



Excerpts from the Jewish National Fund's Response to H.C. 9205/04 and H.C. 9010/04

**Before the Supreme Court in Jerusalem
Sitting as the High Court of Justice**

H.C. 9010/04

H.C. 9205/04

Regarding:

The Petitioners in H.C. 9010/04

1. The Arab Center for Alternative Planning
2. The Association for Civil Rights in Israel

represented by attorneys Awni Bana and/or Dan Yakir and/or Dana Alexander and/or Avner Pinchuk and/or Lila Margalit and/or Fatmeh El-A'jou and/or Banna Shughry-Badarne and/or Sharon Abraham-Weiss and/or Limor Yehudah and/or Sonia Bulus and/or Oded Feller of the Association for Civil Rights in Israel, 9 Sderot Hanadiv, Haifa 34611.

The Petitioner in H.C. 9205/04

Adalah – The Legal Center for Arab Minority Rights in Israel

represented by attorneys Suhad Bishara and/or Hassan Jabareen and/or Marwan Dalal and/or Orna Kohn and/or Gadeer Nicola and/or Morad El-Sana and/or Abeer Baker and/or Adel Bader of Adalah – The Legal Center for Arab Minority Rights in Israel, PO Box 510, Shafa'amr 20200.

– v. –

Respondent No. 1 in H.C. 9010/04 and in H.C. 9205/04

1. The Israel Land Administration

Respondent No. 2 in H.C. 9205/04

2. The Minister of Finance

Respondents No. 1 and 2 represented by the Office of the Attorney General, 29 Salah al-Din Street, Jerusalem.

Respondent No. 2 in H.C. 9010/04 and Respondent No. 3 in H.C. 9205/04

3. The Jewish National Fund

Represented by attorneys S. Horowitz & Associates, and attorney Meir Alfaya, 31 Ahad Ha'am Street, Tel Aviv 65202.



Response by the Jewish National Fund to the Petitions for an Order Nisi and Temporary Injunction

A. Introduction

[...]

JNF [Jewish National Fund] lands are not state lands. The JNF is the sole owner of the lands in its possession. JNF ownership of JNF lands is total, private, and separate from the state. The JNF purchased all of the land in its possession from previous owners by means of funds donated incrementally by Jews from all over the world for the purpose of purchasing land in Eretz Israel to be held and developed on behalf of the Jewish people. JNF trusteeship is not and cannot be given or granted to the entire Israeli public. JNF trusteeship is preserved solely for the Jewish people, on whose behalf it was founded and acts.

[...]

11. The Basic Law: Israel Lands, the Israel Lands Law (1960) (henceforth “the Israel Lands Law”), the Israel Lands Administration Law (1960) (henceforth “the ILA Law”), and the Covenant signed between the state and the JNF in 1961 (henceforth “the Covenant”), recognized the separate and special status of the JNF, as well as the independent, private, and protected status of JNF lands that are not part of state lands. The three abovementioned laws and the Covenant assign to the ILA [the Israel Land Administration] the obligation of administering JNF lands in accordance with its directives and Memorandum that establishes their use by Jews. The three laws intended that the separate existence of JNF lands should be preserved, through their special mission as lands of the Jewish people.
12. Whoever seeks to prevent the allocation of JNF lands solely to Jews must confront the assertions of these laws and provide a reason for why they should be annulled, entirely or partially. What is the purpose for the state of Israel, of the Status Law, of the JNF Law, of the Covenant, of the separation that exists as defined by the Basic Law: Israel Lands between state and JNF lands, of the prohibition established

in the Israel Lands Law for the sale of JNF land without its permission, and of the obligation imposed on the ILA to administer JNF lands in accordance with its directives and Memorandum, if JNF lands will be considered to be the same as all other state lands and will be marketed to any person, in complete opposition to the purpose of the existence of the JNF?

[...]

27. The JNF will claim that it should not be obliged to allocate lands in its possession to non-Jews. In regard to all matters concerning JNF lands, the imposition of an obligation to allocate them to Jews and to non-Jews will not only disrupt and damage the organization's activities and tasks, but will also nullify entirely the special role of the JNF as the owner of an eternal possession of the Jewish people. The imposition of such an obligation would amount to a declaration of the illegality of the JNF, as well as the illegality of the multitudes of contributions made by Jews who have sought to redeem the land for over a hundred years.
 28. Further, the JNF will demonstrate that its activities in purchasing land by means of the funds of the Jewish people, for the benefit of the Jewish people, and in their allocation to Jews is in complete accord with the founding principles of the state of Israel as a Jewish state and that the value of equality, even if it applies to JNF lands, would retreat before this principle [sic]. In addition, the JNF will cite that the Petitioners did not attempt to deal with the property rights of the JNF, of its donors, and of the entirety of the Jewish people, even though these rights are basic rights that were anchored explicitly in the Basic Law: Human Dignity and Liberty.
[...]
- B. Revealing the Petitions' Disguise: It is not a "Policy" of the ILA that is Being Tested, nor the Validity of a Secondary Law, but Rather a Demand to Annul an Explicit Constitutional and Legal Structure, the Meaning of which is Tantamount to the Expropriation of JNF Lands**
[...]



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38. The true essence of the petitions is evidently different. The Petitioners seek the annulment of the status, mission and function of the JNF and seek to impose on the JNF the use by all concerned of land purchased by the JNF for the explicit purpose of serving as an eternal deposit of the Jewish people and their descendants.
[...]
40. [...] the allocation of JNF lands to Jews by the ILA has been conducted since the founding of the ILA over 40 years ago.
41. The allocation of JNF lands to the entire population of Israel is not impeded by the policies and internal directives of the ILA, or by the Regulations of the Obligation of Tenders.
[...]
47. It is clear from the petitions, however, that the Petitioners ultimately seek, *de facto*, that the Supreme Court should instruct the JNF and the ILA to market JNF land also to non-Jews. In this regard, the Petitioners claim, in detail, that the Arab sector is experiencing a land and housing crisis, and that on the basis of the principle of distributive justice, among other reasons, the ILA is obliged to market JNF lands also to non-Jews (as is detailed in Section G, below, JNF lands are private and purchased by funds provided by the Jewish people, in order that they should remain an eternal possession of the Jewish people and not state lands. Because of this, too, the petitions, which have different assumptions, are unfounded).
[...]
48. The Petitioners' claims are in direct opposition to the purpose of the existence of the JNF; to the obligation it has undertaken towards its donors; to the Covenant between the state and the JNF, which regulates the relations between the two; to explicit legislation established by the legislature; and to constitutional axioms of the state of Israel as the state of the Jewish people. All of the above establish the authority of the JNF and the ILA's obligations towards it.
[...]

53. The Memorandum of the JNF establishes that its principal goal is to purchase lands “for the purpose of Jewish settlement” on JNF lands. The JNF’s Memorandum was approved on May 9, 1954 by the Minister of Justice, who was specifically authorized to do so by the JNF Law [...]. The JNF Law regulated the establishment of the JNF as “an incorporated entity in Israel, that will continue the activities of the existing company, which was established and incorporated in the Diaspora” (Article 2). Thus, the legislature and the government gave legitimacy to the activities of the JNF to purchase land for the purpose Jewish settlement.
54. As noted previously, the Covenant between the state of Israel and the JNF was signed on November 11, 1961. The Covenant established that the ILA is to administer JNF lands “subject to the Memorandum and Articles of Association of Keren Kayemeth LeIsrael [the JNF]” (Article 4).
[...]
- C. Preliminary Arguments that Justify Outright Rejection of the Petitions**
61. The petitions are situated at an ideologically-constitutive intersection. Therefore, they require discussion and decision on questions about the character and identity of the state of Israel as a Jewish state, about the joint responsibility and shared fate of the Jewish people in the Diaspora and its organizations and the Jewish people living in Zion, about the core of the lands regime in Israel, and about the network of relations between the different sectors of Israel’s population.
62. Such questions must be enunciated and clarified through public discussion – ideological, social and political – and should be decided upon by decisions reached by the legislature.
[...]
96. The JNF was established in 1901. Over four generations, JNF lands have been allocated to Jews. Nearly fifty years have passed since the enactment of the Status Law and the JNF Law, and since the validation



of the JNF's Memorandum and its official publication. The Basic Law: Israel Lands, the Israel Lands Law and the ILA Law were enacted by the legislature over 40 years ago. The Covenant that establishes the activities of the JNF in accordance with the Memorandum, too, was signed over 40 years ago. The policies of the ILA in the allocation of JNF lands are as old as the ILA. The exemptions regulation [Regulation 27 of the Regulations of the Obligation of Tenders] was promulgated more than 11 years ago.

97. It is only now, in 2004, that the Petitioners have remembered to protest the validity of this legislative structure. As such, these petitions are extremely belated. Such a delay also has significance, and is justification for the outright rejection of the petitions.
[...]

104. In regard to its ownership of land, the JNF is not a public body that serves a public function according to the law. Under these circumstances, irrespective of their intentions, it is doubtful whether the petitions, as long as they are aimed at obliging the JNF to distribute its lands to the public at large, are within the jurisdiction of this Honorable Court.
[...]

D. The JNF – 100 Years at the Forefront of Zionist Activity
[...]

130. In Israel's first years, the JNF was asked by the state to purchase lands from the state. The state was in need of fiscal exchange for the land in order to meet the young state's pressing security needs. In 1949 and 1950, the state decided to sell to the JNF lands called "the first million" and "the second million" [...]. The price of the first million (consisting of approximately 1,100,000 dunams) was set at approximately 29 million Israeli Lirat. The price of the second million was established as 66 million Israeli Lirat. The price of the land was established in accordance with its real market value, as determined by a committee of experts from both parties, and chaired by the advisor to the Prime Minister on land matters. [...]



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131. In order to purchase the land the JNF obtained contributions from Jews in the Diaspora and assumed loans from American banks.
132. In the end, the purchase transaction was not fully completed. The purchase deal was partially accomplished – the JNF received only around a million and a quarter dunams, the value of which was paid for in its entirety.
133. This being the case, to the million dunams purchased by the JNF prior to the establishment of the state was added approximately a million and a quarter dunams, which the JNF fully paid for with monies from the people of the state in the earliest period of its existence [...].
134. The Petitioners' claim that of the JNF's 2.5 million dunams, approximately 2 million dunams of the aforementioned land was transferred to it by the state from lands that were in its possession is baseless [...]. [A]s noted above, approximately a million dunams were purchased by the JNF prior to the establishment of the state, and not from the state's possessions, and approximately an additional million were purchased by the JNF in the early days of the state. The state of Israel did not transfer to the JNF approximately a million and quarter dunams; rather, it sold them in return for full payment. All the lands of the JNF are the full, complete and sole property of the JNF.
[...]
143. Today, a hundred years after its establishment, the JNF continues to fulfill its mission and the Zionist vision. It has in its possession approximately only 10% of the land in the state (approximately 2.5 million from among 22 million dunams). Over the course of its one hundred years of activity as the trustee of the Jewish people on its land in *Eretz Israel*, hundreds of settlements have been established on the land of the JNF and with its assistance.
144. A majority of JNF lands were given decades ago to meet the needs for agricultural settlement on *kibbutzim* or *moshavim* (approximately



500 agricultural settlements over the length and breadth of Israel).

145. The JNF functions as an independent body with a separate administration and budget from those of the state. Extremely large sums of money have been donated to the JNF over the years from all over the world, in order to dedicate them to the fulfillment of its mission, as well as to create and preserve the Jewish people's possession. The JNF is not funded by the state.
[...]

E. The JNF – Its Normative Umbrella
[...]

163. As approved by the Minister of Justice, the JNF's Memorandum establishes among other matters the goals of the JNF, as follows:
“3. The goals for which the organization was established are – according to the following detailed directives:
a. **To purchase**, acquire on lease or in exchange, to receive via lease or in another manner – **lands**, forests, possession rights and liens and all the rights attenuated therein, and, too, any type of permanent properties 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.” [Emphasis added in original]
[...]

165. Other articles of the JNF's Memorandum emphasize that its funds are designated “to bring direct or indirect benefit to those of the Jewish religion, race or Jewish origins...” (Article 3(c)).
[...]

167. Legislation of a special law that establishes the incorporation of the JNF as an independent Israeli company for the purpose of continuing its activities, as well as the special arrangements for submitting the JNF's documents of association to the Minister of Justice for approval and official publication, serve as repeated and specific recognition by the legislature of the mission of the JNF, “as a very valuable body



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for our national renewal" [...] in addition to recognition of the JNF as a branch of the World Zionist Organization, as defined in the Status Law.
[...]

168. A Covenant was signed between the state of Israel and the JNF on November 28, 1961 [...].
169. There are three fundamental principles to the Covenant.
170. The first is the retention of the separate status of the JNF and its lands as lands that are independent of the lands owned by the state of Israel (clauses c(1), c(16) of the Covenant).
171. The second is that JNF lands will not be sold and will remain eternally the property of the Jewish people (clause a of the Covenant).
172. The third is that **the ILA is obliged to administer JNF lands subject to the JNF's Memorandum; that is, for the purpose of settling Jews** (clause c(4) of the Covenant). Deviation from this principle requires the agreement of the JNF (clause c(5) of the Covenant). Every act of the ILA in regard to JNF lands is undertaken on behalf of the JNF, and the ILA serves solely as its agent (clause c(6) of the Covenant). [Emphasis added in original]
173. The signing of the Covenant was undertaken after the state guaranteed, through legislation, the three aforementioned principles manifest in the Basic Law: Israel Lands, in the Israel Lands Law, and in the ILA Law. The Covenant establishes that it will come into effect from the day of the activation of the Basic Law: Israel Lands (clause c(6) of the Covenant).
[...]
185. The ILA Law was intended to serve as an operational means of implementing the Covenant between the state and the JNF. It **obliges** the ILA to administer JNF lands in accordance with the goals and directives of the JNF, as detailed in the Covenant and the documents



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of association of the JNF. The legislature thought it right to instruct the continuation of the administration of JNF lands in accordance with the principles which guided the JNF's administration of its lands in the past. [Emphasis added in original]

[...]

G. JNF Lands are not State Lands: JNF Trusteeship is not Given to the Entirety of the Population, but Rather is the Sole Preserve of the Jewish People.

[...]

207. [...] The Petitioners claim that the JNF's lands are "public land resources," that they are "the property of the entire public," meaning state lands for all purposes. The Petitioners continue and claim that the land was given to the ILA "as a trustee of the public and for the entire public."

208. [...] JNF ownership of JNF land is total and separate from the state. JNF trusteeship is not given nor can it be given to the entirety of the Israeli public. The JNF was established and functions solely for the benefit of the Jewish people. Any attempt to impose upon the JNF an obligation to allocate its properties to those who are not Jews amounts to the abolition of the JNF, as well as the Jewish state's turning its back on its donors in the Diaspora and in Israel.

[...]

220. It is not only the case that the JNF has no obligation to act for the benefit of all the citizens of Israel, but also that the JNF is obliged to act to acquire land for the use of Jews. The allocation of lands for the use of all of the citizens of the state directly contradicts the goals of the JNF and the purpose of its existence. The JNF is forbidden from allocating lands to all residents of the state. Requiring that the JNF allocate its land for the benefit of all of the citizens of Israel is tantamount to its liquidation and the nationalization of its possessions.

[...]



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233. The JNF is a private, limited company, which was established in Great Britain and later registered as an Israeli company. The JNF was founded as a voluntary association. As a landowner, the JNF is not a governmental authority, a governmental corporation, or a public body. The JNF did not receive and is not receiving funds from the government to support its operations.
234. The JNF has many tasks and different functions. Some of these tasks have a more public nature (such as the forestation of Israel's lands), while others are related to the JNF's being a private landowner, whose goal is to redeem the lands of *Eretz Israel* as the representative of the Jewish people in Israel and in the Diaspora.
235. The petitions are dealing with the **private** task of the JNF as the representative of the Jewish people, which is involved in the collection of funds from Jews in the Diaspora in order to redeem the land. The JNF serves as a trustee for the lands purchased by the Jewish people throughout the generations. [Emphasis added in original]
[...]
237. The JNF, as the Land Division of the World Zionist Organization, is a Jewish, Zionist corporation, and is required to act for the benefit of the Jewish people. Among its other activities, it makes its lands available to Jews (this status is even recognized in Israeli legislation), just as the Muslim Waqf is a Muslim body that acts for the benefit of Muslims. [...]
[...]
241. The Petitioners point out that the JNF has representatives on the ILA Council. This is indeed the case, and it is in accordance with instructions included in Article 4(a) of the ILA Law. Furthermore, it is natural that the JNF would have representatives in the body which is appointed by it to serve as the JNF's emissary in administering its lands. This fact does not transform the JNF's lands into a public possession.
[...]



246. There can be no disagreement that, when administering state land, the ILA must act as a public trustee bound by equality, among other things. However, when acting in regard to JNF lands, the ILA is obliged to administer them in accordance with the Covenant, the ILA Law, the directives of the JNF, including the JNF's Memorandum. In regard to JNF lands, the ILA does not act as a public trustee, but rather as a trustee of the JNF, which acts on behalf of the Jewish people (just as the custodian of absentees' property, when administering consecrated Muslim property, does not act for the benefit of the public at large, but rather for the benefit of Muslims).
[...]

H. The Allocation of JNF Lands to Jews is not a Discriminatory Act
[...]

249. As a private landowner and as a trustee of the Jewish people, the JNF is not obliged to act equally towards all of the citizens of the state in the allocation of lands. The JNF's responsibility is to generations of the Jewish people, to ensure that it will continue to use lands it acquired through funds donated by and for Jews, for generations to come.

250. As a landowner, the JNF is not a public body which acts on behalf of all the citizens of the state. Its loyalty is to the Jewish people and its responsibility is to it alone. As the owner of JNF land, the JNF does not have to act with equality towards all citizens of the state. This is not the case when the JNF acts on behalf of all of the Israeli public, for example, when it works on forestation or the development of state lands. [...]

251. Even if a judgment is made in opposition to the stance of the JNF that it is a body with a dual character in regard to allocation of JNF lands, in any event, all of the obligations of public law cannot automatically be imposed on JNF lands [...]
[...]



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256. The principle of equality is always relative. "It cannot be the prophecy of all matters, as other interests may be stronger." "[Equality] is not an absolute but rather a relative value, as are all other values. When equality is in opposition to another value, or even with another principle or public interest, a balance should be achieved between them."

H.C. 1703/92, *K.A.L. Cargo Airlines v. The Prime Minister*; H.C. 1438/98, *The Conservative Movement v. The Minister of Religious Affairs*; H.C. 246/81, *Derekh Eretz Association v. The Broadcasting Authority*; H.C. 953/87, *Poraz v. The Mayor of Tel Aviv-Yaffa*.

[...]

257. The JNF will demonstrate that its activities in acquiring lands with funds from and on behalf of the Jewish people, as well as their allocation to Jews, are a realization of a fundamental principle of the State of Israel and of our legal system, and that, even if the value of equality were to be applied to JNF land, it would retreat before this fundamental principle.

[...]

269. The Petitioners' claim that the principle of equality should be applied to JNF lands should be withdrawn, due to the fundamental constitutional foundation of the state as a Jewish state, the meaning given to it by Israel's Knesset and this Honorable Court. In and of itself, this is sufficient to reject the petition.

[...]

273. Contributors to the JNF have known for a hundred years that their donations will be used for Jewish settlement in *Eretz Israel*. This is the purpose for which they donated these funds. Funds donated to the JNF are intended to serve the Jewish people. They were not donated to the state of Israel in its entirety, nor for all of the citizens of Israel. The JNF and its contributors cannot be obliged to designate resources for the purpose of settling on the land those who are not considered to be members of the Jewish people.

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276. The allocation of JNF lands to non-Jews clearly undermines the autonomy of the multitudes of contributors to the JNF, which is a part of their human dignity. It is also fatally damaging to the organizational freedom of the JNF (including its freedom to establish and to realize its own goals) as a Jewish Zionist body established to assist Jews. It threatens seriously to damage the shared fate of and mutual responsibility between Jews in the Diaspora and Jews residing in Zion, and could be responsible for the historical, political and economic consequences resulting from such damage. The ongoing flow of donations from Jews throughout the world that are received by the JNF and other Zionist bodies could become a mere drip.
[...]
279. In any event, whether or not the status of equality is similar to that of all other fundamental values and whether or not it has been given explicit constitutional grounding, when in the balance there is on the one hand, the Petitioners' demand that JNF lands be allocated to non-Jews and, on the other hand, the Zionist and Jewish values of the state of Israel, the right to property of the JNF and generations of the Jewish people, the honoring of the autonomy of multitudes of contributors, the value of preserving the courageous connection between Jews in the Diaspora and Israel, the freedom of association of the JNF, and political – security – considerations, the latter are a higher priority.
[...]
281. It should be pointed out that the allocation of JNF lands to non-Jews will be extreme damaging, retroactively, to the rights of the JNF and of the Jewish people, as well as to their future rights, as JNF lands are for future generations.
[...]
285. **Israel's Knesset and Israeli society have expressed their view that the distinction between Jews and non-Jews that is the basis for the Zionist vision is a distinction that is permitted and is not discriminatory, at least in regard to resources held by the Zionist movement.** [Emphasis added in original]



286. Such a decision by the state cannot be viewed as an abdication of the principle of equality. The state did not extricate itself from its governmental authorities and from its obligations towards citizens of the state. The Zionist bodies, including the JNF, act alongside the state, as voluntary bodies. They represent the interests of the Jewish people and they are supported by their contributions. They seek to attain their goals through the use of their own resources. They do not act in place of the state, nor are they assuming either its roles or its obligations.
[...]
290. [...] the JNF assumes that the exemption regulation is extraneous to this matter. The JNF is not among the bodies to which the Obligation of Tenders Law (1992), (henceforth “the Obligation of Tenders Law”) applies (Articles 1 and 2 of the law). The obligations assumed by the ILA in transactions involving JNF lands are obligations undertaken in the name of the JNF and on its behalf, and thus there is no obligation of tenders in regard to the allocation of JNF lands.
[...]
292. [...] Article 2 (c)(2) of the Obligation of Tenders Law declares that the “distinction necessary due to the nature or essence of the tender should not be seen as discriminatory.” [...] With regard to the matter addressed here, tenders related to the allocation of JNF lands are tenders which require, by their nature and essence, a distinction between Jews and non-Jews.
[...]
294. The secondary legislation is permitted to prefer some values to equality and to exempt governmental bodies from the obligation to issue a tender when allocating resources to different sectors. This Honorable Court dismissed a claim of discrimination in regard to a regulation among the Regulations of the Obligation of Tenders (1993), when it declared a distinction between groups assumed by the state based upon an ethical obligation “towards populations that took part in its establishment” is a justified distinction that does not undermine the principle of equality.



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[...]

299. [...] the exemption regulation does not undermine equality [...] equality does not require the allocation of specifically JNF lands to someone who is not Jewish.
[...]

I. The Remedies Asked for in the Petitions Do not Help the Petitioners
[...]

305. **The revocation of the exemption regulation does not release the state from its obligation towards the JNF to administer JNF lands in accordance with the JNF's Memorandum. The state's obligation to the JNF, in this regard, has been established in the ILA Law and in the Covenant, *inter alia*.** [Emphasis added in original]
306. **Furthermore, JNF lands will remain the JNF's, whether or not the exemption regulation remains as is. The right of the JNF, as the landowner, to establish the use to which its lands shall be put will remain, irrespective of the status of the exemption regulation.** [Emphasis added in original]
307. **Should the judgment be that the ILA is not permitted to market JNF land solely to Jews, contrary to the stance of the JNF, the JNF will be forced to market its land itself, as required by its role as the land division of the World Zionist Organization and due to its obligation to act in order to preserve the right of ownership of the Jewish people, as an act of loyalty towards its contributors.** [Emphasis added in original]
308. The Covenant that manages relations between the state and the JNF provides that each of the parties may annul this Covenant (clauses c(17) – (19)). Annulment of the Covenant is not desired by the JNF by any means. However, if the state is unable to fulfill its obligations towards the JNF and the Jewish people (an obligation that is the foundation of the Covenant, among others), then the JNF will be



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forced to pursue an annulment of the Covenant in order to administer its lands independently, in accordance with the goals and historic role of the JNF.

309. Action that will lead to an end to the administration of JNF lands by the ILA will disrupt, entirely, the existing laws. *Inter alia*, it will stand in complete contradiction to the ILA Law, the Israel Lands Law, and the other laws referred to above.
[...]

J. A Final Word

333. For each and every claim detailed above, as well as their accumulative weight, the Honorable Court is requested to dismiss the petition outright or alternatively on the merits, as well as to deny the temporary injunction and require the Petitioners to pay the expenses of the JNF, including lawyers' fees and VAT, as required by law.

Alex Hartman,
Attorney
Lic. No. 10403

Eliya Zonitz,
Attorney
Lic. No. 19843

Ronen Bromer,
Attorney
Lic. No. 27446

Meir Alfayia,
Attorney
Lic. No. 6471
Legal Adviser,
The JNF

Tel Aviv, 9 December, 2004