

## **The New Israeli Land Reform** **August 2009**

### **Background**

On 3 August 2009, the Knesset (Israeli parliament) passed the Israel Land Administration (ILA) Law (hereinafter the "Land Reform Law"), with 61 Members of Knesset (MKs) voting in favor of the law and 45 MKs voting against it. The new land reform law is wide ranging in scope: it institutes broad land privatization; permits land exchanges between the State and the Jewish National Fund (Keren Kayemet Le-Israel) (hereinafter - the "JNF"), the land of which is exclusively reserved for the Jewish people; allows lands to be allocated in accordance with "admissions committee" mechanisms and only to candidates approved by Zionist institutions working solely on behalf of the Jewish people; and grants decisive weight to JNF representatives in a new Land Authority Council, which would replace the Israel Land Administration (ILA). The land privatization aspects of the new law also affect extremely prejudicially properties confiscated by the state from Palestinian Arab citizens of Israel; Palestinian refugee property classified as "absentee" property; and properties in the occupied Golan Heights and in East Jerusalem.

### **Land Privatization Policy**

The law stipulates that 800,000 dunams of land currently under state-control will be privatized, enabling private individuals to acquire ownership rights in them. The reform will lead to the transfer of ownership in leased properties and land governed by outline plans enabling the issuance of building permits throughout the State of Israel in the urban, rural and agricultural sectors.

### **Change in the organizational structure of the Israel Lands Administration**

The reform further stipulates a broad organizational re-structuring of the ILA. In accordance with the land reform law and following an Israeli government decision taken in May 2009, a new land authority will be established, which will replace the ILA. The newly established land authority will be a public authority, and among its duties will be "to administer State lands as a resource for the development of the State of Israel for the benefit of the public, the environment and future generations, including retaining sufficient land reserves for the future needs and development of the State."

### **Land Swap Agreement**

Pursuant to the Land Reform Law, and in order to enable privatization of the JNF properties under lease in urban areas, it was agreed that a land exchange agreement would be signed between the State of Israel and the JNF. Under the agreement, JNF lands included in the privatization process would be transferred to State ownership, and in exchange the JNF would receive ownership of a total of 50,000 to 60,000 dunams from the State in the Naqab (Negev) and the Galilee. This agreement was signed in May 2009.

Clause 2 of the Agreement stipulates, inter alia, that the JNF agrees that its lands will be administered by the Land Authority to be established. The Authority will administer the lands "in a manner that will preserve the principles of the JNF relating to its lands". JNF principles prohibit the allocation of its land rights to non-Jews.

### **JNF Representation in the newly-established Israel Land Authority Council**

As aforesaid, the Agreement, as well as the Land Reform Law, allow for a large proportion of JNF members in the Council, specifically 43% (6 of 13 members of the Authority Council). The Agreement further stipulates that this ratio shall also be maintained in the Council's committees, and that the Chairmen of the subcommittee and budget committee will be selected from among the JNF representatives.

In the circumstances of the case, the significance of this statement is that the JNF has become almost a full partner (with the government) in administering the public land resources in the State of Israel and in determining the land policy of the State of Israel. It is clarified that the JNF's

partnership as above is not restricted only to its own land, which will be administered by the Authority, but dominates all State land.

The JNF sees itself as an entity entrusted with the interests of the Jewish people alone. From this viewpoint, the JNF takes the stance that its lands should be marketed only to Jews. Thus, the JNF and its representatives cannot truly represent the interests of the general public in Israel regardless of nationality and/or religion, as the situation should be in the Authority since the Authority in question is a public one, to be established under the law. The Council is supposed to be entrusted with the interests of the general public in Israel, Jews and Arabs alike.

In a position paper presented by Adalah to the Knesset, the head of the ILA and the Attorney General (AG) in July 2009, Adalah argued that the administration of JNF lands by the newly established land authority in accordance with JNF principles completely contradicts Israel's obligation to practice equality, including on the basis of nationality, in the administration of all the land under its responsibility. Administration of the JNF lands in accordance with its principles will create a reality where these lands will be allocated solely for the purpose of Jewish settlement, and will deny them to Arab citizens of the state due to their national affiliation.

### Admissions committees

The Land Reform Law restricts the transfer of ownership of real estate properties in rural communities and agricultural villages, maintaining the mechanisms of admissions committees, which have until now been screening out Arab candidates and preventing them from living in these areas. This decision governs and applies to 697 communities (648 agricultural villages and 49 rural communities). These communities constitute about 68.2% of all residential communities in the State of Israel (1,022 cities, towns and villages in the country, of which 197 are urban and 825 rural), and 84% of all rural settlements.<sup>1</sup>

Although these places constitute approximately 68.2% of the residential communities in the country, the percentage of the population living in them amounts to only about 5.3% of the total population of the State (384,500 residents). Table No. 1 below presents the location of the communities governed by the resolution, according to districts and the size of the population in each district.<sup>2</sup>

**Table No. 1: Rural Communities and Agricultural Villages Governed by Resolution No. 1015, with Breakdown of Districts and Size of Population<sup>3</sup>**

	<b>Agricultural Communities</b>	<b>Rural Communities</b>	<b>Number of Communities Governed by Resolution 1015</b>	<b>Size of Population (Thousands)</b>
<b>Total</b>	<b>648</b>	<b>49</b>	<b>697</b>	<b>384.5</b>
Jerusalem District	49	1	50	25.8
Northern District	221	38	259	132.2
Haifa District	45	1	46	26.4
Central District	156	3	159	116.3
Tel Aviv District	2		2	0.8
Southern District	175	6	181	82.8

These communities are located and incorporated municipally in 526<sup>4</sup> regional councils all over the country.<sup>5</sup> These councils govern over 81% of the area of the State, and consist of 844 places, the

<sup>1</sup> Data provided in the Israeli Statistical Yearbook, 2008, No. 59, Table No. 2.9

<sup>2</sup> The figures and percentages presented here do not include the places and residents living on the Golan and the West Bank.

<sup>3</sup> Data provided in the Israel Statistical Yearbook, No. 59, Table No. 2.9

<sup>4</sup> Excluding the regional councils located on the Golan (1) and the West Bank (7).

majority of which - 697 (83%) are agricultural villages and rural communities (to which Resolution No. 1015 applies). The next table presents the distribution of the regional councils by district and the number of communities and the size of the population in each council.

**Table No. 2: Distribution of the Regional Councils with Breakdown of Districts, Communities and Population Size (2006)<sup>6</sup>**

	<b>Number of Regional Councils</b>	<b>Number of Communities in the Councils</b>	<b>Size of Population (Thousands)</b>
<b>Total in Israel</b>	<b>52</b>	<b>844</b>	<b>555.1</b>
Jerusalem District	1	63	36.2
Northern District	16	306	187
Haifa District	5	64	49.7
Central District	12	197	163.7
Tel Aviv District	1	4	4
Southern District	17	210	114.5

In other words, approximately 81% of the area of the State of Israel is governed by regional councils housing only 7.5% of the total population of the country.<sup>7</sup>

In a letter sent by Adalah to the AG and members of Knesset prior to the vote on the draft law, Adalah demanded that this article would not be approved arguing that it is severely detrimental to citizens' rights to choose where they want to live within the territory of the State. This constitutes a violation of the citizen's dignity, equality and freedom, contrary to the Basic Law: Human Dignity and Freedom. "Choosing a place to live is mainly a matter of the individual's personal liberty. It is part of the exercise of personal freedom of expression. It is also part of the exercise of the individual's freedom of movement within the territory of the State. The individual is entitled to choose a place to live out of all the various areas within the territory of the State designated for residence. He is entitled to choose his personal identification with a particular place. Therefore any restriction on these basic rights will constitute an infringement of their constitutional rights to choose a place of residence, to dignity, equality and personal autonomy," argued Adalah.

### **Lands Confiscated from Arab Citizens of Israel**

The Land Reform Law also violates the rights of Arab citizens of Israel from whom land has been confiscated. The law will lead to the transfer of ownership of lands expropriated from the Arab population which have not been used until now for the purpose for which they were expropriated; or land which in fact it is not being used for any purpose whatsoever; or for which the expropriation aim may discontinue in the future. The law will frustrate any future possibility of the return of the lands to their original owners.

A great deal of land was expropriated from the Palestinian Arab citizens of Israel under many laws, the principal one being the Land Acquisition (Validation of Acts and Compensations) Law, 1953. Under this law, lands in the destroyed/evacuated villages were expropriated, as well as land in Arab villages which survived the war of 1948. The scope of these expropriated lands is estimated at approximately 1.2 million dunams. In addition, much land was expropriated under the Land Ordinance (Acquisition for Public Purposes), 1943, such as the 1976 Land Day expropriations of approximately 21,000 dunams.

<sup>5</sup> Of which only three Arab councils, two in the North - Al-Batouf and Bustan Al-marj, and another one in the south - Abu-Basma.

<sup>6</sup> Data provided in the Israel Statistical Yearbook, 2008, No. 59, Table No. 2.13

<sup>7</sup> Ibid.

### **The Absentee Property Law**

The properties of Palestinian refugees, who fled or were expelled from their homes and villages in 1948, were transferred to the Custodian of Absentee Property under the Absentee Property Law – 1950 (hereinafter - the “Absentee Property Law”). The law does not define the purpose of the Custodian institution, but it imposes on it the duty to guard these properties. The Absentee Property Law expropriates proprietary rights only temporarily, and deposits them in trust with the Custodian for Absentee Property until a future arrangement is found that will lead to a solution for the specific issue of the absentees.

Section 19 of the Absentee Property Law, authorizes the Custodian of Absentee Properties to transfer properties exclusively and solely to the Development Authority. The Development Authority is a government authority charged with the development of the state and promoting projects with broad public benefits. It is authorized to use the properties under its jurisdiction for a wide variety of activities, in accordance with Basic Law: Israeli Land, 1960. Basic Law: Israeli Land prohibits the transfer of ownership of lands defined as "Israeli Lands", including, among others, Development Authority properties.

### **The Sale of Palestinian Refugee Properties**

The process of land privatization included within the Land Reform Law will lead to the sale of many properties belonging to Palestinian refugees. In fact, the significance of the privatization policy in the context of the Palestinian refugees is the expiry of any right available to the owners of these properties, defined as “absentees” under the Absentee Property Law, despite the special status of these properties from the legal, historical and political aspects.

Since 2007, the ILA has been publishing numerous tenders for the sale of absentee properties held by the Development Authority of municipalities such as Nazareth, Haifa, Led (Lod), Akka (Acre), Rosh Pina and Beit She'an in Israel. The Custodian for Absentees' Property transferred these properties to the Development Authority. In 2007 the ILA issued 96 tenders; in 2008, 106 tenders; and through June 2009, 80 tenders.

When these properties are sold, it will no longer be possible to grant effective legal relief under Section 28 of the Absentee Property Law, which enables the Custodian to release absentees' properties at his discretion and in consultation with the Special Committee appointed pursuant to Section 29 of the law. Thus, the legal route, constituting the sole and last resort of the Palestinian absentees, will become redundant and devoid of content

Furthermore, the international laws on warfare apply to the 1948 war, which created the issue of the Palestinian refugees, and therefore these events and the consequences thereof are governed by the principles of IHL. These same principles discuss the right to private property and expressly prohibit the appropriation of private property. Thus, extensive appropriation of properties from occupied territories constitutes a gross breach of the Geneva Convention. Thus, the sale of Palestinian absentee property constitutes a breach of IHL and specifically the 1907 Hague Conventions.

In May 2009 Adalah sent a letter to the AG, the ILA and the general director of Amidar demanding the immediate cancellation of these tenders. Adalah further demanded the cancellation of any such future tenders.

### **Selling the Lands of the Settlements on the Golan Heights and in East Jerusalem**

The privatization of lands in accordance with the Land Reform Law will also include the lands of the settlements and the areas planned for development located in the Occupied Territories of East Jerusalem and on the Golan Heights, which were illegally annexed to the State of Israel. That is to say, ownership of the built-up areas in the settlements in these regions as well as areas planned for development will be transferred from the state to private individuals. In fact, the State of Israel will

be marketing and selling the Occupied Territories, thereby taking a great deal of capital into its treasury.

Since the occupation in 1967, the State of Israel has built and expanded its settlements on the Golan Heights and in East Jerusalem. Dozens of settlements were built in these areas, where hundreds of thousands of Jewish Israeli settlers live. As a result of the land reform, these settlers will become owners of the property rights which they will acquire from the occupier, the State of Israel.

### The Golan Heights

The Golan Heights were the first Occupied Territory in which Jewish Israelis began settling immediately after the occupation in 1967. Today, approximately 18,000 Israeli settlers live on the Golan Heights.

### Settlements in the Golan (2007)

No.	Place Name	Settlement Established	No. of Residents <sup>8</sup>	Original Syrian Place Name <sup>9</sup>
1	Avnei Eitan	1978	463	El Aal
2	Odem	1976	103	No data
3	Ortal	1978	238	A-Dalwa
4	El Rom	1971	271	Ein el-Hajal / Buq'aata
5	Alonei Habashan	1981	287	Jwiza
6	Elei Ad (Elei Al)	1968	272	El Aal
7	Ani'am	1978	462	Al-Amudia
8	Afiq	1967	216	Fiq
9	Bnei Yehuda	1972	1036	Scopia
10	Giv'at Yo'av	1968	452	Scopia
11	Gashur	1971	204	'Adisa
12	Had-Ness	1989	510	No data
13	Hasfin	1973	1369	Mazra'at Nab
14	Yonatan	1976	353	Tanuria
15	Kanaf	1991	333	Mazra'at Kanaf
16	Kfar Haruv	1974	312	Kofor Harb
17	Mevo Hamma	1968	339	Kofor Harb
18	Meitzer	1981	65	Rajem al-Yakusa
19	Ma'aleh Gamla	1976	357	Khirbet Khokha
20	Merom Golan	1967	497	Al-Mansura
21	Ne'ot Golan	1967	350	Fiq / Scobia
22	Nov	1973	529	Mazra'at Naab
23	Navi Ativ	1972	175	Jabata a-Zeit
24	Natur	1980	111	Majdolia?
25	Nimrod <sup>10</sup>	1999	No data	Majdal Shams
26	Ein Zivan	1968	213	Ein Zivaan
27	Kidmat Zvi	1985	373	Na'araan / Ein Simsim
28	Kela (Kela Alon)	1984	154	No data
29	Katzrin	1977	6444	Fakhura
30	Keshet	1974	526	Khushnia
31	Ramot	1970	487	kofor 'Akab
32	Ramat Magshimim	1968	517	Khisfin

<sup>8</sup> See the website of the Israeli Central Bureau of Statistics: <http://www.cbs.gov.il/ishuvim/ishuv2007/bycode.xls>

<sup>9</sup> <http://nakba-online.tripod.com/golan-7.htm>

<sup>10</sup> <http://nakba-online.tripod.com/golan-7.htm>

33	Sha'al	1976	225	Karhata
		<b>Total Population</b>	<b>18243</b>	

### East Jerusalem

During the occupation years, the State of Israel expropriated a total of 24,193 dunams of land in East Jerusalem to build settlements in the region. Approximately 195,000 Jewish Israelis presently live in East Jerusalem. Below is a list of the expropriated areas and the settlements built thereon:<sup>11</sup>

The Local Entity from which the Areas were Expropriated	Expropriated Area (dunams)	Settlements Built on the Expropriated Land
Lifta	3,345	French Hill, Ramat Eshkol, Mount Scopus
East Jerusalem	485	Ma'a lot Dafna
Beit Hanina and Hezma	1,235	Neveh Ya'acov
The Old City	116	The Jewish Quarter in the Old City
Lifta, Beit Exa and Shu'afat	4,840	Ramot Alon, Shu'afat Ridge
Tzur Bahar	2,240	Talpiot East
Beit Jalla, Beit Safafa, Sharfat	2,700	Gilo
Kalandia	1,337	Atarot
Sur Baher	600	Expansion of Ramat Rachel
Beit Hanina and HezMa	4,400	Pisgat Ze'ev
Jabal Abu G'anim	1850	Har Homa
The Eastern City	230	Rehovot Yaffo and Revava
Beit Safafa, Beit Hanina	535	Expansion of Gilo and Neveh Ya'acov
<b>Total (dunams)</b>	<b>24,193</b>	

### Israeli Settlements in East Jerusalem (2007)

Name of Settlement	Year Established	Population
Ramot Eshkol	1968	6200
Ramot Alon	1973	40837
Neveh Ya'acov	1972	20149
Pisgat Ze'ev	1985	41653
Atarot	1970	Industrial Zone
Talpiot East	1973	12078
Gilo	1971	27173
Mount Scopus	1968	--
Giv'at Shapira (French Hill)	1968	6724
Ramat Shlomo	1994	17000
Giv'at Hamatos	1991	343
Har Homa	1991	5697
The Jewish Quarter in the Old City		2546
<b>Total</b>		<b>180,400</b>

### On the Legal Status of the Golan Heights and East Jerusalem and the Planned Sales

Immediately after the war in 1967, the Government of Israel decided to annex 70,500 dunams of the occupied land to the north, east and south of Jerusalem (presently known as East Jerusalem), and in 1980 it enacted the Basic Law: Jerusalem, Capital of Israel.

<sup>11</sup> Adnan Abdelrazek & Khalil Tofakji, *Israeli Colonial Policies and Practices: De-Arabization of East Jerusalem* (2008), The Arab Study Society, Jerusalem, pp.68.

An annexation law with similar intention was enacted by the Knesset in 1981 concerning the Golan Heights (the Golan Heights Law, 5752 - 1981). Even before the Golan Heights Law was enacted, in August 1980, the Israeli Knesset enacted an amendment to the Citizenship Law – 1952 that, inter alia, enabled the Syrian residents of the Golan to take Israeli citizenship.

Accordingly, the above unilateral annexation actions by Israel have not altered the legal status of East Jerusalem and the Golan Heights according to international law, and they remain, as they were prior to the annexation, occupied Palestinian/Syrian land and their residents are protected under the Fourth Geneva Convention.

Therefore, Israel's actions in East Jerusalem and on the Golan Heights are governed both by the rules of international humanitarian law and by international human rights law. This position is also supported by from Resolution 181/62 of the UN General Assembly dated 31 January 2008.<sup>12</sup>

Accordingly, the sale of any assets in the Occupied Territories constitutes, in fact, a final expropriation thereof from their owners, contravening Article 147 of the Fourth Geneva Convention. This article stipulates that extensive appropriation of assets in the Occupied Territories constitutes a gross breach of the Geneva Convention. Moreover, Regulation 46 of the Regulations Annexed to the Hague Convention on Laws of War on Land of 1907, stipulates the need to respect individual proprietary rights, and expressly forbids expropriation of private property.

The acts of privatization and transfer of ownership of land in the Occupied Territories, under the Israel Land Reform Law, by the occupying power, constitute a gross breach of international humanitarian law.

### **List of links to Adalah documents on the land reform and the sale of Palestinian refugee property**

[Israel is Marketing Lands in the Occupied Territories: Adalah Position Paper on the Privatization of the Lands of the Settlements on the Golan Heights and in East Jerusalem, 27 August 2009](#)

[New Israel Land Reform Law Passed by Knesset, 3 August 2009](#)  
([http://www.adalah.org/eng/pressreleases/pr.php?file=09\\_08\\_03](http://www.adalah.org/eng/pressreleases/pr.php?file=09_08_03))

[Position paper on behalf of the High Follow-up Committee for Arab Citizens of Israel: Critique of the Israeli government's land reform bill, 21 July 2009](#)  
[http://www.adalah.org/newsletter/eng/jul09/Position\\_Paper\\_on\\_Land\\_Reform\\_Bill\\_july\\_2009.pdf](http://www.adalah.org/newsletter/eng/jul09/Position_Paper_on_Land_Reform_Bill_july_2009.pdf)

[Adalah to AG: Draft land reform law which permits the use of admissions committees to exclude Arab citizens of Israel from acquiring property rights in 697 rural and agricultural communities severely violates their rights, 21 July 2009](#)  
[http://www.adalah.org/features/land/admission\\_committees-Eng\\_FINAL\[1\].pdf](http://www.adalah.org/features/land/admission_committees-Eng_FINAL[1].pdf)

[Adalah and ACRI to Attorney General Mazuz: Cancel the land swap agreement between the State of Israel and the Jewish National Fund as it violates the rules of public law and the](#)

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<sup>12</sup>

<http://domino.un.org/UNISPAL.NSF/9a798adbf322aff38525617b006d88d7/1bfd3798c7567b4f852573fe005b8494!OpenDocument>

right to equality, 9 July 2009

[http://www.adalah.org/features/land/Adalah\\_ACRI\\_letter\\_re\\_Israel\\_and\\_JNF\\_land\\_swap\\_ju](http://www.adalah.org/features/land/Adalah_ACRI_letter_re_Israel_and_JNF_land_swap_ju)

[Adalah to Attorney General and Custodian of Absentee Property: Israel's Sale of Palestinian Refugee Property Violates Israeli and International Law](#), 22 June 2009

[http://www.adalah.org/eng/pressreleases/pr.php?file=09\\_06\\_22](http://www.adalah.org/eng/pressreleases/pr.php?file=09_06_22)

**See also:**

Dr. Yosef Rafiq Jabareen, "The Geo-Political and Spatial Implications of the New Israel Land Administration Law on the Palestinians," Adalah's Newsletter, Volume 62, July 2009, available at:

[http://www.adalah.org/newsletter/eng/jul09/Yosef\\_English\\_on\\_new\\_ILA\\_law%5B1%5D.pdf](http://www.adalah.org/newsletter/eng/jul09/Yosef_English_on_new_ILA_law%5B1%5D.pdf)