



SHUSHAN STREET: Why the Netanyahu Government's Disengagement Repeal Is So Problematic for the Biden Administration

Dr. Debra Shushan, J Street Director of Policy

March 31, 2023

In the wee hours of the night of March 20, jubilant far right-wing settler leaders [celebrated](#) their victory outside the Knesset. More than 17 years after Israel evacuated all Israeli settlements from the Gaza Strip and four settlements in the northern part of the occupied West Bank, Israel's parliament had just [repealed](#) key portions of the 2005 [Disengagement Plan Implementation Law](#). The 2005 law banned Israelis from living in the northern West Bank area where the four evacuated settlements (Homesh, Ganim, Kadim, and Sa-Nur) are located. Settler activists had demanded the revocation of the ban for years. The explanatory notes of the bill to repeal the 2005 law [state](#) its purpose as “expung[ing], to some extent, the national and moral stain...on the State of Israel” purportedly wrought by the 2005 evacuations.

Passage of the repeal law, sponsored by Knesset Foreign Affairs and Defense Committee Chair Yuli Edelstein of Likud, angered the White House – and rightfully so. Prior to the vote's final passage, US Ambassador to Israel Tom Nides had [stated](#), “We have been very clear [that] we oppose the bill.” While Edelstein [insisted](#) to the contrary that “the Americans don't care that much,” the Biden Administration sharply indicated its dismay after the legislation's passage. State Department Deputy Spokesperson Vedant Patel [told reporters](#), “The United States is extremely troubled” by the “provocative” move. The State Department undertook the rare move of [summoning](#) Israeli Ambassador Michael Herzog for a “very tough” meeting with Deputy Secretary of State Wendy Sherman. It had been [thirteen years](#) since an Israeli ambassador had been thus reprimanded.

Of all the [extremely problematic moves](#) undertaken by Netanyahu's government, why is repeal of key portions of the 2005 Disengagement Law deserving of a rare display of American pique?

To begin with, it violates a commitment made by the Israeli government to the US government in a 2004 [exchange of letters](#) between President George W. Bush and Prime Minister Ariel Sharon. Bush supported Sharon's Disengagement Plan as consistent with the President's Road Map to a two-state solution and, in recognition of Sharon's initiative, Bush provided Israel a number of US assurances. One of the most significant of these was that the US would not expect “a full and complete return to the armistice lines of 1949” due to “new realities on the ground” – a reference to Israeli settlement blocs just over the Green Line. Bush stated, “It is realistic to expect that any final status agreement will only be achieved on the basis of mutually agreed changes that reflect these realities,” an apparent [allusion](#) to land swaps.

As the State Department's Patel [made clear](#), the Disengagement Law repeal was a “clear contradiction of undertakings the Israeli government made to the US nearly 20 years ago.” In

response, a senior Israeli official replied that it was the US that violated the Bush-Sharon understandings. They claimed the US reneged on a Bush promise to “accept unrestricted building in the settlement blocs” – though there is no such pledge in Bush’s letter. Daniel Kurtzer, who served as US Ambassador to Israel from 2001 to 2005, did not mince words, calling the Disengagement Law repeal “an egregious violation of a commitment to the United States.” Patel further [indicated](#) the repeal also contradicted the commitment to de-escalate tensions Israel [made](#) at Sharm El Sheikh two days prior to the Knesset’s vote.

Quietly, successive Israeli governments had violated the Bush-Sharon agreement *de facto* by [failing to enforce](#) the ban on Israelis living in the area of the northern West Bank covered by the disengagement. Now, under the Netanyahu regime’s unabashedly settler-driven policies, the government is officially rejecting Israeli commitments to the US.

The Disengagement Law repeal is a crucial part of the annexationist designs of Netanyahu’s far-right government. Revoking the ban on Israelis settling in the northern West Bank is a step toward implementing the [first guiding principle](#) of the new government: “The Jewish people have an exclusive and indisputable right to all parts of the Land of Israel. The Government will promote and develop settlement in all parts of the Land of Israel – the Galilee, the Negev, the Golan and Judea and Samaria [the West Bank].” Previous Israeli governments did not have territorial demands in this area of the West Bank during Israeli-Palestinian peace negotiations. Repealing the Disengagement Law is a [major step](#) toward transforming the region by populating it with settlements – which will create another major obstacle in the way of a future viable Palestinian state.

The repeal measure is also closely tied to the question of “regularization” or “legalization” of unauthorized Israeli outposts in the West Bank. In particular, it is relevant to the [yeshiva in Homesh](#) maintained illegally by settlers since shortly after the disengagement. The Netanyahu government’s coalition agreements include provisions for regularizing outposts, including the establishment of a ministerial team led by the Prime Minister, for this purpose. Homesh is a [powerful symbol](#) for far-right settlers, and the regularization of the yeshiva outpost there is specifically [included](#) in the coalition agreements. The Biden administration has [emphasized](#) that the outpost at Homesh “is illegal... even under Israeli law.” There are [146 unauthorized outposts](#) – [including](#) the nine for which Netanyahu’s Security Cabinet just approved legalization – and they are typically strategically located deep in the West Bank to assert Israeli control and fragment the Palestinian presence.

In addition, the Disengagement Law repeal endangers Israeli and Palestinian security. Commanders for Israel’s Security [reports](#) that the Disengagement Law repeal was done without consulting the security establishment, which is concerned about increasing friction between Palestinians and Israeli settlers – [particularly](#) should the latter return to the evacuated settlements of Ganim and Kadim, located very close to the Palestinian city of Jenin.



Map of northern West Bank region showing evacuated settlements, courtesy of Peace Now.

What happens next will be crucial. Far-right settlers are intent on translating their victory into gains on the ground. Jewish Power MK Limor Son Har-Melech, a former [Homesh resident](#), [exhorted](#) the settler movement not to “rest on our laurels and bask in the euphoria,” but [rather](#) to begin re-establishing the evacuated settlements in the northern West Bank and push for a “governmental settlement plan...for the rest of the vast areas of northern Samaria, which will create strategic settlement sequences and ensure Jewish control of this land.” [Along with](#) National Missions Minister Orit Strock, Har-Melech also [called](#) for re-establishing Israeli settlements in Gaza.

The Biden administration has articulated its displeasure with the Disengagement Law’s repeal – but as Senator Chris Van Hollen recently [told](#) Secretary of State Blinken, “we look very weak when we continually make statements without any kind of consequence.” While Netanyahu’s office put out a [statement](#) disavowing any “intention of establishing new communities” in the northern West Bank, it will be crucial for the US government to actively oppose increased presence by settlers in this area. Other [recommended actions](#) include publicly [revoking the “Pompeo Doctrine”](#) and returning to the long-held bipartisan position that the US regards settlements as inconsistent with international law, a long-overdue step. The Biden administration should also indicate that the US will not block accurate, appropriate criticism of acts toward annexation in international fora, including in the United Nations Security Council.

Continuing [pushback](#) against the Netanyahu government’s attempted judicial overhaul is also crucial, given the Israeli High Court’s [imperfect](#) but essential role in [preventing regularization](#) of illegal outposts built on private Palestinian land – and the [backlash](#) it has incurred from settlers for doing so.