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Subject: AICE Update: Is Israel's Settlement Legislation an Obstacle to Peace?

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IN THIS ISSUE

[Myths & Facts: Exclusive
Mitchell Bard in The Times of
Israel
Tu B'Shevat](#)

[Join Our](#)

[Grav](#)



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\(1942\)](#)

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concentration camp
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Myths & Facts: Online Exclusive

Is Israel's Settlement Legislation an Obstacle to Peace?

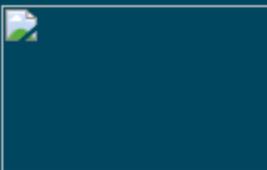
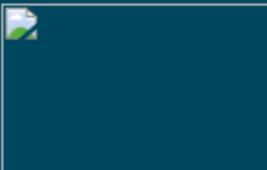
An international furor arose following the [Knesset](#) adoption of the "Regulations Bill," which grants property rights to Jewish homeowners in [West Bank](#) settlements built on "Palestinian land." Media headlines emphasized this point and world leaders subsequently assailed Israel for a "land grab" that threatens a two-state solution.

The wisdom of adopting such a law is a matter of controversy separate from the question of its legality. Most commentary about the legislation failed to explain that the law applies to a small number of homes - approximately 4,000. Moreover, [Palestinians](#) did not claim title to these lands until years after the homes were built. As international law expert Professor Eugene Kontorovich noted, these lands were typically state land given to Palestinians by [King Hussein](#) during the [Jordanian](#) occupation of the West Bank (Eugene Kontorovich, "Israel's Settlement Regulations Bill and International Law," Just Security, December 20, 2016). As the occupier, Hussein had no right to give away the land.

Israelis who built houses in the West Bank several decades ago were unaware that the land did not belong to the state; they did not intentionally purchase plots belonging to Palestinians. The law offers Palestinians who can prove ownership 125% of the value of the land as compensation, or alternative nearby plots, in exchange for allowing the homeowners to remain.

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Kontorovich added that it is misleading to refer to the areas in question as "private Palestinian lands" because no individual Palestinians have come forward to claim much of the land. Thus, he says, "common law would certainly warrant the application of adverse possession doctrines, under which long-term possession of property unopposed by owners can change legal title."

A solution might be possible to avoid controversy and litigation if the Jewish homeowners could negotiate deals with the Palestinians claiming property rights. Unfortunately, the [Palestinian Authority](#) has mandated the death penalty for any Palestinian selling land to Jews (the penalty supposedly has been reduced to life at hard labor).

Kontorovich explained that critics of the law have incorrectly interpreted Article 46 of the Hague Convention as an absolute prohibition against the confiscation of private property absent military necessity. He notes that the article's meaning is subject to debate and not established law. Moreover, an important distinction exists between confiscation and expropriation. The latter provides for just compensation while the former does not. Thus, the Hague Convention would not apply to the expropriation called for in the Regulations Bill.

Finally, Kontorovich explains that property owners need to prove they have suffered some injury to seek legal recourse. "This may be the first case where it is the payment of above-market compensation [that] is claimed as an international law violation."

The law is being challenged and Israel's High Court will make a final determination as to whether it is consistent with Israeli law. Meanwhile, the political argument that the law will prevent a [two-state solution](#) relies on the specious argument that any settlement construction is an impediment to peace. The Palestinians' unwillingness to recognize a Jewish state alongside a Palestinian state, however, is the true obstacle to peace.

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The Times of Israel

The US Actions Inspire Jihadis Myth

Almost immediately after [President Trump](#)'s announcement of an executive order restricting immigration from seven Middle East countries, critics began to recite the familiar mantra that this action, targeting states that are incubators for [Muslim extremists](#), will have the counterproductive effect of radicalizing additional Muslims. This argument reflects the widespread misunderstanding of the war radical Islamists are

fighting against us and holds America hostage to the people conducting this war.

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Tu B'Shevat - The 7 species and their significance



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Sincerely,



Mitchell Bard
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