

## Top 5 Bogus Excuses for Opposing a Settlement Freeze

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A settlement freeze is good for Israel and good for peace. Settlements are bad for Israel. They constitute a burden to Israel's security services. They create points of friction between Israelis and Palestinians. They drain Israel's financial resources. They create a false impression that Israelis are not interested in a two-state solution.

As made clear in the previously-published analysis, [“How to Freeze Settlements: A Layman’s Guide.”](#) a settlement freeze is also eminently doable. Implementing a settlement freeze – or a “stop” or a moratorium, or whatever people want to call it – is entirely a question of political will on the part of Israeli decision-makers. It is also a matter of calling-out the excuse-makers and naysayers and saying clearly and unequivocally: your arguments don’t hold water.

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**Bogus excuse #1 – “Natural Growth”:** *“Settlers, like people everywhere, have the right to have babies. The children of settlers, like children everywhere, grow up and have the right to have families and homes of their own. Demanding that all construction in settlements stop violates these universal rights.”*

**Fact:** While “natural growth” has no formal definition, it has generally been used in the settler context to mean population growth due to births, as contrasted to growth due to immigration from Israel or other places. But in numerical terms (according to Israeli official statistics), taking into account deaths and people migrating out of settlements, births inside the settlements account for approximately 60% of the annual population growth in settlements, while around 40% is immigration from inside Israel or abroad. So clearly population growth in settlements is not simply a matter of births. Perhaps this is why some excuse-makers have expanded “natural growth” to include others ways that families can grow, from non-settler spouses to aged non-settler relatives moving in.

Regardless of what definition people want to use, the fact is that “natural growth” is not a legitimate argument against a complete freeze in settlement construction. Yes, settlers, like people everywhere, indeed have the right to have babies, and yes, their children indeed have the right to grow up and have families and homes of their own. But nowhere in the world – not in New York, or Paris, or Tel Aviv – do people have an inalienable right to live exactly where they want – in the size home they want, in the neighborhood they want – irrespective of real estate market factors, or any political, economic, zoning, or other considerations that may come into play (including in this case, considerations about actual land ownership). Inside Israel, just like in other countries, people regularly face difficult decisions about where to live, given that major cities like Tel Aviv and Jerusalem are crowded and little affordable housing is available. Moreover, Israel's National Plan No. 35 sets a limit for the number of housing units in every community, with the number deriving from various planning considerations. Some of those communities, especially rural ones, have exhausted this limit; as a result, unless and until new planning is approved, children born in such communities do not have the option of living there, in their own homes, as adults.

Settlers have the right to have babies and to take in their parents or grandparents. When settler children grow up they have the right to start families and have homes of their own. But in all

these cases, in the settlements as everywhere else in the world, the settlers must do what people everywhere must do: reconcile their needs as best as possible to the housing market, which is affected not only by demand but by a myriad of other variables – including, in this case, the fact that settlers have knowingly and voluntarily chosen to make their lives on land that is the subject of a political dispute of global proportions.

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**Bogus excuse #2 – “Settlement “Blocs”:** *“Everyone knows that settlement blocs are going to be part of Israel under any future agreement. Since this is the case, it makes no sense to demand that construction in these areas stop.”*

**Fact:** “Settlement bloc” is an informal term, having no legal definition or standing, either under Israeli or international law. It generally refers to areas where settlements have been established in relatively close proximity to one another and relatively close (as a cluster) to the Green Line. In the current political context, the term has become shorthand for clusters of settlements that likely will, according to some Israelis, remain part of Israel under any future peace agreement.

Throughout the history of Israeli settlement in the West Bank, Israel has left the blocs undefined, enabling their informal borders to grow year after year, as construction has systematically thickened and expanded them to include settlements and land located at a greater distance from their centers. The blocs and the settlements they contain are not recognized by the Palestinians or the international community as having any special status compared to other settlements, either now or in terms of a future peace agreement. Moreover, many of these “blocs” include what even Israel recognizes to be private Palestinian land.

At present, the best indication of Israel's definition of the “blocs” is the route of the security barrier – that is, Israelis assume that what is on the Israeli side of the barrier is part of the “blocs,” and what is on the Palestinian side of the barrier is not. However, this definition ignores the fact that the route of the barrier has been gerrymandered to include as many settlements as possible and to encompass huge areas of adjacent land. As a result, while the built-up area of the settlements on the “Israeli” side of the barrier is approximately 7,300 acres, the total area of West Bank land that is de facto annexed by the barrier is approximately 148,000 acres, or around 20 times the size of the built-up area of the settlements. Thus, while many may wish to portray these “blocs” as something that is non-controversial, the situation on the ground tells a very different story. For example:

- In the case of the “Ma’ale Adumim bloc” (east of Jerusalem), the barrier route takes up land many times the size of Ma’ale Adumim, including the area of the planned mega-settlement of E1, a settlement whose construction successive US administrations have recognized as potentially fatal to the two-state solution.
- In the case of the “Givat Ze’ev bloc” (north of Jerusalem), the barrier route extends so far north of the existing settlement that if construction were permitted to fill the bloc, the settlement could expand at least 5 times in size and reach the very edge of Ramallah – bearing in mind that construction is now underway in this “bloc” for a new ultra-Orthodox settlement (whose residents have an average of 7 children).
- In the case of the “Etzion bloc” (south of Jerusalem), the route of the barrier not only captures a huge amount of territory that is not part of the built-up area of the settlements, but it extends deep into the West Bank to include the settlement of Efrat, and in doing so severs Bethlehem completely from the southern West Bank (leaving the city of Bethlehem an isolated enclave between the southern Jerusalem barrier and the Gush Etzion bloc).
- Further north, in the case of the “Ariel bloc” and “Qedumim bloc,” these blocs are actually narrow fingers reaching deep inside the West Bank – with the settlement of Ariel, for example, located almost exactly halfway between the Green Line and the Jordan River.

Regardless of ideology, it is difficult to imagine a viable peace agreement that leaves these areas under Israeli control.

Based on past negotiations, including the unofficial Geneva Initiative process, it seems likely that Palestinians will be willing to accept a peace agreement under which Israel retains control of some settlements, but only in return for (a) the evacuation of all other settlements and (b) land swaps, equal in size and quality, to compensate for the land kept by Israel. This is an important principle that, in the context of serious peace negotiations, could play a key role in the achievement of a viable final status agreement. However, it is disingenuous to cherry-pick this principle in order to justify new settlement construction outside the context of such negotiations and absent a peace agreement.

For more on the issue of settlements blocs, see our earlier publication: [“Settlement Bloc\(kages\) on the Road to Peace”](#)

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**Bogus excuse #3: “Building inside, but not expanding, settlements”:** *“It is unreasonable to demand a stop to construction even inside settlements. Why shouldn’t settlement construction be able to continue so long as it does not use up any new land? The point is that settlers are being asked to stop expanding settlements, and construction inside settlements is not expansion.”*

**Fact:** When it comes to freezing settlements, previous US administrations discovered that the devil is in the details. While it may sound reasonable – nothing more than a minor detail, perhaps – to agree that settlers can continue to build so long as the perimeters of settlements are not expanding, past experience has taught that the definition of “inside a settlement” and “expanding” can be quite flexible in the eyes of the settlers and the Israeli government.

To think about this more concretely:

- place your hand on a hard surface, splay your fingers wide apart, and take a pen and trace your handprint. Your handprint represents the built-up area of a settlement.
- draw another line connecting your fingers and your thumb. This line represents the land the settlers might argue is, in effect, already part of the built-up area, even if it has no buildings on it yet.
- draw a circle around the handprint, leaving a few inches of empty space between this new line and the handprint inside. This line represents the security fence surrounding the settlement, which the settlers might argue is already in effect the “footprint” of the settlement on the ground, since this area is wholly under the settlement’s control.
- draw another much larger circle around the previous circle. This represents the municipal area of the settlement, which the settlers might argue is legally and officially part of the settlement, even if they have not built on it yet.

It is this argument over lines – with settlers looking to exploit any loophole they can find in order to permit more expansion of settlements – that has led past US administrations into the trap of seemingly endless and irresolvable negotiations over how to decide what it means to build “inside” settlements. This is not a debate over semantics. Many settlements have far-flung “neighborhoods” that, if used as the basis for the “construction line,” would permit massive expansion. Most settlements have security fences surrounding them, meaning that this larger area of land is already off-limits to Palestinians. And nearly all settlements have a municipal area many times the size of the built-up area of the settlement – indeed, while the built-up area of settlements takes up less than 2% of the West Bank, fully 9.3% of the West Bank is included within the officially declared municipal boundaries of these settlements; permitting expansion inside these areas would allow settlements to grow many times over.

Some will argue that the difference between construction inside settlements and expansion of settlements is like pornography: you know it when you see it. However, opening this loophole is dangerous, creating a situation where the US will be called on to constantly “referee” what is and isn’t permitted. This is neither a smart nor useful way for the US to be expending its diplomatic energies and political capital, and will only cater to settler mischief-makers who are ready and eager to exploit any loophole available.

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**Bogus excuse #4 – “Already Approved Construction”:** *“Israel can’t freeze construction that has already been approved. People have been issued building permits in good faith and have in good faith invested time and money in building and buying new homes. Israel is a nation of laws and laws protect the rights of the citizens in this case. If Israel tries to violate these rights settlers will sue the government.”*

**Fact:** First, tens of thousands of units have been approved for construction, but not yet built, in West Bank settlements. This is according to a report prepared by Gen. Baruch Spiegel, which documented all the approved plans for settlements and estimated the number of completed versus approved structures. If this approved but not-yet-completed construction is allowed to go forward, it would massively expand the number of settlement units, and settlers, in the West Bank. So those who argue that already approved construction is a trivial matter are either misinformed or deliberately fudging the facts.

Second, the government of Israel has the authority to stop settlement projects that are already underway. This is not simply a theoretical observation: it has been done before and it can be done again. In 1992, the Israeli government, led by Prime Minister Yitzhak Rabin, approved a cabinet resolution to freeze construction in some settlements (in response to determined US policy on the issue). This resolution imposed a total freeze of all planning procedures for plans that were in the pipeline, unless specifically approved by an exceptions committee. It also froze construction activity in the effected settlements. The resolution provided a compensation mechanism for those who had already invested in the construction, based on previous governmental decisions and approvals. Some investors even filed petitions to the Supreme Court arguing that such an order by the government was illegal – but the Supreme Court turned them down. Another legal procedure took place when investors sued the state for compensation, not only for their investments but also for the future benefits they forfeited. This was also rejected by the Supreme Court, and the government paid them compensation according to the norms set by the judge.

Indeed, savvy observers in Israel note that there is one sure way to know when an Israeli promise to freeze settlements is serious: it is serious when the government of Israel begins budgeting for the compensation of settlers and investors.

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**Bogus excuse #5 – “There are no subsidies or incentives”:** *“Settlements are growing due to natural market forces – people want to live there – not because of government incentives. Government subsidies for settlements stopped years ago.”*

**Fact:** Settlers continue to enjoy preferential benefits from the government of Israel. Almost a decade ago, then-Minister of Finance, Binyamin Netanyahu, drastically cut subsidies for settlements (as well as for other purposes), due to economic considerations. However, this was less an end to such subsidies than a diminishing and re-categorization of subsidies. Today, it is correct to say that there are no special subsidies in place for settlements. However, there are incentives in place for communities that Israel defines as “preferred development areas” – and the

various lists of these areas (different ministries use different lists) have included, at least up until this point, not only parts of the Galilee and the Negev, but many West Bank settlements as well. So a range of subsidies and incentives still exist, including:

- **Housing:** In qualifying settlements, settlers enjoy subsidized loans for the purchase of apartments (“location loans”) and relaxed entitlement standards for additional housing loans (for example, exceptions to the minimum age criteria for receiving a loan). There are also subsidies in some settlements to cover 50% of residential development costs for contractors and entrepreneurs, and the Housing Ministry underwrites the construction and renovation of public buildings to a greater extent in preferred areas.
- **Land:** In qualifying settlements, the Israel Lands Authority provides settlers discounts on land price and exemptions from regular tender requirements (i.e. land can be purchased without being subject to the normal public tender process and with a 70% discount).
- **Industry:** In qualifying settlements, there are grants and tax benefits for industry, including: subsidies for salaries (to help an employer expand his/her workforce); aid for factories in crisis; and subsidies for development of industrial infrastructure. There are also special grants for industrial research and development and priority in funding technology incubators.
- **Agriculture:** In qualifying settlements, there are grants and tax benefits for agriculture and aid to rural settlement.

In addition, while it is true that there is high demand for housing in some settlements and settlement “blobs” – including areas where incentives like the ones listed above are less prevalent – this demand is not due to “natural” market forces. Rather, it is due to a political decision of the government of Israel to use construction in the West Bank, rather than inside Israel, to meet Israel’s housing needs.

For example, it is well known that there is a shortage of affordable housing, particularly for families, in Jerusalem. Rather than build new housing in West Jerusalem or in the western suburbs of the city, the government has instead focused on nearby areas of the West Bank – in particular Ma’ale Adumim. It is thus not surprising that demand for housing in this settlement is high. However, this is not “natural” market demand: if similar housing had been built west of the city, the demand would likely have been equally high, given that residents of Ma’ale Adumim are largely people who move to the West Bank for quality-of-life reasons, not ideology.

Similarly, Israel’s ultra-Orthodox community is bursting at the seams, with an average of around 7 children per family and a constant need for new housing, preferably in segregated, homogeneous communities. Rather than build additional communities for the ultra-Orthodox inside Israel, the government has elected to build a new city for them in the West Bank (Givat Ze’ev Illit), north of Jerusalem. It is thus not surprising that demand for housing in this new settlement is high. However, this is not “natural” market demand: in similar cities that were built inside the green line (for example, Elad and Ramat Bet Shemesh), the demand for housing is quite similar. If instead of building Givat Ze’ev Illit the government pursued similar construction nearby, inside Israel, the demand would have been equally high, given that the ultra-Orthodox are for the most part not ideologically-motivated to move to the West Bank – for this community it is more a matter of, “wherever you build it, they will come.”

Finally, the government of Israel has invested tremendous sums of money in infrastructure in the West Bank to transform even remote settlements to convenient suburbs of Israeli cities. For example, the government invested millions of shekels to build a new road to bypass Bethlehem from the east and connect the small settlements of Tekoa and Noqdim (where Foreign Minister Lieberman lives) to Jerusalem from the south. In doing so, it transformed these isolated

settlements into virtual suburbs of Jerusalem, whose residents enjoy a 10-minute, traffic-free commute to the city. It is not surprising that less than two years after the road was opened, we see today a construction “growth spurt” in Tekoa and Nokdim. But clearly, there is nothing “normal” or “free market” about this growth.

For further reading:

3/31/09: [Draw the Line on Israel's Settlements](#), by Lara Friedman and Hagit Ofran

2/27/09: [Zero Tolerance \[for settlement construction\] Now](#), by Lara Friedman and Hagit Ofran

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