

# Israel's Discriminatory Land Policies

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In-depth Report: [PALESTINE](#)

Israel's late 1947 -1948 "War of Independence" took six months to create a new Jewish state, excluding Arabs to the greatest extent possible. To accomplish it, widespread war crimes and atrocities were committed as about 800,000 people were brutally uprooted, ethnically cleansed, or murdered in cold blood. In addition, 531 villages and 11 urban neighborhoods in Tel-Aviv, Haifa, Jerusalem and other cities were destroyed and erased except in the collective memories of their inhabitants and descendants who'll always consider them their rightful homes.

Shortly after, laws were passed to legitimize the seizure and exclusive Jewish use of Palestinian land. The June 1948 Abandoned Areas Ordinance referred to "any area or place conquered by or surrendered to armed forces or deserted by all or part of its inhabitants." It gave the Israeli government exclusive jurisdiction rights, including "expropriation and confiscation (authority over) movable and immovable property, within any abandoned area." It meant displaced Palestinians were prohibited from returning and claiming their property that by law was no longer theirs.

The September 1948 Area of Jurisdiction and Powers Ordinance stated that "Any law applying to the whole of the State of Israel" applies as well "to the whole of the area including....any part of Palestine which the Minister of Defence has defined by proclamation as being held by the Defence Army of Israel." It meant that Palestinians lost all rights and were subject to whatever laws Israel enacted.

In March 1950, the Absentees' Property Law (ABL) defined an absentee as:

"a person who, at any time during the period between (November 29, 1947) and (May 19, 1948) has ceased to exist (and no longer) was a legal owner of any property situated in the area of Israel...."

The ABL transferred property owner rights to a Custodian of Absentee Property. It made him liable to the real owner for the value, but prohibited the return of his land. Israeli law stole it to have Palestinians remaining in Israel relocated and declared "Absentees," no longer rightful owners of their property.

In July 1950, The Development Authority (Transfer of Property) Law was a legal ploy to shield Israel from being accused of having confiscated abandoned Palestinian land and whatever was on it.

The Development Authority (DA) was established as an independent body to buy, sell, lease, exchange, repair, build, develop and/or cultivate seized property. Henceforth, only transactions between Jews or a Jewish entity were allowed. It was understood that "under no

circumstances should the (expelled) Arabs return to Israel.”

In July 1960, Israel Lands Administration Law established an “Israel Lands Administration. (ILA)” At the same time, Israel’s Basic Law affirmed that “ownership of Israel Lands, being the lands in Israel of the State, the Development Authority or the Keren Kayemet Le-Israel (KKL – Jewish National Fund, JNF), shall not be transferred either by sale or in any other manner.” Lands were defined to mean “land, houses, buildings and any thing permanently fixed to land.”

On its web site, the ILA states that it controls 93% of Israeli land as “public domain; that is, either property of the state, the Jewish National Fund (JNF) or the Development Authority (DA).” The ILA “is the government agency responsible for managing this land which comprises 4,820,500 acres (19,508,000 dunams). ‘Ownership’ of real estate usually means leasing rights from the ILA for 49 or 98 years.”

ILA’s legal framework stems from “four cornerstones:”

- the 1960 Basic Law: Israel Lands;
- the 1960 Lands Law;
- the 1960 Israel Land Administration; and
- the 1960 “Covenant between the State of Israel and the World Zionist Organization (Jewish National Fund).”

The Israel Land Council (ILC) determines ILA policy. The Council chairman is the “Vice Prime Minister, Minister of Industry, Trade, Labor and Communications.”

The ILC is comprised of 22 members, 12 from government ministries and 10 representing the JNF.

ILA functions include:

- assuring that national land use conforms with Israeli laws;
- protecting and supervising state lands;
- making them available for public use;
- planning, developing and managing state land reserves;
- initiating planning and development, including relocating existing occupants, meaning removing Palestinians to make way for Jews;
- regulating and managing registration of state lands;
- authorizing contracts and agreements with other parties; and
- providing services to the general public.

ILA policy objectives include:

- designating land areas for public and state requirements;
- assuring the availability of land reserves for future needs;
- preserving agricultural lands;
- administering land use in accordance with the law; and
- safeguarding state lands.

Overall, Israeli laws and ILA policy prohibit Arabs from buying, leasing or using land exclusively reserved for Jews. On May 21, 1997, Israel's largest circulation newspaper, Yediot Ahronot, quoted Yassar Arafat saying: "Israel has always confiscated land from Arabs and dispossessed them of the property. The land always goes from Arabs to the Jews," and he added that Palestinians who sell their land to Jews are traitors.

### The Jewish National Fund (JNF)

In 1901, the Fifth Zionist Congress established it to "purchase, take on lease or in exchange, or otherwise acquire any lands, forests, rights of possession and other rights....for the purpose of settling Jews on (Palestinian) lands." About 80% of the land was confiscated, not bought, from its rightful owners - expelled Palestinians in Israel's "War of Independence."

JNF calls itself "Caretakers of the land of Israel for over a century (and) a global environmental leader by planting 240 million trees, building over 200 reservoirs and dams, developing over 250,000 acres of land, creating more than 1000 parks, providing infrastructure for over 1000 communities, (and) bringing life to the Negev Desert" exclusively for Jews on stolen Palestinian lands.

JNF develops land. It doesn't sell it, but it can lease it to Jews or any Jewish-controlled company, organization or entity. It holds these lands on behalf of "the Jewish People in perpetuity." In addition, its Himnuta subsidiary is charged with "redeeming" West Bank Palestinian land. A 1961 agreement between the State and JNF arranged for the ILA to manage 93% of Israeli land for Jews alone.

In 1973, former Israeli scholar, critic, and lifelong human rights activist, Israel Shahak (1933 - 2001), wrote a paper titled, "What is the Meaning of the Jewish State" in which he said:

"The real situation in Israel is really very simple: Israel is not an 'Israeli' state, or a state of its citizens but it is a 'Jewish state.' " With regard to land, "More than 90% of the inhabited areas of the State of Israel are under the rule of the Jewish National Fund regulations, under which non-Jews cannot rent or buy a house or flat, open a business, in short cannot live. This land is called in Hebrew 'the land' saved. The land which belongs to non-Jews is called unsaved not national (meaning Jewish) and by buying or confiscating it from a non-Jew by a Jew, the land is supposed to be 'saved.' "

It's only the beginning. Numerous privileges are afforded Jews alone that include:

- not only the right to the land but to a mortgage or loan to finance it;
- on confiscated West Bank land, "Jewish inhabitants enter into prepared houses, with

water and electricity;" unconnected Arab villages are forbidden to use either; and

— "A building project for the newly-married applies only for the Jewish newly-married and so forth; to be a Jew in a Jewish state is to be both a privileged being, and to be able to receive a lot of 'easy' money a non-Jew can not ever get."

### Adalah's Challenge

As the Legal Center for Arab Minority Rights in Israel, Adalah petitioned the Israeli Supreme Court on October 13, 2004 "Challenging the Prohibition on Arab Citizens of Israel from Living on Jewish National Fund Land." It demanded an end to this discriminatory policy and cited other civil rights petitions for the same purpose.

On August 15, 2004 in a letter to Adalah, the ILA acknowledged that "JNF land tenders are only open to Jews." It said it supports the policy and "is bound to respect the objective of the JNF as detailed in the Covenant signed by the State of Israel and the JNF."

JNF's written response said it "is not the trustee of the general public in Israel. Its loyalty is given to the Jewish people in the Diaspora and in the state of Israel....The JNF, as the owner of the JNF land, does not have a duty to practice equality towards all citizens of the state."

In a July 29, 2007 press release, Adalah referred to "a (July 18, 2007) racist bill entitled the 'Jewish National Fund Law (JNFL)' " stipulating that JNF land is to be solely for Jews. It added a new provision to the 1960 ILA Law called "Management of the Jewish National Fund's Lands" saying:

"Despite whatever is stated in any law, leasing of Jewish National Fund's lands for the purpose of the settlement of Jews on these lands will not be seen as improper discrimination." Further, "For the purpose of every law, the association documents of the Jewish National Fund will be interpreted according to the judgment of the Jewish National Fund's founders and from a nationalist-Zionist standpoint."

The JNFL was introduced in the Knesset and passed its preliminary reading. In September 2007, Israel's Supreme Court held a hearing on Adalah's 2004 petition and approved a JNF and Attorney General proposal to delay further deliberation for three months. It stipulated that, during the interim period, Arabs could bid for JNF-controlled lands but that JNF would be compensated for Arab purchases by transferring other state lands to it.

Adalah's General Director Attorney Hassan Jabareen and Attorney Suhad Bishara rejected the proposal because it left Israel's discriminatory policy intact. In other words, newly seized land would replace Arab purchases, leaving them no better off than before. Adalah argued for ending Israel's discriminatory policy, not tinkering with it around the edges and accomplishing nothing.

So far, it hasn't happened. In addition, current law empowers the ILA further to restrict and prohibit Palestinian land development by:

- putting large Arab areas under its control through the creation of regional councils;
- enforcing rigid zoning restrictions for residential, agricultural, and industrial use; forbidding unlicensed construction, banning it on agricultural land, and stipulating where Jews and Arabs can live;

- denying Palestinian areas room to expand while affording Jewish ones great latitude;
- transferring public land adjacent to Arab communities to the JNF and mandating its use for Jews only;
- declaring national priority town areas off-limits to Arabs;
- delaying, restricting and prohibiting local development in Arab communities;
- denying Palestinians representation on national planning committees; and
- using forced evictions and home demolitions to make more areas available for Jews.

The Arab Association for Human Rights (HRA) and Ittijah (the Union of Arab NGOs) Position Regarding ILA Proposed Reform

HRA and Ittijah say the proposal “violates international law and universal values.” Prior to 1948, Jews controlled 6% of historic Palestine. It’s now 93% – an “unparalleled (situation) anywhere else in the world (under which) the State of Israel enjoys absolute control of the most significant resource....” Occupied Palestinians and millions of displaced refugees have suffered grievously. So have Israeli Arabs from discriminatory land distribution policies.

Until the mid-1990s, the ILA allocated land for just two Arab Nazareth and Umal-Fahm housing projects alone. Its approach emphasizes land redemption, meaning seizing it from its owners and transferring it to Jews.

The proposed law “attempts to remove the foundation for current and future claims to return to the homeland and to secure the land rights of Palestinian refugees, as well as (250,000) internal refugees (Israeli Arabs).” If passed, this law “effectively removes the future possibility of reaching a just solution to the” Israeli-Palestinian conflict. After 61 years, equitable land ownership resolution has yet to be achieved nor has Israel complied with international law. It prohibits the transfer of refugee land or other property and assets to the state or third parties.

Yet, the ILA does it anyway, and under the proposed law, urban land ownership will be transferred in a way that will disconnect the state “from the further residual ownership held in accordance with the contracts up to this point.” This process will entail “the complete and final negation of the rights of ownership of the Palestinian refugees to these properties” so that they’ll never be able to claim them again.

Fourth Geneva’s Article 147 specifically prohibits this by stating:

“Grave breaches to which (the) preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the present Convention:....taking of hostages and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.”

Various other international laws acknowledge the obligation of occupying powers to restore properties to their rightful owners and that failure to do so constitutes a serious lawless breach. HRA and Ittijah want expropriated property returned and internal refugees allowed back to their communities and land. A repressive Israel and dismissive world community stand in their way.

## B'Tselem Calls Israeli Settlement Expansion "Un-natural Growth"

B'Tselem is the Israeli Information Center for Human Rights in the Occupied Territories. On July 7, it reported that Israel uses "natural growth" as fig leaf cover for its continued settlement expansion project. Internally last year, the population growth rate was 1.6%. It was 5.6% in West Bank settlements. Further, since Israel accepted the Road Map's mandated freeze provision, its settler population expanded 37% in six years - from 211,400 to over 289,600, besides over 190,000 more in Arab East Jerusalem.

Netanyahu claims barring "natural growth" will tear apart families. Unmentioned is the continued theft of Palestinians lands, a grave violation of international law. Yet, Israel argues that, by law, it can't reverse issued tenders after properties have been bought and construction begins. However, two 1992 High Court of Justice rulings disagreed. They held that the government could legally halt construction even after begun and that any losses incurred could be addressed in civil court. "The Israeli government has all the legal and administrative tools necessary to halt construction in the settlements." Further, international laws are binding to signatories, and no state can legislate around them.

Israel does it anyway and plans continued settlement expansions on expropriated Palestinian lands. Interior Minister Eli Yishai threatened to use every resource possible to the maximum. The Ofra settlement is indicative. At least 58% of it was built on privately owned Palestinian land, now lost to make way for Jews. The same pattern holds throughout the West Bank and East Jerusalem. Palestinians are being removed to accommodate an expanding Jewish population on all land that Israel values, and under Netanyahu's "natural growth" policy, it may accelerate faster than ever.

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