AUSTRALIAN TAXPAYERS MONEY IN PALESTINE: How Is It Being Abused

The Jewish National Fund of Australia: A Critical Assessment

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THE JEWISH NATIONAL FUND OF AUSTRALIA: A CRITICAL ASSESSMENT

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Abstract

In its official website http://www.jnfaustralia.com.au, under the link "Inscriptions & Trees", the Jewish National Fund of Australia Inc (JNF), projects itself as a Non-Governmental Organization "charged by the State [of Israel] with total responsibility for forest management throughout the country", and suggests that "[t]he trees that directly link us to the land of Israel become municipal green belts, urban lungs and active recreation areas that immeasurably improve the quality of the environment and the lifestyle of the population."

The JNF of Australia refers to its activities amidst the rolling hills of Kerem Maharal on the south-eastern slopes of the Carmel Ranges as an area where "the JNF is planting a Yizkor [Remembrance] forest which will provide an evergreen, living memorial to those whose memory we wish to perpetuate in Eretz Israel." (5 Trees - $50 - tax deductible).

The locality of Kerem ha-Maharal (for Jews only) is built over the ruins of the destroyed Palestinian Arab village of Ijzim, ethnically cleansed by the Israeli army in the course of the 1948-49 war, and the Yizkor Forest is planted over Ijzim lands.

Focusing on a key phrase in this narrative (Non-Governmental Organization charged by the State of Israel with total responsibility for forest management throughout the country), Dr Davis proposes to subject the JNF representation to a critical assessment. He submits for discussion the question of whether the Jewish National Fund of Australia Inc is an organization informed by humanitarian values and, as such, ought to be classified as charitable and tax exempt under Australian law. Alternatively, the JNF can be seen as an organization informed by apartheid values, in which case its activities ought to be regarded as complicit with war crimes.
Introduction

It is, to my mind, inappropriate to attend in isolation to the subject of JNF of Australia activities “amidst the rolling hills of Kerem Maharal on the south-eastern slopes of the Carmel Ranges”, where the JNF is planting the Australia Yizkor [Remembrance] forest. It must be viewed in the context of the atrocity and massacre perpetrated by the Israeli army in the neighbouring Palestinian Arab village of Tantura during the same period in 1948.

I was first introduced to the massive destruction resulting from Israeli army actions in the 1948-49 war along the coast of Mount Carmel through the Association for the Defense of the Rights of the Internally Displaced Persons in Israel (ADRIDP). These included, among other things, the massacre in Tantuta in May 1948 and the occupation of the village of Ijzim in July of the same year. It was through Adalah: Legal Center For Arab Minority Rights In Israel, specifically through one of the lawyers working with Adalah whose mother’s family was expelled from Ijzim, that I was referred to a study of that village by anthropologist Efrat Ben-Ze’ev on Ijzim.

Readers wishing to learn more about the massacre in Tantura could do worse than begin with the unpublished text of the first MA Dissertation of Mr Teddy Katz at Haifa University of 1998 and the Journal of Palestine Studies of 2001, notably Ilan Pappe’s “The Tantura Case in Israel: The Katz Research and Trial” (See bibliography below). It was one of the biggest massacres perpetrated by the Israeli army in the 1948-49 war, with some 270-280 unarmed men killed after the village had already surrendered. Given the subject of this present paper, however, I propose to attend to the Tantura massacre in a separate presentation.

So when Asem Judeh of Melbourne Australia contacted me suggesting that I should go to Australia under DYR sponsorship for a lecture tour on the JNF, it was clear where the focus should be: JNF Commemoration Centre Kerem Maharal Projects of Australian and New Zealand Jewry, developed on the lands of the ethnically cleansed village of Ijzim.

Kerem Maharal

According to its official website, Kerem Maharal (Workers’ Moshav for Cooperative Settlement Ltd) was founded in 1949 by a group of Jewish immigrants from Czechoslovakia on the ruins of the Arab village of Ijzim. It was a relatively large and wealthy village, representing the eastern “angle” of the “small Triangle” comprising Ijzim, Ayn Ghazal and Jaba’, which during the 1948-49 war succeeded in blocking traffic along the coastal road.

Following two abortive attempts to conquer the “small Triangle”, the villages were attacked towards the end of July 1949. Ayn Ghazal and Jaba’ were conquered after a fierce battle, but the Mukhtar (Head) of Ijzim surrendered the village.
Currently Kerem Maharal is the home to some 350 persons (Jews only) and has embarked upon an expansion programme designed to triple its population.

The locality has become a rather fashionable address. For instance, the former Head of the Israel General Security Service SHABAK), General (Reserve) Ami Ayalon lives there. In parenthesis it should perhaps be noted that Ami Ayalon joined hands with Palestinian Professor Sari Nusseibeh, President of the Al-Quds University: The Arab University in Jerusalem, to formulate launch and try to advance a peace platform entitled “Subscription for Peace.”

JNF Commemoration Centre Kerem Maharal

The JNF Commemoration Centre Kerem Maharal Projects of Australian and New Zealand Jewry is situated in one of the JNF’s most attractive afforestation projects on the western slopes of Mount Carmel. The forest, designated by the JNF as the “Hof Carmel Forest” (The Forest of the Carmel Coast), and its Kerem Maharal recreational facilities are well tended and attract both domestic and international holidaymakers.
I wonder though, how many holidaymakers know that the forest and its recreational facilities hide a war crime, if not a crime against humanity, represented by establishing the settlement of Kerem Maharal (for Jews only) on the site of the ethnically cleansed Arab village of Ijzim and developing the Hof Carmel Forest and recreational facilities (non-segregated) on its lands.

One family of holidaymakers, however, was aware of this. Having sought permission from the Arab family pictured below to take their photograph, I lingered for a chat. They knew that the forest and the recreational facilities were on the lands of Ijzim and that the locality of Kerem Marahal was situated on the site of the destroyed village.
In this connection it may be useful to note that the property titles of the family of the lawyer with Adalah -- an internally displaced person, citizen of the State of Israel, whose mother’s family had either fled or been forcibly expelled from Ijzim -- have been nullified under the Absentees’ Property Law of 1950. Their residence in the Kerem Maharal locality is denied because Kerem Maharal (Workers’ Moshav for Cooperative Settlement Ltd), like all cooperative settlements in Israel, kibbutzim included, is restricted in law for “Jews only”. But, as the photograph above shows, the JNF Hof Carmel Forest, planted and developed over their vast properties, like all JNF forests and recreational facilities, is not segregated. While there are massive legal barriers barring the residence of Arab citizens of Israel from the settlement of Kerem Maharal, there is no legal barrier to prohibit the internally displaced persons of Ijzim and their families, or any other Arab citizens of the State of Israel from holidaymaking there. They can have barbeques-- but cannot live there.

The question then remains whether developing the Hof Carmel Forest and the Kerem Maharal picnic areas as recreational facilities for all to enjoy while turning a blind eye to the ethnic cleansing of Ijzim deserve classification as a tax exempt charitable activity or whether it should be classified as complicity in war crimes. It is especially relevant to ask this question in view of the blatant transgression of international law and all UN resolutions relevant to the question of the Israeli-Palestinian conflict, notably UN General Assembly Resolution 181(II) of November 1947 and 194 (III) of December 1948.

In advance of my visit to Kuala Lumpur and Australia I picked up the telephone to talk to the Australia Division at the JNF Head offices in Jerusalem to ask them to send me their publicly available official information.

My reputation as a critical researcher of the JNF goes back to the publication of the Jewish National Fund, authored jointly with Walter Lehn, which was published in London in 1988.

“So you are going to record all the ‘bad things’ that the JNF of Australia funds in Israel”, said the JNF official at the Australian Division. “Why don’t you mention the ‘good things’ as well.”

I indicated that I would be happy to do so, if she would be good enough to point me in the right direction. The good lady pointed me to the commemoration stone next to which, by coincidence, the Arab family pictured above happened to be picnicking.

The stone reads as follows:
IN MEMORY OF
MARTIN FRIED-LANDER
SYDNEY, AUSTRALIA
IN RECOGNITION OF
HIS GENEROUS BEQUEST
TO IMPROVE THE DRAINAGE
OF THE DALIA STREAM
IN THE VILLAGE OF FARADIS
AT THE FOOT OF MT CARMELO
1997
I took the trouble to visit the nearby village of Furaydis and see the improved drainage of the Dalia Stream for myself. The photograph below shows that the construction does indeed represents as a result of which the village of Furaydis no longer suffers from seasonal flooding from the stream.
Nevertheless, it is pertinent to ask whether improving the drainage of the Dalia Stream, generously funded by the bequest of Martin Fried-Lander of Sydney Australia, could remotely justify, compensate for, or otherwise alleviate the JNF’s complicity in the arbitrary confiscation of Furaydis’s vast landholdings through the vehicle of the Absentees’ Property Law of 1950. As a result of the arbitrary Government confiscation of their lands, which are almost invariably zoned for the settlement, cultivation and development of “Jews only”, Furaydis is fast becoming a ghettoized slum, while neighbouring Jewish settlements such as Kerem Maharal and Zikhron Yaaqov are becoming attractive, fashionable, and properly serviced leafy suburban localities.
Overview of Furaydis
Welcome to Zikhron Yaaqov
What Is the Jewish National Fund

On 16 July 2004 the JNF Director of Communications in New York, NY, Sarina Roffe, posted a press release on the world wide web entitled “JNF Approved as United Nations Non Governmental Organization”. It reported that the Jewish National Fund, “a 103-year-old international environmental organization with more than 50 offices around the globe”, was “approved this week by the United Nations Department of Public Information as an NGO, or Non-Governmental Organization.”

Quoting Yehiel Leket, World Chairman of KKL-JNF in Jerusalem, the press release claimed that achieving UN status meant that the JNF “has more universal recognition and prestige in the international arena”, and that the acceptance of the JNF by other countries into the UN legitimizes its “award-winning efforts in water, environment and sustainable development”.

Joseph Hess, Vice President of Government Affairs for the Jewish National Fund of America, is quite correct when he observes that “the NGO registration gives the JNF an entree into the United Nations and an equal voice among internationally recognized environmental organizations on issues such as sustainable development, forestry, land management and water scarcity.”

Presumably when applying for recognition as an NGO the JNF projected itself as a “non-profit organization founded in 1901 to serve as caretaker of the land of Israel, on behalf of its owners—Jewish people everywhere”. According to the JNF view: “During the first half of the 20th century, the JNF set out to achieve its goal by purchasing the land that would become the State of Israel. Following the successful establishment of the state in 1948, the organization has evolved to meet Israel's most pressing needs, including the current security crisis, ongoing water shortage and other environmental challenges. Over the past century, the organization has planted over 240 million trees, built over 150 reservoirs and dams, developed over 250,000 acres of land, created more than 450 parks and educated students around the world about Israel and the environment.”

I doubt that the application papers presented to the UN included information documenting JNF activities in the post-1967 occupied territories, for example, Canada Park in the occupied Latrun Salient in the West Bank (See Davis 2004) or its activities relating to the Hof Carmel Forest and Kerem Maharal recreational facilities inside pre-1967 Israel (inside the territorial demarcation known as the “Green Line”).

It is also important to point out that projecting of the JNF as a non-profit organization amounts to a misrepresentation and the accreditation of the JNF as a Non-Governmental Organization by the UN suggests a major failure of the UN research departments.
The JNF is anything but an NGO. It was initially registered in 1907 in the UK under English law as a company limited by guarantee, under the style eventually fixed at “Keren Kayemeth Leisrael Limited.” Following the establishment of the State of Israel in 1948, the Parliament of the new state, the Knesset, enacted the Keren Kayemeth Leisrael Law of 1953, after which the JNF was registered as The Jewish National Fund (Keren Kayemeth Leisrael) in 1954 (omitting “Limited”). Under this Law, Keren Kayemeth Leisrael Limited (registered in the UK) transferred to Keren Kayemeth Leisrael (established in Israel) all its assets within the Israeli Government’s area of jurisdiction.

In 1961, the JNF and the Government of the State of Israel agreed a “Covenant Between the State of Israel and the Keren Kayemeth Leisrael” which was signed in November 1961 with the sanction of the World Zionist Organization (WZO). This Covenant makes derisory any claim by the JNF to non-governmental status. According to its terms the JNF and the Government of the State of Israel are partners on an almost equal footing in the administration of 93 per cent of the territory under the sovereignty of the State of Israel in its pre-1967 borders (demarcated by the “Green Line”).

The parties to this Covenant have agreed, among other things, to the following:

9. The Government shall establish a Board, under the chairmanship of the Minister, which shall lay down the land policy, approve the budget proposal of the Administration and supervise the activities of the Administration and the manner in which this Covenant is carried into effect. The number of the members of the Board shall be thirteen; half of them, less one, shall be appointed upon the proposal of Keren Kayemeth Leisrael. The members of the Board may be replaced in the same way as they were appointed. Notice of the appointment of the Board and of the names of its members, as appointed from time to time, shall be published in Reshumot [Official Gazette].

10. The reclamation and afforestation of Israel lands shall be concentrated in the hands of Keren Kayemeth Leisrael, which shall establish a "Land Development Administration" (hereinafter referred to as "the Development Administration") for that purpose. Keren Kayemeth Leisrael shall, after consultation with the Minister, appoint a Director to head the Development Administration, who shall be subordinate to Keren Kayemeth Leisrael.

11. The Development Administration shall draw up once a year (and for the first time at the expiration of three months from the day of the coming into force of the Law) a scheme for the development and afforestation of Israel lands, and shall submit that scheme to the Government and to Keren Kayemeth Leisrael. The scheme shall be drawn up in complete coordination with the Minister of Agriculture. (For the full text of the Covenant see Appendix A).
The regrettably successful (at this stage) misrepresentation of the JNF before the UN Department of Public Information as a non-governmental organization committed to “water, environment and sustainable development” means that the JNF can now sponsor and present workshops at UN conferences around the world and apply to serve on environmental committees. Moreover, the JNF in all the countries where it is active, including of course Australia, will now have access to the United Nations.

There seems little doubt that when a fuller presentation of the JNF is brought before the UN Department of Public Information, or, if necessary, when the newly acquired NGO status of the JNF is challenged through an appropriate appeals procedure, the decision to recognize the JNF as a bona fide NGO will be nullified.

Israeli apartheid: background

With the establishment of the State of Israel in May 1948, the legal status of the landholdings, properties and operations of inter alia the WZO, the Jewish Agency for the Land of Israel (JA) and the JNF inside the State of Israel had to be regularized. A fundamental legal and political circle had to be squared. On the one hand, the new state was politically and legally committed to the values of the Universal Declaration of Human Rights, the Charter of the United Nations, and the standards of international law, which, since the Second World War have informed most, if not all, liberal western democracies and enlightened world public opinion. On the other hand, the driving force underpinning the efforts of political Zionism since its establishment at the First Zionist Congress was not liberal democracy, but ethnocracy. It was an attempt to establish in Palestine a state that would be as “Jewish” as England was allegedly “English”. It was an attempt; to establish and consolidate in the country of Palestine a sovereign state, a Jewish state, that would guarantee in law and in practice a demographic majority of the Jewish tribes in the territories under its control – an apartheid state.

Clearly, political Zionist efforts to create in all or in a part of Palestine a Jewish majority out of nothing, would necessarily entail the dispossession and expulsion of the majority of the native indigenous population from the territories of the projected Jewish state. Legislation was used to reduce the remnants of the non-Jewish, largely Palestinian Arab population, remaining under Israeli rule to the status of second- and third-class citizens.

Racism is not apartheid and apartheid is not racism. Apartheid is a political system where racism is regulated in law through Acts of Parliament. Racism is regrettably prevalent in all states, including western liberal democracies. But in liberal democratic states, those victimized by racism have constitutional recourse to seek the protection of the law under a democratic Constitution that embodies the values of the Universal Declaration of Human Rights. In an apartheid state, the state enforces racism through the legal system, obliging citizens, through Acts of Parliament, to conform to racist behaviour, and criminalizing expressions of humanitarian concern.
The political Zionist leadership had successfully steered the establishment of the Jewish state from its modest beginning in the first Zionist Congress in 1897 through to its admission as a member state in the UN fifty years later in 1949. The state was constituted by a UN General Assembly resolution (Resolution 181(II) of November 1947) and admitted on the basis of its declaration that it “unreservedly accepts the obligations of the United Nations charter and undertakes to honour them from the day when it becomes a member of the United Nations” (Mazzawi, 1997). The Zionist leadership realized that it was imperative to be able to project the Jewish state as “the only democracy in the Middle East”. Israel’s admission to the UN, let alone its continued membership, depended on it.

The world community, having defeated the Nazi Third Reich, had emerged, scarred and smouldering from the devastation and the horrific slaughter of the Second World War. The Universal Declaration of Human Rights was adopted by the UN General Assembly on 10 December 1948 (five months before the admission of Israel as a UN member state on 11 May 1949). It declaring that:

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law.

The Nazi occupation of Europe and the Holocaust notwithstanding, the State of Israel would not have been able to project itself in the West as successfully as it has done as “the only democracy in the Middle East” without elaborately veiling its apartheid legislation. As Musa Mazzawi points out (Mazzawi, 1997), the discussions at the UN Security Council suggest that despite the Holocaust, the UN would have been reluctant to allow the admission of the Jewish state had it not received formal and solemn assurances from the Government that Israel would abide by the Resolution 181(II) and Resolution 194(III) of December 1948. These recommended the partition of Palestine with economic union, resolving that the 1948 Palestinian refugees wishing to return to their homes and live at peace with their neighbours should be permitted to do so at the earliest practicable date. Clearly then, if the new state had failed to project itself as anything other than an international law-abiding state, it would have seriously jeopardized any prospects of UN admission.
And for the same reason, all governments of the State of Israel and the pro-Israel and pro-Zionist lobbies in the West have worked relentlessly since 1975 for over 15 years to negate one of the most significant achievements of the Palestine Liberation Organization and the international Palestine solidarity movement which includes the anti-Zionist Jewish opposition inside and outside Israel. This was UN General Assembly Resolution 3379 of November 1975 which directed rogue Israeli Governments to comply with UN Security Council resolutions or face possible suspension of its UN membership. All parties to the Israeli-Palestinian conflict were aware that the passage of this Resolution could provide a platform for UN sanctions against Israel.

Israeli apartheid versus South African apartheid

For these reasons and related legal and political considerations, the legal regulation of apartheid in Israel is structured in terms that are rather different from the structures of legal apartheid in the Republic of South Africa.

First, there is no UN resolution recommending the partition of South Africa into a “White state” and a “non-White” state.

Second, since the State of Israel is the creation of the United Nations Organization, blatant Israeli violations of UN General Assembly Resolutions 181(II) and 194(III) under the cover of the 1948-49 war had to be hidden from public view by a veil of legal ambiguity in a way apartheid in South Africa did not.

Thus, the official claim of the State of Israel that its record on the question of racism is no better or worse than that of other UN member states is basically correct. But it also serves to veil the reality of Israeli apartheid, namely the regulation of racism in law through Acts of the Israeli Parliament (the Knesset). These have resulted in 93 per cent of all the territory of pre-1967 Israel being designated in law for cultivation, development and settlement by, of and for Jews only. Israeli apartheid legislation in the area of land tenure (the core of the Israeli-Palestinian conflict) is more radical than apartheid legislation in the Republic of South Africa in the heyday of apartheid there, when some 87 per cent of the territory of the Republic was designated for cultivation, development and settlements for “whites only”.

Apartheid in Israel is an overarching legal reality that determines the quality of everyday life and the circumstances of living for all the inhabitants of the State. In the decades preceding 1994, when the official and hegemonic ideological value system of the Republic of South Africa was apartheid, the key legal distinction in South African apartheid legislation was between “White” and “Coloured”, “Indian” and “Black”. The official hegemonic ideological value system in the State of Israel is political Zionism, and the key legal distinction in Zionist apartheid legislation in Israel is between “Jew” and “non-Jew”.

18
The introduction of this key distinction of into the foundation of Israeli law is, however, accomplished as part of a two-tier structure which has preserved the veil of ambiguity over Israeli apartheid legislation for over a half of a century.

The first tier, the level at which the key distinction between “Jew” and “non-Jew” is rendered openly and explicitly, is in the Constitutions and Articles of Association of all the institutions of the Zionist movement and, in the first instance, the WZO, the JA, and the JNF. The Constitution of the Jewish Agency stipulates:

Land is to be acquired as Jewish property and ... the title of the lands acquired is to be taken in the name of the JNF to the end that the same shall be held the inalienable property of the Jewish people. The Agency shall promote agricultural colonization based on Jewish labour, and in all works or undertakings carried out or furthered by the Agency, it shall be deemed to be a matter of principle that Jewish labour shall be employed (Article 3 (d) & (e)).

The Memorandum of Association of the Keren Kayemeth Leisrael (JNF) Ltd., as incorporated in the United Kingdom in 1907, defines the primary object of the company:

To purchase, take on lease or in exchange, or otherwise acquire any lands, forests, rights of possession and other rights, casements and other immovable property in the prescribed region (which expression shall in this Memorandum mean Palestine, Syria, and other parts of Turkey in Asia and the Peninsula of Sinai) or any other part thereof, for the purpose of settling Jews on such lands (Article 3, subclause 1).

The Memorandum of Association of the Keren Kayemeth Leisrael (JNF) as incorporated in Israel in 1954, similarly defines the primary aim of the company:

To purchase, acquire on lease or in exchange, etc., in the prescribed region (which expression shall in this Memorandum mean the State of Israel in any area within the jurisdiction of the Government of Israel) or any part thereof, for the purpose of settling Jews on such lands and properties (Article 3 (a) ).

The second tier is the level at which this key distinction between “Jew” and “non-Jew”, as institutionalized in the Constitutions and Articles of Association of all the bodies affiliated to the WZO, is incorporated into the body of strategic legislation governing land tenure.

Until 1948, it could have been argued, with some justice, that the WZO, the JA, the JNF, and the various other bodies of the Zionist movement were institutional expressions of a legally voluntary organization of primarily parochial interests. And in this case, they should be properly judged by standards relevant to similar establishments, for instance the establishment of the Catholic Church and its various corporate organizational and business subsidiaries.
It could further be argued that Zionist institutions were constitutionally restricted to the promotion of Jewish interests in terms very similar to the constitutional limitations on Catholic institutions to promote Catholic interests. I am not sure, though, that the analogy applies, as I am not sufficiently acquainted with Catholic dogma and the constitutional charters of the relevant Catholic establishments. However, to the extent that this analogy does apply, it is only to the period of activity of the WZO, JA and JNF and their affiliated bodies in Palestine until 1948 and before the establishment of the State of Israel.

The situation has altered radically since the establishment of the State of Israel, in that now the exclusivist constitutional stipulation of the WZO, JA and the JNF (for Jews only) are incorporated into the body of the laws of the State. A detailed sequence of strategic Knesset legislation was initiated within two years of the establishment of the State in 1948, and by and large completed a decade or so later. Thus, organizations and bodies which, before 1948, could credibly have claimed to be voluntary, have been incorporated, following the introduction of the strategic legislation listed below, into the legal, compulsory, judicial machinery of the State:

* 1950 - Law of Return; Absentees Property Law; Development Authority Law;
* 1952 - World Zionist Organization - Jewish Agency Status Law;
* 1953 - Keren Kayemeth Leisrael (Jewish National Fund) Law; Land Acquisition (Validations of Acts and Compensation) Law;
* 1954 - Covenant between the Government of Israel and the Zionist Executive, also known as the Executive of the Jewish Agency for the Land of Israel;
* 1958 - Prescription Law;
* 1960 - Basic Law: Israel Lands; Israel Lands Law; Israel Lands Administration Law;
* 1961 - Covenant Between the Government of Israel and the Jewish National Fund

In subsequent years this body of strategic legislation governing, in the first instance, the terms of tenure of 93 per cent of Israel lands was further refined in legislation such as the Agricultural Settlement (Restriction on Use of Agricultural Land and Water) of 1967 and the Lands (Allocation of Rights to Foreigners) Law of 1980. But the list above represents the mainstay of Israeli apartheid, the body of strategic legislation enacted by the Parliament of the State of Israel (Knesset). Untill the Israeli Supreme Court ruling in the case of Adil and Iman Qadan versus the cooperative communal settlement of Qatzir in 2000, these laws constituted the primary instruments for denying non-Jews, Palestinian Arab citizens of Israel and 1948 Palestine refugees, in the first instance, access in law to some 93 per cent of the territory of the State of Israel.

The laws listed above were promulgated in addition to previously available legal instruments such as the Land (Acquisition for Public Purposes) Ordinance of 1943 as well as the unlimited powers enabling requisition of lands and property vested in the Israeli authorities under the various Defence (Emergency) Regulations and Ordinances which have remained in force since 1948-49. These include Defence (Emergency) Regulations (1945); Emergency (Security Zones) Regulations (1949); Requisitioning of Property in Times of Emergency Law (1949); Emergency Regulations (Cultivation of Waste Lands) Ordinance (1949).
The juridical problems arising from the introduction of this two-tier mechanism of legal
duplicity were clearly and eloquently articulated by the late Mr. Zerah Wahrhaftig, then
Minister of Religious Affairs and Chairman of the Israeli Knesset Constitution, Law and
Justice Committee, when presented to the House the Basic Law: Israel Lands, on behalf
of the government:

The reasons for this proposed law, as I put it before you, are as follows: to give
legal garb to a principle that is fundamentally religious, namely, “the land shall
not be sold forever, for the land is mine” (Leviticus 25:23). Irrespective of
whether this verse is explicitly mentioned in the law, as one proposal had it, or
whether it is not mentioned, the law gives legal garb to this rule and principle in
our Torah. This law expressed our original view concerning the holiness of the
land of Israel. “For the land is mine” – “the holiness of the land belongs to me”
says Gemara [Talmud] in “Tractate Gittin”, page 47a. And Ibn Ezra explains why
the land should not be sold forever: “For the land is mine” – “this is a most
important reason”. And Nachmanides says: “And the intelligent will understand”.
I also trust that the educated will understand; therefore, I will not further explain
the reasons for this principle ... Concerning the name, we gave this law the name
Basic Law: Israel Lands. There were a number of proposals with regard to the
name. MK Harari proposed to name it “The People’s Lands”. On the face of it, I
do not see any great difference between the two names. I admit that neither name
hits the target. What is it that we want? We want something that is difficult to
define. We want to make it clear that the land of Israel belongs to the people of
Israel. The “people of Israel” is a concept that is broader than that of the “people
resident in Zion”, because the people of Israel live throughout the world. On the
other hand, every law that is passed is for the benefit of all the residents of the
state, and all the residents of the state include also people who do not belong to
the people of Israel, the worldwide people of Israel.

Menahem Begin (Herut Movement): This is not expressed [in the law].

Zerah Wahrhaftig: We cannot express this. Whatever we write, Israel lands or
people’s lands, from the strictly legal point of view, the reference is necessarily to
the people resident in Zion only. Every law is valid only in the area under the
jurisdiction of the state, and therefore it makes no difference what we write ... We
thought it might be better to write “Israel” rather than “people”. It is also a
question of tradition, of habit ... MK Meridor was wrong when he said that there
is no legal innovation in the law. There is therein a very significant legal
innovation: we are giving legal garb to the Memorandum of Association and the
JNF ... As for the JNF, the legal innovation is enormous; it gives legal garb to a
matter that thus far was incorporated only in the JNF’s Memorandum (Knesset
So through this two-tier mechanism, an all-encompassing apartheid system was legislated by the Israeli Knesset in all that pertains to access to land under Israeli sovereignty and control without resorting to explicit and frequent mention of “Jew”, as a legal category, versus “non-Jew”. The legal mechanism operates as follows: with the notable exception of the Law of Return of 1950, none of the laws listed above resort, in the text of the law, to the distinction between “Jew” and “non-Jew” (Adalah, 1998). Thus, for example, the World Zionist Organization-Jewish Agency Status Law of 1952 makes the WZO responsible for “settlement projects in the state” (section 3), but makes no overt reference to Jewish settlement. The WZO/JA are constitutionally restricted to promoting “agricultural colonization based on Jewish labour”, and that for the WZO/JA, “it shall be deemed to be a matter of principle that Jewish labour shall be employed”, which is how the Israeli mechanism of legal duplicity has enabled the legislation of an all-encompassing apartheid system in all matters pertaining to access to land inside the State of Israel to be disguised in seemingly non-discriminatory legal terms.

In other words, the Israeli Knesset, through its WZO/JA Status Law of 1952, committed the State of Israel by law to secure a monopolistic concession in the area of “settlement projects in Israel” for an organization that is constitutionally restricted to “agricultural colonization based on Jewish labour” for which it “be deemed to be a matter of principle that Jewish labour shall be employed”. The law further authorizes the WZO to coordinate “the activities in Israel of Jewish institutions and organizations active in . . . development and settlement of the country” (section 4). Prominent among these Jewish institutions – “various bodies” (section 8), “funds and other institutions” (section 12) of the WZO - is, of course, the Jewish National Fund, over which the WZO holds absolute control. The Law also identifies the Jewish Agency with the WZO (sections 3 & 7).

In addition, the legal status of the WZO inside the State of Israel was further confirmed in 1954 through the Covenant signed between the Government of the State of Israel and the World Zionist Organization Executive. Subject to the WZO/JA (Status) Law of 1952, fourteen Articles are provided. These include the following:

Article 1 defines the duties of the WZO Executive as:

[T]he organization of \textit{aliyah} [Jewish immigration] from abroad and transfer of the \textit{olim} [Jewish immigrants] and their property to the country; participation in the absorption of \textit{olim} in the country; youth \textit{aliyah}; agricultural settlement in the country and the purchase of land and its development by the institutions of the Zionist Organization: the JNF and the Foundation Fund; participation in the establishment and expansion of development projects in the country; encouragement of private capital investments in the country; assistance to cultural projects and institutions of higher education in the country; mobilization of funds to finance these activities; coordination of the activities in Israel of Jewish institutions and organizations which are active in the domains outlined above and are financed by public funding. (Quoted in Walter Lehn in association with Uri Davis, \textit{The Jewish National Fund}, 1988: 98-99).
On signing this Covenant, the Government and the WZO Executive exchanged formal letters, all dated 26 July 1954, confirming and acknowledging the agreement, and specifying the position of the Executive functionaries in official ceremonies. For example, the Chairman of the Executive ranks “immediately after the members of the Cabinet”, and the rank of the members of the Executive is “equal to that of the members of the Knesset”. The letters confirm the impression that the WZO and its several institutions constitute, legally and effectively, a body on a par with the Government, making it virtually a state within the State of Israel.

Thus, in the critical areas of immigration, settlement and land development the Israeli sovereign, the Knesset, which is formally accountable to all its citizens, Jews and non-Jews alike, has formulated and passed legislation ceding state sovereignty and entered into Covenants vesting its responsibilities with organizations such as the World Zionist Organization, Jewish Agency for the Land of Israel and the Jewish National Fund, which are constitutionally committed to serving and promoting the interests of Jews and Jews only. This procedure of legal duplicity cedes state sovereignty and vests its responsibilities in the critical areas of immigration, settlement and land development with Zionist organizations constitutionally committed to the exclusive principle of “Jews only”. And through this mechanism of legal duplicity, legal apartheid is regulated in Israel. It has enabled the State since its establishment to successfully veil the reality of Zionist apartheid in the guise of legal democracy.

The same procedure has been applied by the Knesset to veil the reality of clerical legislation. Israel is a theocracy in that all domains pertaining to marriage, divorce and death are regulated under Israeli law by religious courts. In order to effect the transformation of Israel from a state ruled by secular law to a state ruled by religious law and in order to veil the reality of clerical theocracy in the guise of legal democracy, the Knesset formulated and passed the Jurisdiction of Rabbinical Courts (Marriage and Divorce) Law of 1953, ceding its sovereignty in these areas to the religious courts. Under the terms of this law, the religious courts (Rabbinical, Shari’a and Ecclesiastic) are declared state courts (the religious court judiciary draw their salaries from the state). All matters pertaining to the registration of marriage and divorce have been moved from the civil courts and vested in the religious courts, whose verdict in these areas is not subject to civil appeal. Although, in matrimonial matters pertaining to custody, alimony and property, parallel civil and religious court jurisdiction obtains, civil (state) registration of marriage and divorce is not available in Israel. (See Shulamit Aloni, 1971; also, Rosen-Zvi, 1990 and Shava), 1991).
This was the state of affairs pertaining to the regulation of apartheid in Israel until March 2000. Apartheid centred on access to the material resources of the State, first and foremost land and water, on the basis of long-term leaseholds of 49 year (or multiples of 49 years). In March 2000, the Israeli Supreme Court sitting as the High Court of Justice issued a ruling in the case of the Qadang family versus the cooperative Communal settlement of Qatzir in favour of the former. But, despite this ruling, the effective situation has not really changed. However, as in the Republic of South Africa, and in the wake of an international anti-apartheid boycott and sanctions – it will. (For the story of Qatzir see Uri Davis, 2003).

The Veiling of Israeli Apartheid

With the World Zionist Organization/Jewish Agency (Status) Law of 1952, the responsibility for strategic projects of land development and the settlement of the country were vested in law with organizations (the WZO, JA and JNF) committed, under the terms of their respective Constitutions, to advancing immigration for Jews and settlement for Jews (and only Jews) inside the State of Israel. Furthermore, these organizations are recognized in law as the authorized agencies for the purposes listed above.

It is important to stress that nowhere in the text of the law as passed by the Knesset is there any reference to “Jews only”, and herein lies the significance of the two-tier system. Instead of making an explicit reference to “Jews” and/or “Jews” versus “non-Jews” and/or “Jews only” in matters relating to development and settlement, the law vests responsibility for development and settlement with organizations such as the WZO, JA and JNF. These are all committed, under the terms of their respective Constitutions, to advance immigration for Jews only and settlement for Jews only and are regarded by the State in law as the authorized agencies for these activities.

It is through this two-tier apartheid legislation that the State of Israel has been able to veil its political Zionist apartheid policies with respect to land development and settlement of the country (by, of and for Jews only), and successfully project itself in the West as “the only democracy in the Middle East”.

With the establishment of the State of Israel in 1948, its Parliament (Knesset) could, in principle, have considered two alternative strategies:

One: to regard the WZO and its various affiliates as a necessary scaffold to build the Jewish state, which should be dismantled once the State of Israel was established;

or

Two: to regard the WZO and its various affiliates as useful instruments for the continuing consolidation and continuity of the State of Israel as a Jewish state in the political Zionist sense of the term, and for allowing Israel to project itself as “the only democracy in the Middle East”, regardless of its Zionist apartheid legislation.
The elections for Israel’s Constituent Assembly, stipulated in the 1947 UN Partition Plan, were held in July 1949. Yet, when the Assembly convened, it became clear that agreement had already been reached by the major political Zionist parties represented there to betray the mandate on which they had been elected. In violation of the stipulations of UN General Assembly Resolution 181(II) of November 1947, the elected delegates failed to fulfil the purpose for which the Assembly had been elected, namely, to adopt a constitution for the newly established state. Instead, the Constituent Assembly passed the Transition Law (1949) transforming itself by fiat into the First Knesset – Israel’s legislative parliament.

In the absence of a Constitution, let alone a Constitution conforming to the stipulations of UN General Assembly Resolution 181(II), the Israeli legislator, the Knesset, felt free to legally underpin the political Zionist interpretation of the idea of a Jewish state, namely, a state that aims to guarantee in law and in practice a demographic majority of ethnic Jews. Clearly aware that the political Zionist interpretation of the idea of a Jewish state represents a blatant violation of the terms of UN General Assembly Resolution 181(II) the Knesset avoided taking the legal route followed by the apartheid Government of South Africa, which legislated petty apartheid at the surface of the law for all to see. Rather, the Knesset chose to legislate Zionist apartheid (discrimination in law on the basis of “Jew” versus “non-Jew”) by constructing the two tier legal system. It passed strategic laws vesting the WZO and its various affiliates, notably the JA and JNF, with the authority to carry out and facilitate Zionist apartheid discrimination on behalf of the State in line with their respective Constitutions.

As pointed out by the late David Ben Gurion, first Prime Minister of the State of Israel when introducing the WZO/JA Status Law for its renewed first reading in the Knesset:

The Law as proposed before you is not an ordinary law, rather it is one of the central basic laws, characterizing this State, as a state designated to serve as an instrument and an anvil in the redemption of Israel. The Law therefore incorporates stipulations of principle, that though devoid of the formal contents of a law that entails penalty in the event of transgression or violation, encapsulate the special historical meaning of the State of Israel and determine the linkage of the State of Israel to the people of Israel. These stipulations also endow the World Zionist Organization sovereign rights [sic! In Hebrew Zekhuyot Mamlakhtiyot] inside the State of Israel: the right to act inside the State of Israel with the aim to develop and settle the country, absorb Jewish immigrants (olim) from their dispersion, and coordinate the activities of institutions and organizatons active in these areas inside the State of Israel. (Knesset Debates, Vol. 13 (2.11.1952 – 26 March 1953), p.24)
By endowing the WZO/JA a status “that takes away a part of the sovereignty of the State of Israel” (to borrow the phrase of MK Meir Wilner, then as for many decades later, a leading member of the Communist Party, in the same debate, Ibid, p.33) it was possible for the State of Israel to exclude in law its non-Jewish citizens, first and foremost its Palestinian Arab citizens (not to mention its 1948 Palestine refugees) from the development and settlement of the country while still projecting this apartheid colonial project in the West as “the only democracy in the Middle East”.

The critical importance of these structures of veiling and obfuscation cannot be sufficiently emphasized. They represent one of the primary vehicles that made it possible for official representatives and various apologists of the Zionist movement and the Government of the State of Israel to repeatedly describe the State of Israel as a democracy akin to western liberal democracies. They could challenging critics to point out a single instance in the text of the laws of the State of Israel, with, perhaps, the exception of the Israeli Law of Return, which showed explicit discrimination on the basis of “Jews” versus “non-Jews” or “Jews only”). At the same time they were engaged in building and consolidating an apartheid system (for Jews only) in the country of Palestine akin to the now defunct South African herrenfolk “democracy” (for Whites only), having first ethnically cleansed the territories that came under the control of the Israeli army of their native indigenous Palestinian Arab people, the 1948 Palestine refugees, who were forcibly expelled from their homes under the cover of the 1948-49 war.

Until 1971 the Chairman of the WZO was also the Chairman of the JA and the distinction between the two bodies was essentially a question of terminology. The activities of the Zionist movement in Jewish communities throughout the world, with the exception of Palestine, and since 1948 the State of Israel, were classified under “World Zionist Organization”. The activities on behalf of the Jewish community in Palestine, and since 1948 the State of Israel, were classified under “Jewish Agency”.

Since 1948 the tax authorities in the US and in Europe were amenable to classifying the activities of the WZO, JA and JNF inside the State of Israel, within the 1949 armistice line (the “Green Line”), as charitable philanthropy and therefore tax exempt. However, after the 1967 war the tax exempt status of Zionist fundraising in the US seemed to have been endangered. This reflected consolidation of an international consensus with regard to the illegality of Israel’s occupation of and settlement activities in the West Bank, the Gaza Strip, the Golan Heights and the Sinai Peninsula (until the Israeli staged withdrawal from the Sinai in the framework of the Camp David Accords of 1978 and the Israel-Egypt Peace Treaty of 1979, which was finally implemented in 1982). Against this backdrop, the Zionist organizations were unable to get the relevant tax authorities in the West to classify the Zionist settlement activities in the post-1967 occupied territories also as tax exempt.
Over time settlement activities in these occupied territories put the entire Zionist fundraising enterprise in the West in jeopardy since they were regarded not as a charitable philanthropic activity but as political activity, and illegal political activity at that. The failure to segregate monies earmarked for Zionist settlement in the post-1967 occupied territories from monies earmarked for Zionist settlement inside the “Green Line” could have put Zionist fundraising in general at risk of losing its tax exempt status.

The danger was averted by re-introducing in 1971 the organizational and accounting separation between the WZO and the reconstituted Jewish Agency. While the WZO is a typically political organization whose governing Board is elected through democratic procedures, the JA is financed by the various Zionist funds (United Jewish Appeal in the US and the Foundation Fund outside the US) with one half of its governing Board appointed by those funds.

Indeed Article A4 of the Agreement for the Reconstitution of the Jewish Agency for Israel reads:

The functions and tasks and programs administered by the Agency, or to which it may contribute funds, shall be only such as may be carried on by tax-exempt organizations.

(http://www.thelikud.org/Archives/Structure%20of%20the%20World%20Zionist%20Organisation.htm)

The two Zionist bodies, now separated, agreed a division of labour on a geo-political basis. The JA is active inside Israel and/or in relation to Israel whereas the WZO is active in all member states of the UN and/or in relation to Jewish communities in these states, except Israel. The Covenants agreed in 1979 between the Government of the State of Israel and the WZO on the one hand and the reconstituted Jewish Agency for Israel on the other regulate the activities of the JA and the WZO inside Israel and the post-1967 occupied territories respectively.

The definition of the areas of activity designated for the WZO and the JA in their respective prescribed regions overlap to a large extent (but not completely). Subject to this arrangement, the Settlement Division of the WZO, funded by the Government of the State of Israel and/or by non tax-exempt donations, is active in the post-1967 occupied territories, whereas the Israel department of the JA, funded by the various tax-exempt Zionist appeals, is active inside the State of Israel.

In view of this, it is obvious that the JNF should not be classified as a charitable association, and should not be granted tax exemption in Australia or, for that matter, anywhere else.
How come, then, that what is so plainly the case, has been obfuscated in the public view?

A partial explanation of the discrepancy has to do with the specific structures of Israeli apartheid: both in its similarities to as well as its divergences from South African apartheid.

In everything relating to the core of the Israeli-Palestinian conflict, Israeli apartheid (enforcing segregation and discrimination in law between “Jews” and “non-Jews”) is closely akin to South African apartheid (enforcing segregation and discrimination in law between “Whites” and “non-Whites”). At the height of South African apartheid, 87 per cent of the land was reserved in law for the settlement, cultivation and development of “Whites” only, whereas in Israel to date, 93 per cent of the land (the so-called “Israel lands” administered by the Israel Lands Administration) is reserved in law for the settlement, cultivation and development for “Jews” only.

But unlike the apartheid legislator in South Africa, the Knesset did not legislate “petty apartheid”. Any visitor to the Republic of South Africa during apartheid would have found it impossible to ignore the system. Immediately on disembarkation from the ship or the aircraft there were separate passport control queues for “Whites” and “non-Whites”; toilets for “Whites” and “non-Whites”; transport for “Whites” and “non-Whites”; benches for “Whites” and “non-Whites”; parks for “Whites” and “non-Whites” etc.

Apartheid would not hit the visitor to Israel in the same way. There are no passport control queues for “Jews” and “non-Jews”; toilets for “Jews” and “non-Jews”; transport for “Jews” and “non-Jews”; benches for “Jews” and “non-Jews”; parks for “Jews” and “non-Jews” etc. Jewish National Fund parks, for instance, are not segregated. Visitors to JNF parks and recreational facilities on weekends or public holidays can see Arab families happily enjoying barbeques next to Jewish families, with their children all playing in the playground.

It is the absence of “petty apartheid” in Israel that contributes to the veiling of Israeli “core apartheid” – and it is in the weaving of this veil that the JNF plays a critical role.

While JNF forests, parks and recreational facilities are not segregated, as in the case of the village of Iżim, they are mostly developed over ruins and the lands of Palestinian Arab villages. Some 400 in all were destroyed by the Israeli army mostly, but not exclusively, in the course of and in the wake of the 1948-49 war. They represent one of the primary barriers regulated by Acts of the Parliament of the State of Israel erected in an attempt to prevent their return.
Ijzim

The following is from Efrat Ben-Ze’ev’s, “The Impact of the Tantura massacre and the Fall of Ijzim” (Ben-Ze’ev, 2002):

The oral narratives, more than the army documents, disclose the atmosphere that prevailed during the ongoing months of guerilla fighting. A massacre was known to have taken place in May in the neighboring village of Tantura. Tantura was located on the beach a couple of kilometers south west of Ijzim and was captured by the Jewish Alexandroni unit … on 23 May 1948. Between 70 and 200 people, mainly men, were killed in Tantura during and following its conquest. Yig’al Fried was the commander of one of the Jewish units that fought in the area. When we went for a car-ride along the Carmel Coast to discuss the 1948 events, Yig’al noted that he knew of no such massacre in Tantura but that there was "a tendency" to shoot at men of fighting age. He later corrected himself and said that one would shoot only at "the men who carried guns that were of fighting age." Although the consequences of Tantura's conquest did not become publicly known until recently and a public symbol such as the Dir Yasin massacre, they were nevertheless known in the region. Shafiq, who stayed with his family in Maqura near Ijzim after the war, heard from his relative of the events in Tantura.

Shafiq: In Tantura the men were killed. The men were taken out and killed. And how do I know this? My father's uncle came after 1948, through … [it seems Shafiq doesn't want to say that his uncle came "illegally"] He came to the village, to my father, to visit my father. He was from Tantura. My father's uncle told me that when the Jews entered Tantura, one of the soldiers made him lie down, took a knife, and was about to slaughter him. Then, one of the Jews from Zikron recognized him and said to him [to the soldier with the knife]: "Let him go." "And then he saved me," he said. And he was taken as a prisoner. Put in prison. And then they expelled him to Jordan. And he said to me: "when we were standing there, with bound hands, all the men of Tantura. ... They killed five and then called for another five. And then when they finished those. ... And I counted one hundred and fifty men who were killed in this fashion. Five buried five."

Within the locality the story of the massacre traveled fast and intensified the Jizmawi fear of falling into Jewish hands. By July, Ijzim's men were extremely worried and predominantly trying to defend the village from a series of attacks. Following the road incident on 6 July, an IDF "retaliation attack" took place on 8 July but the soldiers failed to reach the villages. Airplanes were extensively used by the IDF during the last two weeks. The airplanes were usually not fighters or bombers, but cargo and liaison planes … from which bombs were dropped by hand. These airplane raids were something completely new to the villagers, noted Abu Na'im:

The Jews began to bomb with airplanes. I remember the first time there was a bomb. They were Piper. It was dusk hour. The first to be killed by the first bomb was my aunt's husband, my mom's sister. And we thought that if you escaped under a tree the plane would not see us.
The air bombings lasted for two weeks. On the 12th of July at 21:00 planes dropped 420 kg of explosives plus incendiary bombs on Ijzim. On the 17th, Ijzim was bombed again. On the 19th Ijzim was bombed twice. On the 20th the air-raids preceded an infantry raid: "... From 19:15 till 20:10 [20.7] three flying fortresses and one Dakota bombed 'Ein Ghazal, Ijzim and Jaba'... all together four tons... the attack of the military police began at 23:00." This raid failed to capture the village and another one was organized a couple of days later, on the 24th at night, this time with a larger force. The village fell to this attack, which was preceded by an air raid as well. On the 25th at night, Ijzim was bombed again. The instructions to the pilot were as follows: "Enemy forces are concentrated on the hill dome halfway between Ijzim and Jaba' and in the village of Ijzim... Bomb the hilltop between Jaba' and Ijzim with 800 kg. and incendiary bombs between 01:00-02:00 and 08:00 with the same load." The hilltop was probably empty when it was bombed on the next day as well.


The village of Ijzim is situated 19.5 km south of Haifa. It was attacked by a special force drawn from the Golani, Carmeli, and Alexandroni brigades, and was finally occupied on 24th-26th of July 1948 (three months after the fall of Haifa) in Operation Shoter (Policeman).

By the time village surrendered, its defenders (local Arab militia, Arab Liberation Army volunteers, and some support from the Iraqi Army in Tulkarm) had withdrawn. In September 1948, however, UN investigators stated that 130 villagers were unaccounted for, all, or many, possibly assassinated. The village was ethnically cleansed and most of its inhabitants ended up as stateless refugees in the West Bank town of Jenin.

The village has been partially destroyed. The mosque has been allowed to deteriorate, but several houses are still in use by Jewish settlers. One such house, adjacent to the mosque, was appropriated by one of the more noted residents of Kerem Maharal, former Head of the Israel General Security Service General (Reserve) Ami Ayalon.
Ijzim mosque

Before 1948, land ownership (in dunums) was as follows: Arab 23,619; Jewish 0; Public 23,268 (See map below); Total :46,905 (20,158 cultivable). Ijzim was the second largest village in the Haifa District in terms of land area.
Map courtesy of Salman Abu Sitta
In 1931 Ijzim’s population numbered 2160; in 1945: 2,970 (140 Christians). The number of houses in 1931 was 442, and the village had an elementary school for boys, which was founded by the Ottomans in 1888.

**Ijzim Boys’ School**

As to religious institutions, Ijzim had two mosques, one of which is still standing (see photograph above).

Archeological sites: The village was constructed over the remains of an earlier settlement, and there were also ruins in the nearby Khirbat Kabbara and Khirbat Maqura.

Israeli settlements on town lands: Kerem Maharal and JNF Commemoration Centre
Kerem Maharal Projects of Australian and New Zealand Jewry.
COMMEMORATION CENTRE
KEREM MAHARAL

PROJECTS OF AUSTRALIAN
AND
NEW ZEALAND JEWRY

JEWISH NATIONAL FUND
The Town Today

According to the Palestinian historian Walid Khalidi, “the village has been partially destroyed. The mosque has been allowed to deteriorate, but several houses are still in use. The meeting house (diwan) of Mas'ud al-Madi, which is a two-storey structure dating to the eighteenth century, has been converted into a museum. The school has been turned into a synagogue and the cafe into a post office.”

(Based on [http://www.palestineremembered.com/Haifa/Ijzim/index.html](http://www.palestineremembered.com/Haifa/Ijzim/index.html) and Walid Khalidi, 1992, pp 163-64)

(Courtesy of [http://www.kerem-maharal.co.il](http://www.kerem-maharal.co.il))
An Ijzim home turned into a villa residence for a Jewish family at Kerem Maharal
An Ijzim home turned into a stable for horses of a Jewish family at Kerem Maharal
Conclusion: The question of greed versus decency

The former Head of the Israel General Security Service General (Reserve) Ami Ayalon has his residence at Kerem Maharal. As already noted, together with Palestinian Professor Sari Nusseibeh, President of the Al-Quds University: The Arab University in Jerusalem, he is trying to advance a, so-called peace platform, entitled “Subscription for Peace”. This is predicated on the advocacy of a two-state solution and non-implementation of the rights of 1948 Palestine refugees to return or to the titles of their vast properties inside Israel.

Ami Ayalon lives in a rather attractive house, adjacent to the Ijzim mosque that escaped destruction, one of a number of beautiful Ijzim homes not levelled in the course of and in the wake of the 1948-49 war.

Like most Jewish citizens to a varying degree, Ami Ayalon seems to have failed to decently negotiate the existential dilemmas that underpin all communities, tribes, and peoples who originate in a settler colonial enterprise, in the case of the State of Israel, in the political Zionist settler colonial project. The primary dilemma is fairly basic: the conflict between greed and the values of the Universal Declaration of Human Rights. Like most Jewish citizens of the State of Israel, Ami Ayalon decided to make greed his existential project rather than decency. Had he opted for decency, he would have taken the trouble to trace (maybe he did) the 1948 Palestine refugee family who held the title to the property he currently occupies until forcibly expelled by the Israeli army in 1948. He would have joined any one of the NGOs committed to implementing the right of the 1948 Palestine refugees to return and to the titles to their vast properties. And until their right could be implemented, he would have offered to pay them the market monthly rent due to them for occupying their property and for residence in their home.

After all Ami Ayalon and his family are not poorly endowed. They are probably classified in the bracket of the upper 25 per cent of high income families in Israel, and as former Head of the SHABAK he is better equipped than many to trace the 1948 Palestine refugee family in question.

Still, this, it seems, is not what he chose to do. Rather, together with Professor Sari Nusseibeh, President of Al-Quds University, he opted to launch and attempt to promote a so-called peace programme based on a two-state solution which denies of the rights of the 1948 Palestine refugees to return and to the titles to their vast properties inside Israel. On the question of the Palestinian Right of Return, their “Subscription for Peace” (Ha-Mifkad ha-Leumi) Programme reads as follows:

Recognizing the suffering and the plight of the Palestinian refugees, the international community, Israel and the Palestinian State will initiate and contribute to an international fund to compensate them.

- Palestinian refugees will return only to the State of Palestine; Jews will return only to the State of Israel.
* The international community will offer to compensate towards bettering the lot of those refugees willing to remain in their present country of residence, or who wish to immigrate to third countries.
(www.mifkad.org.il)

Nowhere that this writer has seen, did Ami Ayalon care to point out that he has a very personal interest in not allowing 1948 Palestine refugees to return and to the titles to their properties.

Like most white citizens of South Africa under the leadership of FW De Clerk, most Jewish citizens of Israel, Ami Ayalon included, would be able to turn the corner and recognize apartheid, namely the regulation of racism in law through Acts of Parliament, known in Israel by the name of political Zionism, for what it is: indecent, immoral and criminal.

But also like most white citizens of South Africa under the leadership of FW De Klerk, most Jewish citizens of Israel, Ami Ayalon included, will only be able to turn the corner if assisted by external intervention, divestment in Israel, boycott of Israeli intellectual and other goods (including scientific, cultural and sports exchanges), and international economic sanctions.

Civil society in Australia could do worse than start the ball rolling and press the following questions, demanding an answer from, among others, the Department of the Treasury, notably from its Not-For-Profit Unit:

**Does the fact that there is no “petty apartheid” in JNF parks exonerate the JNF from complicity in war crimes and crimes against humanity?** Does the fact that Arab families are able to entertain barbeques alongside Jewish families in JNF recreational facilities represent a relevant counterweight to the nullification of the property rights of the Palestinian Arab refugees ethnically cleansed from the localities where the JNF forests are planted and its recreational facilities developed and the nullification of their right to return? Should the planting of forests and the development of recreational parks over the ruins of destroyed Palestinian Arab villages anywhere in Palestine, and specifically inside the post-1967 Israeli occupied territories, be classified as a charitable activity or complicity in war crimes? And if such activities are classified as complicity in war crimes and/or turning a blind eye to war crimes and crimes against humanity, as, in the view of this writer they should be, ought not the Australian authorities to nullify the charitable registration and the tax exempt status of the JNF of Australia and related organizations without delay?
I hope that the JNF does not attempt to argue that, even if one accepts all or most of these arguments, it would hardly implicate the JNF; that it was not the JNF who ethnically cleansed and levelled the Palestinian Arab village of Ijzim; that the JNF was solely involved with “responsibility for forest management throughout the country”, and specifically with the Hof Carmel Forest – not with the establishment of the settlement of Kerem Maharal on the site of the destroyed village of Ijzim.

I would strongly advise apologists for the JNF not to go this route. A cursory enquiry with the Central Zionist Archives in Jerusalem would fetch the files of Kerem Maharal (Classification No 502). These include a letter from the Jewish National Fund Division of Lands and Their Development (Sic), Department of Mapping and Surveys, P O Box 45, Tel 7407-7457, Haifa dated 16.5.58 and addressed to Mr J Weitz at the Head Office of the Division in Jerusalem, It reads as follows:

RE: Kerem Maharal

Enclosed we refer to you all the material regarding the above.

The enclosure, however, consists of a single page: “Development Plan for Kerem Maharal” drafted by the Jewish Agency for the Land of Israel, Department of Settlement, Section for Farm Planning. The last paragraph reads:

Since it is planned to re-build the village, [and since] there are currently only 38 new houses [there] (the rest are renovated houses of the abandoned village), the Department of Settlement is considering whether to construct the village for 100 [farm] units or for 70-80 units. (File No KKL 24975)

Or the letter from the Jewish National Fund Land Development Administration addressed to the Hof Carmel Drainage Authority and dated 2.10.62 which begins as follows:

RE: Ijzim River
Your letter: Dated 24.9.62

We confirm receipt of your letter above, and inform you that we have given instructions to begin with the repair of the Wadi (river bed) and reclamation of Lands in the area of the Maqura Farm and in the section of the Wadi traversing the lands of Kerem Maharal, as agreed in our joint tour together with Mr A David of the Water Authority … (File No KKL5 27927)

I doubt, therefore, that the JNF would claim in its defence that it was not aware of or did not turn a blind eye to the gruesome reality of the ethnically cleansed village of Ijzim; or that it was not actively complicit in the appropriation of the properties of its 1948 Palestine refugees and internally displaced persons, citizens of the State of Israel, for the purpose of establishing Kerem Maharal for Jews only.
By classifying the JNF of Australia and/or related bodies, such as the Jewish National Fund Environment Gift Fund, as charities and authorizing a tax exempt status for donations to them, the Commonwealth of Australia and the entire peoples of Australia are implicated in complicity in and turning a blind eye to a war crime. It is important to realise that the tax exempt status of the JNF of Australia allows donors to present the JNF receipts representing their donations to their tax officers and get corresponding tax deductions. These deductions are drawn out of the commonweal, namely out of the pocket of each tax paying person in Australia.

Under the circumstances, every tax paying person in Australia should mobilize as vigorously as they are able, raise their banners as high as they can, and shout at the top of their voices: NOT IN MY NAME!

And the least the Department of the Treasury, notably its Not-For-Profit Unit, can do is to demand from the JNF official answers to the following questions:

• Is the dispossession of the indigenous people of Ijzim; the razing of most of their homes; the planting of forests on their lands; and the appropriation of their properties to build recreational facilities regulated through Acts of the Knesset?

• Is the JNF an official partner and beneficiary to the Government of Israel in the application of such instruments of Israeli legislation as the Absentees Property Law of 1950?

• Is the JNF still committed to purchasing, taking on lease or in exchange, or otherwise acquiring any lands, forests, rights of possession and other rights, easements and other immovable property (including 1948 Palestine refugees property) for the purpose of settling Jews AND ONLY JEWS on these lands?

• Is Hof Carmel Forest and the Commemoration Centre Kerem Maharal planted in full or in part over the lands of any and/or all of the destroyed Palestinian Arab villages of Ijzim occupied by the Israeli army in the 1948-49 war?

And take it from there
I thank Asem Judeh of Melbourne, Australia, for drawing my attention to the case of JNF Australia; Rory and Juliet McGuire for their hospitality; Deir Yasin Remembered (DYR) for its sponsorship; Daniel McGowan (International Director); Paul Eisen (DYR Director in London); Colin Andersen (DYR Director in Sydney), Avigail Abarbanel (DYR Director in Canberra) and Hisham Ubaidulla (DYR Director in Kuala Lumpur) for the splendid organization of my two weeks’ tour of Malaysia and Australia, 26 May – 9 June 2005; Paul Heywood-Smith QC and Bassam Dally (Chairperson and Secretary respectively of the Australian Friends of Palestine Association) for their contribution to the development of the legal challenge against the JNF of Australia; and last, but not least, Judith Perera for copy-editing.
Bibliography and notes


Shulamit Aloni, Ha-Hesder (The Arrangement): From the Rule of Secular Law to the Rule of Religious Law, Otpaz, Tel Aviv 1971 (Hebrew)

Uri Davis, Apartheid Israel: Possibilities for the Struggle Within, Zed Books, London 2003). It is in order to point out in this connection that no person, Jew, Arab or whatever, may purchase land, in the sense of freehold purchase, in 93 per cent of the territory of the State of Israel, namely, the lands administered by the Israel lands Administration (ILA). Other than in the remaining seven or so per cent of privately owned land, land in the State of Israel is available only on a leasehold basis, the leaseholds being issued by the ILA. However, only persons recognized in law as “Jews” can expect to obtain long term inheritable (49 years or multiples of 49 years) leasehold. Persons classified in law as “non-Jews”, first and foremost Arabs, are denied such leasehold, except inside the areas of municipal jurisdiction of Arab municipalities, that is, except inside two and a half percent of the total area of municipal jurisdiction of the State of Israel, the ruling of the Israeli High Court, sitting as the Supreme Court of Justice on the case of the Qadan family versus the cooperative community settlement of Qatzir in 2000, notwithstanding).


Theodor Katz, “The Exodus of the Arabs in 1948 from the Villages at the Foot of the Southern Carmel Ridge”, Dissertation Submitted Towards an MA Degree, Haifa University, Faculty of Humanities, Department of Middle Eastern History, March 1998.


Mussa Mazzawi, Palestine and the Law, 1997, p. 129. As Musa Mazzawi points out in his seminal study of Palestine and the law, an important point to note is “the repeated reference on behalf of Israel to the United Nations General Assembly”s partition resolution and Israel’s insistence on it as the sole basis of the legitimacy of Israel … And
If the partition resolution was then valid it remains so today, since its maker – the United Nations General Assembly – has not in any way undone it” (Ibid, p. 140; see also Ibid 148). It is, however, sobering to remember that a resolution that impinges equally critically on the question of Palestine, UN General Assembly Resolution 3379 of November 1975 determining that “Zionism is a form of racism and racial discrimination” was rescinded by the UN in December 1991. Though UN resolutions and the standards of international law represent one of the most weighty defences of the rights of the Palestinian people, the justice of the Palestinian struggle is anchored in the values of the Universal Declaration of Human Rights.


Menashe Shava, The Personal law in Israel (3rd expanded edition), Publications of the Faculty of Law, No 13, Tel Aviv University, Massadah, Tel Aviv, 1991 (Hebrew)
Appendix A

COVENANT BETWEEN THE STATE OF ISRAEL AND THE KEREN KAYEMETH LeISRAEL*

Signed on 28th November, 1961

THIS IS THE COVENANT MADE THIS DAY IN JERUSALEM BETWEEN THE STATE OF ISRAEL, REPRESENTED FOR THIS PURPOSE BY THE MINISTER OF FINANCE, AND KEREN KAYEMETH LEISRAEL - WITH THE SANCTION OF THE WORLD ZIONIST ORGANIZATION - REPRESENTED FOR THIS PURPOSE BY THE CHAIRMAN OF THE BOARD OF DIRECTORS OF KEREN KAYEMETH LEISRAEL.

A. Since its inception more than half a century ago, Keren Kayemeth Leisrael has been engaged in acquiring land in Palestine and transferring it to the ownership of the people, reclaiming and afforesting land, leasing out land for settlement and housing, and administering its lands. The fundamental principle of Keren Kayemeth Leisrael is that its lands shall not be sold, but shall remain the property of the people and shall be given on lease only.

B. After the establishment of the State, the volume of the acquisition of land by Keren Kayemeth Leisrael from non-Jewish owners has decreased, while the extent of the redemption of land from desolation has steadily increased. The State had become the owner of most of the land in Israel, and the Government administers and develops these domains.

C. The Government of Israel and Keren Kayemeth LeIsrael have resolved to end the duplication resulting from the administration of their lands by different agencies, to concentrate the administration, conservation and care of these lands in the hands of the State, and to strengthen the hands of Keren Kayemeth Leisrael in fulfilling its mission of redeeming land from desolation.

The parties to this Covenant have therefore agreed as follows:

1. Upon the coming into force of the Basic Law: Israel Lands (hereinafter referred to as "the Law"), the administration of the lands which are State land or land of the Development Authority or land of Keren Kayemeth Leisrael, whether acquired in the past or to be acquired in the future, shall be concentrated in the hands of the State.

2. The Government shall establish an "Israel Lands Administration" (hereinafter referred to as "the Administration") and shall, after consultation with Keren Kayemeth Leisrael, appoint a Director to head the Administration. The Director shall be subordinate to the Minister charged by the Government with the implementation of this Covenant (hereinafter referred to as "the Minister").
3. Notwithstanding the provision of clause 1, there shall be no change in the ownership of the lands as registered in the Land Registry, save to the extent that the parties to this Covenant agree, in respect of particular lands, to register them in the name of the State or in the name of Keren Kayemeth Leisrael, either by way of exchange or in any other manner.

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 Leisrael shall, moreover, be administered subject to the Memorandum and Articles of Association of Keren Kayemeth Leisrael.

5. Where the Administration, in respect of a particular transaction, deems it necessary to deviate, in one or the other detail, from the principles of the land policy referred to in clause 4, such transaction shall only be made with the approval of the Board established under clause 9 and, where land registered in the name of Keren Kayemeth is concerned, with the consent of Keren Kayemeth Leisrael or, where other Israel land is concerned, with the consent of the Minister.

6. Any transaction in respect of Israel land shall be entered into by the Administration on behalf of and as the agent of the registered owner of such land, and any proceeds of Israel land shall be the property of the registered owner; and the State accepts, in consideration of this Covenant, to bear the expenses of the Administration.

7. The Administration shall deliver to the registered owners of Israel land, once every three months (and for the first time at the expiration of six months from the day of the coming into force of the Law), a report of the income and expenditure of the administration of their land. The expenditure shall include a fixed amount determined by the Administration, either as a certain percentage of the income or as a quota on a certain unit of measurement of the land. Upon the delivery of such a report, any balance appearing therein to the credit of Keren Kayemeth Leisrael shall be regarded as a debt due to it and payable by the State, and any balance appearing therein to the debit of Keren Kayemeth Leisrael shall be regarded as a debt due from it and payable to the State.

8. The Administration shall deliver to the Government and to Keren Kayemeth Leisrael, once a year, a report of all its activities.

9. The Government shall establish a Board, under the chairmanship of the Minister, which shall lay down the land policy, approve the budget proposal of the Administration and supervise the activities of the Administration and the manner in which this Covenant is carried into effect. The number of the members of the Board shall be thirteen; half of them, less one, shall be appointed upon the proposal of Keren Kayemeth Leisrael. The members of the Board may be replaced in the same way as they were appointed. Notice of the appointment of the Board and of the names of its members, as appointed from time to time, shall be published in Reshumot.
10. The reclamation and afforestation of Israel lands shall be concentrated in the hands of Keren Kayemeth Leisrael, which shall establish a "Land Development Administration" (hereinafter referred to as "the Development Administration") for that purpose. Keren Kayemeth Leisrael shall, after consultation with the Minister, appoint a Director to head the Development Administration, who shall be subordinate to Keren Kayemeth Leisrael.

11. The Development Administration shall draw up once a year (and for the first time at the expiration of three months from the day of the coming into force of the Law) a scheme for the development and afforestation of Israel lands, and shall submit that scheme to the Government and to Keren Kayemeth Leisrael. The scheme shall be drawn up in complete coordination with the Minister of Agriculture.

12. The Afforestation Section of the Ministry of Agriculture shall henceforth engage in afforestation research only. However, the Minister of Agriculture shall continue to be charged with the implementation of the Forestry Ordinance, 1926, through the Development Administration.

13. The Development Administration shall engage in operations of reclamation, development and afforestation of Israel lands as the agent of the registered owners; and Keren Kayemeth accepts in consideration of this Covenant, to bear the administrative expenses of the Development Administration.

14. The expenditure involved in operations of reclamation, development and afforestation of Israel lands shall fall on the registered owners of the land on which the operation is carried out; and the Development Administration shall deliver once every six months (and for the first time at the expiration of nine months from the day of the coming into force of the Law) a report to the registered owners of expenditure as aforesaid incurred in respect of their lands. Upon the delivery of a report as aforesaid, any balance appearing therein to the debit of the State or the Development Authority shall be regarded as a debt due from them and payable to Keren Kayemeth Leisrael. Where the Government requests the Development Administration to carry out operations of reclamation, development or afforestation of land registered in the name of Keren Kayemeth Leisrael, and Keren Kayemeth Leisrael notifies the Government, in writing, before carrying out the operation, that it is unable to carry it out at its expense, the State shall bear the expenditure involved in the operation, and the amount thereof shall be paid to Keren Kayemeth either by a grant, loan or exchange of property or in any other manner, as may be agreed upon between the Government and Keren Kayemeth Leisrael.

15. The Board for Land Reclamation and Development attached to Keren Kayemeth Leisrael shall lay down the development policy in accordance with the agricultural development scheme of the Minister of Agriculture, shall approve the budget proposal of the Development Administration, and shall supervise the activities of the Development Administration and the manner in which it carries this Covenant into effect. The number of the members of the Board shall be thirteen; half of them, less one, shall be appointed by the Government. The members of the Board may be replaced in the same way as they were appointed. The Board shall be headed by the Chairman of the Board of Directors of Keren Kayemeth Leisrael or a person appointed in that behalf by Keren Kayemeth Leisrael.
16. Keren Kayemeth Leisrael shall continue to operate, as an independent agency of the World Zionist Organization, among the Jewish public in Israel and the Diaspora, raising funds for the redemption of land from desolation and conducting informational and Zionist-Israel educational activities; and the Government shall extend assistance to Keren Kayemeth Leisrael in informational and propaganda activities in Israel and abroad.

17. This Covenant shall come into force on the day of the coming into force of the Law and shall remain in force for five years. Unless one of the parties to this Covenant, at least six months before the expiration of the five years, announces its intention not to renew it, its validity shall be automatically extended for another five years; and so on indefinitely from five-year-period to five-year-period.

18. If the Law is repealed or amended, Keren Kayemeth Leisrael may withdraw from this Covenant by giving notice of withdrawal, in writing, to the Government; however, Keren Kayemeth Leisrael may not withdraw from this Covenant if the Government notified it in advance, in writing, of the proposed amendment or repeal, and Keren Kayemeth Leisrael did not express opposition.

19. If this Covenant becomes void, whether by virtue of clause 17 or by virtue of clause 18, the position which existed immediately before the coming into force of the Law shall be restored; the Government undertakes to propose the necessary legislation to the Knesset.

20. If one of the parties to this Covenant considers that a change should be made therein, it shall give written notice to the other party, which shall reply to the proposal, favourably or unfavourably, within six months from the day on which notice is given. If the reply is favourable, the Covenant shall be deemed amended, in accordance with the proposal received from the day on which the reply is given.

21. From the day of the signing of this Covenant, the parties thereto shall do everything necessary and expedient for the implementation thereof and shall be bound by it in all respects.

IN WITNESS WHEREOF THERE HAVE HEREUNTO SET THEIR SIGNATURES, on behalf of the State of Israel, the Minister of Finance, Mr. Levi Eshkol, and on behalf of Keren Kayemeth Leisrael, the Chairman of the Board of Directors thereof, Mr. Jacob Tsur, in Jerusalem, this 20th day of Kislev, 5722 (28th November, 1961).

LEVI ESHKOL
Minister of Finance

JACOBTSUR
Chairman of the Board of Directors
of Keren Kayemeth Leisrael

* The text of this translation is not binding, the only authentic text being the Hebrew original.

(Based on http://www.thelikud.org/Archives/Structure%20of%20the%20World%20Zionist%20Organization.htm.)
About the Author


Dr Davis is an Observer-Member of the Palestine National Council (PNC); member of the Middle East Regional Committee of the international journal Citizenship Studies; Honorary Research Fellow at the Institute for Middle Eastern & Islamic Studies (IMEIS), University of Durham and Honorary Research Fellow at the Institute of Arab & Islamic Studies (IAIS), University of Exeter; Chairperson of AL-BEIT: Association for the Defence of Human Rights in Israel and MAIAP: Movement Against Israeli Apartheid in Palestine; founding member and Senior Director for Legal and Political Affairs, Mosaic Communities: Multinational Housing Cooperative in Israel.