

“Jewish National Fund,” a Parastatal Institution Chartered to Dispossess and Discriminate

The Jewish National Fund (JNF) has been campaigning to acquire consultative status with ECOSOC, claiming to be (1) a nongovernmental organization that (2) upholds the principles of the UN Charter. However, JNF's application for NGO status under the Charter was narrowly voted down in the NGO Committee's most-recent session, owing to the invalidity of both points of its claim: JNF (1) is a parastatal institution carrying out essential government functions that (2) constitutionally discriminates on the basis of religion and ethnicity to the deprivation of others. The JNF apparently now seeks UN cover to indemnify it against challenges to its tax-exempt status in Western countries, where it also operates, paradoxically claiming to be a “charitable organization.

The JNF, also known as “Keren Keyemeth l'Yisrael,”¹ was created in 1901 as a subsidiary of the World Zionist Organization (WZO), the Zionist colony's protostate structure in Palestine. Its “primary objective was to “acquire lands in Palestine and Syria for the benefit of “persons of Jewish race, religion or origin, and it required its members to include holders of Founders' Shares in the Jewish Colonial Trust. JNF began acquiring lands already in 1905 (by purchase), but the organization was first registered in England in 1907.² Since then, JNF has sought recognition as a *public* body under international law (as the 1st Zionist Congress explicitly set out at Basle, 1987), and it now maintains a worldwide operation.

Since 3 February 1926, JNF has been registered in the USA as “Jewish National Fund (Keren Keyemeth le Israel) Inc. Despite its foreign-agent functions, it maintains a claim there to be a domestic nonprofit organization and has declined to register as a foreign agent with the Department of Justice, as U.S. law requires. There is no other legal entity registered there separate from the “mother JNF. On its website, JNF-US branch characterizes itself as JNF-KKL's largest contributor worldwide, and thus, its largest partner.³

JNF's 2006 annual report, published in New York, features President Ronald S. Lauder's introduction, citing his organization's 1901 origins, while CEO Russell F. Robinson's accompanying message establishes the continuum of JNF-sponsored population transfer activities from 1948 through to the current “Blueprint Negev project,⁴ by which Israel dispossesses indigenous Arab citizens in the Naqab/Negev for resettlement into “concentrations [*rekuzim*, in Hebrew] according to official plans.

Invalidity of JNF Claims to Be an NGO

Historically, the WZO, its sister organization, the Jewish Agency for [the Land of] Israel (JA), and JNF have been the principal public bodies promoting and implementing the concept of “Jewish nationality” and the superior status and benefits that this concept now confers under Israeli laws and policies. The intimate relationship of the WZO/JA and JNF with the Palestine (Mandate) Administration emerged in the form of a shadow government in Palestine, leading up to the proclamation of the State of Israel.⁵ The WZO/JA and JNF, however, violated its public body obligations commensurate with the increasing political and military dimensions of the Jewish colony in Palestine.⁶

Through various modes of acquisition, JNF accumulated land holdings in Palestine from 22,363 dunums⁷ in 1920, to 936,000 in May 1948. Those properties accounted for most of the 6% Jewish-possessed colonial lands in Palestine at the time of Israel's Proclamation of Establishment. However, by the end of the conquest and land seizure, Israeli forces controlled 78% of Palestine.

In 1953, Israel's “Keren Keyemeth Le Israel Law (1953) recognized JNF for its “public utility and formally linked it to the new State of Israel, providing for its continuity under article 6 of the Status Law (also linking the WZO/JA to the State). JNF then moved its base to Jerusalem and transferred there the assets of the English company. JNF's broad powers under Israeli legislation do not provide for JNF to sell land; however, exchange is possible. JNF may lease only to Jewish legal persons, according to its own Charter and under Israel's Basic Law: Israel Lands. Under the same law, it may lease to the government-controlled Israel Lands Administration (ILA) and to the Lands Development Administration, which maintains a JNF-majority governing board.

The 1954-legislated “Covenant between the Government of Israel [GoI] and the Zionist Executive clarifies further the WZO/JA relationship to GoI. It includes recognition of the JNF and United Israel Appeal as “institutions of the Zionist Organization, authorizes activities in Israel to be carried out “by means of public funds,” and indicates, in its first paragraph, that the Zionist Executive “and its institutions are to be treated as part of GoI. Officers of the WZO/JA and JNF also assume other parallel appointments within the State apparatus, and Israeli law guarantees WZO/JA and JNF exemptions and waivers on a range of fees and taxes on transactions conducted on behalf of “Jewish nationals” that are imposed on all others.⁸

The parastatal WZO/JA have had overlapping functions throughout the decades. Moreover, a “Coordinating Body” formed in 1951 conjoins the executives of the WZO/JA and JNF to GoI. However, what emerges through their continuing functions in GoI spheres reflects an apparent division of labour: In their common roles of recruiting, planning and building for Jewish settler colonies, since 1970 (after a U.S. court ruled against WZO/JA claims to domestic, nongovernmental and charitable status), WZO's colonizing operations focus on the 1967-occupied Palestinian territory (oPt), while “Jewish only development inside the “Green Line” (1948–49 Armistice Line) takes place under the name of the JA. However, JNF finances exclusive settlement and development projects in both zones. All of these “national institutions are also active in areas affected by the Separation Wall, in defiance of the International Court of Justice Advisory Opinion of 2004.

Invalidity of JNF Claims to Uphold the UN Charter

Whereas the former South African *apartheid* system was based on colour criteria defined in that country's Population Registry Act, discrimination institutionalized in Israel through JNF and its parastatal partners (WZO/JA and affiliates) is based on "Jewish nationality" status. That system is not legislated in a singular law, but through a series of legislative acts, including Israel's Status Law (1952), Keren Keyemeth Law (1953) and the Covenant of the Zionist Executive (1954 and amendments) that link JNF (and WZO/JA) to the State. All share JNF's discriminatory "Jewish-only" criterion for development of Israel-controlled areas, including the oPt. Within that system, Israeli "citizenship" constitutes a civil rank inferior to "Jewish nationality," while the latter status is the basis for the enjoyment—and/or denial—of a range of economic, social and cultural rights.

JNF, in cooperation with the WZO/JA, also funded the Zionist military effort in the 1947–48 War of Conquest.⁹ On 13 May 1948, Zionist strategist and first Israeli Prime Minister David Ben Gurion "sold, through JNF, 2 million dunums of Palestinian lands *not-yet-occupied by Zionist forces* to raise money abroad for arms.¹⁰ In June 1949, Bank of America National Trust loaned JNF \$15 million, which it paid to the State of Israel in exchange for properties belonging to dispossessed Palestinians: both cross-border refugees and internally displaced persons (IDPs) in Israel.¹¹

By 1954, the State transferred 35% of Israel-controlled lands to JNF in exchange for huge sums collected from JNF tax-exempt collections abroad. Currently, as part of the State of Israel, JNF possesses about 17% of lands in Israel and the oPt, while GoI claims about 80%. As of 1961, Israel Land Administration (ILA) manages lands for JNF, and legislation requires ILA to apply JNF's discriminatory "Jewish-only" principles, although the properties mostly belong to Palestinian refugees and IDPs.

JNF is an organic part of the Occupying Power in those areas of Israel's effective control resulting from its 1967 acquisition of territory by force. Far from being a charity, JNF carries out projects in Israel and occupied territory that actually enflame community tensions to the level of violent conflict. It has systematically practiced material discrimination against racial and religious groups excluded from its ethnocentric principles. The "national institutions" development model involves high-consumption living patterns that are sucking the regional dry, creating the conditions for water-resource disputes. JNF's Charter is integral to a State-based—and extraterritorial—system that carries out population transfer as its central purpose, violating the human rights of Christians, Muslims, Druze, Bahai and others in Israeli jurisdictional territories, as well as in the areas of its effective control in Jerusalem, the West Bank, Gaza Strip and the Golan Heights. In their Concluding Observations, the UN treaty monitoring Committee on Economic Social and Cultural Rights and Committee on Elimination of Racial Discrimination have registered concerns over the discriminatory nature and governmental functions of JNF and Israel's other "national institutions" as incompatible with human rights treaty obligations.¹²

The WZO/JA and JNF also have assumed to themselves the task of representing "the Jewish people" extraterritorially; however, there is no method consistent with international law that makes the State of Israel, WZO/JA or JNF the representative of Jewish persons who are not also citizens of Israel. Nonetheless, GoI official statements and law assert this extraterritorial claim.¹³

Meanwhile, JNF is registered in over 50 countries as a "charity," despite its foreign-State function and affiliation, and despite its central role in managing the acquisition of territories and properties by force for the purpose of population transfer. Consistent with the post-WW2 International Military Tribunal rulings, population transfer is also codified in the Rome Statute of the International Criminal Court (17 July 1998) as a crime against humanity, article 7, and as a war crime, under article 8. ECOSOC and its NGO Committee should uphold the UN Charter vis-a-vis JNF, and not enshrine the legal contradictions and public law violations carried out by particular States and organizations inconsistent with chartered UN principles. Thus, we advise this body to reject JNF's NGO claims and its appeal for reconsideration of its application for consultative status within the United Nations.

¹ Or "Keren Keyemeth le Israel," popularly transliterated from the Hebrew title, meaning "Perpetual Fund for Israel," but also originally by its German-language title: "Judischer Nationalfonds" with the Hebrew title transliterated as "Keren Kajemeth le Jisroel.

² In its Memorandum of Association, the JNF objectives are: Article 3(a): "To purchase, acquire on lease, or in exchange, or receive on lease or otherwise, lands, forests, rights of possession, easements and any similar rights, as well as immovable properties of any class...for the purpose of settling Jews on such lands and properties. Article 3(c): to "benefit, whether directly or indirectly, to those of Jewish race or descendency Article 3(g): "...promote the interests of Jews in the prescribed region. Article 6: "upon dissolution...any properties whatsoever...shall be transferred to the Government of Israel. Article 7 and Article of the Association of Keren Kayemeth leIsrael 2, 3, & 4: "The members of the General Council of the World Zionist Organization [or its replacement] shall be deemed members of the Association.

³ "1901: It All Started With a Dream..." <http://www.jnf.org/site/PageServer?JServSessionIdr011=el0m598rq1.app25a&pagename=history>.

⁴ *JNF for Israel forever: "Celebrating over One Hundred Years as Caretaker of the Land of Israel"* (New York: JNF, 2006), pp. 1–2, at: <http://www.jnf.org/site/DocServer/jnfar515.pdf?docID=1441>.

⁵ "Report of the Anglo-American Committee of Inquiry, in W. Thomas Mallison and Sally V. Mallison, *The Palestine Question in International Law and World Order* (London: Longman, 1986), p. 100.

⁶ The Anglo-American Report stated that "The Jewish shadow Government has ceased to cooperate with the [Palestine] Administration in the maintenance of law and order, and in the suppression of terrorism," at 39.

⁷ A unit of land measurement equal to 1,000 square meters.

⁸ Walter Lehn, with Uri Davis, *Jewish National Fund* (London: Kegan Paul, 1988), 96–99.

⁹ "Report of the Anglo-American Committee of Inquiry, cited in Mallison and Mallison, op cit., p. 39.

¹⁰ *Financing Racism and Apartheid: Jewish National Fund's Violation of International and Domestic Law* (London: Palestine Land Society, August 2005), p. 5.

¹¹ *Ibid*, p. 7.

¹² E/C.12/1/Add.27, 4 December 1998, paras. 11, 35; E/C.12/1/Add.90, 23 May 2003, para. 27; CERD/C/ISR/CO/13, 14 June 2007, para. 19.

¹³ In *George Tamarin v. the State of Israel* (1971), High Court of Israel denied a Jewish Israeli's petition to change his nationality from "Jewish" to "Israeli," asserting "there is no Israeli nation separate from the Jewish nation...composed not only of those residing in Israel but also of

Diaspora Jewry." *The New York Times* (21 January 1972), p. 14, as cited in Oscar Kraines, *The Impossible Dilemma: Who is a Jew in the State of Israel* (New York: Bloch Publishing, 1976). Extraterritorial concepts of citizenship or nationality infringe upon the sovereign rights of affected States. See letter of United States Assistant Secretary of State Phillip Talbot to American Council for Judaism Executive Vice-President Rabbi Elmer Berger, affirming that USA "does not regard [Israel's extraterritorial] 'Jewish people' concept as a concept of international law. W.T. Mallison, Jr., "The Zionist-Israel juridical claims to constitute the 'Jewish people' entity and to confer membership in it: appraisal in public international law, *The George Washington Law Review*, vol. 32, No. 5 (1964), p. 1075.