disadvantage of the last three population groups (Arabs, Haredi Jews and residents of development towns) compared to residents of non-Haredi settlements.

The special grants and designated grants are provided to local authorities

54 Shlomo Swirski & Ety Konor-Attias, "Central Government Subsidies of Municipal Budgets, 1997-2017", **The Adva Center**, August 2019, <https://adva.org/en/local-authorities-budgets19972017-/>.

for specific needs that lie beyond the scope of the designated subsidies and 'balance grants'. Here, too, the non-Haredi settlements receive considerably more than other groups. For example, a resident of a non-Haredi settlement receives NIS 459 a year in special grants, as opposed to a resident of a development town, who receives NIS 262.

In 2015, Macro - the Center for Political Economics published an analysis of the settlements' costs to the state.⁵⁵ Among other things, the report compared government spending on settlements and on other localities, distinguishing between settlements that lie west of the Separation Barrier and those to its east (which are slated for evacuation in a future peace deal). The researchers found that in 2014, local authorities in the West Bank received an average of NIS 3,762 per capita in government subsidies, as opposed to a national average of only NIS 2,282. Within the West Bank, authorities east of the barrier received an average of NIS 5,950 per capita, as opposed to NIS 3,111 west of the barrier. The government also provides "private support" to settlements - direct support to households and individuals in the West Bank. In 2014, the total assessment of the special government extra expenditure on West Bank settlements amounted to NIS 1.099 billion a year - approximately NIS 3,090 per capita and NIS 13,689 per household. Here, too, settlements slated for evacuation east of the barrier were clearly favored.

As the West Bank is defined a "national priority area", this begs a comparison between government funding of settlements and the other "national priority areas": the Negev and the Galilee. A 2016 report by the Macro Center compared government funding to the settlements and the Negev and the Galilee: grants to authorities, tax benefits, direct support due to the security situation, and direct support from the Settlement Division.⁵⁶ Again, the findings were unequivocal: in 2017, the average settler received an estimated NIS 1,922

55 "A comprehensive analysis of the settlements' economic costs and alternative costs to the State of Israel - 2014", **Macro - the Center for Political Economics**, February 19, 2015, <http://www.macro.org.il/images/upload/items/92069414034221.pdf>.

56 Roby Nathanson & Itamar Gazala, "West Bank Settlements in the 2017-2018 State Budget", **Macro - the Center for Political Economics**, December 2016, <http://www.macro.org.il/images/upload/items/27884861045856.pdf> (Hebrew).

in grants and tax benefits - NIS 303 more than a resident of the Galilee, NIS 367 more than a resident of the Negev, and NIS 1,416 more than the average Israeli citizen.

These figures illustrate just how fragile the settlements are compared to population clusters within Israel. Without massive, ongoing government funding, the local authorities in the West Bank would struggle to maintain their current quality of life, and many would face collapse. The high cost of maintaining the settlements is not the reason to evacuate them - but it does show that the state has the power to evacuate them with nonviolent civilian means. Examining the settlements in terms of geography and employment reinforces this conclusion.

Many of the settlements established outside the major blocs are isolated enclaves that lie deep within Palestinian population centers. This bars them from developing independently.⁵⁷ Over the years, specialists in various fields have noted the lack of economic, defense or geographic logic in scattering settlements outside the major blocs. These settlements have only one purpose: staking a claim in the heart of the Palestinian population. They have no possibility for development in their current location.

Dr. Col. (res.) Shaul Arieli discusses this in his book, **Messianism Meets Reality**:

Over the years,
specialists in various
fields have noted the
lack of economic,
defense or geographic
logic in scattering
settlements outside
the major blocs

Over the years, Jewish settlement [...] has not secured Jewish dominance - neither in terms of the scale of the Jewish population relative to the Palestinian population, nor in terms of the total area actually occupied by the

57 See, for example, Shaul Arieli, "Hey, Israeli Taxpayer, This Is How Much the Settlements Cost You", **Haaretz**, December 22, 2018, <https://www.haaretz.com/opinion/.premium-hey-taxpayer-this-is-how-much-the-settlements-cost-you1.6767618->.

Jewish settlements in the four main settlement areas (the eastern super zone in the Jordan Valley and Judean Desert; the western super zone along the Green Line; the Jerusalem Envelope; and the central mountain ridge along the arterial highway Route 60).⁵⁸

In other words, the settlements are scattered far and wide, making them expensive and complicated to maintain – and this requires an extraordinary degree of ongoing government funding.

The late Prof. Elisha Efrat, who won the Israel Prize in Geography, researched the spatial aspects of the settlement enterprise for many years. Based on these studies he asserted that,

the settlement system, built up at huge costs over many years, is geographically shaky at its core. It contradicts the logic of spatial planning, is not very important in terms of demographic size, and has little chance of continuing to exist independently over time... Even without a longstanding, firmly-established urban and rural Palestinian presence in Judea and Samaria, it is highly unlikely that such a system of settlements could socially and economically support itself in a reasonable fashion.⁵⁹

This much is clear to some settlers, too. In an April 2021 interview with **Haaretz**, architect and town planner Ulrich Jacov Becker, who lives in the settlement of Tekoa, said that the Jewish settlements in the West Bank are geographically alienated to a degree that threatens their future existence:

58 Shaul Arieli, **Messianism Meets Reality: The Israeli Settlement Project in Judea and Samaria - Vision or Illusion, 1967-2016**, November 2017, <https://www.shaularieli.com/wp-content/uploads/07/2019/messianism-meets-reality.pdf>.

59 Elisha Efrat, "The Geographic Flaw of the Settlements", **Haaretz**, July 28, 2013, <https://www.haaretz.co.il/opinions/.premium1.2081292-> (Hebrew).

We think that in Judea and Samaria we are restoring the glory of the ancient Holy Land, but that's wrong [...]. There was an opportunity here to learn from the mistakes of the 1950s new-immigrant towns and to build settlements that would bind Jews to their land. But what's being built here are not towns and villages that will sustain the Jewish people in its land for another 500 years; it's a sequence of sick, rootless, American-style suburbs [...] people just count how many residential units are being built on the next hilltop.⁶⁰

Most of the settlements are urban. In a 2019 report, the Adva Center found that 23.1% of employed settlers work in education, compared to 12.6% in the general Israeli population; 13.8% work in public administration, defense and social security, compared to 10.2% in the general population; and 12.5% work in health and social services, compared to 10.9% in the general population. In total, almost half of employed persons in the settlements (49.5%) work in the public services, compared to 33.7% in the general population.⁶¹ This, too, reflects the settlers' unusual economic reliance on the central government.

According to a report by the Taub Center, most of the settlements can be classified as "bedroom communities" - which are almost exclusively residential and have very little commercial, cultural or industrial activity and few office spaces.⁶² These communities are high on out-commuting, i.e., residents leaving daily to work outside the area. According to the Israeli Central Bureau of Statistics, the Judea/Samaria District has one of the

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- 60 Meirav Moran, "Israeli Settlements Could Be Headed for Self-destruction, and It Has Nothing to With the Occupation", **Haaretz**, March 31, 2021, <https://www.haaretz.com/israel-news/.premium.HIGHLIGHT.MAGAZINE-israeli-settlements-could-be-headed-for-self-destruction-regardless-of-occupation1.9712994->
- 61 Shlomo Swirski, Yaron Hoffmann Dishon, Ety Konor-Attias, "Annexation Trumps Start-up Nation", **Adva Center**, June 27, 2019, <https://adva.org/en/sipuach-pituach/>.
- 62 Haim Bleikh, "Back and Forth Commuting for Work in Israel", **Taub Center for Social Policy Studies in Israel**, October 2018, <https://www.taubcenter.org.il/en/research/back-and-forth-commuting-for-work-in-israel/>.

highest out-commuting averages in Israel: 65%, as opposed to 54% in the general population. This means that for most settlers in the West Bank, unlike the settlers in Gaza in 2005, evacuation may actually bring them closer to their current workplaces.

Of the two-thirds of settlers that work outside their communities, some 85% work outside their district - i.e., within Israel proper and not in the West Bank. All the large settlements are located close to the Green Line, bordering either central Israel or Jerusalem. Two anomalies are Kiryat Arba and Ariel, but they are not a major commercial or service hubs for the smaller settlements around them. Despite many years of massive efforts by the government and the religious right, the settlements have failed to create meaningful industrial zones or job centers. For work and commerce, their residents still travel from the West Bank into Israel. Moreover, as noted above, most employed settlers hold jobs in public service, which can be carried out anywhere within Israel.

In short, these and other data reveal that the entire settlement project is hanging by a thread.

The survival of the settlements thus far has been possible purely thanks to extraordinary government funding: a life support system meant to cover up the geographic and economic absurdity of scattering Jewish settlements throughout the West Bank, not to mention the toll on national security. Regardless of whether this support is justified, the fact remains: the settlements can still be evacuated. The figures cited above clearly indicate that diverting funds away from settlements, as part of an overall government policy to promote a peace deal, would fundamentally change daily life in the West Bank - motivating many settlers to relocate into Israel. Introducing these measures in advance would reduce the need for forceful evacuation, enabling a gradual civil evacuation in the form of economically-driven reverse migration.

The entire settlement project is hanging by a thread. The survival of the settlements thus far has been possible purely thanks to extraordinary government funding

The legal aspect

Israel has been occupying the West Bank since 1967, yet has never extended its laws, judiciary or governance there - with the exception of East Jerusalem, where Israeli sovereignty and laws apply. Accordingly, as Israel itself agrees, the West Bank is governed by humanitarian international law, which contains provisions regarding occupation (that Israel calls "the laws of belligerent occupation"). Daily life in settlements is possible thanks to a strange legal framework constructed over the last few decades to enable settlers to live under Israeli law outside the country's borders.

Immediately after the occupation of the West Bank, on 7 June 1967, the military commander published the Proclamation Concerning the Takeover of Administration by the IDF, which established military rule in the area, and the Proclamation Concerning Administrative and Judiciary Procedures, in which the military commander declared himself the new sovereign of the area and assumed all authorities of "governance, legislation, appointment and administration with regards to the area or its residents." The latter also established that the law existing in the area prior to its occupation will remain in effect, subject to the proclamations and orders of the military commander.⁶³ This means that alongside international law, the West Bank is still governed by the laws that were in effect when the IDF took over, which include Ottoman, British Mandatory and Jordanian legislation. It is also governed by the proclamations, orders and regulations issued by the military commander, who is in charge of Israel's military rule of the West Bank. In practice, it is the latter body of law, issued by the military commander, that currently holds sway.

63 Proclamation Concerning the Takeover of Administration by the IDF (No. 1), 1967-5727; Proclamation Concerning Administrative and Judiciary Procedures (West Bank) (No. 2), 1967-5727. Published in **Collection of Proclamations, Orders and Appointments of the Military Commander in the West Bank Region**, August 11, 1967, 1967-5727. See: "One Rule, Two Legal Systems, **The Association for Civil Rights in Israel**, October 2014, <https://law.acri.org.il/en/wp-content/uploads/02/2015/Two-Systems-of-Law-English-FINAL.pdf>.

Although Israeli law has not been applied in the West Bank, various ways have been found to effectively apply large parts of it to Jews only, to protect the Israeli citizens living there. By doing so, the state has ensured settlers a way of life that is as similar as possible to that of Israelis living within the country - in terms of rights, duties, services provided them, etc. This has been accomplished in two main ways: legislation that can be applied extraterritorially - Knesset laws that are specifically applied to Israeli citizens living in the West Bank, i.e. outside the state's territory - and orders issued by the military commander of the area that apply only to the settlements and their residents. These orders are worded to imitate the relevant laws within Israel or to establish the application of a particular Israeli law on the settlements. They are known as "enclave law".

Any Israeli government that decides to dismantle settlements as part of a peace deal can direct the military commander to cancel the orders that make up the body of "enclave law". At the same time, the Knesset can cancel the specialized legislation. Once these arrangements are brought to an end, life in the settlements will become very different from life within Israel. As the Military Advocate General's Corps noted on its website: "This legislation, known as 'enclave law', enables the residents of the local and regional councils in the area to lead ordinary lives, as the laws that apply to them are largely similar to the laws applying to residents who live within Israel."⁶⁴ Without these special arrangements, life will no longer be able to continue in a reasonable manner, with all that entails.⁶⁵

The Defense (Emergency) Regulations that apply in the West Bank were

64 "Legislation in the Judea and Samaria area - a review", MAG Corps website, <https://did.li/mhXYH> (Hebrew).

65 This paper does not address the legal questions that may arise, should these arrangements be cancelled as part of a government decision to dismantle settlements. The state is, of course, obliged to uphold the rights of its citizens. However, that does not mean they are entitled to enjoy the same arrangements in education and healthcare, for example, that Israelis who live within the country enjoy. Undoubtedly, if the policy proposed here is carried out, the High Court will have to address this complex issue.

promulgated by the IDF in 1967, and the Knesset extends them by law every five years (most recently in 2017). From time to time, the Knesset also updates them by amending the "Extension Law". One of the most important emergency regulations is titled "presumption of residency". It stipulates that 17 Israeli laws which apply automatically to any "resident of Israel" will also apply to Israeli citizens who live in Area C in the West Bank, and would be considered residents if they lived within Israel.⁶⁶ Notably, most of these laws do not apply to Israeli citizens who live outside the country's borders anywhere else in the world, but exclusively to settlers. For example, this regulation enables settlers to work as lawyers or carry out a surrogacy process in Israel. Should the law expire, or even this particular regulation, Israelis who live in the West Bank will no longer enjoy these options.

When the need arises, it will not even be necessary to actively cancel the "Extension Law". The purpose of this law is, among other things, to periodically extend the regulations. Theoretically, should the Knesset simply do nothing after June 30, 2022 - when the regulations are next up for extension - they will expire and will no longer apply to Israelis living in the West Bank. As a result, all the arrangements upheld by the regulations will no longer be valid, including laws regarding social security and public healthcare, which Israeli citizens in the West Bank would find it hard to live without.⁶⁷

Moreover, cancelling the relevant Emergency Regulations or not extending them will leave the settlers subject to criminal law in the West Bank

Cancelling the relevant Emergency Regulations or not extending them will leave the settlers subject to criminal law in the West Bank and to the military courts

⁶⁶ This includes people who are entitled to immigrate to Israel by power of the Right of Return.

⁶⁷ Regarding some of the laws included in Regulation 6(b) titled "presumption of residency", their personalized application to settlers is also enshrined in the definitions of the law itself. Therefore, to stop them from applying, it will be necessary to not only refrain from extending the regulations, but also to amend the definitions in these laws, which the Knesset is, of course, authorized to do.

and to the military courts, like their Palestinian neighbors. This legal system is much more stringent than Israeli law and entails severe infringement of fundamental human rights. The settlers will be subject to a different body of criminal law than the one that applies to citizens living within Israel: they will be subject to the military system in the West Bank, including its laws and courts, in all matters criminal.

In addition to the Knesset specifically applying laws to settlers in the West Bank, the military commander - who is the legislature in the Occupied Territories - has, over the years, used orders and regulations to differentiate the settlements from the Palestinian communities around them, turning them into enclaves where many parts of Israeli law apply. For example, in 1979, OC Central Command issued the Regional Councils Order that enabled the establishment of local councils in the West Bank, whose jurisdiction extends over settlements only. The Statute of Regional Councils was issued based on this order, detailing the rules governing the councils in the West Bank. As the State Comptroller recently noted, "these rules are largely equivalent to the rules that apply to regional councils within the sovereign state of Israel under the the Local Councils (Regional Councils) Order, 1958."⁶⁸ According to Prof. Amnon Rubinstein, the jurisdiction of the regional councils in the Occupied Territories was applied to large parts of the West Bank, in a way that denies the existence of regional Palestinian councils and even the inclusion of Palestinian representatives in regional councils.⁶⁹ Later on, the Local Council Order was issued, defining certain settlements as local councils; the Statute of Local Councils laying out the rules for managing them was issued accordingly. By the power of these two statutes, over the years, the military commander applied Israeli legislation to the settlements in a wide

68 State Comptroller, "Mateh Binyamin Regional Council: Irregular Personnel and Budget Management", **Reports on Audit of Local Government in 2018**, August 2018, p. 690, https://www.mevaker.gov.il/he/Reports/Report_636/f58b5e-14e93-4542-520a-58189088c51fe/-212binyamin.pdf (Hebrew).

69 Amnon Rubinstein, "The Changing Status of the 'Territories' (West Bank and Gaza): From Escrow to Legal Mongrel", **Tel Aviv University Studies in Law**, Vol. 8, 1988, p. 59, <http://www.amnonrubinstein.org/images/stories/pdf/jornal20%english/the20%changing20%status20%of20%the20%territories.pdf>.

range of fields: laws concerning welfare, family, education, healthcare, labor, agriculture, consumer protection, industry and commerce, communications, religion and more.⁷⁰ As Rubinstein noted in the mid-1980s: "A resident of Maale Adumim, for instance, is supposedly subject to military rule and to local Jordanian law, but in fact lives by Israeli law, both personally and in terms of the local authority he resides in. The military government is nothing more than a signpost through which Israeli law and government operate."⁷¹

Cancelling the orders requires, first and foremost, a government resolution. Then, the military commander must sign off on legislation revoking the Regional Council Order and the Local Council Order, including the various arrangements entered into law by the power of these orders. Once they are revoked, the settlements will no longer be subject to Israeli law, but to the Jordanian law that applied in the West Bank until the 1967 war and to the defense legislation issue by the military commander, which applies to all residents of the West Bank. Once the government takes this step - regardless of how and when - daily life in the settlements will undergo a massive upheaval, and the quality of life there will sharply decline. Once again, our point is to highlight the fragility of the settlements and how fundamentally absurd it is to claim that a government that wishes to evacuate them will be unable to do so.⁷²

Examining the legal and economic structure that keeps the settlements alive shows, incontrovertibly, that they can be dismantled. The reality created in the West Bank is 'reversible'. Just as the government has spent massive funds on building and artificially propping them up, so it can choose to end them. This would not require the use of force or cruel measures against settlers. We are not espousing mistreatment of the evacuated population, which will have to deal with considerable difficulties as it is. We are calling for a change

70 Article 140(b) of the Statute of Local Councils; Article 121(a) of the Statute of Regional Councils; and annexes 1-12 to the Statute of Local Councils.

71 Rubinstein.

72 See, also, Avner Inbar, "The Irreversibility Myth", Molad, July 2013, <http://www.molad.org/en/articles/irreversibility-myth>.

of national priorities that will reflect the government's decision to evacuate settlements in the West Bank.

We propose that the evacuation be divided into two major stages: civilian and military. The civilian evacuation will begin only after preparations have been made to absorb the evacuees within Israel. At that point, the government will stop funding the settlements, and the laws and orders tailored to fit them will be revoked. The IDF will continue to control the West Bank, but the State of Israel will no longer view it as a place for the residence of even presence of civilians. Settlers who prefer to remain in their homes will not be forcibly removed, but will take responsibility for choosing to live in a military territory. The IDF will remain in place, and the provision of other basic services will continue. The vast majority of Israelis living in the West Bank will leave at this point. Some will refuse, but they will be a minority that the state can handle when the need arises (as detailed below). A clear advantage is that this will greatly reduce the potential for violence, as well as incidences of disobedience among the forces sent to carry out the evacuation. This will free the government up to concentrate efforts on relocating and rehabilitating its returning citizens.

We propose that the evacuation be divided into two major stages: civilian and military. The civilian evacuation will begin only after preparations have been made to absorb the evacuees within Israel

The general mood and public opinion

Groundbreaking political moves are always hard to envision before they become a reality. We now see peace with Egypt as a given in Middle Eastern geopolitics. Yet had you told the average Israeli in the early 1970s that by the end of the decade, Israel and Egypt would sign a peace treaty, she probably would have dismissed the idea as a pipe dream. The same was true of the Oslo Accords and of the peace treaty with Jordan. Such historic changes require brave leaders with a clear vision. At present, Israel has no such leadership

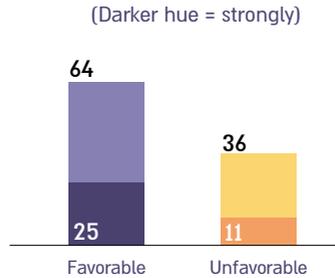
- one reason why it is so hard to imagine the conflict ending. Several other factors have helped shape this fatalism. The second Intifada dealt a heavy blow to Israelis' already shaky trust in the Palestinians. The fragility of the Palestinian Authority and the rise of Hamas in Gaza reinforced the popular argument that there is "no partner" on the other side. Within Israel, the dogged campaign by the right to undermine the legitimacy of the left has weakened the power of two-staters in Israeli politics, even putting a dent in the confidence of center-left voters that a peace deal is possible (e.g., promoting the idea that the settlements are "irreversible", constantly threatening civil war, highlighting the negative consequences of the disengagement from Gaza while ignoring the positives, etc.). Yet despite all these unfavorable conditions - the lack of leadership, the historical circumstances and the right wing's efforts - public opinion surveys consistently show that most Israelis still support the two-state solution, albeit less so in recent years.⁷³

A comprehensive survey commissioned by Molad in January 2021 provides updated figures on public opinion regarding the settlements. Of the 1,200 Jewish-Israeli respondents, 64% view the settlements in a positive light, while 36% view them negatively.

73 Omer Einav, "Israel's Security in a Two-State Solution", **Molad**, December 2020, http://www.molad.org/images/upload/files/twostatesecurity_ENG_Final.pdf.

Figure 1: Support for settlements

Overall, do you have a favorable or unfavorable opinion of the Jewish settlements in the West Bank?



Regarding security, 67% of the respondents believe the settlements are good for national security, while 33% believe they are harmful. Compared to surveys from previous years, the idea that the settlements are important for national security has gained traction.

Figure 2:

Which statement comes closer to your own view, even if neither is exactly right?

The settlements in Judea and Samaria **weaken** Israel's security

33

Total

The settlements in Judea and Samaria **strengthen** Israel's security

67

On the other hand, when asked about evacuating settlements as part of a peace deal, 58% of the respondents were in favor. This is a notable point: even though most Israelis think the settlements are good for security and in general view them positively, most are in favor of dismantling them. When asked about government funding of the settlements, 59% replied they would like to see it scaled back. In that context, a 2020 survey by the Adva Center and the

Geneva Initiative found that 63% of Israelis believe there is no justification for welfare and education funding to be higher in settlements than in other Israeli communities.⁷⁴

Figure 3: Evacuation of settlements

As you may know, approximately 100,000 Jewish residents in the Judea and Samaria live outside the settlement blocs. If Israel and the Palestinians reach a final status peace agreement that requires these 100,000 Jewish residents who live outside the settlement blocs to relocate to inside the settlement blocs or inside the green line, would you support or oppose relocating these residents?

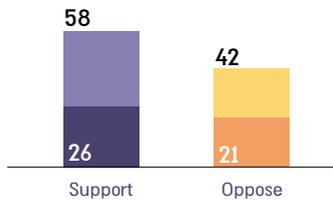
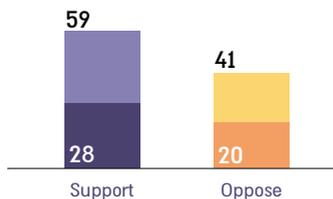


Figure 4: Government funding of settlements

As you may know, the government provides financial support and tax breaks for Jewish residents living in Judea and Shomron. Do you support or oppose reducing the financial support and tax breaks that Jewish settlements in Judea and Shomron receive from the government?



74 "Survey: Does the Public Support a Policy of Extra Funding for Settlements?", **Adva Center**, November 11, 2020, <https://adva.org/he/price-of-occupation-survey-economy> (Hebrew).

These figures seem to be at odds: if most Jewish-Israelis think positively of the settlements, especially in terms of their contribution to national security, how can most also support evacuating them? The answer may lay in the failed strategy of the settler movement to "settle in hearts". Just as the disengagement from Gaza did not spark a massive protest movement, despite all the objections it generated, so it seems that most Israelis are unlikely to lift a finger to prevent an end to the settlement enterprise in the West Bank. What is likely is that the growing support for the settlements is the result of the stalled peace process, on one hand, and the relative calm on the security front, on the other - two factors that reinforce the legitimacy of Jewish settlement in the West Bank and make evacuation merely hypothetical. This growing support may also result from the normalization of the settlements in public discourse: for years, the settlers' leaders and key media representatives have refrained from openly mentioning Greater Israel or the messianic underpinnings of their movement. Instead, they cite security, patriotism and "Jewish values". To understand how thoroughly the movement has rebranded itself over the last 15 years, it is enough to compare the popular image of gun-toting Hanan Porat, in his military parka, with the virtually-secular rich techie Naftali Bennett. Yet as the settlers learned the hard way in 2005, general sympathy to their cause does not translate into the political clout needed to prevent evacuation. In short, there is not necessarily a contradiction between general sympathy for the settlements and supporting their evacuation as part of a peace deal.

The findings of the survey also reveal a conflict between general support for the settlements and the desire of the Jewish majority to scale back government funding and tax benefits for their residents. This is hardly surprising: the surplus funding for settlements rankles among many Israelis. Where the settlements are concerned, this public position has far-reaching implications. Budgetary discrimination is what keeps the settlements alive. As detailed above, taking away this life support system would leave most settlements and local authorities in the West Bank unable to maintain their residents' current quality of life. Therefore, putting a stop to the extra funding would dramatically affect the settlements and reduce their population, primarily because many residents moved to these communities in order to improve their quality of life.

Beyond these contradictions, the figures also highlight an interesting recurring issue: public opinion tends to sway in favor of goals set by political leaders in real time. This means that making certain decisions tends to generate public support. Together with the fact that even without a current campaign in favor of two states, the public still prefers this solution – this means that a government seeking to evacuate settlements would be able to garner the necessary public support.

Another issue that influences public opinion is the settlers' willingness to evacuate. As this idea has all but vanished over the last decade, it is hard to find current data on the matter. However, when it was last checked – when Secretary of State Kerry wished to restart talks – the findings were interesting. In a series of surveys carried out from 2008 to 2013 by the Macro Center and Blue White Future among settlers living east of the Separation Barrier, the respondents were presented with an evacuation and compensation plan that would be implemented even without a signed peace deal. Approximately 28.8% responded favorably – i.e., were willing to immediately relocate into Israel in exchange for the proposed package. This response was unusually high among settlers in the Jordan Valley and Dead Sea regional councils and in the city of Ariel, as opposed – predictably – to the local authorities in Judea and Samaria. When respondents were asked whether they would be willing to evacuate as part of a peace deal, 48.8% replied in the affirmative.⁷⁵

It is important to remember that this question was posed as a purely hypothetical scenario, at a time when evacuation is not in the cards. Taking into account that public opinion is usually swayed by major policy decisions, we can carefully estimate that support for evacuation will rise should the government decide on such a plan. Experts who examined the issue on behalf of the government estimated that a full 80% to 90% of Israelis living east of the barrier would be prepared to leave their homes in exchange for adequate compensation. These estimates, in addition to general opinion, also starkly

75 "Viability of Willing Evacuation and Absorption Prior to an Agreement among Settlers East of the Security Fence: Findings of 2013 Survey", **Blue White Future & Macro - the Center for Political Economics**, February 2014, <https://did.li/7uSfT> (Hebrew).

contradict the assertion that "the settlements have gone beyond the point of no return" and can no longer be dismantled. As we emphasized in Part 1, such assertions are often made with great confidence, but are rarely backed by empirical facts and solid reasoning; rather, they reflect a sentiment of growing despair over political inaction.

Another important point is that the evacuees' conduct is greatly influenced by the broader political context. In their study of the disengagement from Gaza, Keren Tamir and Yaacov Bar-Siman-Tov argued that one reason opponents staunchly rejected the legitimacy of the withdrawal was the fact that it was unilateral.⁷⁶ They claimed that some evacuees opposed the plan because they did

not understand the logic behind it and felt that the state had not prepared adequately to care for them. This "marketing challenge" remains, and has likely grown trickier since 2005. Distrust of the Palestinian leadership and skepticism regarding a "partner" on the other side make it difficult to explain evacuation as a step that would primarily serve Israeli interests.

That is the crux of the matter. Implementing a peace deal that includes benefits alongside the concessions will enable the complicated step of evacuating civilians to gain broad public legitimacy and become feasible. That is what happened with the peace treaty with Egypt, which included evacuating the settlements in Sinai. To lay the groundwork for evacuating settlements in the West Bank, the government will first of all have to change the way the public perceives this move. That would entail explaining that withdrawing from the West Bank is vital both for national security and in order

Experts who examined the issue on behalf of the government estimated that a full 80% to 90% of Israelis living east of the barrier would be prepared to leave their homes in exchange for adequate compensation

76 Keren Tamir and Yaacov Bar-Siman-Tov, "The Disengagement from Gaza and Northern Samaria: Evacuation, Compensation and Legitimacy", **Jerusalem Institute for Policy Research**, 2007, https://jerusalemintstitute.org.il/wp-content/uploads/05/2019/PUB_nituk.pdf (Hebrew).

to maintain a Jewish, democratic Israel, and elaborating the many strategic, economic and defense advantages for all Israelis.

Precedents and historical lessons:

From Algeria to Gush Katif

Does world history offer precedents with practical implications for the Israeli case? In 2005, the Knesset Research and Information Center was asked to seek international equivalents to the disengagement law, and found that there was no case similar enough to warrant a comparison.⁷⁷ The researchers were looking for a case study that matched all three criteria of a democratic country carrying out a forced evacuation without revoking citizenship. This method was bound to fail, as every historical event has unique features. In any case, learning from precedents does not require finding an identical match. The challenge is to carefully examine similarities and differences and only glean from past cases what is relevant to Israel.

In the wake of the two world wars, the first half of the 20th century was marked by the movement of vast populations, mostly in Europe and Asia. Some relocated willingly, others under duress. The second half of the century had its own share of massive relocations, such as the British handover of Hong Kong (1997) and the Portuguese handover of Macau (1999) to China. In those instances, democratic western states returned territories they had controlled for many years to a non-democratic state, peaceably and within the framework of an agreement. Yet although the last century offers several examples with relevant conclusions for the evacuation of the settlements, the most pertinent to the case at hand seems to be the French withdrawal from Algeria.

77 Judah Troen, "An Examination of Historical Equivalents to the Disengagement Plan", Knesset Research and Information Center, February 2, 2005, https://fs.knesset.gov.il/globaldocs/MMM/0132d17a8-e-32e80-811de-00155d0a0132_2/0235d17a8-e-32e80-811de00155-d0a6660_11_0235.pdf (Hebrew).

Algeria gained independence from France in 1962, when the Évian Accords ended 132 years of colonial rule over the North African country. France withdrew after years of bloody anticolonial struggle waged by the National Liberation Front. At the time, there were some 1.2 million French settlers, or Pied-Noirs ("Black Feet"), living in Algeria: most had been born there, and many had adopted a local identity. Therefore, France insisted on allowing them to retain dual citizenship for three years from the day of the withdrawal, before forcing them to choose one. Almost all of them rushed to leave Algeria before the accords even took effect. Only some 200,000 elected to stay and their number diminished throughout the 1960s and 1970s, eventually stabilizing at mere thousands.

For many years, major researchers of the Israeli-Palestinian conflict have looked to the example of Algeria. After the disengagement from Gaza, American political scientist Ian Lustick published a methodical comparison of the two cases in order to assess the chances of a future withdrawal from the West Bank.⁷⁸ He concluded that the settlements can be evacuated, and that the chances of success will largely depend on massive government incentives for the evacuees. Like the French citizens of Algeria, Jewish settlers in the West Bank will retain their Israeli citizenship; yet while the French evacuees received measly compensation from their government, the settlers will be generously compensated by the state. Moreover, unlike the Pied-Noirs, who had lived their entire lives in Algeria and suffered an immense drop in their quality of life after the evacuation, most Jewish settlers already work within sovereign Israel and

Like the French
citizens of Algeria,
Jewish settlers in
the West Bank will
retain their Israeli
citizenship; yet while
the French evacuees
received measly
compensation from
their government,
the settlers will be
generously compensated
by the state

78 Ian Lustick, "The Unraveling of *Algérie Française* and the Fate of the *Pieds Noirs*", in: **Population Resettlement in International Conflicts: a Comparative Study**, Arie Marcelo Kacowicz and Pawel Lutomski, eds. Lexington Books, 2007, pp. 41-55.

if anything, their quality of life may improve. Nevertheless, it is important to remember that unlike the Pied-Noirs, many of the settlers in the West Bank are strongly driven by ideology. This fact, which Lustick overlooks, is likely to make the evacuation more difficult.

In an article published by the Israel Democracy Institute, Yair Sheleg also compared the Algerian case with the Israeli one.⁷⁹ Examining similarities and differences, he aimed to assess whether the model of nonviolent evacuation that France used should be implemented in the West Bank. According to Sheleg, this may have several negative consequences: intensifying the conflict between Israel and the Palestinians, damaging the ethos of Israeli solidarity, and placing the settlers in danger should they choose to remain in Palestinian territory. On the other hand, he holds that adapting the model to Israel's unique circumstances may yield significant advantages: a civilian evacuation as part of a peace deal would avert the physical confrontation entailed in the personal-active model of evacuation used in the Sinai and in Gaza. Also, assuming that any future evacuation will be broadly backed by the public, the settlers' legal and moral arguments will no longer hold water. While Sheleg's analysis is more than a decade old, his main argument remains relevant and its underlying logic informs our paper.

Flaws in the disengagement from Gaza

What about local precedents? The two relevant cases are Israel's withdrawal from the Sinai Peninsula (1980-1982) and from the Gaza Strip (2005). Despite the different conditions that prevail there, the West Bank is similar enough to both territories to allow for a useful comparison. Much like the hypothetical evacuation from the West Bank discussed here, the settlements in the Sinai were dismantled as part of an agreement - the peace treaty with Egypt. The evacuation was carried out in several stages and coordinated in advance, and

79 Yair Sheleg, "'Black Feet' in Judea and Samaria: The Algerian Evacuation Model and its Relevance for Israel", **Israel Democracy Institute**, February 4, 2008, <https://en.idi.org.il/articles/10272>.

the evacuees were given financial compensation and time to prepare. Yet unlike the West Bank, the settlements in the Sinai were sparse and numbered only several thousand residents. Also, the settlers did not have strong religious, ideological or historical ties to the land they were forced to leave.

The disengagement from Gaza, which relied on the Sinai precedent, is closer to the West Bank case in terms of the settlers' attachment to the land. Unlike the Sinai Peninsula, the Gaza Strip was part of Palestine under the British Mandate and is considered part of Greater Israel. The Jewish settlement enterprise there was deeply religious from the outset. Although the disengagement was necessary and justified, the way it was carried out led to a series of problems that Israel is still contending with. As this is the most recent precedent, any discussion of evacuating West Bank settlements must draw on the mistakes made in Gaza.

In his book on the disengagement from Gaza, journalist and researcher Nadir Tsur describes how the government prepared for the withdrawal:

The public debate that emerged, from the day the idea (of the disengagement) was first bandied about by politicians to the day the Israeli flag was removed from the headquarters of the IDF Gaza Division on September 11, 2005, indicates that the process was a matter of trial and error, rather than a coherent plan carefully thought out in advance... For the most part, it was not the result of an organized, interdisciplinary preparation process closely advised by consultants.⁸⁰

Raanan Dinur, who was director-general of the Ministry of Industry, Trade and Labor in the period leading up to the disengagement, confirmed this in his testimony before the state commission of inquiry that examined the treatment of the evacuees:

⁸⁰ Nadir Tsur, **The Man Who Unleashed Gaza: Ariel Sharon and the Story of the Disengagement**, Tzivonim Publishing, 2006 (Hebrew).

I can certainly not tell you that when my term began, there were initial preparations – even on the theoretical level – regarding the evacuation of settlements, in Gaza or anywhere else. The issue was brought before me the day the system actually started to take practical steps, and prior to these practical steps, there was no conceptual discussion of the matter.⁸¹

These accounts and many others indicate that the myriad flaws in the way the disengagement was carried out, and in the subsequent treatment of the evacuees, resulted from the haste with which the plan was drawn up. If there is one lesson to learn from the events of 2005, it is that such major moves on a national scale require serious preparation. When forcing citizens to leave their homes, it is the state's duty to provide them with the necessary means to ease the complicated process as much as possible. That requires both thorough planning by the government and allotting enough time to prepare – two factors that were lacking in the disengagement from Gaza, and which will be indispensable to any future evacuation.

It is necessary to make a fundamental distinction between the evacuation of settlements and the relocation of their residents. The two issues, while closely tied, are not identical and entail entirely different mechanisms of governance and separate challenges. While the discussion usually centers on the challenge of evacuation itself, the real difficulty will likely lie with resettling the evacuees, as this will require long-term planning and implementation – two capacities that are not Israel's strongest suit. Although resettlement poses the greater challenge, Israelis are too afraid of the evacuation to even pause over this aspect.

While the discussion usually centers on the challenge of evacuation itself, the real difficulty will likely lie with resettling the evacuees

81 Report of the State Commission of Inquiry Regarding the Lawful Authorities' Treatment of the Evacuees from Gush Katif and Northern Samaria, June 6, 2010 (Hebrew).

The state commission of inquiry included this recommendation in its 2010 report:

The prime minister is also responsible for preparing, today and not tomorrow, for future events that may require the resettlement and rehabilitation of citizens. As noted, these events may take place not only for political reasons, but also, for example, as the result of a natural disaster, a broad public initiative or acts of terror. The lessons of the disengagement and of the way the evacuees were treated are unequivocal: only meticulous advance preparation can significantly diminish the foreseeable harm to these citizens. Such preparation includes designated legislation and forming a multidisciplinary body to manage the process. It requires professional centralized preparation, detailed planning, setting up infrastructure and regularly maintaining it for implementation at short notice. It also entails allocating resources. But as the case of the disengagement teaches us, the resources needed now are nothing compared to those that will be needed in future as a result of insufficient preparation.⁸²

The commission's report and other critical analyses of the disengagement identified several key flaws that are relevant to planning a future evacuation in the West Bank.

The first problem is the short time span allotted to the evacuation. Prime Minister Sharon declared his intention to withdraw from Gaza in December 2003 – and carried it out just over a year and a half later, in August 2005. The incredibly complex preparations were crammed into this short amount of time, even though the process required collaboration among many ministries and relied on almost no existing contingency plans. Sharon probably rushed

82 State Commission of Inquiry.

to act for political reasons: he understood that unless he moved fast, the plan would likely be thwarted. In any case, it is important to understand that this tactical choice had far-reaching implications, especially regarding the treatment of the evacuees.

Under the Disengagement Law, the government did form the Sela Authority for helping the Gaza evacuees, which invested major efforts and resources in addressing their needs. However, over the years, flaws emerged in the Authority's operations. The state commission of inquiry identified several causes, including insufficient funds, lack of coordination between the various ministries, and skewed national priorities. All these shortcomings have one simple fact in common: a state cannot effectively evacuate a large civilian population in such a short amount of time and without adequate preparation. In that sense, right wing governments in Israel (and perhaps all governments) are in a bind: preparing in advance for

evacuation is tantamount to acknowledging the possibility of such an event, while not preparing results in a rushed, faulty process.

A state cannot effectively evacuate a large civilian population in such a short amount of time and without adequate preparation

The second problem is that the withdrawal was unilateral. Unlike Israel's previous dismantlement of settlements, the disengagement was not carried out as part of a peace agreement, was not coordinated with the parties that took control of the territory, and

was not supported by diplomatic efforts. As a result, the civilian and military withdrawals were carried out at the same time, which further undermined the evacuees' sense of safety. This gave opponents of the disengagement crucial ammunition to highlight its potential dangers. Yaacov Bar-Siman-Tov called this "disengagement with nothing in return" and argued that the settlers and their supporters believed the withdrawal conveyed weakness and a surrender to terrorism. Unlike the peace treaties with Egypt and Jordan, as well as the Oslo Accords, Israel was offered no diplomatic gains in return for this territorial concession. According to Bar-Siman-Tov, had the public been presented with such gains, many more settlers may have come to terms with the withdrawal, left in advance and cooperated with the authorities responsible for their

rehabilitation.⁸³ Diplomatic agreements are immeasurably more advantageous than unilateral moves, for many strategic reasons that lie beyond the scope of this paper. What is important in this context is that they enable leaders to show the public, including the evacuees, a list of gains to offset the personal and national sacrifices involved in withdrawing. We are under no illusions: a peace agreement will not convince all the evacuees, but can certainly motivate many to cooperate.

A Peace agreement will not convince all the evacuees, but can certainly motivate many to cooperate

The haste with which Israel left Gaza was closely tied to the unilateral nature of the withdrawal. A peace agreement with the Palestinians, on the other hand, will include a host of supervision and oversight mechanisms tailored specifically to ensure that the obligations undertaken in the agreement will be fully carried out by both parties. These mechanisms, which are integral to any peace agreement, will significantly reduce uncertainty and motivate all the involved parties to uphold their obligations. Above all, they will buy the government time to plan the withdrawal and execute it in a phased, effective fashion. The main positive incentive that Israel can offer evacuees is planning and building their new lives wherever they take up residence: not hotel rooms or prefabs quickly cobbled together, but organized neighborhoods and communities that are part of a full reabsorption package. This is one example of measures that will be easier for the government to carry out in the context of a peace agreement.

This was not the case with the disengagement: Sharon's government did not coordinate the move with the Palestinians, and neither party signed any binding documents. The general uncertainty was what enabled rabbis and the settler leadership to convince the residents of Gush Katif, right up to the very last minute, that the evacuation would not take place. Some argue that these political and spiritual leaders cynically toyed with the settlers, preventing cooperation with the state to further their ideological cause while

83 **The Disengagement Plan - An Idea Shattered**, ed. Yaacov Bar-Siman-Tov, the Jerusalem Institute for Israel Studies, 2009 (Hebrew).

knowing full well that the withdrawal would go through. Others believe that the leaders fought tooth and nail against the disengagement in earnest belief that they could thwart it.⁸⁴ Either way, it is clear that the leadership's conduct drove many settlers in Gaza to cling, on the very cusp of evacuation, to belief that the "expulsion" was not to be. As a result, many did not adequately prepare for their future reality. A considerable number of settlers who were in constant touch with the Sela Authority suddenly reneged, on the rabbis' orders, and rejected any attempt at dialogue after becoming convinced they would not be removed. Therefore, the government must do everything in its power to minimize the uncertainty that will overshadow any future evacuation. Choosing a peace agreement over unilateralism will greatly promote this goal.

The third problem is the way the disengagement was framed publicly. This was primarily the work of the media, but to a degree also of the IDF, the government and the evacuees themselves. Nightmare scenarios were replayed time and again, and sensationalist aspects of the evacuation were highlighted. Journalists, military commanders and politicians caved too easily to threats of violence by settlers, and magnified marginal extremist voices to a disproportionate degree. In addition, many media outlets covered the entire process using terminology that is usually reserved for security affairs in Israeli parlance: "war", "battle", "clashes", "infiltrators" (Israelis who entered Gaza prior to the evacuation) and so on.

Some degree of militarization is inevitable when reporting on the forced evacuation of civilians. When the evacuation is crammed into a short space of time that is devoted mostly to clashes with security forces, it is hard not to describe it in combative terms. While the disengagement was a civilian procedure (the removal of a civilian population), the militarized version the public received fueled fears of a violent confrontation. In the end, none of the nightmare scenarios played out - but the damage was already done: the settlers threatened "civil war", the media embraced the sensationalist danger and amplified it, and the government capitalized on the demonization of the

84 Baruch Kahana, "The Psychological Significance of the Eviction", in: **The Disengagement Plan - An Idea Shattered**, p. 71-95 (Hebrew).

settlers by gaining public support for the move. All these combined to shape the public memory of the disengagement as far more traumatic and dramatic than it actually was.⁸⁵

One common claim is that many evacuees chose not to act violently due to their patriotism. Another reasonable possibility is that many members of the religious-Zionist camp understood how powerless they were compared to the state and drew the logical conclusion that violent resistance would be futile. In any case, other than passive acts of resistance and one violent clash in Kfar Darom, both of which had a negligible effect on the evacuation, all the doomsday predictions of violence were inflated. Even the physical rage that erupted in Amona some six months after the withdrawal from Gaza did not change the government's decision to dismantle the illegal West Bank outpost. Here, too, the settlers were aiming to create appearances that would serve as a deterrent, yet failed to prevent the evacuation itself. In any event, should a future government choose to evacuate settlements in the West Bank, the media will bear heavy responsibility for providing Israelis with a full picture of events on the ground and giving voice to various opinions, while carefully telling real news apart from spins - a task they did not very successfully carry out during the disengagement.

The fourth problem is also the most sensitive: the responsibility of some of the evacuees for their own situation. It is undeniable that the state failed to properly care for a substantial number of evacuees from Gaza, as the state commission of inquiry clearly found in its report, and as became etched in collective Israeli memory. Yet we must not overlook an important section of the commission's report, which addressed the responsibility of the evacuees themselves:

While most of the responsibility for promoting the treatment of the evacuees as an urgent national mission lies with the government... the material collected by the

⁸⁵ Assaf Sharon, "Civil War", **Molad**, November 3, 2017, <http://www.molad.org/images/upload/files/Brothers-up-in-arms.pdf> (Hebrew).

commission clearly shows that some of the evacuees played a significant role in the formation of the current grim reality in which, some five years after the evacuation, their rehabilitation is not even close to completion. Indeed, some evacuees chose to tarry where they could hurry. Many could have quickly elected the permanent residence of their choice, received a lot from a large selection of lots already developed by the state, filed plans with the planning authorities in order to obtain a building permit, and even started construction with the compensation funds they were given. Likewise, many evacuees who work in agriculture could have exercised their right to receive farmland and start cultivating it in advance. Even given the authorities' problematic conduct, many of the evacuees could have chosen early on to take control over their lives, as some did, to set their remaining disagreements with the authorities aside for future resolution, and to meanwhile take action to build a permanent home without waiting for the very last of their demands and their representatives' demands to be met... Additionally, the fact that many of the evacuees did not cooperate in the period leading up to the disengagement was to their detriment and delayed their rehabilitation. Although the commission believes, in principle, that the state is responsible for creating the necessary conditions to rehabilitate the evacuees, it is undeniable that the evacuees are those primarily in charge of their own rehabilitation. Every person, family and community is responsible for their own rehabilitation.⁸⁶

86 State Commission of Inquiry, p. 99.

Post-disengagement reality and lessons for the government

The state commission of inquiry regarding the treatment of the evacuees closely examined operative lessons to be implemented in any future evacuation of civilians. According to the commission, such an evacuation may be necessary due to a natural disaster, a security emergency or a large influx of immigrants. There is no doubt, however, that the lessons laid out in the report are also relevant to evacuating settlements. The commission relied on the research and analysis of institutions such as the National Security Council, the Sela Authority, the Prime Minister's Office and various researchers and experts. Unfortunately, its recommendations were entirely shelved: in the 12 years since they were published, no steps have been taken to implement them and the state has done nothing to improve its preparation for evacuating civilians in any scenario. In public discourse, meanwhile, evacuating settlements has become a taboo subject – a capitulation to the wish of opponents to not even consider another evacuation.

Since 2005, no official plan has been drawn up for evacuating settlers from the West Bank. None of the peace talks in the last 15 years, including the Annapolis Process that yielded significant understandings on core issues, progressed far enough to require the preparation of an official evacuation plan. As a result, the idea of evacuating settlements is currently still alive only among a group of left-wing organizations. One initiative that tried to formulate a detailed plan, backed by legislation, was Blue White Future – a movement that in the early 2010s introduced a voluntary settler evacuation bill and lobbied for it.⁸⁷ Once passed into law, it would be implemented immediately, regardless of whether a peace agreement was signed. The bill was based on an assessment

Since 2005, no official plan has been drawn up for evacuating settlers from the West Bank

87 "Absorption, Voluntary Evacuation and Compensation Bill", **Blue White Future**, July 28, 2010, <http://www.bluewhitefuture.org.il/28/07/2010/hakika> (Hebrew).

formulated after surveys over five years in a row found that at least 20% of the settlers who live east of the Separation Barrier would be willing to leave their homes in return for adequate compensation, even without a peace agreement. The leaders of the movement identified two possible advantages to this demographic shift: it could make it easier for Israel to carry out evacuation on a larger scale later on, and could prove the move possible for two-state skeptics. The bill did not pass into law, but the comprehensive work that went into formulating it can serve as a basis for future efforts.

The bill proposed three possible avenues⁸⁸ for redeeming the property of settlers who wish to relocate into sovereign Israel or to a settlement west of the barrier. A resident who wishes to redeem property to which he or she has rights will apply to a directorate that will be established under the law to handle residents' claims. The directorate will run committees authorized to establish whether the person is entitled to redeem the property, and to what extent.

In addition to payment for redemption of the property, residents who wish to redeem their homes will receive a grant calculated according to the number of years that the family member who lived in the house the longest had lived there. The residents will also be entitled to a standing loan, which will turn into a grant after five years if they purchase property in the Negev or in the Galilee.

Senior Israeli economists Amir Barnea and Yarom Ariav, who helped formulate the bill, examined Israel's capacity for absorption, taking planning and geographical and economic considerations into account. They found that Israel is prepared to absorb some 100,000 people in residentially attractive areas (the number of potential evacuees has since gone up by several tens of thousands).⁸⁹ Roughly speaking, this means mere tens of thousands of

88 The three avenues are: (1) paying the fair market value for the residents to buy the property; (2) paying the fair market value of an alternative property in areas where the government wishes to encourage relocation; (3) paying the fair market value of the property based on a specific assessment.

89 Shalom Yerushalmi, "Blue-White Future's Economic Plan: Evacuation and Compensation in Judea and Samaria to Promote Peace", *NRG*, April 12, 2012, <https://www.makorrishon.co.il/nrg/online/16/ART255/357/2.html>. (Hebrew).

households. The assessment of Israel's capacity is based on precedents, chief among them the absorption of 1 million immigrants from the Former Soviet Union in the 1990s. At the time, the estimated cost of the plan was 10 billion USD, with the funding spread out over several years and relying primarily on international aid. In this context, it is important to recall that safeguarding the settlers in the West Bank is a steep annual expenditure, and evacuating them will free up these funds for absorbing the evacuees within Israel.

According to Adv. Gilead Sher, who helped formulate the plan, a decade ago there was a planning surplus in construction space between the Haifa and Beer Sheva lines, excluding Tel Aviv, from which planning permits could be issued for 200,000 housing units.⁹⁰ Such a large surplus should be enough for tens of thousands of families that would relocate from the West Bank over two to three years - as long as the evacuation is coupled with detailed plans and legislation that would expedite procedures and remove obstacles. In addition to all this, there are the "national priority areas" - the Negev and the Galilee - and the settlement blocs that will be annexed to Israel in any future agreement, which also have planning surpluses. In short, Israel is capable of absorbing the settlers that will leave their homes as part of a peace deal, and even larger numbers. Senior officials relate that in Israeli-Palestinian talks in recent decades, including Camp David (2000) and the Annapolis Conference (2007), Israel drew up contingency plans of this kind to prepare for negotiations with the Palestinian Authority. The planning process proved, beyond any doubt, that Israel is capable of absorbing a large number of evacuees within its sovereign territory.

In 2017, Commanders for Israel's Security, an organization of former security officials, issued a plan for establishing a stable border between Israel and a Palestinian state. They proposed a land swap based on the assumption that at least some of the settlement 'fingers' that extend deep into the West Bank in Ariel, Qedumim, Ofra-Beit El and Kiryat Arba will remain Israeli territory.

90 Gilead Sher, "From Vision to Reality: Tangible Steps toward a Two-State Solution", *Strategic Assessment*, 15, 2, July 2012, p. 53-68, [https://www.files.ethz.ch/isn/153066/\(FILE\)1345032039.pdf](https://www.files.ethz.ch/isn/153066/(FILE)1345032039.pdf).

Taking that as a given, the plan analyzed the implications of evacuating settlers from the West Bank in terms of their relocation within Israel and the geographic reserves available in the country. The conclusion was unequivocal: it can be done. If carried out as part of a future agreement, the plan will leave major settlements in place and greatly reduce the number of evacuated settlers, from 39,000 households to some 30,000.

A study was commissioned along with the plan to explore attitudes to evacuation among the settlers. The study, carried out by Prof. Gilad Hirschberger and Prof. Sivan Hirsch-Hoefler, identified four groups of settlers: anti-state ideologues, pro-state ideologues, lifestyle settlers and residents of Ariel. The data showed conclusively that "in contrast to their popular image in Israel, the entire population of settlers in Judea and Samaria expressed high levels of support for democracy and the rule of law": less than 10% of respondents declared they would firmly refuse to be evacuated. The rest were more realistic and agreed to discuss evacuation and their preferences regarding where to relocate and what their lives would look like.⁹¹ Again, it is important to remember that the data were collected at a time when there is no public discussion of the issue, without the groundswell of support that is likely to happen in real time. The relevant question remains not **whether** the settlements can be evacuated, but **how**.

The relevant question remains not whether the settlements can be evacuated, but how

One conclusion the National Security Council drew from the disengagement was that the refusal of most settlers to leave in advance had the single greatest impact on the outcome of the evacuation, in terms of the treatment of the evacuees. The Council did not see the short amount of time allotted to preparation as crucial: "The search for appropriate relocation solutions was drawn out due to lack of agreement, not timetable constraints... This protracted process is what finally led to short-term, expensive solutions."

91 Commanders for Israel's Security, "Stable Border, Separation Border, and Security between Israel and Palestine - Options, Implications, Repercussions and Future Preparation", April 2017, p. 130-213 (Hebrew).

Accordingly, the Council recommended forming, for future evacuations, "a model that will offer timely incentives to evacuees in need of rehabilitation and will deter procrastination."⁹² It also recommended preparing housing solutions for the entire evacuated population in advance, even without their consent and at the cost of creating "white elephants", preferring arrangements for entire communities where possible. Another conclusion related to the Sela Authority: the Council recommended that the state establish a permanent national authority in charge of regularly preparing for various kinds of civilian evacuation.

The Sela Authority itself stressed the need to set up a national evacuation authority that will be responsible for forming contingency plans and preparing to carry them out within a limited timeframe. According to Authority personnel, the Ministry of Defense is the only civilian body that has the logistic ability to carry out such a comprehensive procedure. Regarding solutions for the evacuees, the Authority recommends increasing incentives for anyone who agrees to evacuate ahead of time, and even offering incentives to settlements that prepare for an early, organized evacuation. It also recommends encouraging the evacuees to find their own housing solutions for the various expected stages - immediate, temporary and permanent - in order to empower them to determine their future as they see fit. These recommendations are in keeping with the view that giving positive incentives as early as possible is key to a successful evacuation process.

A case in point is the four settlements in northern Samaria evacuated as part of the disengagement: Ganim, Kadim, Sa-Nur and Homesh. Prior to the evacuation, the settler leadership tried to bolster these settlements, especially the latter two, by bringing in hardcore activists. Their efforts failed and the forces did not encounter resistance. In fact, the settler leadership in Samaria, led by the head of the regional council, Bentzi Lieberman, declared in advance that despite objection to the disengagement, the evacuation in northern Samaria would go ahead and the Sela Authority would receive

⁹² State Commission of Inquiry, p. 402-404.

full cooperation.⁹³ This position dictated the course of events. Thanks to the advance cooperation, the Samaria evacuees were effectively relocated within Israel, and many were absorbed into communities in the Yizreel Valley thanks to adequate support from state institutions. This was also the case with many evacuees from the northern settlement bloc in Gaza - the residents of Dugit, Nisanit and Elei Sinai, whose cooperation enabled the state to provide them with an optimal early response.

It is important to remember that unlike the settlers evacuated from the Sinai Peninsula and from Gush Katif, which were relatively isolated areas, many of the West Bank settlers work, study, shop and spend leisure time within Israel. Their physical proximity and easy access to the major urban areas of Gush Dan and Jerusalem generate various work opportunities, many of which can be retained after evacuation. The most complicated challenge in this context relates to Ministry of Education and local government employees, and can be easily resolved by relocating entire communities and building new educational institutes and community centers.

Prior to the disengagement, the Sela Authority devoted considerable attention to relocating entire communities - an issue that is highly pertinent to the evacuation of civilians from the West Bank, as most of the settlements are close-knit communities. In 2005, the government wanted to relocate entire communities into Israel, in order to preserve community life as much as possible. Yet the Sela Authority came up against a major obstacle when more and more evacuees who had not lived in the same community in Gush Katif joined forces and asked to establish new communities within Israel. Meeting their demands was a

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93 As related by Yonatan Bassi, head of the Sela Authority, in an interview given for this study on November 16, 2020.

cumbersome, complicated process that led to a major budget deviation. The disengagement bill allocated 2.8 billion shekels (~610 million USD) to that purpose, which rose to 3.8 billion (~826 million) once the Disengagement Plan Implementation Law was passed in February 2005. Ultimately, in 2009, the total amount invested in absorbing the evacuees was estimated at some 7 billion shekels (~1.5 billion USD) – almost double the amount budgeted before the evacuation was carried out. This figure attests to a serious planning failure. The Sela Authority retroactively concluded that in future, an early, effective response should be ensured for two types of requests: the relocation of existing communities and the establishment of new ones. By doing so, the government will be able to give the evacuees greater freedom to plan their new lives and encourage early evacuation.

The success of the evacuation depends largely on the quality and structure of material compensation mechanisms. Yet the government's general attitude towards the evacuees is also important. As previous withdrawals have shown, there is an inherent conflict between a cold, disinterested evacuation and the humanity and compassion required when removing civilians from their homes. In 2005, then-Chief of Staff Dan Halutz coined the phrase "with sensitivity and determination" to serve as a guide for IDF soldiers sent to evacuate Gaza, but also to convey to the settlers and to the general public that the military and the police were aware of the human complexity of their task.⁹⁴

While this conflict cannot be avoided, it can be reduced to some degree. Bar-Siman-Tov and Tamir's study on the disengagement found that many evacuees felt the state had shirked its responsibility towards them after "sending" them to settle in the Gaza Strip and in northern Samaria. The evacuees also reported feeling cut off from the general public and alienated by the media. Many said that a different approach by the government could have made the process of evacuation much easier.

94 Hanan Greenberg & Diana Bahur-Nir, "Halutz: The Disengagement Will Be Carried Out 'With Sensitivity and Determination'", *Ynet*, June 1, 2005, <https://www.ynet.co.il/articles/0,7340,L3093406,00-.html> (Hebrew).

As we have seen, examples of past evacuations, and especially the disengagement from Gaza, can inform two separate discussions: about the actual feasibility of evacuation and about the chances of its success. The disengagement was rife with flaws that emerged before, during and after the evacuation; many resulted from the short amount of time allocated to planning and carrying out the evacuation, and from lack of advance preparation. Yet it is important to remember that none of these flaws is relevant to the actual justification for the withdrawal. Moreover, they do not affect the feasibility of an evacuation from the West Bank. The facts relevant to evacuating settlements from the West Bank as part of a peace deal show that it is feasible. In fact, the disengagement proves that even a hasty, flawed withdrawal can be carried through and meet the goals set by the state. Evacuating civilians from their homes will never be easy, both emotionally and in terms of operational complexity, but there is no doubt that learning from past mistakes can greatly ease such a process in future.

Resistance

One former official we interviewed for this study, who was involved in planning the disengagement and in several rounds of talks with the Palestinians, commented: "There will always be people who care more about the Land of Israel than about the state and the people". In other words, even in the most optimistic scenario, any evacuation of settlements in the West Bank will include a minority of settlers who refuse to leave and require physical intervention. Most of the objectors will not be violent and will practice "passive resistance"; they will be escorted to the buses by security forces, as was the case in the disengagement. Others, whom experts estimate at 10,000 in total, will barricade themselves in their homes or in public buildings and will be ready to violently clash with the forces. As in 2005, an evacuation in the West Bank is likely to draw protesters from other areas to take the place of evacuees who agree to leave in advance. All the experts interviewed for this study agree that the state can overcome this degree of violent resistance. The importance of the settlers who refuse to evacuate does not lie in their practical ability to stop the forces, but in the power of their public image: they

are perceived as a group that is **capable** of stopping the evacuation, providing another reason why the two-state solution cannot be implemented.

Experts are divided between two main approaches to handling settlers who persistently refuse to leave. The first, more common approach is forced evacuation - all Israelis living in the West Bank must be evacuated, with force if necessary. The second approach holds that settlers who wish should be allowed to remain in their homes and live under Palestinian sovereignty.

Proponents of forced evacuation believe that the state will be able to carry out a decision to evacuate settlements even if it encounters resistance. They estimate that hardliners who refuse to leave will be concentrated in a small number of communities, where many residents already hold views that do not align with Israeli democracy. These experts argue that evacuating every single Israeli civilian from the West Bank is symbolically important. As weighty as the arguments against evacuation may be, and although the evacuees' pain is understandable - once a democratic decision is made, the state cannot surrender to extremist threats. Doing so would not only undermine the rule of law, but would also be a slap in the face for all other Israelis, who decided in favor of evacuation within a democratic framework. Also, in practical terms, leaving Israeli citizens - and especially messianic radicals - within a Palestinian state would be unfair and dangerous, both for them and for their Palestinian neighbors. In this context, it is worth recalling that most threats of violence, even those coming from the most extreme settler fringes, are likely to evaporate in real time. For

years, the power of groups such as the "hilltop youth" have been overrated: their overall impact on the ground is limited. While the intentions of radical elements should not be overlooked, they should also not cause undue alarm.

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One interviewee related an incident that took place in the 1990s, when settlers trying to set up an illegal outpost in the area of Binyamin placed an unguarded equipment container at the site. The IDF responded by declaring it would evacuate the outpost, and the founders rushed to their rabbi in

Jerusalem for guidance. The rabbi replied that it all depended on the way the action was perceived "on the other side", i.e., by the public. If the media framed it as the evacuation of a settlement, like any other evacuation, the settlers must put up a fight and initiate as much friction as possible with the forces sent to remove them, even though the outpost itself is not particularly important. However, the rabbi added, if the operation is quiet and can easily slip public notice, there is no need to resist. The upshot is clear: these settlers are not fighting over a hilltop, but over public attention. The primary goal is to convince Israelis that evacuating settlements will risk violent confrontation. The same logic guided the Price Tag activists when they first started out: they wished to 'exact a price' from the IDF and the Palestinians for any evacuation of an illegal outpost, among other things to ensure that any attempt to remove Jewish settlers from the West Bank be overshadowed by violent potential.⁹⁵

Threats of "civil war" that issued from time to time by settler groups are a form of extortion. For years, a small minority has been intimidating the entire public, threatening to tear Israeli society apart if the government does not bow to its wishes. This effective method draws on the deep fear of internecine fighting that has informed Israeli politics since the 1995 assassination of Yitzhak Rabin. The assassination forged a direct link between taking steps vis-à-vis the Palestinians and murderous violence in the name of right-wing ideology, and this fear remains at the forefront of Israeli collective consciousness. Yet threats of civil war made before the disengagement did not translate into reality. Specific grave incidents did occur, but the general pessimistic predictions came to nothing. The protest at Kfar Maimon, which threatened to spill over into Gush Katif, eventually failed; even the violent evacuation of Amona ended with the state gaining the upper hand. The bottom line is that despite its

The bottom line is that despite its incessant threats and belligerent attitude, religious Zionism is still deeply invested in the pro-state approach

95 Liat Schlesinger, "At Any Price: Israeli Taxpayers Funding 'Price Tag' Settler Violence", *Molad*, August 13, 2015, <http://www.molad.org/en/articles/originsofpricetag>.

incessant threats and belligerent attitude, religious Zionism is still deeply invested in the pro-state approach.

While the feasibility of leaving Israeli citizens in Palestine can be debated, their actual freedom of choice is important. The previous evacuations were forced upon the settlers, leaving them only with the choice to leave willingly or put up a fight. A person who is offered two options is necessarily in a better position than a person who is forced to act in one way. If the settlers are given the choice to stay or leave, every settler will know that he or she made their own decision. According to various estimates, the vast majority of settlers will decide to relocate to sovereign Israeli territory, much like what happened in Algeria. The leaders of the settlement movement probably fear a plan that would offer choice, as this would deviate from the concept of forced evacuation that the right has worked so hard to frame as a threat to Israeli society.

We do not favor one approach over the other. Whether the government decides to force the settlers to leave or give them a choice, acting prudently in the period leading up to the evacuation will alleviate tension and drive violent resistance to the margins. It is important to remember that the gravest threat posed by these marginal groups lies in the power of their public image; therefore, their actual power or impact on the ground should not be overestimated.

CONCLUSIONS

Over the years, the settlement enterprise has become a cornerstone of the Israeli-Palestinian conflict and is considered significant by both parties. The Palestinians see the settlements in the West Bank as an obstacle to establishing an independent state, while Israeli governments - especially in recent years - see them as a guarantee to preventing the establishment of such a state. Both parties tend to attribute the settlement movement great success in achieving its goal, and many on both sides by now believe the settlements are a *fait accompli*. The idea that the situation is irreversible is based on the population growth in settlements, their geographical expansion and the development of the civilian infrastructure that serves them.

Yet a critical analysis of the settlement enterprise, examining both its ideological underpinnings and practical ramifications, reveals a different picture. As their leaders admitted years ago, the settlers have failed to "settle in the hearts" and win most Israelis over to their religious-messianic worldview. Although their public image has consistently improved, when the crunch came in 2005, the disengagement did not spark broad public protest.

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On the practical level, most settlements that will have to be evacuated as part of a peace deal lie deep with Palestinian territory; they are cut off from their environment and geographically scattered in a way that makes no economic, defense or planning sense. These have survived solely thanks to massive IDF presence and exorbitant extra funding by the government.

Legally, even after more than half of a century of occupation, Israel still refuses to recognize the West Bank as part of its sovereign territory. The settlements remain outside the country, tied to it with artificial, tenuous bonds that rely on a range of regulations, temporary laws and military orders. Despite repeated declarations by the right wing, the temporary status of

the settlements will not change in the foreseeable future. This was made abundantly clear after President Trump offered the "deal of the century" giving Netanyahu's government unprecedented support for fully annexing the settlements, backed by the most pro-settlement administration in US-Israel history. Despite these optimal conditions, the Israeli government did not annex the settlements - thereby reconfirming their impermanence.

This paper provides an alternative analysis to the increasingly popular 'irreversibility thesis'. It explains why the situation in the West Bank can be reversed at the drop of a hat, should the government decide to do so. Moreover, if the government acts smartly, settlements in the West Bank can be evacuated in a more efficient way than the withdrawals from the Gaza Strip and the Sinai Peninsula. A withdrawal as part of a peace deal with the Palestinians would enable Israel to carry out a phased, nonviolent evacuation of most of the relevant settlements (again, some 80% of the settlers will be able to stay in their homes as part of such a deal).

Laying the groundwork for properly relocating the evacuees within Israel, based on lessons drawn from the Gaza disengagement, while gradually reducing the government's ongoing financial, legal and security support of the settlements in a supervised fashion, will bring a nonviolent end to this enterprise.

The situation in the West Bank can be reversed at the drop of a hat, should the government decide to do so

An evacuation on this scale is no easy task, and will undoubtedly encounter strong resistance among settlers, which may even spiral into violence. While such displays cannot be entirely prevented, a determined, consistent policy can marginalize them and ensure that the government can carry out decisions made democratically.

As this study shows, evacuating settlements in the West Bank is still a practical possibility, although politically it is clearly not around the corner. The relevant settlements can still be removed. When the geopolitical circumstances enable such a historic move, and after public conviction grows that partition is better than any other alternative - all that Israel's government will need to do is to decide.

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This study draws on a wide variety of sources in order to establish a comprehensive theoretical and practical basis for discussion.

Interviews

A large part of the research was devoted to in-depth interviews, carried out in September and October 2020, with experts who have longstanding, comprehensive knowledge of the settlement enterprise, including the disengagement plan, peace negotiations over the years and Israel's policy in the West Bank.

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