Shaping a Culturally Sensitive Planning Strategy: Mitigating the Impact of Israel’s Proposed Transnational Highway on Arab Communities

Rassem Khamaisi and Deborah F. Shmueli

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On April 5, 2000, a confrontation took place with bulldozer drivers and two hundred police on one side and the ten children, fifty grandchildren, and incensed neighbors of Fuad Rian, a farmer in the Arab village of Kafr Bara. The sixty-eight-year-old farmer was in defiance of an order of the Trans-Israel Highway Company expropriating part of his wheat field on which to build a stretch of Highway Six. While the order had been followed by an offer of financial compensation or unspecified alternative land, Fuad Rian did not want the money and was skeptical about the land-for-land offer. He stated, “Land is life, and all my life I have lived off the land” (Hirschberg 2000, 24).

This incident was the prelude to intensified protests. Arab citizens of Israel are fearful of having their villages divided and their way of life threatened while seeing no benefits to the Arab sector from the road, and resistance to the land taking has been gathering steam.

There is still time for the Israeli government through the Trans-Israel Highway Company to institute a collaborative process involving both the private land owners and the communities from which land is to be taken. Such a process requires a system that will maximize the benefits to the affected parties so as to outweigh the damage. Both civic harmony and justice require no less.

This article proposes a holistic planning strategy that is equitable and culturally sensitive.

The decade-long period of public debate and planning for Israel’s Trans-Israel Highway (National Highway Six) has been characterized by controversy and passion. Economic development proponents and real estate interests have enthusiastically endorsed this proposed 324-kilometer, north-south “development corridor,” while some environmentalists and landholders have bitterly opposed it.

In the course of the debate, proponents of the highway have advanced two diverse rationales: (1) to link Israel’s northern and southern peripheries to the center, thereby promoting dispersal of population and economic activities into the country’s underdeveloped regions, and (2) to expand the Tel Aviv metropolitan area, decreasing the road congestion in the current built-up sections by extending the suburban part of the conurbation twelve to thirteen kilometers to the east.

Opponents of the expressway have emphasized its potentially negative environmental impact on the open spaces to be taken, 50 percent of which are in agricultural lands. They argue that the road will traverse the bounds of dozens of local planning councils, each seeking to optimize its economic benefits, and that pressures on centralized

Abstract

The decade-long period of public debate and planning for Israel’s Trans-Israel Highway has been characterized by controversy and passion. There has been little if any consideration of how Highway Six can help redress the economic imbalance between Israel’s Arab and Jewish sectors. Land compensation is a complex process whenever expropriations take place. The development impact, which affects both private and public interests, has to take into account the differences in culture and legal status between two communities: Jewish Israeli and Arab Israeli. This article offers a set of mechanisms that, only if agreed upon in advance, could ensure a system of shared capital among all stakeholders working toward jointly arrived-at solutions and would lend substance to the concept of cultural sensitivity in planning.

Rassem Khamaisi is a senior lecturer in the Department of Geography at the University of Haifa, Israel. He is also director for the Center for Planning Studies in Kafr Kanna. He is a geographer and planner involved in research on the Arab Palestinian population in Israel.

Deborah F. Shmueli is a senior lecturer in the Department of Geography at the University of Haifa, Israel. She is a planner specializing in environmental policy and modeling of issues related to land use, transportation, solid waste and water, and environmental and public sector conflict resolution.

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planning authorities to respond to these local interests will result in damaging environmental consequences: uninterrupted and duplicative strip development parallel to the highway that is likely to result in overbuilding, defacing of the landscape, increased and uncontrolled runoff, multiple roads that will run parallel to the highway, and the ignoring of the economies of scale that could be realized by tightly controlled cluster development. Another concern is that the highway was not planned, nor its impact assessed, within the broader context of a national transportation master plan that would consider public transport as well.

In all of the discussions, hearings, proposed plans, and now, early implementation stages, there is little if any consideration of how Highway Six can help redress the economic imbalance between Israel’s Arab and Jewish sectors. The highway is promoted by its proponents as a potential economic engine for the Tel Aviv metropolis—the southern part of the center extending from Raanana south to Yavneh (an essentially Jewish area). In the northern half of the center, which contains the two Arab “little triangles” (see Figure 2), the Highway bisects the Arab areas, but the major transverse highways are oriented toward Jewish-Israeli cities and towns, especially Kfar Saba, Netanya, and Hadera. This is also the case in the north, where the highway bifurcates into northern and northeastern branches. There, the Arab population of the Galilee, 50 percent of the Galilee’s total populace, will have limited access to the new highway and therefore to potential economic development districts, because the highway’s northeastern branch interchanges will be located at the present regional road junctions that are oriented to major Jewish-Israeli cities and towns, and its northeastern branch interchanges will serve primarily Jewish-Israeli coastal cities (see Figure 1).

In the center, where the highway is to extend along the Israeli side of the pre-1967 border (the “Green Line”) between Israel and the West Bank, little attention has been given to its potential for linking Israel and the Arab West Bank and thus becoming an instrument for peace. A highway-planning strategy that reflects only an Israeli perspective is short-sighted.

To advance the causes of equity and peace, two major changes in that strategy are required: (1) improving the road
connectors to those highway interchanges that adjoin such Palestinian centers as Tulkarm and Kalkelias so that Israeli and Palestinian population centers alike will share proportionally in the benefits and (2) establishing an institutional structure for the planned industrial/commercial districts at interchange sites that will provide for joint control and benefits by both communities while clustering such development in a way that optimizes the preservation of open space abutting the road.

This article offers a model for developing the industrial/commercial districts along the proposed highway on an equity basis. The districts would be hierarchical in size and functions. Clustering and strict zoning controls would avoid a continuous strip development along the length of the highway corridor. The model calls for establishing district development authorities, whose ownership would be shared by public and private landowners, in proportion to the lands taken for construction of the highway, its intersections, and the industrial/commercial districts. Most of the lands taken from the Arab municipalities are privately owned because these municipalities have very few public lands. To compensate for this lack of public lands, such municipalities should be given a share in the national lands appropriated for the construction of the road and development districts. Thus, Arab municipalities would be included among the authority shareholders, whose revenues would be derived from rents and tax revenues earned from the districts.

Land compensation is a complex process whenever expropriations take place. What is particular to the Israeli highway case is that the development impact, which affects both private and public interests, has to take into account the differences in culture, that is, political and legal status between two communities: Jewish Israeli and Arab Israeli. In addition, part of the territory affected—the West Bank— is currently in international limbo. The Israeli planning authorities have long been concerned with providing access to Jewish settlements in the West Bank, skirting Palestinian communities for reasons of security.

The highway is physically located in Israel, but its planning should take into account the needs of the Palestinian populace that is now under Israeli occupation as well as the Jewish West Bank population. Moreover, by the time of the highway’s completion, much of the adjoining West Bank area may belong to an independent state; the highway could serve as an integrating force between the Palestinian and Israeli states by facilitating the access between West Bank cities and towns and coastal Israel. This situation may hold lessons for other parts of the world where state devolution is accelerating. Creative options that not only provide compensation for currently held lands but that also take into account past land seizures and the future need to link all concerned communities represent a challenge to planners in many parts of the world.

There is no question that the Arab communities of Israel have suffered and continue to suffer from social, economic, and political discrimination. This is evidenced in a variety of ways, including lower governmental support for the infrastructure needs of Arab localities and the more limited set of employment opportunities available to Arab-Israeli citizens. Israeli land planning policies have served to undermine the position of the Arab minority by restricting the expansion of their village lands and trying to confine their expansion within mixed urban areas. Thus, for example, in many cases, Jewish-controlled district planning authorities have overridden the requests of Arab localities that have sought to rezone some of the farmlands within its boundaries for residential development.

The use of planning tools to limit the actions of a weaker minority group or class is a common practice in their marginalization through the process of controlling spatial change in many parts of the developed world. Harvey (1985), Kirby (1993), and Fainstein et al. (1992) are in the forefront of geographers and planners who have written extensively on the subject. Harvey’s (1985, 166) theories on planning policy from a Marxist point of view hold that the planner must go beyond the role of mediating the conflicting goals of affected groups. He argued that critical analysis leads to the conclusion that the urban/regional planner should approach planning problems from recognition that equitable economic growth requires recombining the categories of land, labor, and capital and that by accepting existing concepts of class relationships, planning falls short of its achieving an equitable social order. In the absence of radical socioeconomic restructuring, however, the authors of this article still feel that it is possible to use the planning of space as a vehicle for achieving greater equality. In the case of the Arab community, this cannot be achieved without planning mechanisms that compensate for its inferior sociopolitical position.

Bollens (2000) emphasized the key role of planning policy decisions in stimulating or stifling group antagonisms and the tangible, on-the-ground strategies pertaining to physical structure that may make the difference between civic harmony and conflict. He described four urban policy strategies, each representing a fundamental ideology that is implemented primarily through planning and policy decisions. They are (1) a neutral strategy that employs purely technical criteria in allocating resources and services, (2) a partisan strategy that deliberately chooses sides, (3) an equity strategy that gives primacy to ethnic affiliation to decrease intergroup inequalities, and (4) a resolver strategy that seeks to connect the issues to the root political causes of polarization—power imbalances, subordination and disempowerment, attempting to resolve and not just manage conflict.
The approach taken in this article is in the mode of Bollens's (2000) equity strategy. It advocates locating the Highway Six interchanges so that land will be taken equally from both the Jewish and Arab sectors. Moreover, it proposes joint management and operation of industrial parks and other facilities on land associated with these interchanges so that the affected Arab and Jewish private owners and/or communities will share in the benefits generated. This meets equity criteria that there be an effort to remedy group-based inequalities and political imbalance and recognize the needs for remediation (Krumholz and Forester 1990). The plan does advocate special attention to a local group whose interests have been traditionally neglected in the formulation and implementation of policy (Davidoff 1965). Yiftachel (1989) suggested that since equity policies attempt to improve the existence and well-being of the less-advantaged group, they may affect the outcome of larger political processes, a move toward the resolver strategy.

This article, however, does not deal with overall governmental policy toward its minority population. It addresses the discrete problem of the Highway Six interchanges and presents a model that we hope will be a useful approach in other planning circumstances. It addresses the discrete problem of the Highway Six interchanges. The proposed ownership and organizational structure for the interchanges does call for an approach to public land management that differs from the long-held Zionist policy of using public land for the development needs of the Jewish community, but this does not get at the root causes of conflict between the Arabs and Jews of Israel over land or other issues. We believe the model, as presented, to be a useful approach in other planning circumstances.

**The Highway: Brief Description**

The planned 324-kilometer Trans-Israel Highway (Road Six), a multilane expressway with thirty-three interchanges, is intended to serve as the national traffic route on a north-south axis. It will be the largest transportation project undertaken by the state (Garb 1997) and will be built in three sections. The road is intended to shorten travel distances from the Galilee (in northern Israel) and the Negev (in the south) to the center of the country and to function as an outer ring road for the Gush Dan (Greater Tel Aviv) metropolis. The expressway will run from Beersheva in the south through Kiryat Gat and then on to the foothills of the inner coastal plain in the center, continuing north to cross the Wadi Ara highway before connecting with the Wadi Milkat road at the Eliyakim Intersection, where it bifurcates: a northern branch extending east of Nahariya to Kabri, six kilometers south of the Lebanese border, and a northeast branch running to the Sea of Galilee and then ten kilometers north to Rosh Pina (see Figure 1).

Road Six was first approved in 1976 and amended in 1989. It has also been confirmed and incorporated in district master plans of the 1980s for both the Central District (DMP/3), and for the Southern District (DMP/4), which were approved in the 1980s. The process of transforming Road Six into a national superhighway began in 1990, when the Public Works Department commissioned a feasibility study. In 1993, it was integrated into a National Outline Scheme (NOS), a general plan for improving the national and metropolitan road systems (NOS 31A). The decision to build the highway was made before a comprehensive examination of transport alternatives or transport planning took place. This was done only after the fact, when in 1998 a land transportation master plan was submitted whose components include suburban railroads, interurban railroads, mass transit systems, public transport, and Highway Six.

Highway Six was promoted separately in NOS 31A and by a government company (Trans-Israel Highway Ltd.). It is intended to function as a national axis route promoting the development of the periphery by providing a rapid traffic connection with Israel’s center (the coastal plain from Gedera to Hadera). In addition, it is designated as an interurban highway because it is intended as an outer ring road for the Tel Aviv metropolitan area. In this central section, where population density is highest, thirteen interchanges have been planned for the ninety-kilometer stretch. This is a greater frequency of interchanges than in the southern section, where there are nine proposed interchanges for the ninety-five-kilometer stretch, or than in the north, where the two branches that extend for a total for 139 kilometers are to have eleven interchanges.

Although Highway Six is already in the first stage of construction in the center, it is still the subject of spirited public debate. The debate relates to a number of issues: the location of the road, the number of interchanges, the extent to which it will help solve the transportation problems in central Israel and create quick and easy access between the center and peripheral regions, the road’s contribution to regional development and narrowing the gap between the center and the periphery, and the impact on land policy. Starting construction in the center of the country rather than in the periphery will add to the center’s already overwhelming population density and possibly result in the highway’s remaining a metropolitan ring road rather than being completed as a national one (Shmueli 1998). It has also been argued that the expected contribution made by the road does not justify the cost of construction and maintenance in a small country such as Israel (Efrat 1994), and proposals have been offered for cheaper and more efficient transport alternatives.
Land Taking for the Highway

The development and construction of the highway is taking place in several stages. Implementation of the first stage—the central section’s ninety-kilometer route from Yad Binyamin to Eron—has required the confiscation of approximately 14,500 dunams of private and state-owned land, most of which is agricultural (Ministry of Construction and Housing, State of Israel 1991). To facilitate the project in the face of opposition from landowners and environmentalists and to regulate the issue of compensation for owners, the government passed the Israel National Highway Law, 5755-1994, which provided a legal framework for the confiscation of land and the awarding of compensation. Sharp objections to the provisions of the framework have succeeded in delaying construction. Some landowners are dissatisfied with the provisions included in this law and have filed suits demanding land of equal value or area in return for the confiscated parcels. In addition to claims filed by individual landowners, who refer to themselves as “the victims of Road No. Six” and feel threatened by the road, a public association was established in 1994 under the name “Association of Road Six Settlements.” The main goals of this association are to limit the damage caused to the settlements that the road will traverse and to ensure alternative sources of income in return for land confiscated for the road’s construction.

The association includes thirteen local Israeli organizations representing fifty-six kibbutzim, moshavim, and private settlements along the course of the road and the Committee of Heads of the Arab Local Authorities in Israel. It has initiated a private bill in the Knesset whose aim is to promote construction of the highway while seeking a comprehensive solution to the planning, environmental, employment, and economic issues that the road raises, with the concomitant impact on the rights of landowners and the needs of residents living close to the route.

Another body involved in examining the environmental impact of Road Six is Adam, Teva V’Din (Israel’s Environmental Defense Fund). This association sees the expressway as a threat to the environment and is working to limit the environmental damage resulting from the road’s construction. Emphasis is on planning and conceptual alternatives designed to influence the decision-making process and public awareness of environmental issues (Oshrat 1994). While there is a relatively high degree of awareness of the costs and benefits of Highway Six among the various stakeholders and within the general Israeli-Jewish public, the affected Arab populace is still insufficiently aware of its likely impact, including its potential as an arm for economic development. Some of the arguments raised against the road in Arab settlements are the same as those in the Jewish settlements, while others are unique to Arab locales and require a different response. Such differences between the two settlement sectors relate to socioeconomic structure, governmental policy, geographical location, size of settlement, level of infrastructures and services, development potential, and land ownership. In the Arab sector, most of the land is private and fragmented and some of it is not officially registered. In the Jewish sector, most of land is state owned, including some that has been confiscated from Arab landholders.

Background to Israeli Planning

The Trans-Israel Highway has not been planned in a vacuum. Rather, it is a product of a deeply rooted national planning process that historically has been highly centralized, hierarchical, and statutory. The administrative framework regulating public and private building and land-use activities does so within a three-level hierarchy: national, district, and local.

At the top-most level, the National Planning and Building Board is composed of representatives of government ministries, local government, and public and professional organizations. Its primary responsibilities are to enact national outline schemes (master plans), review regional outline plans, and serve as an appeals board for decisions of the District Planning and Building Commissions. National outline schemes are mostly sectoral master plans that are part of the planning structure for the entire country and are prepared for issues of national planning significance or for land uses that serve the national interest. The NOS for Transportation (NOS 31, which focuses on National Highway Six) falls into this category. The outline schemes are commissioned by the national board and then submitted to the government for final approval. Once approved, they are legally binding (Ministry of Environment 1998).

The regional level of the planning hierarchy is the responsibility of six District Planning and Building Commissions. The district commissions are composed of regional representatives of government ministries, including representatives of local authorities within the district. District commissions serve as links between national planning and local implementation. They receive the national outline schemes for comment, prepare their regional outline schemes for approval by the national board, and approve or reject plans submitted to them by the local commissions in light of their conformity with national and district plans. Each district has a comprehensive regional plan (district outline scheme), either approved or in preparation. The objectives of these schemes are to determine the details necessary for the implementation of national
outline schemes in each district and to identify matters that are of general importance to the district.

The local level consists of about a hundred Local Planning and Building Commissions, serving one or more local authorities and composed of the elected members of the municipal councils. The local commissions produce outline and detailed schemes for their areas and submit them for approval to the district commissions. Local schemes set out conditions for land and building use in local areas. The commissions are responsible for decisions on development applications, building permits, and action against illegal building.

This form of planning, described by Hill (1986) as development planning, has its roots in the Zionist settlement processes of the period prior to establishment of the State of Israel. It peaked with the strategies for coping with the housing and employment needs of waves of immigrants in the decades following independence and remained strong into the 1980s. Since then, major political structural changes that have taken place or are in the offing are beginning to make an impact on planning approaches. At the national level, the prime minister is now directly elected, thus reducing the influence of national parties. In addition, various bills for electoral reform are under consideration that will include Knesset (Parliament) representation on a regional basis. Cities, while still dependent on central governmental funding, are seeking to exercise greater independence in social and economic spheres. Nongovernmental groups are adding their voices to planning decisions as initial steps toward decentralization gather momentum.

Public participation in issues that relate to housing, environmental quality, and urban revitalization is making itself felt. Garb and Levine (1998) have suggested that strong centralized planning in Israel has become a fiction, citing among other weaknesses, that of centralized bodies in guiding metropolitan development in the planning of the Trans-Israel highway. This argument does reflect a trend, as evinced by the realization on the part of central planners that the majority of immigrants of the 1990s could not be directed, as with previous waves of immigration, to the housing that was prepared for them, particularly temporary caravans. However, it is premature to write off the power and efficacy of central planning. Central governmental agencies involved in planning and land management still retain the legal powers and exercise them in making major decisions on settlement and transportation patterns (Alterman 1995).

On the other hand, the reality cannot be ignored that the Trans-Israel Highway is being developed at a time when policies of decentralization and privatization have gained considerable momentum, and local grassroots pressures influence and sometimes determine local development. The present national road system was developed during a period when authority was concentrated in the hands of the central government, and involvement of local government in the decision-making process relating to development in their areas was restricted. Even today, those responsible for the construction of Highway Six are not encouraging the involvement of local authorities, especially the Arab sector, whose interests are often negatively affected by national plans and may also compete with the interests of neighboring localities.

Compensation Policy Issues in Land Taking

In many developed countries, landowners historically amassed capital and used it to invest in urban real estate and industrialization. The landowners among the Arabs in Israel (and Palestine) have yet to make such a shift—and indeed, because of land confiscations in the wake of the 1948 war when they lost up to two-thirds of their lands, they have been limited in their opportunities to use land as a capital base. For most Arabs, whether farmers or townspeople, land is a commodity to be preserved and banked—a reflection of the political reality of Arabs in Israel and the role that is played by ties to the soil in tradition-bound Arab culture. Such capital as is generated by land is used mainly for investment in small-scale urban building—and, first and foremost, for their own families and clans.

For the Arab population in Israel, land is viewed not just as an economic resource and a social vehicle for keeping family and clan together but also as a way of maintaining the Arab national presence in the Jewish state. In addition, there are very limited alternative economic avenues besides farming and commerce for Arab localities, which face not only cultural barriers to new activities but have not had significant help from Israeli national institutions in entering the modern economy. One of the great opportunities of Road Six is to bring Arabs into this modern economy by opening up entrepreneurial opportunities for them within the economic development districts that the highway can stimulate.

In contrast, Jewish agricultural settlements have modernized and urbanized rapidly. The lands that they occupy have a different geoterritorial value than they had when agriculture and local defense were critical aspects of the Zionist ethic of normalizing the Jew in the Jewish homeland. At that time land was associated with the drive for national self-sufficiency, with staking out the territorial outlines of the state and securing it through self-defense. Settlers planted the flag.

Now the value of land has changed. The Israeli defense forces have replaced the local self-defense units of the agricultural pioneer period, and the concept of national agricultural self-sufficiency has become outmoded, as Israel has become a
highly developed state with an internationalized economy. Kibbutzim (agricultural collectives) and moshavim (agricultural cooperatives) have new productive lines of economic activity, such as manufacturing, including high-tech, tourism, and commercial and residential real estate. Not only are these alternatives more attractive than farming, but agriculture is becoming increasingly problematic in terms of water availability, lack of labor, and reliance on outside workers, including those from the West Bank and abroad.

Compensation policies for the confiscation of land are influenced by the economic value of land, its spatial location, its significance to the owners, and their attitude toward it. The availability of land is an essential condition for private and municipal development and its potential uses are a major factor in determining its economic value, particularly in societies that maintain a free market for land and view land from an economic perspective. The Trans-Israel Highway law established that those injured would be compensated in two ways: through the provision of alternative land of equal value and through monetary compensation based on an appraisal by the government surveyor.

In the Jewish localities through which Road Six passes, most of the land is state-owned and leased to kibbutzim and moshavim. The large size of plots, the patterns of farming and crops, and the small number of owners limit the scope of the compensation problem—and provide a range of potential solutions. One such solution is land exchange through granting rights to establish employment and economic centers in areas that adjoin the settlement or providing lands in more distant areas in which to continue a farming economy.

Such a proposal was developed and presented at various forums by the Road Six Association. The association is demanding that large employment centers or development districts (industry, services, and commerce) be established along the route of the road, particularly around the interchanges within the areas of jurisdiction of the Jewish regional authorities that include the moshavim and kibbutzim. In addition, the kibbutzim and moshavim are also asking for compensation in the form of alternative lands, often in large tracts that are remote from residential areas and are appropriate for intensive agriculture, as well as the rezoning of currently held lands for industrial, commercial, and services uses.

Although on the whole the Jewish populace operates in a freer market than do the Palestinian Israelis, its access to land is also limited. The Israel Land Authority, which controls vast tracks of public lands, has historically given preference to their use by the agricultural sector. Now the policy has changed and the authority is releasing lands for residential, industrial, and commercial use at market values. However, in selling these lands, its guiding policies are to continue to try to segregate religious and secular Jewish communities, restricting freedom of market.

The situation with respect to land taking and compensation is quite different for the Arab sector. As mentioned, Arab society attributes social, symbolic, and national importance to land, in addition to its economic value. The Israel Land Authority, which controls vast tracks of state lands, does not, in most cases, release them for sale to Arabs, and when it does, it is almost always for public purposes. As a result, the land market in Arab areas does not operate under free market conditions, which is a factor that must be taken into consideration in formulating land planning and development policy.

In addition, Arab attitudes toward current land-taking proposals are conditioned by the traumatic events of the 1948 conflict. Arab rejection of the 1947 United Nations Partition Plan for Palestine and its acceptance by the Jewish community led first to widespread guerrilla warfare and then to the fighting that arrayed the armies of six Arab States and Palestinian Arab irregulars against the military forces of the new Jewish State. In the course of this conflict, nearly 750,000 Arabs are estimated to have fled their homes or to have been expelled by Jewish armed forces to become refugees in Gaza, the West Bank, or neighboring Arab states. The assumptions of these refugees that theirs was but a temporary condition and that they would soon return following an Arab victory proved illusory. Their lands were confiscated by the Jewish State. In addition, the Israel Lands Authority assumed ownership of the British mandatory government’s state lands. Many of these, especially grazing lands, had been used by the Palestinian Arabs for generations without legal title to them. These too were lost.

In the current negotiations over compensation for land taking in the central section of Road Six, Arab landowners have refused to accept monetary compensation in return for confiscated land. Their major demand is for alternative land. The response of the Israel Land Authority—the body responsible for managing state land—is that such land is not available, especially in the center of the country. The debate over these claims continues, and to date, no arrangements have been made for compensation despite numerous proposals. In an interview with the representatives of the Trans-Israel Highway (Khamaisi 1999), the difficulties of persuading Arab landowners to accept monetary compensation rather than alternative land was repeatedly emphasized.

In addition, the question of inheritance or ownership adds a unique dimension to the Arab land situation. In many cases, those currently in possession of the land are not the registered owners according to the official registration certificates. Many of the parcels are small, fragmented, and/or under multiple ownership, further complicating the issue of compensation. Moreover, because so much of Arab land is privately owned,
the difficulty of sharing benefits of industrial land development is far greater than in Jewish settlements, most of which are located on leased national land that is collectively or cooperatively held. Most important, while in the Jewish settlements, localities control much of the land and are themselves therefore direct claimants for compensation, this is not the case for Arab localities where the land is mainly privately owned. Such localities have little or no claim to compensation for the impact of the road as it passes through their bounds. In addition, the Arab sector has had little regional or national support for the development of commercial/industrial districts within or adjacent to the jurisdiction of Arab localities. This results in a mind-set that does not view the prospect of benefiting from economic development districts as an adequate compensation mechanism.

**The Trans-Israel Highway and the Arab Triangles of Central Israel: A Case Study**

There is no more complex region in which to deal with Arab compensation claims for land taken for Highway Six than Israel’s center because of the small plots held by numerous landowners and the competition for substitute lands by Jewish settlements. On the other hand, there is no greater opportunity to develop strategies for sharing the Highway benefits on an equity basis between the two peoples. In addition, because the northern part of the center adjoins the pre-1967 Arab-Israeli border (the “Green Line”), the positive potential of the highway’s impact on the Arab West Bank can be substantial if access roads that connect the highway to the West Bank are optimized. (The southern part of the center has virtually no Arab population.)

The area in central Israel that includes the bulk of its Arab population lies to the north of Tel Aviv and is known as the “Little Triangle.” It is adjoined to the east across the Green Line by Arab cities and towns such as Kalkilia and Tulkarm. This region is subdivided into two clusters—the northern and southern “triangles”—and contains an Arab population of 148,500 in 22 villages, towns, and cities. A sampling survey for this case study was conducted in Kafr Qasem, Kafr Bara, Jaljuliya, Taibe, and Tira in the south (Central District) and in the north (Haifa District), which includes the settlements Jat, Baqa Al-Gharbiya, and the Zemer Regional Council consisting of Zemer, Yama, Marja, and Iblin (see Table 1).

These settlements constitute a representative sample of all the Arab localities within the northern part of the center (with the exception of those on the outer margin of the region), in terms of size of population numbers, municipal status, social composition, level of urbanization, and planning situation. They are not representative of the settlements on the margins of the metropolis, such as those of Arara and Um-al-Fahm in the northern end, or Rinatya, Beit Arit, and at the southern edge. The latter have different characteristics in size, ethnic and social composition, and economic level (David and Heimberg 1994).

The study settlements lie along a range of coastal foothills less than 150 meters above sea level and form a strip forty kilometers in length and two and a half kilometers wide. Two east-west national roads serve as the boundaries of the strip: Road Five, the Trans-Samaria Highway at the southern end, and Road 65, the Wadi Ara Highway at the northern end. Regional Road No. 444, which follows the abandoned historic Hejaz Railroad built during Ottoman times, currently forms the spine of the strip. This road will soon be closely paralleled by the new Trans-Israel Highway, which will also traverse the lands of the localities (see Figure 2).

A variety of methodological approaches and tools were used in the survey. Closed questionnaires were sent to the heads of the nine Arab localities through which Road Six is scheduled to pass, requesting general statistical data, perceiving impact of the road on the settlements, and inquiring into attitudes and considerations relating to existing or desirable

| Table 1. Summary of basic data for the resettlements. |
|-----------------|-----------------|-----------------|-----------------|-----------------|
| Settlement      | Population (1995, thousands) | Area (dunams) | Local Planning Committee | Municipal Status | Local Authority Founded |
| Kafr Qasem      | 12.0             | 8473           | Kesem                | Local authority | 1958             |
| Kafr Bara       | 1.8              | 1892           | Kesem                | Local authority | 1963             |
| Jaljuliya       | 5.2              | 1892           | Kesem                | Local authority | 1957             |
| Taibe           | 24.2             | 19196          | Taibe               | Municipality    | 1952             |
| Tira            | 15.6             | 11750          | Tira                | Municipality    | 1950             |
| Zemer           | 3.7              | —              | Emeq Hefer          | Local authority | 1988             |
| Jat             | 6.9              | 6866           | Eron                | Local authority | 1959             |
| Baqa Al-Gharbiya | 15.7          | 9099           | Eron                | Municipality    | 1952             |

planning preparations. These results were cross-validated through a series of open interviews with forty-three different individuals representing the various interested parties. The attitudes of the interviewees were probed more deeply, in part using a strategy of eliciting proposals that in the opinion of the interviewee could minimize the burdens imposed by the road and/or increase its benefit. The questionnaires and the interviews were supplemented by the participation of the interviewee as an observer at twelve meetings of different bodies dealing with Road Six. These included local and district planning committees, negotiation meetings between the Association of Road Six Settlements and the Road Six Company, and local council meetings.

Data from the Central Bureau of Statistics were compared with the data received from the local authorities. In addition, the plans for Road Six, including cadastral maps, were compared with the land uses in the local, regional, and national master plans that cover the study area. The protocols and the literature relating to Road Six were analyzed in the light of literature describing impacts on development of national highways in other parts of the world.

Despite these various cross-validating measures, we recognize the limitations of the methodologies employed due to the sensitivity of the topic of land taking and compensation. Many Arab landowners did not wish to indicate that their land was negotiable and thus were not completely forthcoming with respect to their setting of land values or for suggesting proposals for alternative lands. Moreover, the research was conducted while negotiations for land compensation and road development implementation were taking place. The responses did not therefore reflect initially held attitudes and the degree to which they may have since changed.

From the interviews, the subject of land confiscation emerged as the overriding issue in the attitude and positions of the Arab population toward Highway Six. The project requires that a strip of land 100 meters wide be confiscated for the roadway and a width of over 300 meters be taken at the proposed interchanges. Moreover, there can be no building within 100 meters of either side of the expressway. When all of this land is added to the area now covered by Road 444, the Hejaz Railroad right of way, and a high-power electric transmission line installed in accordance with NOS 10, a broad zone dedicated for national infrastructure use is created. Clearly, the impact of this zone on Arab landowners will be substantial.

According to data supplied by the Trans-Israel Highway Company the land slated for confiscation in the first stage of construction—a ninety-kilometer stretch—in the central area of Road Six, is approximately 14,500 dunams. Based on an examination of cadastral maps, approximately 1,870 dunams, or 12.9 percent of this area, are to be confiscated from private

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**Figure 2. The Little Triangle.**
Arab landowners, and approximately 1,015 dunams have already been taken. The land to be confiscated from individual Jewish landowners (owners or lessees) in this stage is 1,363 dunams.

The area to be confiscated from the Arabs is divided into 292 separately owned plots. They are small, ranging from one to ten dunams, and fragmented. Some have already been taken in their entirety, and others only partially. In certain instances, the residual portion of a plot that has not been taken cannot be exploited, either because it is located within the area where building restrictions apply or because its new form prevents effective use.

Title ownership adds to the complexity of the confiscation process. In Taibe, where the number of confiscated plots is 98, the number of registered inheritors is 277. In addition, analysis of registration certification documents reveals that many of those currently possessing the land are not registered owners. This phenomenon of small and fragmented land ownership and multiplicity of claims to the same plot create difficulties both with respect to payment of cash compensation and to the allocation of alternative lands. Under these conditions, the question is whether and how land use planning policy can help develop a fair and just system of compensation that will outweigh the negative impacts of land taking on individuals as well as localities.

In general, the issue of informal land rights poses a serious obstacle to compensation negotiations. During the British Mandatory period, many tribal pasture lands became registered as state lands. These lands continued to be used for grazing and farming by the occupants, without their obtaining legal title to them. As such lands increase in value and especially when they can be converted to residential, industrial, or service purposes, weighing the legitimacy of ownership claims becomes highly contentious. A study of Yajouz done by Razzaz (1994) is revealing for the complexities of such land conflicts. Yajouz is a Jordanian urban settlement within a historic tribal domain that had been registered as state property; land there has been sold by tribal members to urban newcomers, who have built houses on the basis of contracts between them and the putative landowners through highly respected and trusted intermediaries acting as agents. In this case, an informal ownership and land-transfer system has evolved parallel to the governmental ownership framework, and the state must find ways of adjusting to the claims of the new owners as well as those of the original holders.

Another complexity with respect to informal land rights in Israel has to do with the reluctance of the original landholders to transfer the registration of their lands to their heirs because of the high cost of transfer taxes. After their deaths, the heirs frequently cannot reach an agreement on registering the land. In many cases, this is complicated because some of the heirs left Israel in 1948, and their portions, if registered in their names, would be subject to confiscation. Table 2 details the extent of land confiscation from private Arab landowners within the study area.

Planning for the economic development districts in connection with Highway Six has, to date, given limited attention to including the Arab communities of the Little Triangle. Indicative of prevailing attitudes is that Road Six Association’s lobbying effort to promote these districts invariably excludes reference to the needs of Arab localities. The one area in which reparcelization for a Trans-Israel Highway Development district has been proposed is the Kesem Junction at the western end of the Trans-Samaria Highway.

In separate economic employment zones that do not adjoin highway interchanges and that have been independently planned, Taibe is preparing a conceptual plan for an area to its north along Route 444 that runs parallel to Highway Six. In addition, Baqa Al-Gharbia, in cooperation with Kibbutz Metzer is considering a 1,600 dunum industrial zone north of the town adjoining the Green Line. Jat, too, has prepared a 500 dunam development on national lands within the municipal border close to the proposed Baqa Al-Gharbia site. However, none of the above relate to the Trans-Israel Highway’s plans for the development districts, whose ownership and organization should be structured to provide substantial compensatory benefits for appropriated land to all affected Arab private landholders and localities.

Table 2.
Confiscated areas along the course of Highway Six in the Arab localities, by locality and number of plots.

<table>
<thead>
<tr>
<th>Locality</th>
<th>Number of plots</th>
<th>Area (dunams)</th>
<th>Percentage of plots more than 50 percent of total area confiscated</th>
</tr>
</thead>
<tbody>
<tr>
<td>Baqa Al-Gharbiya and Jat</td>
<td>120</td>
<td>870.5</td>
<td>101 (46.5)</td>
</tr>
<tr>
<td>Zemer</td>
<td>9</td>
<td>66.5</td>
<td>4 (3.5)</td>
</tr>
<tr>
<td>Jaljuliya</td>
<td>2</td>
<td>13.0</td>
<td>1 (0.7)</td>
</tr>
<tr>
<td>Kafr Qasem</td>
<td>30</td>
<td>120.0</td>
<td>13 (6.4)</td>
</tr>
<tr>
<td>Kafr Bara</td>
<td>7</td>
<td>37.9</td>
<td>5 (2.1)</td>
</tr>
<tr>
<td>Taibe</td>
<td>98</td>
<td>578.0</td>
<td>47 (30.9)</td>
</tr>
<tr>
<td>Tira</td>
<td>26</td>
<td>185.0</td>
<td>19 (9.9)</td>
</tr>
<tr>
<td>Total</td>
<td>292</td>
<td>1,870.9</td>
<td>190 (100.0)</td>
</tr>
</tbody>
</table>

Source: Graphic calculation of road area based on cadastral maps, 1996.
► Policy Directions for Land Planning

The expropriation of land can be facilitated by the formulation of compensation policies at two levels: (1) provision of direct compensation to all private landowners and (2) provision of general compensation to localities that possess the planning and zoning powers to support development and thereby benefit the general public through increased revenues. Due to the large number of private owners in the Arab Little Triangles and the fact that each has been injured to a different degree, we propose a system of land reparation that will permit clustered development within large consolidated planning zones with high access to the highway’s interchanges. Owners would receive either cash for their properties or shares of the consolidated land in proportion to the size and a combination of current and potential uses of their confiscated plots. The advantages of this method are that the property owners can benefit from a higher value-added return on their property. In some cases, they could be given the right to build on part of the land that would remain in their hands by enacting zoning changes. At the same time, the local government within whose jurisdiction the land taking occurs would be entitled to share in the economic benefits in return for facilitating the development, through rezoning and provision of infrastructure and services. Another form of compensation would be the expansion of municipal land jurisdiction.

Reparation of land is a process that entails numerous problems, including differing perceptions of land values and the fact that it is usually mandated without consultation with those affected. In the case of the Arab Little Triangles, the situation is exacerbated by the large number of owners with small plots. On the other hand, reparation offers advantages: local business development can be stimulated by the new development districts, the former landowners can share in the revenues generated by these districts, and local authorities could expand their tax bases.

Reparation is not a new concept in Israeli land planning. It is authorized in the Israeli Planning and Building Law of 1965, Articles 120-128. Reparation is a mechanism for rationalizing land use among landholders, after removing the areas needed for public purposes (Schnidman 1988; Larsson 1993; Asami 1995). According to the law, the owner can be forced into a land reparation scheme that is included within an approved master plan. Planners sometimes use it as a vehicle for narrowing existing disparities in landholding by giving an equal share of the compensation to the owners whose lands have been reaped, regardless of the amounts taken from each.

While reparation has been implemented on a small scale in Taibe, Tira, Kalansawa, Jesaazarka, and Kafr Oasem, and a start in this direction has been made in Baqa al-Gharbiya; as part of the process of change in the planning and modernization of Arab villages (Be’er 1999), it is not commonly applied. The obstacles to its implementation are not only that the privately held Arab plots are small and irregular but also that the infrastructure has been developed by the owners themselves. This is in sharp contrast to Jewish localities where most of the land is state land and the tracts are large. In addition, although the rationale for reparation is generally understood, there is widespread opposition to it among Arab landowners because many of their lands have not been registered and they fear that such lands will be confiscated without compensation. Moreover, they feel that existing state and not private lands should be used for public purposes.

If reparation is to be carried out in connection with highway land taking, the development districts’ bounds must be clearly defined by local and district planning authorities. Local outline plans and the detailed translations of the proposed master plan for the route of Highway Six will have to be revised to define those areas targeted for development and public purposes. The plans should also include alternative public lands to be made available to the locality outside of but close to the highway’s planning jurisdiction area. Under the present circumstances, the land taken by the highway is being used for the national project with no direct compensation to the localities.

Another land planning issue examined is whether certain Hamulas (clans), in the Arab localities, are more affected than others by land expropriation. The research finding is that while hamula holdings, including the jader (the land that surrounds the settlement’s core), are common in the built-up areas of localities, they have all but disappeared in the outlying areas (Khamaisi 1995). The hamula lands along the highway that are to be taken are not distributed equally among the different clans but are concentrated among particular ones. For the impacted hamulas, fair compensation for economic loss is not the only issue. Hamula lands bind nuclear and extended families together. Compensation in the form of nearby alternative lands, taken back by the Land Authority from leased lands currently held by Jewish agricultural settlements that are rapidly urbanizing, may offer a partial solution to preserve the hamula’s social cohesion.

► An Equitable Structure for Economic Development Districts

For Israeli Arab communities to participate in the proposed economic development districts, land reparation and compensation schemes will have to be implemented. If
this is to happen, mutual trust between the Arab landowners and municipalities and the Israeli government must be developed. This means that planning must become collaborative (Gray 1989), and its strategy must be negotiated among the stakeholders.

A few precedents for this type of collaboration in planning efforts can be cited. For example, the Wadi Zemer/Nahal Alexander watershed is bisected by the Green Line. The Zemer/Alexander River is heavily impaired by a variety of pollutant inputs. On the Israeli side, industrial direct discharges, agricultural runoff, and suburban sprawl threaten water quality. On the Palestinian side, untreated sewage from the cities of Nablus and Tulkarm and effluent from olive oil production are the major pollution sources. In 1995, the Israeli government initiated a planning process to restore the river’s ecological health, but the plans did not include the Palestinian portions of the basin. However, in 1997, the head of the Israeli regional council of Emek Hefer and the mayor of the Palestinian city of Tulkarm signed a memorandum of understanding establishing a policy for joint restoration of the watershed. A consensus-building process enabling the key stakeholders to develop an integrated management plan for the watercourse is underway. An older collaborative water project dating back to 1980 joins Ramallah-Al-bira with northern Jerusalem and Jewish West Bank settlements. These examples suggest that collaboration, difficult as it may be, is nevertheless a realistic prospect and can be an important planning mechanism.

An example of collaboration in a land rights dispute, the resolution of which seems to be at hand, is the long-standing claim involving the Christian Arab villages of Ikrit and Biram in the Upper Galilee. The residents of these villages were forced out by the Israeli army in 1948 on the promise that they would be allowed to return. However, the villages were destroyed. The residents and their descendents have sought in vain to regain their lands since then. A 1996 Israeli governmental committee recommended that two new settlements be built on the original sites, involving a total of 600 dunam for each village. Four years later in the year 2000, an Israeli interministerial committee announced its intention to implement the 1996 recommendation (Alon 2000).

To reap the benefits and offset the costs of Highway Six, the affected Arab individuals and communities must have the opportunity to share in the economic and social gains to be generated by the proposed economic development districts. The model summarized in Table 3 is built on a hierarchy of districts. In the case of one or two of the regional development districts, the benefits to the Arab communities could be maximized by locating the districts on interchanges that would directly adjoin large Arab towns. This would enable these communities to take advantage of the presence of new large-scale industrial and commercial developments as sources of both employment and provision of services, which currently lack space for such activities. The key to the proposed structure is that Arab private landowners and their local authorities alike will share with Jewish counterparts in the ownership of the districts as well as deriving the broader benefits of job opportunities. Table 3 summarizes the proposed structural components of the Economic Development Districts.

The model is based on the assumption that land reparcelization will take place. However, such reparcelization can be successfully implemented only if there are guarantees to current land owners, whether registered or unregistered heirs. Guarantees could take the form of an agreement amongst the land owners, the local authority and Road Six Company, which spells out the owners’ and local authority’s rights before reparcelization begins. This engages the Arab parties in the process of reparcelization rather than excluding them from decisions that affect their lives so deeply. Elements of an agreement to be negotiated might include the following:

- Exemption from taxes that are otherwise required on all land deals (sometimes amounting to up to 35 percent of land value).
- For a specified number of start-up years, assessing the value of the land for tax purposes as agricultural, not improved, land.
- Compensation to local authorities. The ownership of a maximum of 40 percent of the land taken by eminent domain from the private owners will be putatively attributed to the local authority. These local authorities will be entitled to compensation for the use of this land, much of which will be dedicated for Highway Six, the accompanying service areas, and the local road infrastructure. This compensation may take the form of shares in the development district and/or alternative public lands as compensation for their current lack of public lands.
- Compensation to private landholders. Landholders and hamulas would receive alternative lands where available and/or shares in the economic development district.

**Conclusions**

The opposition to Israel’s trans-national highway continues. As of this writing, a bill is being prepared by 53 of the 120 Israeli Knesset (Parliament) members to suspend the project, pending total reexamination of its viability. Reflecting the mounting opposition, a Coalition for the Reexamination of Highway Six, which includes the extraparliamentary bodies—the Israel Union for Environmental Defense, the Public Transport Forum, the Israel Consumers Council, and the Association of Road Six Settlements—is actively petitioning the
Knesset members to pass the bill (Reily 1999). The association’s initial intent was to maximize compensation, including monetary, alternative lands, or in-kind facilities. While the Road Six Company has been responsive in moving the route and conducting requested impact studies, it and the other pertinent governmental bodies have yet to clarify and specify compensation processes and mechanisms. Had they succeeded in so doing, it is less likely that the association would have joined the opposition.

This opposition has stimulated a vigorous counter-campaign by a wide variety of national bodies. In addition to lobbying individual Knesset members, the media are being used to urge support of the highway. The supporters include national associations of industrialists, contractors, farmers, banks, hotels, merchants, and even cinemas. They not only support implementation of the work that has already been planned but call for immediate broadening of the plans to include the northern and southern sections of the highway. The mayors of most cities and towns as well as the heads of the regional and local councils have also mobilized to support the highway as the highest priority instrument of national development.

Whether the highway’s construction is delayed or even halted, the approaches to compensation that have been recommended in this article are applicable to other highway land takings and to planning for other infrastructure projects that are so sorely needed in many of Israel’s Arab communities.

It is common for academic planners to voice the need for sensitivity to traditional cultures. Flexibility in the implementation of a planning system needs to take into account the cultural, structural, and political circumstances that are unique to certain communities, particularly those groups that differ ethnically and/or religiously from the majority. For example, expanding the areas or enacting rezoning within existing boundaries of some Arab communities is likely to change the political attitudes of Arab residents toward Israel’s land policy and planning system and make them more open to acceptance of reparelization.

In the practice, however, such flexibility and sensitivity is often swept aside by powerful interest groups with access to public policy makers whose objectives are maximization of profit, cost efficiencies, and pressures of time and leave little consideration for the cultural needs of communities. Only a set of mechanisms agreed upon in advance that can assure a system of shared capital among all stakeholders working toward jointly arrived-at solutions will give substance to the concept of cultural sensitivity in planning.

### Notes

1. The field survey of the area was conducted by Khamaisi in 1998 and reported in Khamaisi (1999).

2. The open interviews were conducted with nine heads of local councils and mayors, three engineers and planners, four heads of local planning committees, three representatives of the Road Six Company, three representatives of the Association of Road Six Settlements, three representatives of the Israel Land Authority, eight landowners in different Arab localities, four representatives from the district planning committees, four representatives from the national government, and two representatives from the Arab local government committee.

3. These included the following: the Tel Aviv Metropolitan, the Central District, the Haifa District; the Hill Chain districts plans; the National Outline Scheme for Construction, Development and Planning.
Absorption of Immigration; and such sectoral plans as the National Outline Schemes for Transportation, Tourism, Railways, the Hedera Power Station, and Forests and Nature Preserves.

References


