

The Jerusalem Institute for Israel Studies
The Center for Environmental Policy
Research Series No. 13

Using Indirect Legislation to Protect Open Spaces and Farmland

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This book was made possible through funding
from the Charles H. Revson Foundation

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ISSN 033-8681

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ABSTRACT

Using Indirect Legislation to Protect Open Spaces and Farmland

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Not all modern farmers have the deep connection to the land as their forefathers did. Under economic pressure, many are ready to give up a life of hard work for the promise of financial security that developers can provide.

In an attempt to protect agricultural landscapes, numerous countries throughout the world use economic incentives and laws, but to no avail. Some farmers have changed their approach towards agriculture, switching from intensive/industrial farming to organic farming methods, but this change provides little economic comfort and has occurred on a relatively small number of farms. There has also been state interest in “primitive” farming methods as a method of preserving history and attracting tourism. Yet these efforts will not stay the flood of farmers leaving farmland to the mercy of bulldozers.

Environmental NGO’s that try to stop the development of agricultural lands have limited resources at their disposal, and are seen by much of the public as being against progress and against farmers.

The failure of existing methods of rural land preservation and the search for alternative methods produced the idea for this research paper- using existing legislation, not originally meant for the purpose of preserving farmland, to advance the protection of the rural landscape in agricultural areas. This study surveyed legislation from around the world and found many legislative acts that, if implemented correctly, could help stop the destruction of the rural landscape.

The laws can be divided into two groups- general purpose laws and laws with a specific purpose. Both can be adapted to protecting agricultural land.

Laws with a specific purpose protect specific areas. Those areas could be interpreted to include agricultural areas. For example, animal and plant habitats, flood plains, ground water enrichment areas, forests, areas of

historical, religious or archaeological significance, wetlands, coastal zones, buffer zones, areas along rivers and springs, and land used for sludge and effluent disposal.

General purpose laws include laws for soil conservation and for protecting biodiversity. Drainage laws are an important example of non-specified legislation. Drainage laws around the world are meant to protect areas from flooding and to prevent soil erosion. They therefore give the appropriate government officials the power to declare flood zones around streams, lakes, and other bodies of water. Applied correctly, these laws could preserve acres of agricultural land. Since agricultural land, if farmed correctly, would in most cases suffer only minor damage from flooding or perhaps even benefit, setting aside a large area of agricultural land as a flood plain would benefit the flood prevention law and leave a rural landscape undisturbed for future generations to enjoy.

This study surveys international laws and Israeli legislation specifically, indicating how they could be applied to protecting agricultural areas.

The list of Israeli laws surveyed includes:

Water Law, 1959

Public Health Regulations (Sanitary Conditions for Wells for Drinking Water), 1995

National Parks, Nature Reserves, National Sites and Memorials Law, 1998

Wildlife Protection Law, 1955

Forest Ordinance, 1936

Antiquities Law, 1978

Protection of Holy Places Law, 1967

Roads (Affixing of Signs) Law, 1966

Public Health Regulations (Abatement of Nuisances) (Removal of Plastic Sheets), 1993

Maintenance of Cleanliness Law, 1984

Local Authorities Law (Temporary Usage of Empty Lots), 1987

Planning and Building Law, 1965

Drainage and Flood Prevention Law, 1957

Abatement of Nuisances Law, 1961

Explosives Regulations (Commerce, Transfer, Production, Storage and Usage), 1994

Ban on the Operation of Vehicles on the Coastline, 1997

Protection of the Coastal Environment Law, 2004

Land Law, 1969

Public Health Ordinance, 1940

Streams and Springs Authorities Law, 1965

Mikveh-Israel Agricultural School Law, 1976
Planning and Building Order (Nominating Public Authorities and Professions for Presenting Objections to Plans), 1974
Representation of Environmental Public Bodies Law (Legislative Amendments), 2002
Freedom of Information Law, 1998
Abatement of Environmental Nuisances Law (Civil Actions), 1992

The study presents a number of alternative plans of action for different groups and authorities in order to preserve the agricultural usage of land, including:

1. Land surveys to identify vulnerable areas, including groundwater replenishment areas or the habitats of endangered species.
2. Identifying areas that are in the vicinity of drinking water sources.
3. Identifying non-agricultural structures on land designated for agricultural use only.
4. Surveying habitats of species protected by law, and demanding the update of animal protection laws to include additional species and habitat areas.
5. Convincing government officials of the importance of forbidding development in flood-prone areas in order to avoid possible damage compensation claims in the future, as well as the importance of keeping these areas open in order to minimize flooding in existing developed areas.

By using indirect legislation as a method for protecting open spaces, NGO's would be acting on the side of the government, working in a positive manner to protect flood plains, buffer areas, wetlands and other open spaces instead of finding themselves always objecting to proposals. By actively supporting the objectives of indirect legislation, they could achieve their main objective of protecting open spaces, while working in a positive rather than negative direction.

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Jerusalem, February 2005