Recent Amendments to Israel Land Laws

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Recent legislation in the form of the Israel Lands Authority Law, Amendment 7 (2009) and a 2010 amendment of the British Mandate-era Land Ordinance (Acquisition for Public Purposes)—1943 introduced tactical adjustments to the land tenure system in Israel. The 2009 amendment authorizes more powers of the JNF in its special status and role in land management. It also establishes the Israel Lands Authority (ILA) (no longer “Israel Lands Administration”) with increased powers, provides for the granting of private ownership of lands, and sets approval criteria for transfer of State lands and Development Authority lands to the JNF. The 2010 amendment "makes sure" that lands expropriated for "public use" do not "revert" to original owners and can be transferred to a third party (likely the JNF). The 2010 legislation also circumvents the Israeli Supreme Court’s precedent-setting judgment in the 2001 Karsik case,¹ which obliged authorities to return confiscated land in the event it has not been used for the purpose for which it was confiscated.

According to the amendments, the JNF will continue to hold large representation in the Israel Lands Authority with six of 13 members (which also can function with just ten members). That ensures JNF’s continued key role in the development of policies and programs affecting 93% of lands in Israel.

The amendments allow the state and the JNF to exchange lands, in order to facilitate “development” through the privatization of lands owned by the JNF in urban areas. Such a swap would have the state to receive JNF land in urban areas that could be privatized, while the JNF would receive 50–60,000 dunams of land in the Galilee and the Naqab.

As in the past, the JNF agrees that the new Israel Land Authority will manage its lands, whereas ILA is committed to do so consistent with "the principles of the JNF in regards to its lands" (Article 2). In addition, the JNF has committed to contribute 100 million NIS to further development of the Naqab from its own sources.

The amendments enable further circumvention of legal oversight and legislate against the right to equality in land use. As the JNF’s charter excludes non-Jews from benefiting from its land or services, any such transfer of public land to the JNF prevent citizens’ equal access to land. In other words, the state will be able to "Judaize" more land and discriminate against its non-Jewish citizens in the Naqab and Galilee—and elsewhere—by transferring these lands to the JNF.

The new 2010 law appears to prevent—or severely impede—Palestinian citizens of Israel from reclaiming their confiscated land. It forecloses a citizen’s right to demand the return of the confiscated land in the event it has not been used for the public purpose for which it was originally confiscated, if that ownership has been transferred to a third party, or if more than 25 years have passed since its confiscation. Over 25 years have passed since the confiscation of the vast majority of Palestinian land, and the ownership of large tracts of land has been transferred to third parties, including Zionist institutions such as the Jewish National Fund.

The ILA rationalizes its policy of restricting bids for JNF-owned lands to Jews only by citing the Covenant between the state and the JNF (1961).² Under that agreement, the ILA is obliged to respect the objectives of the JNF, which include the acquisition of land "for the purpose of settling Jews." Thus, JNF serves as the state's subcontractor for discrimination on the basis of nationality.

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² The Covenant between the State of Israel and Keren Kayemeth Lelsrael, provides in Article 4: "Israel lands shall be administered in accordance with the Law, that is to say, on the principle that land is not sold, but only given on lease, and in accordance with the land policy laid down by the Board established under clause 9. The Board shall lay down a land policy with a view to increasing the absorptive capacity of the land and preventing the concentration of lands in the hands of individuals. The lands of Keren Kayemeth Lelsrael shall, moreover, be administered subject to the Memorandum and Articles of Association of Keren Kayemeth Lelsrael."