

The Honourable Diane Lebouthillier
Minister of National Revenue

Canada Revenue Agency

Dear Ms. Lebouthillier and the Canada Revenue Agency,

Please find enclosed our formal complaint, which sets out concerns regarding the registered status of the Jewish National Fund of Canada (JNF Canada). Based on the information that we have compiled — much of which can be found in JNF Canada's own publicly available documents — JNF Canada is in violation of the Income Tax Act (the Act), official Canadian policy, and international law. It is also in contravention of both CRA guidelines and policy statements.

We are therefore requesting that an audit of JNF Canada be initiated. It is our expectation that if the audit confirms the information in the enclosed document and affidavits, the result will be to commence the formal process of revoking the charitable status of JNF Canada.

We are also aware that the CRA and the previous Minister of National Revenue, Kerry-Lynne Findley, received a comprehensive complaint regarding the charitable status of JNF Canada from Dr. Megan McKenzie. Much of Dr. McKenzie's research is included in our complaint, and we have added further research that has been subsequently compiled. We have included an asterisk in the bibliography next to each of the materials already included in Dr. McKenzie's complaint, which was originally received by the CRA in its entirety in November 2014.

With regard to sources of information in the enclosed document, please refer to the footnotes, and the full bibliography at the end of the document. There you will find the full list of cited sources, with some of the sources represented as relevant photocopies, appended to this package, which altogether with the enclosed document and affidavits comprise our formal complaint. Note that many citations are from JNF Canada's former website, which they have taken off the Internet. The screenshots are appended to the package as well. We have also included a 2017 map from KKL-JNF so that you can find the exact locations of JNF Canada projects.

Sincerely yours,

Rabbi David Mivasair, Independent Jewish Voices Canada
Dr. Ismail Zayid, retired professor of Pathology, Dalhousie University
Bill Skidmore, Human Rights instructor, Carleton University
Lorraine Guay, Retired Nurse and former Research Assistant, Université de Montréal

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Executive Summary

The Jewish National Fund of Canada (JNF Canada) is a registered charity in Canada governed by provisions of the *Income Tax Act* and subject to oversight by the Canada Revenue Agency (CRA).

We allege that JNF Canada is a fundraising office of an Israeli organization called Keren Kayemeth LeIsrael/Jewish National Fund (KKL-JNF), an organization incorporated under the laws of the State of Israel, and not an independent charitable organization. By consistently blurring the lines between the activities of JNF Canada and of KKL-JNF, JNF Canada has held itself out as being equivalent to KKL-JNF. As a result, distinguishing between them is often difficult.

JNF Canada is in violation of the *Income Tax Act* (the Act), official Canadian policy, and international law; it is also in contravention of CRA guidelines and policy statements. The following are the key findings contained in our formal complaint:

1. JNF Canada's governing document does not meet the requirements of the Act in that it does not disclose a charitable purpose. JNF Canada has never identified a charitable purpose in their governing document, contrary to CRA Guideline Document CG-019, *How To Draft Purposes for Charitable Registration*.
2. JNF Canada's administrative practices are in breach of the Act and contrary to CRA policy guidance, CG-002, *Canadian Registered Charities Carrying Out Activities Outside Canada*, with regard to the direction and control of projects in Israel/Palestine, as JNF Canada appears to be acting as a conduit for funds to KKL-JNF.
3. JNF Canada is in violation of the Act and common law in that it engages in activities that do not meet the public benefit requirement as stated in CRA policy guidance, CPS-024, *Guidelines for Registering a Charity: Meeting the Public Benefit Test*. JNF Canada's purported intermediary, KKL-JNF, engages in discriminatory practices, as its large landholdings are chartered for exclusively Jewish ownership and lease, and the organization is chartered to exclusively benefit Jews. In the Negev and Galilee regions, JNF Canada has funded projects that are very harmful towards non-Jews, making them unable to result in a net public benefit.
4. JNF Canada is in violation of the Act, common law, and CG-002 as it supports a foreign army. The support includes the building of roads and other infrastructure that is either entirely or primarily for the benefit of the Israel Defence Forces.
5. JNF Canada is in violation of Canadian law and fails to meet the requirements of registration as it is acting contrary to Canadian public policy. JNF Canada contravenes

official Canadian public policy — in addition to international law — by providing support for the establishment of changes to the physical character of Occupied Territory; it is thereby helping Israel effectively annex land within Occupied Territory, and in the case of both East Jerusalem and the Golan Heights, deepen control over land already annexed illegally.

1.0 BACKGROUND

1.1 What is the Jewish National Fund?

The Jewish National Fund (JNF) was created in 1901 at the Fifth Zionist Congress in Basel, Switzerland. Its name in Hebrew, which is how it is referred to in Israel, is Keren Kayemeth LeIsrael (KKL).¹ In our formal complaint, we refer to the organization based in Israel as KKL-JNF.²

In KKL-JNF's Memorandum of Association, its primary object is stated as follows:

*To purchase, acquire on lease or in exchange, or receive on lease or otherwise, lands, forests, rights of possession, easements and any similar rights as well as immovable properties of any class, 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 in any part thereof, for the purpose of settling Jews on such lands and properties.*³

KKL-JNF describes itself on its website as follows:

*Keren Kayemeth LeIsrael — Jewish National Fund and our friends worldwide, together for over 115 years; developing the land with a loving touch, strengthening the bond between the Jewish people and its homeland, responding to the needs of the country and preserving our natural and cultural heritage.*⁴

In describing its own history, KKL-JNF sums up its role, also from its website:

The Zionist Movement, under the leadership of its visionary leader, Dr. Binyamin Zeev Herzl, progressed from the declaratory to the practical stage of its activities: redeeming land in Zion. The Congress established a Jewish National Fund to act as purchaser of lands that would be "the perpetual property of the Jewish People," i.e. property that would never be expropriated from them.

*KKL-JNF was appointed trustee and custodian of this land on behalf of the Jewish People.*⁵

While KKL-JNF and many of its supporters may view KKL-JNF's history as being one of simply "redeeming land in Zion," the inhabitants of Palestine at the time of KKL-JNF's founding, and their descendants, view KKL-JNF's history quite differently. In

¹ The direct English translation of the Hebrew name is "Perpetual Fund for the Jewish People."

² Note that the Israeli organization is also commonly referred to as "JNF-KKL," "KKL," and "JNF."

³ Keren Kayemeth LeIsrael, Memorandum and Articles of Association, 7. [[Document 1](#)]

⁴ Keren Kayemeth LeIsrael, "KKL-JNF: For a Sustainable Future for Israel," <http://www.kkl.org.il/eng/about-kl-jnf/kl-jnf-id/> (accessed June 24, 2017).

⁵ Keren Kayemeth LeIsrael, "Jewish People Land," <http://www.kkl-jnf.org/about-kl-jnf/kl-jnf-id/jewish-people-land/> (accessed June 24, 2017).

order for KKL-JNF to acquire what it now holds, which is approximately 13% of the land in Israel, it required the forced removal of many of these inhabitants, and the denial of these people their right to reclaim what they understood as being rightfully theirs.

By May of 1948, KKL-JNF had purchased roughly 3.5% of the land in historic Palestine for Jewish-only settlement.⁶ Most of these properties were purchased from absentee landlords, and required the forced eviction of the Arab labourers, or *Fellaheen*, who lived on and farmed the land.⁷

KKL-JNF played an instrumental role in the planning that went into the campaign of violence and intimidation targeting Palestinian villages — carried out largely in 1948 — which led to the displacement and dispossession of hundreds of thousands of Palestinians from their homes and properties. Palestinians refer to this episode in history as *al-Nakba*.⁸

KKL-JNF was part of the initiative known as the “Village Files,” which is described by Israeli historian Ilan Pappé as follows:

*Precise details were recorded about the topographic location of each village, its access roads, quality of land, water springs, main sources of income, its socio-political composition, religious affiliations, names of its muhktars, its relationship with the other villages, the age of individual men (sixteen to fifty) and many more. An important category was an index of ‘hostility’ (towards the Zionist project, that is), decided by the level of the village’s participation in the revolt of 1936. There was a list of everyone who had been involved in the revolt and the families of those who had lost someone in the fight against the British. Particular attention was given to people who had allegedly killed Jews. As we shall see, in 1948 these last bits of information fuelled the worst atrocities in the villages, leading to mass executions and torture.*⁹

The idea of compiling this information was thought up by a man by the name of Ben-Zion Luria, who wrote to KKL-JNF expressing the view that an inventory of this nature would “...greatly help the redemption of the land.”¹⁰

Yosef Weitz, who was the head of KKL-JNF’s settlement department and was part of the Village Files project, had written in 1940:

⁶ Walter Lehn and Uri Davis, *The Jewish National Fund* (London: Kegan Paul International Limited, 1988) 74.

⁷ *Ibid.*, 56-57.; Ilan Pappé, *The Ethnic Cleansing of Palestine* (Oxford: Oneworld Publications Limited, 2006) 18.

⁸ *al-Nakba* is translated from Arabic as “the catastrophe.” It is widely estimated that between 700,000 and 800,000 Palestinians were expelled or forced to flee from their homes over the period from late 1947 to early 1949.

⁹ Pappé, *Ethnic Cleansing*, 19.

¹⁰ *Ibid.*, 17.

*Transfer does not serve only one aim — to reduce the Arab population — it also serves a second purpose by no means less important, which is: to evict land now cultivated by Arabs and to free it for Jewish settlement. The only solution is to transfer the Arabs from here to neighbouring countries. Not a single village or a single tribe must be left off.*¹¹

In 1940, Weitz also wrote the following in his diary:

*It should be clear to us that there is no room in Palestine for these two peoples. No 'development' will bring us to our goal of independent nationhood in this small country. Without the Arabs, the land will become wide and spacious for us; with the Arabs, the land will remain sparse and cramped.*¹²

Weitz became part of the leadership of the newly declared State of Israel — known as the *consultancy* — where he played a central role in the ongoing expulsion and dispossession of Palestinians from their homes and properties. As Pappé notes:

*...Weitz deeply involved himself in the practicalities of ethnic cleansing, jotting down details about every location and village for future reference, and entering his own surveys into those of the village files.*¹³

Israeli historian Noga Kadman adds further context about Weitz's role in 1948, based on the research of Israeli historian Benny Morris:

*Yossef Weitz, head of the land department of the Jewish National Fund (JNF) at the time, took a direct and active part in forcing Arab sharecroppers living on land acquired by JNF in the Menashe hills to flee; later on, Weitz ensured the demolition of their dwellings and successfully lobbied the Haganah to evict Arabs from other places, especially the Bedouin of the northern Jordan valley. By March 1948, some hundred thousand Palestinian Arabs, mostly city-dwellers, had left for Lebanon, Jordan and the Jordan-occupied West Bank.*¹⁴

KKL-JNF's involvement in the "transfer" of Palestinians was in direct violation of United Nations Security Council (UNSC) Resolution 46, which called on all persons and organizations in Palestine to "refrain, pending further consideration of the future government of Palestine by the General Assembly, from any political activity which might prejudice the rights, claims, or position of either community."¹⁵

¹¹ Ibid., 62.

¹² Michael Fischbach, *Records of Dispossession: Palestinian Refugee Property and the Arab-Israeli Conflict* (New York: Columbia University Press, 2003) 6.

¹³ Pappé, *Ethnic Cleansing*, 62.

¹⁴ Noga Kadman, *Erased from Space and Consciousness: Israel and the Depopulated Villages of 1948* (Bloomington: Indiana University Press, 2015) 10.

¹⁵ United Nations Security Council, "Resolution 46,"

[http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/46\(1948\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/46(1948)) (accessed June 24, 2017).

The Palestinians who were violently “transferred” from their homes — in the euphemistic language of the Zionist movement — were forcibly prevented from returning. To this day, they have been barred from returning to their homes and properties.

Kadman describes further what took place in 1948, and the role of KKL-JNF, through its leader Yosef Weitz:

At an August 18 meeting of senior cabinet members, from which the Mapam leadership was excluded, complete unanimity prevailed regarding opposition to the refugees’ return and the means to this end: demolishing villages, expropriating lands, and settling them with Jews. An order was issued the same day to all forces on all fronts to prevent the return of refugees — “infiltrators,” as they were dubbed — “with all means”. In late August the Transfer Committee, chaired by Yosef Weitz of the JNF land department, was set up and tasked with composing a plan for the permanent resettlement of the refugees in the Arab States.

Not only did KKL-JNF play a key role in the “transfer” of Palestinians from their villages, they also took part in the demolition of these villages.

Kadman describes what took place:

In May 1948 the demolition of depopulated villages also began serving as a means to a political end that was becoming increasingly popular among the leaders of the Jewish community — making the absence of the refugees permanent and preventing any possibility of their return. In the following months the JNF began carrying out demolitions with the support of most of its board, under the pretext of Ben-Gurion’s own ratification of a recommendation by the Transfer Committee to destroy the villages. Having demolished eight villages, the committee stopped working in early July, for lack of official recognition and technical resources.¹⁶

After playing a key role in the “transfer” of Palestinians and the demolition of their villages, KKL-JNF began to take part in the erasure of these villages, starting with removing the village names from maps and, when resettled by Jewish settlers, renaming them (or in the words of KKL-JNF, “Judaizing” them). In late 1948, Yeshayahu Press, who was a member of the JNF Settlements Names Committee at the time, wrote the following to Israel’s interior minister:

Many villages within the boundaries of the State of Israel fell into our hands and Jews were settled in their place — and the commonly accepted names must be

¹⁶ Kadman, *Erased*, 25.

*exchanged for new ones ... we are obliged to begin 'Judaizing' the map of our country from its foundation.*¹⁷

A September 23, 2007 *Haaretz* editorial, written by the editorial board of the Israeli daily newspaper, describes what became of much of the lands on which these “transferred” Palestinians had lived for countless generations:

*...almost two million dunams (approximately 500,000 acres) out of 2.5 million dunams (approximately 625,000 acres) owned by the JNF were not purchased with contributions, but simply taken from Arabs who fled during the War of Independence. It might have been expected that after the establishment of the state, a new leaf would have been turned over, and lands obtained in various ways to establish the state would from then on serve all its citizens. However, while the Arabs of Israel were required to treat 1948 as the point of no return as far as their rights to the land and returning to their homes were concerned, the Jews preferred to have their cake and eat it, too. The "redemption of land," which means, in fact, the transfer of lands from Arabs to Jews, is still going on.*¹⁸

Palestinians and their descendants who remained in the area that became Israel are today citizens of Israel (often referred to as “Israeli Arabs”), and make up roughly 20.8% of Israel’s population within Israel’s internationally recognized borders (what will be referred to in this document as “Israel proper”).¹⁹ Despite this being the case, KKL-JNF maintains that its land-holdings are reserved exclusively on behalf of the global Jewish population,²⁰ 57% of whom reside outside of Israel.²¹ Palestinian citizens of Israel have resisted this, and as do many Jewish-Israelis and prominent institutions, view it as a form of discrimination.

KKL-JNF also has a lengthy history of projects in the Occupied Palestinian Territory,²² including ownership of a company called *Himnuta*.²³ *Himnuta* has purchased tens of thousands of dunams²⁴ of land in occupied East Jerusalem and the occupied West Bank, almost all near the Green Line (the internationally recognized border between Israel and

¹⁷ Ibid., 96.

¹⁸ Haaretz Editorial, “Who Needs the JNF?” *Haaretz Online*, <http://www.haaretz.com/print-edition/opinion/who-needs-the-jnf-1.229832> (accessed on June 24, 2017).

¹⁹ Central Bureau of Statistics, “Media Release: 60th Independence Day: 8.5 million residents in the State of Israel,” http://www.cbs.gov.il/www/hodaot2016n/11_16_134e.pdf (accessed on June 24, 2017).

²⁰ KKL, “Jewish People Land.”

²¹ Jewish Virtual Library, “Vital Statistics: Latest Population Statistics for Israel,” <http://www.jewishvirtuallibrary.org/latest-population-statistics-for-israel> (accessed on June 24, 2017).

²² Noam Sheizaf, “The Jewish National Fund’s list of projects in the settlements,” +972, <https://972mag.com/the-jewish-national-funds-list-of-projects-in-the-settlements/90512/> (accessed June 24, 2017).

²³ It is also sometimes spelled “Himanuta.”

²⁴ One thousand dunams is equivalent to one square kilometre.

the occupied territories of East Jerusalem and the West Bank).²⁵ According to Israeli author and columnist Akiva Eldar:

*Last June [2005], Haaretz published a report on a plan to establish a Jewish neighborhood adjacent to the village of Wallajeh, south of Jerusalem, with the purpose of surrounding Jerusalem with a belt of Jewish settlements and thus cut it off from Bethlehem. The Israel Lands Administration said at the time that Himnuta was in charge of the plan.*²⁶

KKL-JNF, through its subsidiary Himnuta, is also responsible for evicting Palestinian families from their homes in East Jerusalem.²⁷

In 1961, the Israel Land Authority (ILA) was officially tasked with managing Israel's public lands, which amount to 80% of all land in Israel proper, in addition to KKL-JNF's lands, which amounts to 13% of all land in Israel proper.

The 1961 covenant between KKL-JNF and the State of Israel states that the leasing of KKL-JNF's land by the ILA is to be "administered subject to the Memorandum and Articles of Association of the JNF."²⁸ In practise, this has meant that KKL-JNF lands are leased to Jews only.²⁹

The policy of the ILA is determined by the Israel Land Council (ILC). According to the ILC website, KKL-JNF holds 10 out of 22 seats on the ILC.³⁰ This means that KKL-JNF, whose chartered objective is to acquire land "for the purpose of settling Jews on such lands and properties," has significant influence over the administration of 93% of all land in Israel proper.³¹

²⁵ Amiram Barkat, "JNF-owned Company Bought Land in the Territories," *Haaretz Online*, <http://www.haaretz.com/print-edition/features/jnf-owned-company-bought-land-in-the-territories-1.150526> (accessed June 24, 2017).

²⁶ Akiva Eldar, "Zionism on Trial," *Haaretz Online*, <http://www.haaretz.com/zionism-on-trial-1.148757> (accessed June 24, 2017).

²⁷ See Moriel Rothman, "In East Jerusalem, only Palestinian property seized as Absentee," +972, <https://972mag.com/in-east-jerusalem-only-palestinian-property-is-seized-as-absentee/37069/> (accessed June 24, 2017); Rabbis for Human Rights, "Victory for the Ruweidi Family and for Silwan," <http://rhr.org.il/eng/2012/05/victory-for-the-ruweidi-family-and-for-silwan/> (accessed June 24, 2017).

²⁸ Lehn and Davis, *Fund*, 187.

²⁹ *Ibid.*

³⁰ Israel Land Authority, "General Information," http://www.mmi.gov.il/envelope/indexeng.asp?page=/static/eng/f_general.html (accessed June 23, 2017)

³¹ The 1961 treaty between KKL-JNF and the ILA may have been severed, as there was talk of a formal split between KKL-JNF and the ILA in 2015. There have been no official reports on the finalization of this split in any English-language media. *The Jerusalem Post* published a story that mentioned an expected split, but has not followed up on this issue since the following story was published: <http://www.jpost.com/Israel-News/Lapid-calls-to-nationalize-corrupt-KKL-JNF-390652> (accessed June 23, 2017). It is unclear if the split has occurred, and if it has, it is unclear if this means that KKL-JNF no longer has seats on the ILC.

In KKL-JNF's own words — excerpted from its response to a petition filed in Israel's High Court, which was protesting KKL-JNF's land-leasing policies and practises — it believes that:

*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.*³²

This codification of exclusive Jewish ownership and benefit for its funds is contained in KKL-JNF's Memorandum of Association, which emphasizes that its funds are used “to bring direct or indirect benefit to those of the Jewish religion, race or Jewish origins...”³³

Based on a petition filed in Israel's High Court challenging KKL-JNF's refusal to lease its lands to a Palestinian family, the Attorney General ruled that KKL-JNF is discriminatory in its policies and practises, which should not continue with state assistance.³⁴ Following this ruling, the ILA and KKL-JNF signed an agreement, which was described by the human rights NGO *Adalah* as follows:

*The ILA and the JNF signed an agreement in 2009 that allows for land swaps of JNF-owned land in the centre of the country, for state-owned lands in the peripheries (90% in the Negev, 10% in the Galilee). This allows for the JNF to maintain its policies of its land being held exclusively for Jews, since it would ensure that if non-Jews wanted to rent or buy land it owns (which is being privatized), that land would be transferred to the state, and hence no longer be JNF lands. In exchange, the JNF would acquire an equal amount of land in the two areas it has historically sought to “Judaize” (in its own words), and where it has ensured that the Israel Lands Authority administer the lands “in a manner that will preserve the principles of the JNF relating to its lands.”*³⁵

³² Adalah, “Excerpts from the Jewish National Fund's Response to H.C. 9205/04 and H.C. 9010/04,” <http://www.adalah.org/uploads/oldfiles/eng/publications/makan/hc9010.pdf> (accessed June 24, 2017) 90.

³³ *Ibid.*, 88.

³⁴ Nathaniel Popper, “In Watershed, Israel Deems Land-use Rules of Zionist Icon Discriminatory,” <http://forward.com/news/2854/in-watershed-israel-deems-land-use-rules-of-zioni/> (accessed June 24, 2017).

³⁵ Adalah, “The New Israeli Land Reform,” <https://www.adalah.org/uploads/oldfiles/features/land/The Israeli Land Reform edited english 2 6 8 09.pdf> (accessed June 24, 2017).

According to one analyst, the agreement is described as being “designed to render redundant the controversial JNF bill, which would allow the organization to continue leasing its lands only to Jews.”³⁶

Not much has been written about the implementation of the agreement, but one analyst did detail the issue of land swaps in December 2013. Jack Khoury details how Palestinian citizens wanting to lease KKL-JNF lands are unable to get their properties registered because of the requirement of the ILA to perform the land swap with KKL-JNF, which they do not appear to be taking seriously. This has created a situation of discrimination.³⁷

Leading human rights organizations in Israel — *Adalah* and the *Association for Civil Rights in Israel* (ACRI) — have called on the ILA to cancel its land swap agreement with KKL-JNF, on the grounds that the agreement is discriminatory:

*Adalah and ACRI argue that the land swap between the state and the JNF is a legal maneuver to make an end run around previous Israeli Supreme Court decisions that held that the state cannot transfer land resources to entities in order to pursue discriminatory policies that the state itself may not engage in. According to the human rights organizations, the Supreme Court issued decisions in the past to prevent the state ridding itself of the legal responsibilities to pursue equality, by outsourcing these resources to a third party to perform discriminatory tasks.*³⁸

KKL-JNF generally sees the agreement as a means of eliminating “JNF-KKL’s exposure in the current lawsuits in the Supreme Court pending against it.” KKL-JNF maintains that the land swap “will allow the 107-year-old organization to continue to develop the land of Israel on behalf of its owners — Jewish people everywhere...” and concluding that “JNF-KKL owns 13% of the land in Israel on behalf of Jewish people and that will not diminish; if anything it may increase.”³⁹

Israel’s High Court has not been the only major body that has identified the policies and practises of KKL-JNF as constituting discrimination. Other examples include the U.S.

³⁶ Shara Ilan, “Deal Would Have State, JNF swap 60,000 Dunams,” *Haaretz Online*, <http://www.haaretz.com/deal-would-have-state-jnf-swap-60-000-dunams-1.232133> (accessed June 24, 2017).

³⁷ Jack Khoury, “Israeli Arabs Face Red Tape When Leasing JNF Lands,” <http://www.haaretz.com/news/israel/.premium-1.564877> (accessed June 24, 2017).

³⁸ Adalah, “Adalah and ACRI call to cancel discriminatory land swap agreement between Israeli government and the JNF,” <https://www.adalah.org/en/content/view/8724> (accessed June 24, 2017).

³⁹ Jewish National Fund, “Understanding the JNF/KKL Land Swap,” http://www.jnf.org/about-jnf/news/understanding_land_swap.html (accessed June 24, 2017).

State Department⁴⁰ and the United Nations Committee on Economic, Social and Cultural Rights.⁴¹

Given the highly controversial history of KKL-JNF, the organization has tried to portray itself over the years as a leading environmental NGO, since it is heavily involved with planting trees and managing forests. As noted by Noga Kadman:

... by 2013, over 240 million trees were planted by the JNF on a territory of approximately 230,000 acres. In addition to its authority over this territory, the JNF forestation department is also responsible today for some 100,000 acres of natural woodland in Israel and the development of an additional 100,000 acres of grazing grounds. The forests managed by the JNF include mostly planted pines and other coniferous trees (58%), as well as eucalyptus and other non-native broad-leaved trees (17 percent). Only in the remaining 25 percent of the planted land does the JNF plant local species. All this is an implementation of its stated policy of endowing Israel with a European landscape.⁴²

As will be further detailed in this official complaint, it is very difficult to view these trees and forests as merely motivated by environmentalism. According to the Israeli NGO *Zochrot*, the majority of KKL-JNF forests and sites are located over the ruins of depopulated and demolished Palestinian villages.⁴³

KKL-JNF has played a significant role in Israel's history, helping to disguise realities that are unpleasant for Jewish-Israelis, tourists and others to accept. Kadman brings up a particularly illuminating example:

In early 1959 the Company for Landscape Improvement, a subsidiary of the Governmental Tourism Company (later the Israel National Parks Authority) was handed a plan to beautify the road to Jerusalem. As part of the plan, JNF was asked to demolish the village of Qalunya and plant trees over the remains, in order to "prevent passersby on the Jerusalem road the pleasure of seeing a desolate landscape, which elicits various questions among tourists."⁴⁴

It should come as little surprise that Kadman, whose primary research is in this field, concludes the following:

⁴⁰ U.S. State Department, "Israel and the Occupied Territories 2012 Human Rights Report," <http://www.state.gov/documents/organization/204575.pdf> (accessed June 24, 2017) 24.

⁴¹ United Nations Committee on Economic, Social and Cultural Rights, "Consideration of Reports Submitted by State Parties under article 16 and 17 of the Covenant: Concluding observations of the Committee on Economic, Social and Cultural Rights," <https://unispal.un.org/DPA/DPR/unispal.nsf/0/0BC7883100A95730852569AF00575179> (accessed June 24, 2017).

⁴² Kadman, *Erased*, 42.

⁴³ Eitan Bronstein Aparicio, "Most JNF-KKL sites are located on the ruins of Palestinian villages," <http://www.zochrot.org/en/article/55963> (accessed June 24, 2017).

⁴⁴ Kadman, *Erased*, 28.

*Beyond its roles in demonstrating Jewish presence and creating Jewish memory, the forestation project of the JNF has been used for covering the remains of destroyed Palestinian villages and therefore as a way of deliberately casting them into oblivion.*⁴⁵

The use of trees by KKL-JNF is not restricted to covering over the ruins of depopulated and demolished Palestinian villages, however. Among other uses, trees have been used as a way of preventing the expansion and natural growth of Palestinian villages, putting this surrounding land off-limits.

According to Sharon Weitz, a former head of the KKL-JNF forestry division, in many places in the Galilee and the Triangle (two areas in Israel with a predominantly Palestinian population), “The Arab villages end where the forest begins,” and the forest serves as “a clear sign to the villagers.”⁴⁶

In reference to 10,000 dunams of land in the Galilee, Weitz stated that KKL-JNF would “protect State lands not with fences but with trees.” This tactic was specifically designed to prevent Palestinian and Druze citizens from obtaining access to their land rights.⁴⁷

KKL-JNF has been raising funds from offices around the world that would be used to carry out the above activities. Taxpayers in numerous countries subsidize these donations, since many KKL-JNF offices abroad are able to issue charitable tax receipts to its donors.

Not only has KKL-JNF been able to raise large sums from its offices abroad, but its landholdings in Israel and aggregated assets amount to a very substantial amount of money.

As one analyst noted:

The JNF’s assets are estimated at NIS 8 billion. In recent years its annual revenues have ranged between NIS 500 million to NIS 800 million per year, with over half of the budget earmarked for organizational expenses.

*Despite its public orientation, the JNF is exempt from being audited by either the State Comptroller’s Office or the Finance Ministry.*⁴⁸

Canadian taxpayers, therefore, subsidize the activities of an Israeli organization with assets reportedly amounting to roughly \$3 billion (Canadian).

⁴⁵ Ibid., 43.

⁴⁶ Shaul Ephraim Cohen, *The Politics of Planting* (Chicago: The University of Chicago Press, 1993) 67.

⁴⁷ Ibid., 67, supra 14.

⁴⁸ Shuki Sadeh, “JNF Accused of Squandering Your Generosity,” *Haaretz Online*, <http://www.haaretz.com/israel-news/business/.premium-1.583680> (accessed June 24, 2017).

KKL-JNF was recently audited by the state for the first time in its history. Roi Yanovsky of *Ynet News* reported that the state comptroller, Joseph Shapira, found “serious, deep and thorough deficiencies” in KKL-JNF.

Yanovsky noted:

Shapira went on to detail instances of projects worth hundreds of millions of shekels that were handled with no clear priorities, extensive financial irregularities and obvious instances of conflicts of interest between KKL board members and politicians.⁴⁹

To add to the already controversial nature of KKL-JNF, according to the Zionist Congress, the policymaking body of the World Zionist Organization (WZO), KKL-JNF is a wholly owned subsidiary of the WZO, tasked with acquiring land for Jewish-only settlement in historic Palestine.⁵⁰

The Israeli Knesset stated:

It was also determined that the World Zionist Organization will continue to handle the organization, propaganda, education, immigrant absorption from industrialized countries, settlement beyond the "Green Line," and supervision over the Jewish National Fund.⁵¹

The WZO has been involved in highly controversial activities beyond the Green Line. These activities are in clear violation of both international law and Canadian public policy. According to an *Associated Press* story entitled “Lawsuit Brings Murky West Bank Land Dealings to Light,”

... the World Zionist Organization, acting as an agent of the Israeli government, took private Palestinian land in the West Bank and gave it to Jewish settlers, even though the state itself had declared the property off-limits to settlement.⁵²

1.2 What is the Jewish National Fund of Canada?

This section of the formal complaint aims to profile the Jewish National Fund of Canada (JNF Canada). There was an attempt to access JNF Canada documents held in the National Archives of Canada, so as to provide further information in this overview, but in order to access these archived files, JNF Canada must grant permission. Unfortunately,

⁴⁹ Roi Yanovsky, “State Comptroller issues scathing report on KKL,” *Ynet News*, <https://www.ynetnews.com/articles/0,7340,L-4909566,00.html> (accessed October 15, 2017).

⁵⁰ World Zionist Organization, “Keren Kayemet LeIsrael,” <http://www.wzo.org.il/congress/index.php?dir=site&page=content&cs=3016> (accessed June 24, 2017).

⁵¹ The State of Israel, “The World Zionist Organization,” The Knesset, https://www.knesset.gov.il/lexicon/eng/wzo_eng.htm (accessed June 24, 2017).

⁵² Amy Teibel, “Lawsuit brings murky West Bank deal to light,” *The Associated Press*, <http://newsok.com/article/feed/51651> (accessed June 25, 2017).

such permission has not been granted by JNF Canada. Therefore, a profile of the organization is being presented to the best of our ability.

JNF Canada is considered to be an “office” of KKL-JNF by the latter organization.⁵³ However, JNF Canada has also been described as an “agency” of KKL-JNF,⁵⁴ a “division” of KKL-JNF⁵⁵ and a “branch” of KKL-JNF.⁵⁶

According to a report prepared for the Multicultural Archives Program of the National Archives of Canada entitled “Jewish National Fund,”

*The Jewish National Fund of Canada (JNF) whose objective is land redemption and reclamation in the State of Israel, is one Canada's most important national Jewish organizations.*⁵⁷

The report states:

*The JNF maintains offices in most of the major Canadian cities and is administered by a Board of Directors, headed by the National President. The executive vice-president, who is based in the Montreal head office, co-ordinates the work of the entire country, and serves as a liaison with the parent Keren Kayemeth L'Israel in Jerusalem.*⁵⁸

JNF Canada officially incorporated as a non-profit organization on March 19, 1962 under the name Jewish National Fund of Canada (Keren Kayemeth Le’Israel) Inc. Its stated purpose, which is also its declared charitable purpose, is: “To create, provide, enlarge and administer a fund to be made up of voluntary contributions from the Jewish community and others, to be used for charitable purposes.”⁵⁹ As this formal complaint will demonstrate, this stated purpose is not considered a charitable purpose under Canadian law.

JNF Canada received its notice of registration from the Canada Revenue Agency on January 1, 1967.⁶⁰

⁵³ Keren Kayemeth LeIsrael, “Projects and Partners Worldwide,” <http://www.kkl-jnf.org/about-kl-jnf/kkl-jnf-offices-worldwide/> (accessed June 25, 2017).

⁵⁴ Lawrence F. Tapper, “Jewish National Fund,” *National Archives of Canada*, <http://data2.archives.ca/pdf/pdf001/p000000032.pdf> (accessed June 25, 2017) 3.

⁵⁵ Jewish National Fund of Ottawa, *Negev Dinner 1995* (Ottawa: Jewish National Fund of Canada, 1995) 40. [Document 2]

⁵⁶ David Newman, “Borderline Views: JNF Canada Boycott of Ahinoam Nini,” *Jerusalem Post*, <http://www.jpost.com/Opinion/Borderline-Views-JNF-Canadas-boycott-of-Ahinoam-Nini-446485> (accessed June 25, 2017).

⁵⁷ Tapper, *Fund*, 3.

⁵⁸ *Ibid.*, 4.

⁵⁹ Letters Patent, Incorporating Jewish National Fund (Keren Kayemeth Le’Israel) Inc. [Document 3]

⁶⁰ Notice of Registration, Jewish National Fund of Canada (Keren Kayemeth Le’Israel) Inc. [Document 4]

Based on its reporting to the CRA, JNF Canada claims that all of its activities carried out since the reporting has been made available on the CRA's website — so from 2000 to 2015 — has been carried out in Israel (country code IL).⁶¹ It is important to note that any activity taking place in the Occupied Palestinian Territory, or the “Israeli Occupied Territories,” has to be reported accurately to the CRA, with the appropriate country code (which is PS).⁶² Despite this requirement, JNF Canada has failed to report its activities carried out in the occupied West Bank, occupied East Jerusalem, and occupied Golan Heights.

According to an independent audit of the organization conducted by the accounting firm Collins Barrow, under “Purpose of the organization,” it states:

*Jewish National Fund of Canada (Keren Kayemeth Le'Israel) Inc. raises funds from various Canadian sources. These funds are used for charitable purposes in Israel through Canada Israel Committee (CANISCOM), an agent of the organization. The organization is incorporated under the Canada Not-for-profit Corporations Act (NFP Act) and is a registered charity under the Income Tax Act.*⁶³

It is unclear what “Canada Israel Committee (CANISCOM)” is. Our research has not discovered any information about the existence of either “Canada Israel Committee”⁶⁴ or “CANISCOM.” Our efforts to obtain information about this organization through an Access to Information and Privacy (ATIP) request with CRA did not bring up any information.

Throughout the sixteen-year period in which JNF Canada's registered charity information returns are available on the CRA's website, it has never made mention of Canada Israel Committee (CANISCOM). On the CRA's return form, the CRA asks: “Were any of the charity's financial resources spent on programs outside of Canada under any kind of arrangement including a contract, agency agreement, or joint venture to any other individual or organization (excluding gifts to qualified donees)?” JNF Canada answers “yes,” and includes one organization through which it purportedly transfers all its money for activities: KKL-JNF.

Regarding JNF Canada's methods of raising funds, The National Archives of Canada report details a lucrative means of fundraising for JNF Canada:

⁶¹ Government of Canada, “Registered Charity Information Returns – Jewish National Fund of Canada (Keren Kayemeth Le'Israel) Inc. / Fonds National Juif due Canada (Keren Kayemeth Le'Israel) Inc <http://bit.ly/2ma8G70> (accessed June 25, 2017).

⁶² Government of Canada, “Country Codes,” <http://bit.ly/2n6J9jb> (accessed June 25, 2017).

⁶³ Collins Barrow, “Independent Auditors Report: Jewish National Fund of Canada (Keren Kayemeth Le'Israel) Inc.,” https://www.charityintelligence.ca/media/audit_pdfs/JNFC%20AFS%20F2015.PDF (accessed June 25, 2017).

⁶⁴ There was an organization called “Canada-Israel Committee,” but it served as the official lobbying arm of the mainstream Jewish community in Canada, lobbying government on issues pertaining to Israel. It ceased operations on July 1, 2011.

With the creation of the State of Israel in 1948, support for the JNF intensified amongst Canada's Jews. In that year a new form of communal expression of support came into being with creation of the Negev Dinner. The first one was held in Montreal in 1948. The annual Negev Dinner, which is sponsored by the JNF in Canadian cities, has been a tradition for more than forty years. Annual fund-raising dinners were first introduced into Canada in the early 1940's for special JNF projects such as the Soldiers' Land Fund as well as the establishment of a colony located at Emek Hefer which was named in honour of A.J. Freiman (1880-1944), of Ottawa.⁶⁵

As is common for such events, the books made for the Negev Dinner's honourees and attendees in cities across Canada begin with official letters from the Governor General, Prime Minister of Canada, the Lieutenant Governor, the Premier, the Mayor, the local Member of Parliament, the World Chairman of KKL-JNF, the National President and Vice-President of JNF Canada, and those involved directly with the planning and executing of the event.⁶⁶

The book made for the 1995 Negev Dinner in Ottawa contains a section entitled "The Jewish National Fund: a Proud History." The entire section makes reference to "the JNF" without clarifying which projects are the responsibility of, or were funded by, JNF Canada, and which are KKL-JNF projects.⁶⁷

Some of the projects listed, however, are clearly linked to JNF Canada, as "Canada" is contained in the project's name. For instance, the Jewish residential projects of "Galil Canada" and "Eilat-Canada" were highlighted as activities of "the JNF," and appear to be the two most prominent JNF Canada-funded projects in the 1980s and early 1990s respectively, following "Canada Park," which was the main JNF Canada-funded project of the 1970s and is described by JNF Canada as "...the flagship project of Canadians in Israel."⁶⁸

On JNF Canada's website, under "About Us," the pages "Vision" and "History" contain information only about KKL-JNF, with nothing about JNF Canada.

The "Vision" page states:

Since its inception in 1901, the Jewish National Fund has been the sole agency responsible for the development and infrastructure of land in Israel. Our many programs include land reclamation, reforestation, and road building.

⁶⁵ Tapper, *Fund*, 3.

⁶⁶ See for example JNF Ottawa, *Negev*, 3-13. [Document 2]

⁶⁷ *Ibid.*, 40-43.

⁶⁸ Government of Canada, "Ayalon/Canada Park and the Jewish National Fund of Canada", Access to Information A0380457_3-000137, <http://ijvcanada.org/wp-content/uploads/2014/05/ATIP-from-Global-Affairs-on-JNF-Canada-and-Canada-Park.pdf>, 28.

From the Negev Desert to the Galilee, lush green spaces, rich farmland and cities pulsating with life have blossomed out of swamp and mountain rock.

The JNF directs 100% of its charitable dollars to support the Land of Israel. Therefore, you can be assured that your donation is going directly to fulfill the needs of one of our many development areas such as water, forestry and environment, education, community development, security, tourism and recreation, and research and development.

The Jewish National Fund is the caretaker of the land of Israel, on behalf of its owners – Jewish people everywhere.⁶⁹

As this formal complaint has already pointed out, JNF Canada often refers to itself and to its projects as being carried out by “JNF,” without specifying if it is a JNF Canada or a KKL-JNF project. JNF Canada sometimes admits to KKL-JNF having responsibility for projects which JNF Canada also claims as its own.

JNF Canada has conflated itself so consistently with KKL-JNF that it is frequently impossible to distinguish between them. On JNF Canada’s twitter account, for instance, it describes itself in an identical manner to KKL-JNF: “The Jewish National Fund is the caretaker of the land of Israel, on behalf of its owners – Jewish people everywhere.”⁷⁰ Examples abound throughout this document of JNF Canada conflating itself with KKL-JNF, and in reading JNF Canada’s literature over the course of the organization’s tenure, the examples are far too numerous to list in this formal complaint.

Given the reality that it is often impossible to distinguish between the projects and activities of JNF Canada and KKL-JNF, as JNF Canada conflates itself consistently with KKL-JNF; and given the fact that JNF Canada, in describing its own projects, has admitted to having KKL-JNF make important decisions about the nature of these projects, there is considerable doubt regarding JNF Canada’s control and direction over its own activities, and clear evidence that JNF Canada has served as a conduit for KKL-JNF.

1.3 Guidelines for Charities in Canada

Registered charities in Canada enjoy the support of Canadian taxpayers because they provide a common good. The concerns expressed in this document arise from our understanding of charities law in Canada as informed by information available on the CRA’s website. In particular, we note the following relevant CRA guidelines and policy statements, taken directly from the CRA’s website:

⁶⁹ Jewish National Fund of Canada, “Vision,” <http://site.jnf.ca/index.php/about-jnf/vision/> (accessed June 25, 2017).

⁷⁰Twitter, “JNF Canada,” <https://twitter.com/JNFca> (accessed June 25, 2017).

1) Guidelines for registering a charity: Meeting the public benefit test – CPS-024⁷¹

2.0 The fundamentals of charity

To take advantage of special tax privileges given charities under the Act—the most significant one being the ability to issue tax receipts to donors —charities must first register with the CRA. To do so, an applicant organization must meet the requirements of the Act; that it be charitable at law and devote its resources to charitable purposes and activities.

At common law, an applicant organization will be determined charitable only if it meets two fundamental requirements:

1. The organization's purposes must be exclusively and legally charitable
2. It must be established for the benefit of the public or a sufficient segment of the public

As part of the first requirement, an organization's purposes are considered legally charitable only if they fall within one of the four categories of charity set out in the 19th century decision, *Commissioners for Special Purposes of Income Tax v. Pemsel*, (hereinafter referred to as *Pemsel*), or within the spirit and intendment of the preamble to the Statute of Elizabeth (the Preamble). As a result, in order to be found charitable for the purposes of being registered under the Act, an organization's purposes must be sufficiently similar to others previously recognized to be charitable at law.

Pemsel categories include:

- purposes for the relief of poverty
- purposes for the advancement of education
- purposes for the advancement of religion
- other purposes beneficial to the community in a way the law regards as charitable

⁷¹ Government of Canada, “Guidelines for registering a charity: Meeting the public benefit test,” Canada Revenue Agency, <http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cps/cps-024-eng.html> (accessed June 27, 2017).

Within the public benefit requirement, there are several sub-requirements, which are listed below and discussed in more detail later in this document:

- the benefit should generally be tangible
- the beneficiaries must be the public-at-large or come from a sufficient segment of the public as determined by the charitable purpose being considered
- the organization may not otherwise benefit private individuals except under certain limited conditions
- subject to some exceptions, the organization cannot exist for the benefit of its members. Professional associations and trade unions are not typically considered charitable at law
- the organization cannot restrict delivery of the benefits to a certain group or class of persons without adequate justification
- the organization cannot charge fees for its services where the effect of the charge would be to unduly exclude members of the public

Finally, the following other factors would likely prevent an organization from being registered:

- the organization is established for the purpose of making a profit
- the organization is set up for illegal purposes or for purposes that are contrary to public policy
- the organization is set up for political purposes or is involved in political activities beyond the limits allowed at law

3.1.2 Requirement that there be a net benefit for the public

The charitable purposes of some organizations may result in a benefit to the public, while at the same time produce some negative effect. Where such a conflict occurs, the public benefit, shown to arise from the charitable purpose, is typically evaluated against any harm that may also arise from the proposed activity. ³⁹ In determining charitable purpose, we are looking to ensure that a substantial net benefit results.

3.2.2 Restricting or focusing benefit to a specific group of beneficiaries

The issue of what constitutes the public most frequently arises in the context of an applicant organization placing limitations on the group served by the organization because of, among other things, ethnicity, gender, race, age, sexual orientation, and religion. Although the restriction itself may be directly in line with the nature of the charitable purpose, some organizations want to specifically restrict the benefit to a specified group for other reasons. As well, others want merely to focus the intended benefit on, or offer specialized service to, an identifiable group. All types of limitations have the potential of offending the public benefit test, although to differing degrees. Organizations that want an outright restriction of benefit or exclusion of services have a far greater burden of establishing public benefit than those organizations that want only to focus attention on a specific group, but extend service delivery to the general public.

When a charity proposes to restrict the beneficiaries of the undertaking in any way, the nature of the restriction must be clearly linked to the proposed benefit. Is the restriction relevant to achieving the charitable object? For example, a restriction imposed on eligibility based on a person's religion when the purpose of the undertaking is not religious in nature (for example, the establishment of a science museum) will likely fail the public benefit test and disentitle the applicant from being registered as charitable. At the other end of the continuum are the organizations whose restrictions are directly linked, or part of the charitable purpose, which will be considered acceptable. An example of this latter scenario would be an organization set up to assist women with ovarian cancer or one set up to assist men with prostate cancer. Those organizations, whose purposes fall between these two extremes, must demonstrate why their proposed restriction on who will directly benefit is necessary in relation to the charitable purpose proposed.

...

Finally, organizations that seek to restrict benefits must always ensure that the restrictions proposed are not illegal or contrary to public policy. Any such restrictions are incapable of providing a public benefit. Organizations with purposes that are discriminatory or based on notions of racism, may, depending on the nature of the discriminatory purpose, offend the norms in the Canadian Charter of Rights and Freedoms. They may also be in contravention of the various human rights regimes either federally or provincially, or contrary to public policy as expressed in those constitutional and legislative regimes.

2) Canadian registered charities carrying out activities outside Canada – CG-002⁷²

According to the Income Tax Act, a registered charity can only use its resources (for example, funds, personnel, and property) in two ways, whether inside or outside Canada:

- on its own activities (those which are directly under the charity's control and supervision, and for which it can account for any funds expended)
- on gifts to qualified donees

1.1. Own activities

A charity usually carries on its activities using its staff (including volunteers, directors, or employees), or through an intermediary (for example, an agent or contractor). However, when using an intermediary, it must still direct and control the use of its resources, although it may generally delegate authority to make day-to-day operating decisions. A charity cannot merely be a conduit to funnel money to an organization that is not a qualified donee.

For this guidance, an intermediary is a person or non-qualified donee that is separate from the charity, but that the charity works with to carry out its own activities.

1.2. Direction and control when using intermediaries

The Canada Revenue Agency (CRA) requires that a charity take all necessary measures to direct and control the use of its resources when carrying out activities through an intermediary. When carrying out activities through an intermediary, the following steps are strongly recommended:

- create a written agreement with the intermediary, and implement its terms
- communicate a clear, complete, and detailed description of the activity to the intermediary
- monitor and supervise the activity
- provide clear, complete, and detailed instructions to the intermediary on an ongoing basis
- arrange for the intermediary to keep the charity's funds separate from its own, and to keep separate books and records
- make periodic transfers of resources, based on demonstrated performance

⁷² Government of Canada, "Canadian registered charities carrying out activities outside Canada," Canada Revenue Agency, <http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/tsd-cnd-eng.html> (accessed June 27, 2017).

A charity must maintain a record of steps taken to direct and control the use of its resources, as part of its books and records, to allow the CRA to verify that all of the charity's resources have been used for its own activities.

For more information on conduits, see [section 5.5](#). For more information on direction and control, see [section 7](#).

5.5 What is a conduit?

For this guidance, a conduit is a registered charity that receives donations from Canadians, issues tax-deductible receipts, and funnels money without direction or control to an organization to which a Canadian taxpayer could not make a gift and acquire tax relief. Acting as a conduit violates the Income Tax Act, and could jeopardize a charity's registered status.

***3) How to draft purposes for charitable registration - CG-019*⁷³**

The purposes (sometimes referred to as “objects”) of an organization are the objectives that it is created to achieve. Each of an organization’s purposes must be clearly stated in its governing document, such as letters patent, articles of incorporation, trust, or constitution.

To be registered as a charity under the Income Tax Act, Canadian law requires that an organization’s purposes be exclusively charitable and define the scope of activities that can be engaged in by the organization. Subject to limited exceptions, all of a registered charity’s resources must be devoted to these activities. The assessment of the purposes and activities of an organization is referred to as a “two-part test.”

An organization’s governing document must contain a clear statement of each of its purposes. If the wording is broad or vague, a purpose is not likely to meet the legal requirements for registration as a charity....

To be eligible for charitable registration, a purpose should identify three elements:

a) the charitable purpose category—to establish that the purpose falls within one of the four broad categories of charity (for example, “to relieve poverty,” “to advance education,” “to advance religion,” or “to promote health”) (see paragraphs [13-14](#))

b) the means of providing the charitable benefit—to define the scope of the activities that can be conducted to directly further the purpose and ensure the provision of a charitable benefit (for example, “by providing housing,” “by operating

⁷³ Government of Canada, “How to draft purposes for charitable registration,” <http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/draftprpss-eng.html> (accessed June 27, 2017).

a school,” “by conducting prayer services that advance the teachings of Islam,” or “by operating a hospital”) (see paragraphs [15-19](#))

c) the eligible beneficiary group—to ensure the charitable benefit is provided to the public or a sufficient section of the public (for example, “for the poor” or “for the general public”

A charitable purpose should not be broad or vague

26. If the wording is too broad or vague, it will not be clear that a purpose is charitable (falls within a charitable purpose category and provides a public benefit) and defines the scope of the organization’s activities. **Broad** means the purpose may allow for both charitable and non-charitable activities and/or the delivery of unacceptable private benefits. **Vague** means the wording may be interpreted in different ways. A purpose that is too broad or vague may not be eligible for registration. On the other hand, purposes that are overly narrow or inaccurate may cause problems for an organization as it tries to carry out its mandate.

2.0 OUR COMPLAINT

2.1 JNF Canada does not identify a charitable purpose

The CRA's guidance document CG-019 states:

The purposes (sometimes referred to as "objects") of an organization are the objectives that it is created to achieve. Each of an organization's purposes must be clearly stated in its governing document, such as letters patent, articles of incorporation, trust, or constitution.

In JNF Canada's governing document — its letters patent and articles of incorporation — it states that its sole purpose is "To create, provide, enlarge and administer a fund to be made up of voluntary contributions from the Jewish community and others, to be used for charitable purposes."

JNF Canada's governing document fails to meet the requirements of CG-019 for being eligible for charitable status, as it does not actually list any charitable purpose(s). To merely claim that the tax-receipted funds raised will be "used for charitable purposes" fails to identify clearly what those charitable purposes are, as required under Canadian law.

Canadian law, as outlined in CG-019, requires that a charitable purpose must identify clearly the charitable purpose category, the means of delivering the charitable benefit (activities undertaken) and the eligible beneficiary group. JNF Canada's stated charitable purpose fails to identify any of these.

According to CG-019,

*If the wording is too broad or vague, it will not be clear that a purpose is charitable (falls within a charitable purpose category and provides a public benefit) and defines the scope of the organization's activities. **Broad** means the purpose may allow for both charitable and non-charitable activities and/or the delivery of unacceptable private benefits. **Vague** means the wording may be interpreted in different ways. A purpose that is too broad or vague may not be eligible for registration.*

JNF Canada's listed charitable purpose, which simply states that the organization raises funds "to be used for charitable purposes," is so insufficient that it cannot even be judged as per CG-019's descriptions of being too broad or too vague, as it does not identify any charitable purpose whatsoever.

One has to wonder how JNF Canada was granted charitable status in the first place, given that the organization has never identified a charitable purpose under Canadian law. On January 1, 1967, JNF Canada was granted charitable status without ever having identified

a charitable purpose. To this day, JNF Canada has yet to identify a charitable purpose, despite having to file annual charity returns to the CRA.

On the CRA's website, JNF Canada's description continues to be the following:

THE CHARITY EXISTS TO PROVIDE, ENLARGE AND ADMINISTER A FUND MADE UP OF VOLUNTARY CONTRIBUTIONS FROM THE JEWISH COMMUNITY OF CANADA AND OTHERS TO BE USED FOR CHARITABLE PURPOSES. THERE ARE NO NEW PROGRAMS ESTABLISHED DURING THE YEAR.⁷⁴

Each year, the CRA is reminded of JNF Canada's failure to have ever identified a charitable purpose as required under Canadian law through its charity returns, yet the failure of JNF Canada to provide this essential requirement to be eligible for registered charitable status persists.

2.2 JNF Canada is serving as a Conduit for KKL-JNF

It is against the Income Tax Act for JNF Canada to serve as a conduit for funds used towards KKL-JNF projects. JNF Canada projects must be led by, and come under the direction and control of, JNF Canada. JNF Canada, therefore, is required to be a distinct entity from KKL-JNF for the purposes of Canadian law. Based on both KKL-JNF and JNF Canada materials, it appears that KKL-JNF has repeatedly been using JNF Canada as a conduit.

The CRA, under its guidance document *Canadian Registered Charities Carrying Out Activities outside of Canada* (CG-002), describes a conduit as follows:

For this guidance, a conduit is a registered charity that receives donations from Canadians, issues tax-deductible receipts, and funnels money without direction or control to an organization to which a Canadian taxpayer could not make a gift and acquire tax relief. Acting as a conduit violates the Income Tax Act, and could jeopardize a charity's registered status.⁷⁵

Before delving further into the relationship between JNF Canada and KKL-JNF, we will examine the relationships between KKL-JNF and JNF UK, and between KKL-JNF and JNF USA, as this will provide some further context to better understand the preferred and practised relationship KKL-JNF has maintained with its offices, branches, or divisions abroad.

⁷⁴ Government of Canada, "Jewish National Fund of Canada (Keren Kayemeth Le'Israel) Inc. / Fonds National Juif due Canada (Keren Kayemeth Le'Israel) Inc. — Quick View," Canada Revenue Agency, <http://bit.ly/2goQK54> (accessed June 25, 2017). N.B.: In each of the sixteen years in which JNF Canada's charity returns are reported on the CRA's website, it reports that "there are no new programs established during the year."

⁷⁵ Government of Canada, "Public Policy," Canada Revenue Agency, <http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/csp/csp-p13-eng.html> (accessed June 25, 2017).

2.2.1 JNF UK and KKL-JNF

A page from JNF UK's website entitled "Relationship between JNF UK and KKL" states that JNF UK's relationship with KKL-JNF broke down. The "main issue was that KKL wanted JNF UK to recognise that it was a branch of KKL and to recognise its supremacy over JNF UK; JNF UK refused to acquiesce." Here is an excerpt from the webpage providing further context:

JNF UK and KKL have a similar history. However, JNF UK has always been independent of KKL.

Originally, the trustees of JNF UK decided that the appropriate way to fulfil its objects was to remit funds to KKL to support charitable projects of KKL. Historically, JNF UK's relationship with KKL was governed by a series of trust deeds which set out how KKL was to use JNF UK's money.

The relationship between JNF UK and KKL broke down in 1999. The main issue was that KKL wanted JNF UK to recognise that it was a branch of KKL and to recognise its supremacy over JNF UK; JNF UK refused to acquiesce. In order to attempt to move on from this argument, on 9 June 1999 the parties reached an agreement which acknowledged that JNF UK was an independent UK charity.

In March/April 2005, JNF UK stopped sending funds to KKL; it had lost confidence in KKL's ability or willingness to apply JNF UK's funds as directed by JNF UK. On 17 October 2005, KKL purported to terminate the Memorandum of Understanding. Lengthy litigation followed, which was settled with a re-affirmation of JNF UK's independence."

Today, KKL is one organisation among many in Israel invited by JNF UK to submit project proposals which are assessed in the same way as all other project proposals.⁷⁶

Of particular importance here is the fact that JNF UK "had lost confidence in KKL's ability or willingness to apply JNF UK's funds as directed by JNF UK." A very crucial question for the CRA is: if KKL-JNF was deemed unable or unwilling to apply JNF UK's funds as directed by JNF UK, does KKL-JNF have the ability or willingness to apply JNF Canada's funds as directed by JNF Canada?

2.2.2 JNF USA and KKL-JNF

An article in the *Washington Report on Middle East Affairs* describing complaints in the U.S. that contested the charitable status of several organizations, including JNF USA, raises a case that brings into serious doubt the honesty of KKL-JNF in using funds earmarked for certain projects by its branches abroad. The case involves the plaintiff,

⁷⁶ JNF UK, "The Relationship Between JNF UK and KKL," <https://www.jnf.co.uk/relationship-jnf-uk-klk/> (accessed on June 25, 2017).

Charles Fischbein, who, according to the article, “until his resignation in March 1984, was the Executive Director of the Washington regional office of the Jewish National Fund (JNF). His official duties included fund-raising.”

The article describes in detail Fischbein’s concerns about JNF USA and KKL-JNF, as noted in the following:

Fischbein swore in a signed affidavit that he resigned from the JNF because he could no longer close his eyes to the legal and moral violations committed by the organization. He described how he raised and transferred to Israel over \$270,000 specifically earmarked for the construction of a sheltered playground for children at Kiryat Shemona, a Jewish village near the Lebanese border. When a prominent Washington, DC Jewish couple pledged \$75,000 for the effort, Fischbein arranged to have the playground named in their honor. The JNF later held a dinner in their honor, at which time the playground was officially dedicated to them.

When the couple traveled to Israel to visit the playground in the spring of 1982, however, they found no playground and no construction underway. Instead, Fischbein testified, they found an Israeli army staging area, littered with garbage and beer cans. Upon returning to the US, the couple accused the JNF of raising the funds under false pretences.

Fischbein subsequently learned that the money for the playground had gone into the general funds of the Israeli treasury, demonstrating that there are no US controls over the use of JNF funds raised in the US....

Fischbein’s disillusionment deepened when he took a trip to southern Lebanon in the summer of 1982 with other JNF leaders. Accompanying them was Moshe Rivlin, JNF director in Israel, and Dr. Samuel I. Cohen, JNF executive vice president in the United States. During the bus ride into Lebanon, Dr. Cohen announced that JNF bulldozers were an integral part of the military effort since they had preceded the troops in forging the path of the invasion. He further boasted that the JNF was “up to its ears” in the development of Jewish settlements in the occupied West Bank.

When the group arrived in southern Lebanon, they saw the devastation caused by Israel's bombing and invasion. Fischbein said that when some persons expressed horror at the destruction, Dr. Rivlin’s retort was that no one was to express any doubt or misgivings about the invasion. The penalty for dissent, they were warned, was their immediate dismissal from their positions with US-based JNF offices.

Fischbein states that he was deceived by the JNF into believing that it was a charitable organization. He now recognizes that the tax-exempt funds raised in the US were controlled by the government of Israel and were used to help

*underwrite Israel's Lebanon war and to continue Israel's control over the occupied West Bank and Gaza.*⁷⁷

In an article in the *Journal of Palestine Studies*, Rex Wingerter describes Fischbein's understanding of JNF USA and its relationship with KKL-JNF:

*Fischbein further swore that he had been deceived by the JNF, and misled as well by the United States government, into believing that the JNF was a charitable organization. He now understands that the funds raised by the JNF were not controlled by the JNF in the United States; the JNF instead served as a conduit for a foreign state and thus become [sic] a foreign agent. In addition, the funds raised by the JNF in the United States were not all used in Israel; indeed, much of the money was diverted instead into the West Bank and Lebanon for purely military purposes [sic] and for the continuation of the occupation of the West Bank, the Gaza Strip and Lebanon, and were used in a discriminatory fashion exclusively on behalf of some Israeli Jews, and specifically to the detriment of the Palestinian residents of these areas.*⁷⁸

The testimony of Fischbein, sworn in an affidavit, demonstrates that KKL-JNF has a documented history of regarding its branches abroad as fundraising for KKL-JNF, with KKL-JNF maintaining supremacy. JNF USA appears to have been acting as a conduit for KKL-JNF.

In a recent article in the Jewish-American periodical, *The Forward*, journalist Josh Nathan-Kazis noted that in 2015, JNF USA reported earning \$29.7 million in grants, while sending only \$343,000 of that to KKL-JNF. The article details the transition of JNF USA from being a mere conduit for KKL-JNF, to becoming an independent organization under the leadership of President of the Board Ron Lauder.

Nathan-Kazis reports:

Ties between the American JNF and the Israeli JNF began to erode in the late 1990s. A sharp break appears to have happened much more recently. As recently as 2008, the American JNF sent 60% of its grants to the Israeli JNF. ...

"I see it as a dangerous precedent in terms of other JNF branches around the world," said Mike Nitzan, a vice chair of the Israeli JNF. "There were numerous attempts to... try and iron those things out. The [American JNF] reached the conclusion that they could best serve their donors by running an independent organization." ...

⁷⁷ Rex Wingerter, "Tax-exempt Foundations Not Treated Equally," *Washington Report on Mid-East Affairs*, (June 1987): 11. Retrieved from <http://www.washingtonreport.me/1987-june/tax-exempt-foundations-not-treated-equally.html> (accessed June 25, 2017).

⁷⁸ Rex Wingerter, "Us Zionist Organizations: Their Tax-Exempt Status Challenged," *Journal of Palestine Studies*, 14:1 (Autumn, 1984): 114. [[Document 5](#)]

While previous generations of American JNF leadership had been happy to fork over checks to the Israeli JNF without asking questions, Lauder and his allies wanted control over the projects they funded....

A former member of the board of the American JNF, James Schiller, said that his group had been frustrated by the slow pace of the Israeli organization's work.

"It wasn't responsive to our donors," Schiller said of the Israeli JNF. "That's when [the American JNF] started to branch out and do things more on their own."

Nitzan said that the growing independence had frustrated the leadership of the Israeli JNF. "Early on when it happened I think the resentment was very high," he said.⁷⁹

JNF USA continues to use the KKL-JNF's brand including the JNF name, and the iconic blue boxes for fundraising. This is based on a deal reached between JNF USA and KKL-JNF in 2008, despite the fact that most of JNF USA's funds go towards funding other organizations' projects.⁸⁰

2.2.3 JNF Canada and KKL-JNF

According to KKL-JNF's website, JNF Canada is one of several JNF "offices" worldwide, based on the heading "KKL-JNF Offices Listed in Alphabetical Order." JNF Canada is described on the KKL-JNF website as follows:

JNF Canada supports KKL-JNF projects in Israel in numerous fields — people and the environment, forest and park development, and the advancement of Israel's water economy. Among the main projects supported by friends of JNF in Canada are the landscaping project for the Israeli Society for Autistic Children (ALUT) center in Kfar Halrusim, Beersheba; the construction of the Sderot Reservoir; the R&D stations in the Negev regions of Yotvata, Besor and Yai; the Adopt an Acacia project in the Arava; and the rehabilitation of the Carmel.⁸¹

Under the Income Tax Act, as stipulated in CG-002,⁸² full control and direction over the projects it is funding is required. However, based on this text, it appears that JNF Canada is supporting JNF-KKL projects, rather than the projects actually being directed and controlled by JNF Canada itself, with KKL-JNF offering a supporting role for JNF

⁷⁹ Josh Nathan-Kazis, "Quietly going its own way, JNF cuts off its Israeli parent," *The Forward*. <http://forward.com/news/378958/jnf-in-america-sends-just-1-of-grants-to-the-group-it-was-founded-to-fund/> (accessed October 15, 2017).

⁸⁰ Ibid.

⁸¹ KKL, "Projects."

⁸² Government of Canada, "Canadian registered charities carrying out activities outside Canada," Canada Revenue Agency, <http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/tsd-cnd-eng.html#footnote18> (accessed June 25, 2017).

Canada's projects. KKL-JNF should be helping JNF Canada in carrying out its own projects, rather than viewing Canadian donors as "friends of JNF in Canada" who merely send money abroad to support KKL-JNF projects.

In a document prepared by the KKL-JNF Resources Department and Public Affairs Division entitled "JNF Canada Staff Mission: Tour of KKL-JNF Projects in Israel" for 2014, KKL-JNF explains the nature of the KKL-JNF tour by JNF Canada's staff:

During your visit you will become acquainted with the unique projects that KKL-JNF has established with the help of its friends in Canada and the world over, which ensure quality of life for this and future generations.

*A look into the future: Some of the projects you will be visiting are still available and await donations.*⁸³

The document goes on to list numerous projects that are carried out by KKL-JNF. Some of the projects are completed, and the document lists the KKL-JNF offices abroad that have sponsored either segments of the project, or the project as a whole. For other projects, they are listed by KKL-JNF, and KKL-JNF states that these projects "are available for donation."

It appears that KKL-JNF determines the details surrounding the projects (location, costs, logistics), and then solicits financial support from offices abroad, including JNF Canada, to fund these projects. KKL-JNF appears to be carrying out the projects, which it views as its own projects, rather than the projects of independent branches of the organization abroad.

The 2016 JNF Canada Staff Mission document portrays the same situation. It states, "We are honored to host you on a tour of KKL-JNF projects in Israel, many of which have been made possible through the generous support of friends in Canada."⁸⁴

It continues: "In addition to information on the sites and projects visited, you will find information on projects that are available for donation as well as those specifically offered to Canada for promotion."

Several pages of the document list "projects available for donation," which include a detailed description of the projects as well as the donation required by KKL-JNF offices abroad for KKL-JNF to carry the project out.⁸⁵

A March 14, 2017 post on KKL-JNF's website sheds further light on the relationship between JNF Canada and KKL-JNF:

⁸³ Keren Kayemeth LeIsrael, "JNF Canada Staff Mission: Tour of KKL-JNF Projects in Israel, 2014," http://hanof.kkl.org.il/utilities/canada-proof_Part-1_5.pdf (accessed June 25, 2017) 3. [Document 6]

⁸⁴ Keren Kayemeth LeIsrael, "Tour of KKL-JNF Projects in Israel and Partnership Opportunities, 2016," http://www.kkl-jnf.org/files/News_archive/March16/JNF-canada-mission/proof_Canada-Mission-2016.pdf (accessed June 25, 2017) 3. [Document 7]

⁸⁵ Ibid., 12-22.

*A delegation of donors and Friends from JNF Winnipeg (a small communities' mission) arrived in Israel for a visit designed to strengthen their connection with the country and view a variety of JNF Canada-supported projects. For a week the delegates toured Israel from north to south and visited projects in the Golan Heights, Rosh HaNikra, Tzfat, the Dead Sea, and, of course Jerusalem and Tel Aviv.*⁸⁶

KKL-JNF describes projects that are meant to be JNF Canada projects as “JNF Canada-supported projects.” However, as already noted, to maintain its tax-deductible status, JNF Canada cannot merely support KKL-JNF projects through its Canadian donors, as it would mean that JNF Canada is serving as a conduit for KKL-JNF. Rather, JNF Canada must be carrying out its own projects under its direct control — with the support of its intermediary, KKL-JNF.

A clear example of an alleged JNF Canada project that appears to have been set up without the direction and control of JNF Canada is the Balaban Basketball Park Site at Hesder Yeshiva. JNF Canada lists this as one of its projects in the September 2013 JNF Canada *Roots* magazine.⁸⁷ It goes on to describe the project as follows:

*As is customary with Negev Galas, the honouree gets to choose a project, and, in this case, the Balaban family chose to raise funds for The Balaban Basketball Park in Kiryat Shemona near the dangerous Lebanon border. What is unique about this community facility is that it will be located at the Hesder Yeshiva, which combines Talmudic study with military service.*⁸⁸

KKL-JNF’s website claims that the project was in fact contributed to from “friends of KKL-JNF from Canada”:

*The Balaban family, friends of KKL-JNF from Canada, contributed towards building a multipurpose sports and fitness facility at the Kiryat Shemona Hesder Yeshiva and participated in the cornerstone ceremony.*⁸⁹

However, that same page of their website goes on to say:

Zeev Kedem, director of the KKL-JNF Fundraising Department: “The donors from Canada wished to contribute a sports facility, and KKL-JNF deliberated between southern and northern Israel, but as soon as the members of the Balaban family arrived in the city [of Kiryat Shemona] and saw the students who combine

⁸⁶ Keren Kayemeth LeIsrael, “Canadian Delegation in Israel: “It’s a privilege to be here,” <http://www.kkl-jnf.org/about-kl-jnf/green-israel-news/march-2017/jnf-canada-small-communities-mission-to-israel/> (accessed June 25, 2017). [Document 8]

⁸⁷ Jewish National Fund of Canada, *Roots* (September 2013), <http://site.jnf.ca/wp-content/uploads/2014/09/JNF.ROOTS-.Sept.-2013.pdf> (accessed June 25, 2017) 5. [Document 9]

⁸⁸ *Ibid.*, 13.

⁸⁹ Keren Kayemeth LeIsrael, “Friends of KKL in Canada Donate Sports Facility in Kiryat Shemona,” <http://www.kkl.org.il/eng/about-kl-jnf/kl-jnf-in-public-discourse/in-the-press/july-sept-2013/kyriat-shmona-canada-sport/> (accessed June 25, 2017). [Document 10]

Torah study with army service in combat units, they understood that the installation of the sports facility here would not just be for fun but for sports and physical fitness for their service in the IDF.”

It appears that JNF Canada is being used as a conduit for KKL-JNF, since there is no mention of JNF Canada in the KKL-JNF article about the project. There is only verification that money has come from Canada towards the project, but it appears that the project is controlled by KKL-JNF. This is highlighted as well by the fact that the donors dealt directly with the KKL-JNF Fundraising Department, and KKL-JNF appears to be making important decisions regarding the project’s location. If this were a JNF Canada-directed project, one would assume that:

- a) The donors would have dealt with JNF Canada in determining where their funds were going;
- b) JNF Canada would be the ones making important decisions for the project, such as the location, rather than KKL-JNF; and
- c) JNF Canada would be acknowledged by KKL-JNF for this project on its website.

In another example, the Fall 2015 issue of JNF Canada’s *Roots* magazine mentions a project called “The John Baird Park in Sderot.” This is the project that funds were raised towards at the June 7, 2015 JNF Vancouver Negev Dinner. The description of the dinner states:

Proceeds from the 2015 Negev Dinner will fund a multi-functional urban park in Sderot, which will provide children and their families with appropriate playground and fitness facilities. The park will be named after the deserving honouree.⁹⁰

The park is then described, with reference made solely to the project being that of KKL-JNF, with no mention of JNF Canada:

KKL-JNF is developing a multi-functional urban park in Sderot to provide children and their families with appropriate playground and fitness facilities. KKL-JNF believes that the new park will lift the morale of the residents of the city who have been the ongoing target of rocket attacks from the Gaza Strip since 2001...

It will also send an important message to the people of this peripheral community that their quality of life is important to the KKL-JNF and to Israel.⁹¹

On the webpage promoting this project on JNF Canada’s previous website, it states that “JNF will build a park in the city of Sderot for the enjoyment of over 2,000 families who

⁹⁰ Jewish National Fund of Canada, *Roots* (September 2015), <http://site.jnf.ca/wp-content/uploads/2014/09/ROOTS.fall15.FINAL.pdf>, (accessed June 25, 2017), 10. [Document 11]

⁹¹ *Ibid.*, 11.

lack appropriate outdoor play facilities.”⁹² It appears JNF Canada is once again failing to distinguish between itself and KKL-JNF, thereby holding itself out as being the equivalent of KKL-JNF.⁹³

In yet another example of JNF Canada appearing to serve as a conduit for KKL-JNF, the JNF Canada April 2014 *Roots* magazine lists “Available Projects” to donate towards, including “Kadesh Barne’a Security Road.” The brief description makes mention of another project of KKL-JNF:

KKL-JNF will construct a 900-meter perimeter road around the community of Kadesh Barne’a on Israel’s western border with Egypt. The road will improve access to the area for security forces, local patrols, and residents. Within the area enclosed by the road, KKL-JNF is preparing 32 plots for the construction of homes for second-generation residents of the moshav.

If this is being described as a KKL-JNF project, why is JNF Canada soliciting tax-deductible donations from Canadians towards it? JNF Canada is required to be in full control of any project Canadians donate towards. KKL-JNF is not a qualified donee under Canadian law, which means that JNF Canada appears once again to be serving as a conduit for KKL-JNF.

A planning session of JNF Canada, for its 2013 Annual General Meeting (AGM), identified its strengths, weaknesses, opportunities and threats. One of the weaknesses it identified was the “[r]elationship JNF vs. KKL — Receiving information and sending.”⁹⁴ JNF Canada is admitting at its own AGM that its relationship with the organization that it purportedly sends all of its funds to abroad is weak, including the area of receiving and sending information. How then can the CRA be in any way convinced that JNF Canada has full control over its projects?

Another of its weaknesses listed is “More info from KKL office (i.e. Canada Park).”⁹⁵ It should be of significant concern to the CRA that an organization that transferred almost ten million dollars in 2015⁹⁶ to its purported intermediary recognizes that it does not receive sufficient information back from them — especially regarding its flagship project, Canada Park.

⁹² Jewish National Fund of Canada, “The John Baird Park in Sderot,” <http://site.jnf.ca/index.php/jnf-projects/sderot-memorial-park/> (accessed June 25, 2017). [Document 12]

⁹³ Note that this practice on JNF Canada’s part is very common, as it is found consistently over the years throughout their literature.

⁹⁴ Jewish National Fund of Canada, “Jewish National Fund of Canada Annual General Meeting 2013,” 50. [Document 13]

⁹⁵ *Ibid.*, 50.

⁹⁶ Government of Canada, “Schedule 2 – Activities Outside Canada Jewish National Fund of Canada (Keren Kayemeth Le’Israel) Inc. / Fonds National Juif due Canada (Keren Kayemeth Le’Israel) Inc.,” <http://bit.ly/2magLIN> (accessed June 25, 2017).

JNF Canada also identified “Lack of follow up of projects” as a weakness. It should be of significant concern to the CRA that JNF Canada has recognized its own lack of following up on the projects that it is funding, and — according to CG-002 — is supposed to be controlling and directing.

In the Federal Court of Appeal ruling for the case *Canadian Tel Aviv Foundation v Canada*, the court agreed with the Minister of National Revenue’s decision of revocation due to the organization’s lack of control over its projects:

Pursuant to subsection 149.1(1) of the Act, a charity must devote all its resources to charitable activities carried on by the organization itself. While a charity may carry on its charitable activities through an agent, the charity must be prepared to satisfy the Minister that it is at all times both in control of the agent, and in a position to report on the agent’s activities. In this case, the Minister’s main reasons for revocation are that the Committee could not demonstrate, through documentary evidence, that it exercised a sufficient degree of control over the use of its funds by its agent in Tel Aviv and the Committee did not keep proper books and records of activities carried on by its agent. Even though the Minister’s reasons are couched in terms of non-compliance with the Agency Agreement, the requirements under the latter are, in my view, simply a means of ensuring compliance with the Act.⁹⁷

JNF Canada also recognized numerous threats to its organization at the AGM, including “Losing charitable status” and “Government policies.”⁹⁸ The very fact that the organization has not only identified the threat of losing its charitable status, but also that government policies are considered a “threat” to the organization, demonstrates that JNF Canada is likely aware that it is in breach of Canadian law, and that this makes it vulnerable to having its charitable status revoked.

It is important to note how much of JNF Canada’s strategic plan focuses on fundraising, and how little emphasis is put on executing charitable work. This strategic plan resembles the strategic plan of a charitable foundation that focuses on raising funds for other registered Canadian charities or other qualified donees. The problem is that KKL-JNF is not a qualified donee.⁹⁹

For example, the 2013 AGM report lists the amount of remittances paid to KKL-JNF by JNF Canada in 2012:

⁹⁷ Federal Court of Appeal, “Federal Court of Appeal Decisions: Canadian Committee for the Tel Aviv Foundation v. Canada,” <http://decisions.fca-caf.gc.ca/fca-caf/decisions/en/item/32013/index.do> (accessed June 25, 2017).

⁹⁸ Jewish National Fund of Canada, “Jewish National Fund of Canada Annual General Meeting 2013,” 52.

⁹⁹ Nor is KKL-JNF qualified for receipt of charitable funds based on the list of organizations that have received funds from the Canadian government over the last 15 years. See <http://www.cra-arc.gc.ca/chrts-gvng/qlfd-dns/qd-lstngs/gftsfrmharmjsty-lst-eng.html> (accessed June 25, 2017).

2012		
DATE	(\$ THOUS)	CUMULATIVE
02-Apr-12	773	773
14-May-12	50	823
30-Jun-12	1,000	1,823
24-Aug-12	550	2,373
09-Oct-12	50	2,423
30-Sep-12	800	3,223
31-Dec-12	50	3,273
28-Dec-12	2,000	5,273
31-Dec-12	23	5,296

In this report there is no chart or list of projects, locations for the projects, amount spent on each project during the fiscal year, or the status/stage of these projects.

In addition, there is no indication of what project each remittance is connected to, nor is there a breakdown of how the money was spent in Israel by KKL-JNF, such as by category (staff wages, project materials, overhead, administration, etc.).

If JNF Canada was sending specific amounts of money to KKL-JNF to be used towards its projects (which are in Israel's currency, the *shekel*), it seems both highly odd and suspicious that JNF Canada is describing dollar amounts that round off so cleanly as even quantities. If JNF Canada is paying for specific projects and specific amounts for projects paid for in shekels, why is each amount rounding out perfectly every time (except for the first and last remittances of the year)?

2.2.4 Serving as a conduit through paying wages to a foreign non-qualified donee

JNF Canada has failed to demonstrate that it has sufficient controls in place to ensure that Canadian charitable donations are not being used to pay the wages of KKL-JNF staff that would be contributing to projects which contravene Canadian laws and policies and/or are contravening the Fourth Geneva Convention.

JNF Canada's previous website — listed under "Our Projects"— says that "Funds raised by the Jewish National Fund of Canada are primarily directed to the payment of wages to workers engaged in various aspects of Jewish National Fund activities."¹⁰⁰

¹⁰⁰ Jewish National Fund of Canada, "Our Projects," <http://web.archive.org/web/20090503083137/http://www.jnf.ca/projects1-nav.html> (accessed June 25, 2017). [Document 14]

With the exception of this one line on JNF Canada’s previous website, the rest of JNF Canada’s promotional material sends a different message; donors are given the impression that they are buying actual trees and bomb shelters, or their money is going to build roads and reservoirs.

Payment of wages to a foreign non-qualified donees is a serious concern, particularly since KKL-JNF is currently undertaking projects that are in clear violation of Canadian public policy and international law. This includes support for the development of settlements in the Hebron area of the West Bank,¹⁰¹ as well as settlement and water projects in the Jordan Valley. These settlements exist to benefit illegal Israeli settlers and take natural resources away from the occupied population.¹⁰²

2.3 JNF Canada supports non-charitable activities

According to the CRA’s guideline document CG-002, “the courts have stated that some activities may not be charitable when carried on in a different country. For example, increasing the effectiveness and efficiency of Canada’s armed forces is charitable, but supporting the armed forces of another country is not.”¹⁰³

However, it appears that JNF Canada has been giving money to KKL-JNF for projects that benefit or support Israel’s armed forces. These include, but are not limited to, roads built primarily for military purposes (particularly along borders), trees planted along borders in conjunction with a foreign armed force with the purposes of both improving security and aiding the military, and other infrastructural projects designed to enhance or support the combat service of soldiers in a foreign armed force.

It should be noted that both JNF Canada and KKL-JNF appear to have a close and very supportive relationship with the Israel Defense Forces (IDF) and the Israeli Ministry of Defense, which in some cases are working together on projects funded by JNF Canada.

2.3.1 Security roads along Israel’s borders

KKL-JNF has been building roads for military use and benefit, as well as developing border areas for strategic purposes, since the 1960s. In 2011 JNF Canada issued a newsletter that boasted about the “History of JNF — 110 years,” which described KKL-JNF’s achievements from 1961-1970:

¹⁰¹ Noam Sheizaf, “The Jewish National Fund’s list of projects in the settlements,” +972, <http://972mag.com/the-jewish-national-funds-list-of-projects-in-the-settlements/90512/> (accessed June 25, 2017).

¹⁰² Human Rights Watch, “Separate and Unequal: Israel’s Discriminatory Treatment of Palestinians in the Occupied Palestinian Territories,” <https://www.hrw.org/report/2010/12/19/separate-and-unequal/israels-discriminatory-treatment-palestinians-occupied> (accessed June 25, 2017).

¹⁰³ Government of Canada, “Canadian Registered Charities Carrying out Activities Outside Canada,” Canada Revenue Agency, <http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/tsd-cnd-eng.html> (accessed June 25, 2017).

*Development focused on the Galilee, the Arava and other strategically important border areas. During the Six Day War, JNF road building facilitated troop movements between the fronts.*¹⁰⁴

In a report to the World Zionist Congress in 1968, KKL-JNF stated the following regarding the June 1967 (Six-Day) War and the Occupied Territory:

...the JNF felt it was a matter of supreme security importance to build roads along our extensive borders. This was done in most cases in coordination and with the close cooperation of the Army.... The programme envisaged a total of 650 kilometres of border roads. Of this programme 350 kilometres of road were built in the period 1961-1966; of the remaining 300 kilometres, 170 were started in the last few months before the outbreak of the Six-Day War, and 130 were planned for this year...

*After the fighting was over, we informed the Ministers of Defence, Labour, and Agriculture that we would use all our manpower and equipment for the country's development needs in its new situation. We similarly informed the Mayor of reunited Jerusalem, who had asked us to share in the development of the newly-liberated parts of the city. Development work of utmost security importance has already been started in the Golan Heights, Samaria and Judea [the latter two comprising roughly the West Bank].*¹⁰⁵

JNF Canada has admitted to providing funding for several security roads in more recent years. These roads are located along borders with other countries, or militarily occupied territories. Security roads are frequently used by the IDF. KKL-JNF states bluntly that these roads are developed to “serve the armed forces.”¹⁰⁶

A page on KKL-JNF's website entitled “Reclaiming Land for Security and Agriculture” notes that certain roads — funded in part by JNF Canada — clearly benefit the military:

*KKL-JNF builds roads in border areas, and other areas where security is a daily problem, allowing residents, tourists and soldiers to move around the area safely and in freedom. Thanks to these roads, military activity is enhanced, farmers can continue working their fields...*¹⁰⁷

¹⁰⁴ Jewish National Fund of Canada, *Roots* (October 2011), 23. [Document 15]

¹⁰⁵ Lehn and Davis, *Fund*, 251.

¹⁰⁶ Keren Kayemeth LeIsrael, “Tension on Gaza Border: Explosions, Fires and Bravery,” <http://www.kkl.org.il/eng/about-kl-jnf/green-israel-news/july-2014/tension-south-israel-june14/> (accessed on June 25, 2017). [Document 16]

¹⁰⁷ Keren Kayemeth LeIsrael, “Reclaiming Land for Security and Agriculture,” <http://www.kkl.org.il/eng/people-and-environment/community-development/security-roads-and-agriculture/> (accessed June 25, 2017). [Document 17]

The April 2009 JNF Canada *Roots* magazine notes that JNF's program "helped ... building security roads by the Gaza border and saving and protecting wildlife."¹⁰⁸ As already noted, JNF Canada's literature frequently refers to both JNF Canada and KKL-JNF as "JNF" without clarifying if a project was carried out by JNF Canada or KKL-JNF.

As another example, what appears to be a KKL-JNF advertorial in the *Jerusalem Post* explains that KKL-JNF's roads "help us ensure that the IDF and the residents of the western Negev can continue to move around freely throughout the region":

*Military patrols regularly use the roads to keep the local communities safe, farmers could not tend their crops without them (in times of war) and children would not reach school safely. Thanks to KKL-JNF's road building activity the difficult situation residents of the western Negev now find themselves in can be ameliorated. Join us once again in these times of conflict and war, and help us ensure that the IDF and the residents of the western Negev can continue to move around freely throughout the region.*¹⁰⁹

The April 2014 JNF Canada *Roots* magazine describes the Kadesh Barne's security road along Israel's western border with Egypt, which, it says, "will improve access to the area for security forces, local patrols, and residents."¹¹⁰

The same magazine also describes the Misgav Am security road.¹¹¹ The road is described on JNF Canada's previous website as being "near Kibbutz Misgav Am, which is right on the border overlooking Lebanese territory in the mountainous Eastern Upper Galilee."¹¹² The KKL-JNF website provides further context for the Misgav Am security road, as it relates to the Kibbutz Misgav Am:

*The second Lebanese war, in the summer of 2006, was a very difficult time for members of Kibbutz Misgav Am, which is situated on the Lebanese border and was directly hit by Katyusha rockets. The children were evacuated to safer areas, but the adults stayed at home and continued to work as usual, as the kibbutz was transformed into a military base behind the lines.*¹¹³

¹⁰⁸ Jewish National Fund of Canada, *Roots* (April 2009), *JNF Toronto*, 8. [Document 18]

¹⁰⁹ Keren Kayemeth LeIsrael, "KKL-JNF on the Front Lines – Meeting Israel's Security Needs Now!," *Jerusalem Post*, <http://www.jpost.com/Green-Israel/KKL-JNF-Solidarity-with-the-South/KKL-JNF-on-the-front-lines-Meeting-Israel's-security-needs-now> (accessed June 26, 2017).

¹¹⁰ Jewish National Fund of Canada, *Roots* (April 2014), 8. [Document 19]

¹¹¹ *Ibid.*, 12.

¹¹² Jewish National Fund of Canada, "Our Projects," Misgav Am Security Road. [Document 20]

¹¹³ Keren Kayemeth LeIsrael, "Misgav Am Security Road," <http://www.kkl.org.il/eng/forestry-and-ecology/forestry-ecology-news/?itemid=%7B5FD0AFBA-EEFE-4E96-B625-60413955BD02%7D> (accessed June 25, 2017). [Document 21]

KKL-JNF's logo and the Israeli Ministry of Defense logo are on the sign of this project that is funded by JNF Canada. The image of the sign is small, but after comparing it to an image of the Israeli Ministry of Defense logo¹¹⁴ it is evident that the same logo appears on the sign of the JNF Canada-funded project.¹¹⁵

The April 2014 JNF Canada *Roots* magazine describes "Available Projects" for donations, including "Kadesh Barne'a Security Road." The brief description makes mention of another project of KKL-JNF:

*KKL-JNF will construct a 900-meter perimeter road around the community of Kadesh Barne'a on Israel's western border with Egypt. The road will improve access to the area for security forces, local patrols, and residents. Within the area enclosed by the road, KKL-JNF is preparing 32 plots for the construction of homes for second-generation residents of the moshav.*¹¹⁶

2.3.2 Partnering with Israel's armed forces on Gaza border project

JNF Canada has funded a project that involves a partnership with the IDF, working to "block the vision of terrorist firing into Israel...":

KKL-JNF and the IDF have decided on a policy of planting trees that will serve a triple benefit to residents of the south: these rows of trees will not only block the vision of terrorist firing into Israel, but will provide pleasant scenery and shade.

*The first part of the project, planting to protect communities in the region, has already been completed, with the help of Friends of KKL-JNF worldwide, including [Australia](#), [Canada](#), [South Africa](#) and [Italy](#). Gaza border communities protected by the trees include Kerem Shalom, Holit, En HaShelosh, Nirim, Nir Oz, Kissufim, Nahal Oz, Kfar Aza, Mefalsim and Sderot.*¹¹⁷

Further evidence of the partnering of KKL-JNF with the IDF is gleaned from another page on the KKL-JNF website, which explains that a "lifesaving trees project" was "led by KKL-JNF in recent years, in conjunction with the IDF and the local communities."¹¹⁸ There is also photo documentation showing the participation of 600 IDF soldiers in this project.¹¹⁹

¹¹⁴ See <http://www.mod.gov.il/Pages/default.aspx> (accessed June 25, 2017).

¹¹⁵ JNF Canada, "Projects," Misgav Am Security Road.

¹¹⁶ JNF Canada, *Roots* (April 2014) 8.

¹¹⁷ KKL, "Reclaiming Land".

¹¹⁸ KKL, "Tension on Gaza Border".

¹¹⁹ Keren Kayemeth LeIsrael, "IDF soldiers Plant Life Saving Trees," <http://www.kkl.org.il/eng/about-kl-jnf/kl-jnf-in-public-discourse/in-the-press/january-march-2013/jn1-idf-soldiers-security-planting/> (accessed June 25, 2017). [[Document 22](#)]

2.3.3 Infrastructure to support Israeli soldiers and the IDF

As has been demonstrated, JNF Canada helps with infrastructure that benefits a foreign country's armed forces. Some of this infrastructure is designed specifically to support the soldiers in a foreign armed force as it relates to their combat service in the military.

Zeev Kedem, director of the KKL-JNF Fundraising Department, describes a project funded by JNF Canada that is specifically designed to enhance the fitness levels of “students who combine Torah study with army service in combat units”:

The donors from Canada wished to contribute a sports facility, and KKL-JNF deliberated between southern and northern Israel, but as soon as the members of the Balaban family arrived in the city [of Kiryat Shemona] and saw the students who combine Torah study with army service in combat units, they understood that the installation of the sports facility here would not just be for fun but for sports and physical fitness for their service in the IDF.¹²⁰

This project also appears in JNF Canada's September 2013 *Roots* magazine, as a photo in the section “JNF Projects in Israel”, with the caption “The Balaban basketball park site at Hesder Yeshiva - Calgary 2013.”¹²¹

On JNF Canada's previous website, one of its many projects under “Our Projects” is an “outdoor fitness area at Gadna Military Base,” which is described as follows:

Gadna is a special program for young people in Israel that prepares them for their service in the Israel Defence Forces. Almost all Israeli high-school students participate in one week of Gadna activity before joining the army. KKL-JNF is planning an outdoor gathering and fitness area for the regular army staff at the Gadna base in Sde Boker, who have neither an organized meeting place nor fitness equipment of any sort.¹²²

Providing infrastructure on a foreign army's military base to enhance the fitness of foreign soldiers does not appear to be charitable under Canadian law, as it provides support for — and improves the effectiveness and efficiency of — a foreign armed force (in addition to the fact that it does not fulfill a charitable purpose).

¹²⁰ KKL, “Friends of KKL-JNF in Canada”.

¹²¹ JNF Canada, *Roots* (September 2013), 5.

¹²² JNF Canada, “Our Projects,” Gadna Military Base. [Document 20]

Another project of JNF Canada listed on its previous website under “Our Projects” is the “Navy base of Bat Galim,” which identifies JNF Canada’s provision of infrastructure for use by a foreign country’s navy:

*Funds have been raised toward the building of a special rest and picnic area for soldiers and their families to meet at the navy base. These meeting places will provide them with shade trees and picnic benches, water fountains and restrooms.*¹²³

While JNF Canada’s previous website describes the rest and picnic area as being “at the navy base,” the KKL-JNF website describes such projects as being located “near army bases”:

*As one of its many projects for the benefit of IDF soldiers throughout the country, KKL-JNF, together with its Friends worldwide, establishes family meeting places near army bases, many of which are located in distant areas.*¹²⁴

It is important to note that KKL-JNF clearly refers to its “many projects for the benefit of IDF soldiers throughout the country.” Several of these projects, as has been demonstrated, are funded by JNF Canada.

As another example, JNF Canada refers to a donation made to a site located on an Israeli air force base:

*Abe and Joan have generously contributed to a JNF site for the 210th Flight Squadron at the Tel Nof Air Base in central Israel. This area allows pilots and staff respite from their intense schedules and to recharge before continuing their duty.*¹²⁵

Here can be seen the support given to Israel’s armed forces through a project located at one of the three principal air force bases of the Israeli army, hence designed to support the soldiers of a foreign armed force.

On the KKL-JNF Partnership website, there is a database entitled, “KKL-JNF Friends in Israel and Worldwide: The 2016 KKL-JNF Joint Achievements Report: Adopted Projects.” Numerous projects “adopted” by JNF Canada are on armed forces bases. KKL-JNF describes an infrastructure project renovating an auditorium for training soldiers on Bat Galim Naval Base, Haifa, Israel:

¹²³ Ibid.

¹²⁴ Keren Kayemeth LeIsrael, “Meeting Points for IDF Soldiers and their Families,” <http://www.kkl.org.il/eng/people-and-environment/community-development/soldier-family-meeting-points/> (accessed on June 25, 2017). [Document 23]

¹²⁵ JNF Canada, *Roots* (September 2015), 15.

*JNF Canada [sic] is helping to facilitate the upgrade of the existing auditorium for soldier intake, training and conferences at the Bat Galim Naval Base. The facility, which will hold some 150 soldiers, includes a stage and screening room. Special events as well as changing exhibitions will also be held there. The project includes work in the entryway and within the auditorium, including flooring, replacing doors and windows, rehabilitating the entrance facade, repairing toilet facilities, installing a roof over the length of the entryway and installing drainpipes. Within the auditorium the size of the stage will be altered, an acoustic ceiling will be installed and a row of seats will be added in addition to flooring the hall and plaster and electrical work.*¹²⁶

In addition to renovations of this training auditorium, JNF Canada had two other projects in 2016 at Bat Galim Naval Base, including “development of the Bat Galim training base complex area adjacent to classrooms, which are used for theoretical studies and exams”¹²⁷ and a third project that includes “trails, paved plazas and seating areas between existing structures.”¹²⁸ It is not clear if these are the same projects as described above on JNF Canada’s previous website.

This database also describes the creation of a meeting space on Palmachim Air Force Base in 2016. “JNF Canada is helping contribute to the quality of life for the crew of the 124th Squadron, a helicopter squadron based at the Palmachim Airbase, located near Rishon LeZion. The project involves creating a suitable moadon (meeting place) that will serve as a place where crew can relax and refuel.”¹²⁹

Regarding a 2016 JNF Canada project on Navatim Air Force Base, KKL-JNF writes, “JNF Canada contributed to a project to repair the club (moadon) facilities and kitchenette of the 131 Squadron - The Yellow Bird - at the Nevatim Airbase. The refurbished club provides the crew with a seating area, TV, fully equipped kitchen and dining area.”¹³⁰ There are also JNF Canada projects on Hatsor Air Force Base, near Ashdod, Israel and Hatserim Air Force Base, near Be’ersheva, in the Negev, Israel in 2016.

KKL-JNF also indicates on a spreadsheet of projects funded during the last 10 years that JNF Canada funded projects on Ramat David Air Force Base in 2011, 2012, and 2013; on Mishor Adumim – Duvdevan Base in 2015; on Mishmar Hanegev – IDF Training Base

¹²⁶ Keren Kayemeth LeIsrael, “KKL-JNF Friends in Israel and Worldwide: The 2016 KKL-JNF Joint Achievements Report: Adopted Projects.” <http://hanof.kkl.org.il/KKLProjectPool/ProjectPoolDonatedProjects.aspx?WebIdx=5> (accessed on July 24, 2017).

¹²⁷ Ibid.

¹²⁸ Ibid.

¹²⁹ Ibid.

¹³⁰ Ibid.

City in 2013 and 2014; and on Tse'elim IDF Base in 2015.¹³¹ In addition, there were projects funded on Tel Nof Air Base in 2013, 2014, and 2015; on Palmachin Air Force Base in 2013; and Hatsor Air Force Base in 2015. These were primarily infrastructure, landscaping, and fitness projects.

All the above cases demonstrate that — according to the Income Tax Act — since projects designed to benefit or support a foreign armed force are not deemed charitable in Canada, it is clear that JNF Canada's activities are not exclusively charitable under Canadian law.

2.4 JNF Canada fails to meet the public benefit test

2.4.1 JNF Canada's intermediary is discriminatory

As reported to the CRA by JNF Canada, all of JNF Canada's charitable work is done through one intermediary: KKL-JNF.¹³²

However, CPS-024 clearly states that “the organization cannot restrict delivery of the benefits to a certain group or class of persons without adequate justification.”

CPS-024 also states that:

... organizations that seek to restrict benefits must always ensure that the restrictions proposed are not illegal or contrary to public policy. Any such restrictions are incapable of providing a public benefit. Organizations with purposes that are discriminatory or based on notions of racism, may, depending on the nature of the discriminatory purpose, offend the norms in the Canadian Charter of Rights and Freedoms. They may also be in contravention of the various human rights regimes either federally or provincially, or contrary to public policy as expressed in those constitutional and legislative regimes.

Excerpts from KKL-JNF's response to the petition filed in the Israeli High Court by the organization Adalah — which includes relevant articles from KKL-JNF's Memorandum of Association — describe an organization whose very purpose is discriminatory:

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:

¹³¹ Keren Kayemeth LeIsrael, “KKL Resources and Development Division: Canada Adopted Projects.” hanof.kkl.org.il/utilities/proof_mutramim2015_All_7.pdf (accessed on July 24, 2017).

¹³² According to three Independent Auditors Reports from 2013, 2014 and 2015, JNF Canada uses an agent to carry out its work in Israel. The agent's name is Canada Israel Committee (CANISCOM). There is a complete absence of information about this organization, or even its very existence. If JNF Canada is using this organization as an intermediary to carry out its projects, the organization should appear on its charity returns to the CRA.

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.”

[...]

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)).

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.¹³³

Section 15 (1) of the Canadian Charter of Rights and Freedoms states:

Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.¹³⁴

As CPS-024 states:

Organizations with purposes that are discriminatory or based on notions of racism, may, depending on the nature of the discriminatory purpose, offend the norms in the Canadian Charter of Rights and Freedoms.

¹³³ Adalah, “Excerpts,” 90. (bolds are found in the original)

¹³⁴ Government of Canada, “Constitution Act, 1982,” Justice Laws Website, <http://laws-lois.justice.gc.ca/eng/Const/page-15.html> (accessed June 25, 2017).

KKL-JNF openly discriminates against non-Jews based on race, national or ethnic origin and religion by barring non-Jews from leasing or purchasing KKL-JNF lands. It would therefore appear that KKL-JNF offends the norms of the Canadian Charter of Rights and Freedoms.

In Canada, it is illegal to restrict ownership of land to a certain ethnic group, as ruled in *Noble et al. v Alley* in 1951.¹³⁵ As CPS-024 states, “organizations that seek to restrict benefits must always ensure that the restrictions proposed are not illegal....” Thus KKL-JNF — JNF Canada’s purported intermediary — is in clear violation of Canadian law through restriction of land ownership to one ethno-religious group.

Beneficiaries of KKL-JNF’s work appear to be overwhelmingly Jewish-Israeli citizens in the State of Israel and in the territories occupied by Israel, including the Golan Heights, East Jerusalem, and the West Bank; the Israel Defense Forces; and tourists (with a focus on Jewish tourists) to these regions.

Benefit to non-Jewish people, including Palestinian citizens of Israel, Palestinian refugees, foreign workers, and Palestinians in the militarily occupied territories appear limited and not proportional to their percentage of the population. Rather than benefitting these groups, KKL-JNF projects have, in fact, historically been very harmful to them.

Veteran Israeli journalist Akiva Eldar noted the following in an article in *Haaretz* in 2012:

*According to the Central Bureau of Statistics (which is subordinate to the Prime Minister's Office), of the 12 million residents living under Israeli rule, the number of Jews is just under 5.9 million (as of April 25). Twelve million minus 5.9 million Jews equals 6.1 million non-Jews. In other words, between the Mediterranean Sea and the Jordan River, there is a pretty Jewish state as far as its laws and customs, but the reality is not so democratic. Foreign sources report that Jews had already become a minority in the area of the greater Land of Israel several years ago. From now on, it is an official statistic.*¹³⁶

The vast majority of KKL-JNF projects are in Jewish-Israeli communities or involve the development of expropriated Palestinian land for possession by Jews. Some projects are in Palestinian (or Bedouin) communities or are on Palestinian-owned land, but seldom meet the needs of these non-Jewish individual as expressed by the persons themselves, UN departments, and/or local human rights NGOs advocating for the application of equal rights and international law.

2.4.2 JNF Canada and KKL-JNF fail to meet the public benefit test in the Negev

¹³⁵ Judgements of the Supreme Court of Canada, “Noble et al. v. Alley,” Lexum, <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/3691/index.do> (accessed June 25, 2017).

¹³⁶ Akiva Eldar, “The Jewish Majority is History,” *Haaretz Online*, <http://www.haaretz.com/news/features/the-jewish-majority-is-history.premium-1.470233> (accessed June 25, 2017).

Both JNF Canada, through projects it has admittedly funded, and its intermediary KKL-JNF, through its ongoing activities in the Negev, are in violation of CPS-024, or the public benefit test, since according to the CRA, “the organization cannot restrict delivery of the benefits to a certain group or class of persons without adequate justification.”

JNF Canada and KKL-JNF justify their restriction of delivery of benefits to Jewish-Israeli citizens and Jewish individuals in other countries through the long-standing goal of having Jewish demographic control and domination over Israel proper and the militarily occupied territories that Israel controls.

Further, CPS-024 states that:

The charitable purposes of some organizations may result in a benefit to the public, while at the same time produce some negative effect. Where such a conflict occurs, the public benefit, shown to arise from the charitable purpose, is typically evaluated against any harm that may also arise from the proposed activity.³⁹ In determining charitable purpose, we are looking to ensure that a substantial net benefit results.

JNF Canada-funded and KKL-JNF activities have produced substantial negative effects for Bedouin Israeli citizens of the Negev, and are designed to specifically benefit Jewish-Israeli citizens in that area.

JNF Canada’s current website states the following about the Negev:

The Negev extends over 12, 000 square miles from Beersheva to Eilat with 60% of Israel’s land but a mere fragment of its population. Thus, this unchartered territory is a gold mine for the KKL-JNF to develop and sustain new growth. KKL-JNF will build roads, bridges and plumbing systems for 100,000 new homes in 25 communities, working to settle half a million Israelis in the Negev within a decade.¹³⁷

KKL-JNF is looking to settle Jewish-Israelis in the Negev, as well as to establish infrastructure such as roads and bridges for an OECD country that currently ranks 18th in the world — ahead of Luxembourg — in the United Nations Development Programme’s Human Development Index.¹³⁸ It is not charitable under Canadian law to fund roads and bridges for an OECD country. Furthermore, it is discriminatory to fund initiatives designed to have a certain ethno-religious group dominate a geographic region at the expense of the other groups living there.

¹³⁷ Jewish National Fund of Canada, “History,” <http://site.jnf.ca/index.php/about-jnf/history/> (accessed June 25, 2017). [Document 24]

¹³⁸ United Nations Development Programme, “Human Development Report 2015: Work for Human Development,” http://hdr.undp.org/sites/default/files/2015_human_development_report.pdf (accessed June 25, 2017), 208.

“Developing the Negev” was listed on JNF Canada’s previous website under “our projects,” although very few details about the location and nature of the project[s] are given. All that is written is this vague description:

*One of the chief aims of Jewish settlement in Eretz Israel has always been to populate the Negev, site of the State’s largest land reserves. For years, the image of the Negev has been that of an arid zone with an inferior quality of life. The crisis in agriculture, the difficulty of access to the center of the country and the problems of employment and services have not helped to alter that image.*¹³⁹

There has been a public outcry about the negative impact KKL-JNF projects are having on Bedouin communities in the Negev. Human rights organizations point out that several unrecognized Bedouin villages are being (or are at risk of being) demolished so that KKL-JNF can plant forests and/or help to establish new Jewish communities in place of these Bedouin communities.¹⁴⁰ Some Bedouin have been moved off their traditional land into densely populated, economically depressed towns.¹⁴¹

The JNF’s CEO (U.S. branch), Russell Robinson, acknowledged in 2005 that an “influx” of Jewish settlers to the Negev would “mean a certain amount of displacement” for the Bedouin citizens of Israel living there.¹⁴²

According to Israeli journalist Mairav Zonszein:

*Despite being citizens of Israel that are supposed to enjoy equal rights, the Israeli government and institutions such as the Israel Land Authority and [Jewish National Fund](#) have been waging a slow and methodical war of attrition against Bedouin residents of unrecognized villages in an effort to expel them.*¹⁴³

The Bedouin village of al-Araqib, whose villagers are being displaced, has clearly been negatively affected by JNF Canada-sponsored projects.

The Al Ukbi (El Oqbi) tribe’s lands in al-Araqib are located several miles north of Beersheva in the Negev. In 2004, the Jewish-Israeli town of Givot Bar was established on part of the tribe’s lands. The al-Araqib land dispute is still before the courts.¹⁴⁴

¹³⁹ JNF Canada, “Our Projects,” Developing the Negev. [Document 20]

¹⁴⁰ Adalah, “State opposes final appeal against demolition of Umm al-Hiran; bulldozers set to move on Bedouin village tomorrow,” <https://www.adalah.org/en/content/view/8956> (accessed June 25, 2017).

¹⁴¹ Human Rights Watch, “Erasing Links to the Land in the Negev,” *Foreign Policy*, <https://www.hrw.org/news/2011/03/11/erasing-links-land-negev> (accessed June 25, 2017).

¹⁴² David Horovitz, “Restorative for a Shrinking Israel?,” *The Jerusalem Post*, <http://www.jpost.com/Israel/Restorative-for-a-shrinking-Israel> (accessed June 27, 2017).

¹⁴³ Mairav Zonszein, “Police arrest three minors in Bedouin village as expulsion efforts continue,” +972, <https://972mag.com/police-arrest-three-children-in-bedouin-village-as-expulsion-efforts-continue/120727/> (accessed June 25, 2017).

¹⁴⁴ Ibid.

Al Jazeera reported on this issue in a June 14, 2014 article. Awad Abu Freih, a village leader, described the situation to Al Jazeera:

Abu Freih said other parts of the village's lands had been secretly settled by Jews in 2004. In a night-time operation the government and an international Zionist charity, the Jewish National Fund, set up caravans that subsequently became an exclusively Jewish community known as Givot Bar...

In 2002 Israel began a policy of annually spraying herbicide on al-Araqib's crops, in an attempt to move the villagers off the land. The practise was stopped in 2007 after the Supreme Court ruled it illegal.

In a test case currently before Israel's Supreme Court, a former resident of al-Araqib, Nuri al-Uqbi, has been presenting documents and expert testimony to show that his ancestors owned and lived on the village's lands many decades before Israel's establishment in 1948.

In 2010, a Beersheva judge rejected al-Uqbi's case, backing the government's argument that his tribe had no ownership claim on the land.

This month, however, three Supreme Court justices sided with al-Uqbi's lawyer, agreeing that government should enter a six-month mediation process to reach a "fair solution".¹⁴⁵

In a May 26, 2008 article in the *Guardian* entitled "Citizens, but second class," Seth Freedman writes:

A group of Arab families, who have ample proof of their historic claim to a tract of land, are evicted by the Israeli army. Whilst they attempt to challenge their forced removal from the area via legal process, a Jewish settlement is established on the site overnight. The settlement grows and grows until it is just one more immovable "fact on the ground", leaving the uprooted families little or no chance of returning to their ancestral home, nor of achieving even a modicum of justice from the courts.¹⁴⁶

He goes on to write, in reference to Nuri el-Okbi of the el-Okbi tribe:

He presented aerial photographs of the al-Arakib area, to the north-east of Beer Sheva, which were taken in 1949 and clearly show his tribe living on the desert plains. He also brought land deeds which proved that the land belonged to the el-Okbis, who were violently evicted in 1951 and have been living in exile ever since.

¹⁴⁵ Jonathan Cook, "Bedouins Defiant Despite Israel Eviction Plan," *Al Jazeera*, http://www.aljazeera.com/news/middleeast/2014/06/bedouins-defiant-despite-israel-eviction-plan-negev-201461474220183274.html?utm=from_old_mobile (accessed June 25, 2017).

¹⁴⁶ Seth Freedman, "Citizens but second-class," *The Guardian*, <https://www.theguardian.com/commentisfree/2008/may/26/citizensbutsecondclass> (accessed June 25, 2017).

To compound their agony, the Jewish-only town of Givot Bar was established on their land in 2004, and since then the el-Okbis' struggle to be allowed back onto their territory has looked even more futile.

Human Rights Watch issued a report on the issue of Bedouin rights in the Negev called "Erasing Links to the Land in the Negev." Regarding KKL-JNF's role in this, it states the following:

Hakma's family also settled in Rahat, but moved back to al-Araqib 12 years ago after hearing that the Israel Land Administration intended to plant a forest there, which would be a de facto revocation of their claims to the land. Indeed, according to the plans the Jewish National Fund is carrying out on behalf of the Land Administration, the village is a "recreational area" designated for "forestation."

The KKL-JNF website states, "Givot Bar was founded in 2004 with the support of Friends of [JNF USA](#) and [JNF Canada](#)."¹⁴⁷

On the JNF Canada's previous website, there is a page entitled "KKL-JNF — Always there for the People," with a heading "Land Reclamation for Farming;" beneath it says "Mishmar HaNegev-Giv'ot Bar — Land Reclamation for Housing." Beside that there is a Canadian and an American flag.¹⁴⁸

An article by the Israeli NGO Zochrot entitled "Remembering Al-Araqib" includes a photo of a large engraving that reads "Montreal Children's Forest in Givot Bar is planted through the generosity of the B'nei Shimon Regional Council and Keren Kayemeth LeIsrael" and below that it says "2004."¹⁴⁹

Givot Bar is clearly on disputed land, next to the unrecognized Bedouin village of al-Araqib, a village that has been demolished and had its residents expelled at least 114 times by the Israel Lands Authority and the Israeli police forces.¹⁵⁰ Video footage shows that KKL-JNF bulldozers have taken part in at least one of these demolitions.¹⁵¹

JNF Canada should not be involved in the initiative of moving new settlers onto disputed land or conducting projects on disputed land.

¹⁴⁷ Keren Kayemeth LeIsrael, "Bedouin and Jewish schoolchildren clean up the Negev together," <http://www.kkl.org.il/eng/about-kl-jnf/green-israel-news/september-2012/israel-jews-bedouin-clean-for-peace/> (accessed June 25, 2017). [Document 25]

¹⁴⁸ JNF Canada, "KKL-JNF — Always There for the People of Israel." [Document 26]

¹⁴⁹ Zochrot, "Remembering al-'Araqib," December 2009, 33. [Document 27]

¹⁵⁰ Ma'an News Agency, "Israel demolishes Palestinian Bedouin village for 114th time," <https://www.maannews.com/Content.aspx?id=777646> (accessed June 25, 2017).

¹⁵¹ Negev Coexistence Forum, "JNF-KKL Bulldozer destroys a tent during the 15th demolition of Al-Arakib," <https://www.youtube.com/watch?v=641RKK2GFoc> (accessed June 25, 2017).

Furthermore, trees planted in the northern Negev by KKL-JNF have been shown to have a negative impact on the environment, and are regarded by critics as being designed to prevent Bedouin construction or grazing:

The Jewish National Fund is planting increasing numbers of trees in the northern Negev. The organization says it is doing essential work to prevent desertification and to assist in the rehabilitation of the ecosystem, and even presented the work proudly at a workshop on desertification held in Israel last week for experts from around the world. However, environmental protection specialists contend that the forestation causes serious and irreparable damage to nature and the landscape. Critics suggest that one goal of the planting, rather than being environmental, is actually to prevent illegal Bedouin construction or grazing.¹⁵²

According to Dr. Yehoshua Shkedi, director of the science division of the Israel Nature and Parks Authority, the work of KKL-JNF in the northern Negev causes damage to the land through the use of heavy equipment:

This is done in many cases without proper planning and changes areas containing a rich variety of unique plants and animals. We've spoken to the JNF people about this a number of times and have tried to persuade them to change the way they work, but nothing helps.¹⁵³

The article goes on to state that:

Some experts note that the purpose of the planting is to keep illegal Bedouin construction at bay. This might be logical for the state in terms of land management policies, they say, but it has no ecological justification.

JNF Canada has funded tree planting in the northern Negev, including in the Lahav Forest¹⁵⁴ and the Yatir Forest.¹⁵⁵

The “Yatir Forest Plan,” which KKL-JNF is using to expand the Yatir Forest, has been heavily criticized by the Israeli human rights organizations *Adalah* and *Bimkom – Planners for Planning Rights in Israel*, who point out that the plan submitted by KKL-JNF completely ignores the presence of the Bedouin village of Atir, and paves the way for its destruction:

The proposed plan, which was initiated by the Jewish National Fund (JNF), seeks to establish a new forest over part of the village whose inhabitants have lived there for decades. According to the plan, the area is uninhabited, despite the

¹⁵² Zafrir Rinat, “JNF Using Trees to Thwart Bedouin Growth in Negev,” *Haaretz Online*, <http://www.haaretz.com/jnf-using-trees-to-thwart-bedouin-growth-in-negev-1.259038> (accessed June 25, 2017).

¹⁵³ *Ibid.*

¹⁵⁴ JNF Montreal newsletter, “JNF is Grateful,” January 2013. [[Document 28](#)]

¹⁵⁵ See pages 59-60 for further information on Yatir Forest.

*presence of around 500 Arab Bedouin residents and their homes; this situation was not reflected at all in the plan. The failure of the state planning authorities is very serious, as their decision-making processes are based on totally inaccurate facts which would result in the evacuation of a village and the destruction of citizens' homes. The obvious conclusion is that the plan prefers to uproot an entire village of hundreds of residents to plant trees in their place.*¹⁵⁶

Adalah and Bimkom continue by stating:

The proposed plan violates the citizens' constitutional rights to property, dignity and equality. The plan should also be viewed in light of dozens of cases pending before the Magistrates' Court and District Court in Beer Sheva to evacuate the residents. The villagers were moved to the area where they live today by the state authorities in the 1950s. The objectors argued that there is no moral or legal reason to forest this area. The proposed plan is typical of 'dark regimes' that do not consider human dignity and other constitutional rights; planting trees in this case is the equivalent of the de-humanization of the people.

Thus it is clear that JNF Canada's planting of trees in the Yatir Forest makes it complicit in the harmful activities of its purported intermediary, KKL-JNF.

To summarize, JNF Canada appears to be supporting KKL-JNF activities in the Negev that have had a very harmful impact on the Bedouin of the region, who frequently protest these activities and depend on the support of Israeli human rights and advocacy organizations to defend their rights.

CPS-024 states that “the public benefit, shown to arise from the charitable purpose, is typically evaluated against any harm that may also arise from the proposed activity” and “[i]n determining charitable purpose, we are looking to ensure that a substantial net benefit results.” While JNF Canada has never identified a charitable purpose, it is clear that whatever it may claim that purpose to be, the enormous harm these projects cause to the local Bedouin population could not possibly result in a substantial net benefit.

According to Canadian law, aside from a small portion of political activity (aimed at influencing Canadian policy), JNF Canada is required to partake in exclusively charitable activity.

2.4.3 JNF Canada and KKL-JNF fail to meet the public benefit test in the Galilee

The Galilee is a predominantly Palestinian-inhabited region, located in northern Israel. Israel and KKL-JNF have long sought to achieve further Jewish settlement and demographic control over this part of the country. The objective in this region has been to

¹⁵⁶ Adalah, “Adalah and Bimkom Demand Cancellation of Yatir Forest Plan in the Naqab,” <https://www.adalah.org/en/content/view/7714> (accessed June 25, 2017).

offset the larger Palestinian population by favouring Jewish settlement, often to the detriment of the native Palestinian population. JNF Canada has played a significant role in the discriminatory treatment of the local Palestinian population of this region.

On JNF Canada's previous website, under "Our Projects," the project "Galil Canada" is described as follows:

Through the generosity of Canadians across the country we have provided the resources to complete the land infrastructure and playgrounds for 14 new hilltop villages in Central Galilee. In the Spring of 1989, having launched Galil Canada 2000, we increased the number of communities in the project to a total of 18.¹⁵⁷

A 1981 article on Galil Canada in the *Canadian Jewish News* notes the increase in settlements, as stated by a former JNF Canada executive Director, Michael Yarosky:

"Although planned by JNF as a 5-year project JNF has, in less than two years, already surpassed its objective for laying the infrastructure for eight kibbutzim, moshavim and townships — a multimillion dollar undertaking in itself," said executive director Michael Yarosky.

The article goes on to state that "[t]he goal of the project is to offset the two-thirds Arab population in the region. The area also touches on two strategic borders — the Lebanese and the Syrian."¹⁵⁸

The 1995 Ottawa Negev Dinner book, in describing Galil Canada, notes that, "... the challenge was to increase the Jewish presence in this area as quickly as possible."¹⁵⁹

An article in the *Globe and Mail* in 1981 reported on Galil Canada, quoting Khateeb Raja, mayor of Deir Hanna, an Arab town in the Galilee: "The Government is building Jewish settlements on our land, surrounding us and turning our villages into ghettos." A man named Ishi Mimon told the *Globe and Mail* he planned on moving his family to Galil Canada because "the Galilee should have a Jewish majority."¹⁶⁰

The discriminatory objective of Galil Canada has been clearly laid out by JNF Canada's representative in Israel, Akiva Einis:

The Government decided to stop the wholesale plunder (by Israeli Arabs) of state lands. ... The settlements are all on mountain tops and look out over large areas of land. If an Arab squatter takes a plow onto land that is not his, the settlers lodge a complaint with the police.¹⁶¹

¹⁵⁷ JNF Canada, "Our Projects," Galil Canada. [[Document 29](#)]

¹⁵⁸ Canadian Jewish News, "Galil Canada to increase settlements commitments," <http://newspapers.lib.sfu.ca/cjn2-29590/page-1> (accessed June 25, 2017).

¹⁵⁹ JNF Ottawa, *Negev*, 42. [Document 2]

¹⁶⁰ John Goddard, "14 Settlements Financed: Canada's Stake in the Galilee," *Globe and Mail*, June 27, 1981. [[Document 30](#)]

¹⁶¹ Ibid.

The deputy mayor of Deir Hanna, Tawfix Daggash, said: “I want to say to the people of Canada that every dollar they contribute [to the JNF] is helping the Israeli Government in its attempt to destroy the Arab people there.”¹⁶²

Building Jewish-only settlements in an area that is predominately non-Jewish, with the explicit political goal of offsetting the non-Jewish population, is clearly discriminatory. Thus, according to the CRA’s own guidelines, this massive JNF Canada project does not meet the public benefit test.

Aside from the issue of this project being discriminatory in nature, it is highly questionable whether it is charitable under Canadian law for JNF Canada to be using tax-deductible donations to establish residential neighbourhoods and communities in a developed, OECD-member country. Since these projects do not relieve poverty, advance education, advance religion or advance other purposes that benefit the community in a way the courts have deemed charitable, JNF Canada’s significant contributions in this area appear not to meet any charitable purpose under Canadian law.

2.5 JNF Canada is in violation of official Canadian Policy on the Israeli-Palestinian Conflict and of International Law

This section discusses how numerous JNF Canada-sponsored projects stand in stark contrast to our government’s official policy on the Israeli-Palestinian conflict, as well as being in violation of international law. These JNF Canada-sponsored projects are each contrary to Canadian public policy and fail to meet the public benefit test.

2.5.1 Infrastructural support for illegal Israeli settlements

JNF Canada has provided infrastructural support for at least two Israeli settlements in militarily occupied territories, which is in violation of official Canadian public policy, and in turn makes Canada in violation of international law. According to officially declared Canadian public policy that is stipulated on the Government of Canada’s Global Affairs webpage,¹⁶³ “Canadian Policy on Key Issues in the Israeli-Palestinian Conflict,” Canada refers to Israeli settlements in occupied territories as follows:

Canada does not recognize permanent Israeli control over territories occupied in 1967 (the Golan Heights, the West Bank, East Jerusalem and the Gaza Strip). The Fourth Geneva Convention applies in the occupied territories and establishes Israel’s obligations as an occupying power, in particular with respect to the humane treatment of the inhabitants of the occupied territories. As referred to in

¹⁶² Ibid.

¹⁶³ CRA policy statement CSP-P13 states: “The courts have held that an organization is not charitable in law if its activities are contrary to public policy. An activity cannot be held to be contrary to public policy unless there is a definite and officially declared and implemented policy (that is, found in an Act of Parliament, a regulation or other publicly available government document of any kind).” <http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/csp/csp-p13-eng.html> (accessed June 24, 2017)

*UN Security Council Resolutions 446 and 465, Israeli settlements in the occupied territories are a violation of the Fourth Geneva Convention. The settlements also constitute a serious obstacle to achieving a comprehensive, just and lasting peace.*¹⁶⁴

It is worth elaborating on United Nations Security Council (UNSC) Resolutions 446 and 465, since they are not only supported officially by Canadian policy, but are legally binding under international law:

UNSC Resolution 446,¹⁶⁵ in article 3, reiterates the message contained in several UNSC and UN General Assembly resolutions as it

[c]alls once more upon Israel, as the occupying Power, to abide scrupulously by the 1949 Fourth Geneva Convention, to rescind its previous measures and to desist from taking any action which would result in changing the legal status and geographical nature and materially affecting the demographic composition of the Arab territories occupied since 1967, including Jerusalem, and, in particular, not to transfer parts of its own civilian population into the occupied Arab territories.

UNSC Resolution 465,¹⁶⁶ in article 5, is also unequivocal in its position as it

[d]etermines that all measures taken by Israel to change the physical character, demographic composition, institutional structure or status of the Palestinian and other Arab territories occupied since 1967, including Jerusalem, or any part thereof, have no legal validity and that Israel's policy and practices of settling parts of its population and new immigrants in those territories constitute a flagrant violation of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War and also constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East.

In article 6, its unambiguous position with regard to Israeli settlements in occupied territories continues, as it

[s]trongly deplores the continuation and persistence of Israel in pursuing those policies and practices and calls upon the Government and people of Israel to rescind those measures, to dismantle the existing settlements and in particular to

¹⁶⁴ Government of Canada, "Canadian Policy on Key Issues in the Israeli-Palestinian Conflict," Global Affairs Canada, http://www.international.gc.ca/name-anmo/peace_process-processus_paix/canadian_policy-politique_canadienne.aspx?lang=eng (accessed June 25, 2017).

¹⁶⁵ United Nations Security Council, "Resolution 446 (1979)," <https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/370/60/IMG/NR037060.pdf?OpenElement> (accessed June 25, 2017).

¹⁶⁶ United Nations Security Council, "Resolution 465 (1980)," [http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/465\(1980\)](http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/465(1980)) (accessed June 25, 2017).

cease, on an urgent basis, the establishment, construction and planning of settlements in the Arab territories occupied since 1967, including Jerusalem.

In article 7, the resolution

[c]alls upon all States not to provide Israel with any assistance to be used specifically in connexion with settlements in the occupied territories.

It cannot be made any clearer than in these UN Security Council resolutions that states which “provide Israel with any assistance to be used specifically in connexion with settlements in the occupied territories” are in contravention of international law.

On December 23, 2016, UNSC Resolution 2334 was passed. It

1. *[r]eaffirms* that the establishment by Israel of settlements in the Palestinian territory occupied since 1967, including East Jerusalem, has no legal validity and constitutes a flagrant violation under international law and a major obstacle to the achievement of the two-State solution and a just, lasting and comprehensive peace;
2. *[r]eiterates* its demand that Israel immediately and completely cease all settlement activities in the occupied Palestinian territory, including East Jerusalem, and that it fully respect all of its legal obligations in this regard;¹⁶⁷

As JNF Canada is not only able to operate legally in Canada, but is also granted registered status through the CRA, its actions, as will be demonstrated below, have put Canada in violation of its own public policy and in contravention of international law.

Givat Oz HaGaon

A JNF Canada delegation cleared the area of the grounds that was used towards building a “security house” at Givat Oz HaGaon.¹⁶⁸ This location is described by Israel’s i24 News as an “unrecognized settler outpost”¹⁶⁹ in the Israeli-occupied West Bank. Israeli settlements in the West Bank are in direct violation of international law under the Fourth Geneva Convention, which states in article 49 that “[t]he Occupying Power shall not

¹⁶⁷ United Nations Security Council, “Resolution 2334 (2016),” <http://www.un.org/webcast/pdfs/SRES2334-2016.pdf> (accessed June 25, 2017).

¹⁶⁸ The outpost is named after three Israeli teenagers who were murdered in the Occupied Palestinian Territory. The final word of the name is an acronym based on the names of the teenagers. It is spelled several different ways including: “Gaon,” “V’Gaon,” “HaGaon,” “veGaon,” “ve Gaon,” and “veGa ‘on.”

¹⁶⁹ i24news, “Hardline rabbi calls to ‘cleanse’ Israel of Arabs,” <http://webcache.googleusercontent.com/search?q=cache:Ki-vDWJcgx8J:webview.i24news.tv/en/news/israel/society/45881-141002-hardline-rabbi-calls-to-cleanse-israel-of-arabs+&cd=2&hl=en&ct=clnk&gl=ca> (accessed June 25, 2017). [Document 31]

deport or transfer parts of its own civilian population into the territory it occupies.”¹⁷⁰
Canada is a signatory to the Fourth Geneva Convention.

The Geneva Conventions, in addition to being legally binding under international law, are also codified in Canadian law through the *Geneva Conventions Act*.¹⁷¹ As previously noted, this settler outpost is also in contravention of UNSC resolutions, as well as officially declared Canadian public policy, which does not accept the legality of Israel’s settlements in occupied territories; it recognizes them as being in violation of the Fourth Geneva Convention.

Changing the physical character of the Occupied Palestinian Territory is also in direct violation of international law. UNSC resolutions state unequivocally that Israel cannot alter the physical character or demographic composition of the Occupied Palestinian Territory.¹⁷²

While Givat Oz HaGaon is not yet an officially sanctioned place within the occupied territories, it is becoming increasingly established, and following the current trajectory it will almost certainly become “legalized” by the Israeli government. The intention of the Israeli state is clearly to have the community become a permanent place in the Occupied Palestinian Territory.

A post made to JNF Canada’s Facebook page from August 31, 2014, entitled “Day 2 of our young solidarity mission to Israel,” reads as follows:

We began our day at Givat Oz HaGaon. A place in Gush Etzion established to perpetuate the memory of the three teens (Eyal, Gilad & Naftali) who were killed by Hamas leading to the war in Gaza. We were met by a lady, Nadia, who explained the purpose of the site and what the goals were. She set us up for some hard labour which was going to take place later on. Before we left Givat Oz, they put us to work doing the same kind of infrastructure work JNF does. We cleared an area so that they could put up a structure to house [sic] for a security office. Everyone pitched in and really took their roles seriously. We made a great team!!!¹⁷³

In response to this post, the Jewish National Fund of Canada responded on Facebook with: “Sounds amazing. JNF Missions are the BEST.”

¹⁷⁰ International Committee of the Red Cross, “Treaties, State Parties and Commentaries: Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949.” <https://ihl-databases.icrc.org/ihl/WebART/380-600056> (accessed June 25, 2017).

¹⁷¹ Government of Canada, “Geneva Conventions Act,” Justice Laws Website, <http://laws-lois.justice.gc.ca/eng/acts/G-3/page-1.html#h-2> (accessed June 25, 2017).

¹⁷² See footnotes 149 and 150.

¹⁷³ JNF Canada Facebook Page, “Day 2 of our Young Solidarity Mission to Israel!” [[Document 32](#)]

According to a *Public Radio International* story, “Jewish settlers establish a new West Bank outpost in the name of murdered Israeli teens,” the settlement is unrecognized but meant to become permanent:

Women in Green is one of several Jewish settler organizations setting up Giv’at Oz veGa’on, which in Hebrew is an acronym for the names of the three boys. It’s a new outpost started in their memory...

Right now, these tents are temporary, but the hope for many here is that this will become a permanent settlement in the West Bank. Young men shovel gravel and pour cement to form walkways on the hilltop...

It was Defense Minister Moshe Ya’alon and Prime Minister Benjamin Netanyahu who proposed a new settlement here in response to the murder of the three teenagers. That plan would run counter to commitments the Israeli government has made to the US government over the years; new settlements are considered a violation of international law.¹⁷⁴

An *Arutz Sheva* article states that heads of Women in Green, activists and supporters, as well as members of the Gush Etzion Regional Council, “call upon the public at large to conduct events at the site, to enjoy the beautiful forest and the facilities that have been established, and to strengthen the Jewish presence.”¹⁷⁵

Women in Green member Penina Taylor has her own blog, in which she writes explicitly about her and her husband’s motivation behind Givat Oz HaGaon:

My husband and I learned today that in answer to the violence, a new Jewish community is being built in Gush Etzion, on a hill overlooking the very place that the boys were abducted. And, its [sic] being named for them. Givat Oz Gaon. Gaon stands for Gilad, Ayal and Naftali. Its [sic] being spearheaded by Nadia Matar and the Women in Green....

So we decided that this is how we will show our anger and our sadness, we will do something, we will build. My husband and I are spending our vacation camping out to help establish this new community. Because what better way to answer those who would destroy but by building?...¹⁷⁶

¹⁷⁴ Rebecca Collard, “Jewish settlers establish a new West Bank outpost in the name of murdered Israeli teens,” *Public Radio International*, <https://www.pri.org/stories/2014-08-08/jewish-settlers-establish-new-west-bank-outpost-name-murdered-israeli-teens> (accessed October 16, 2017).

¹⁷⁵ Arutz Sheva Staff, “First Brit Milah Conducted at Givat Oz V’Gaon Outpost,” *Arutz Sheva* 7, <http://www.israelnationalnews.com/News/News.aspx/184689#.VU7OUflViko> (accessed June 25, 2017).

¹⁷⁶ Penina, “Building as an Answer to Murder,” <https://itsallhafuch.wordpress.com/2014/07/01/building-as-an-answer-to-murder/> (accessed on June 25, 2017).

Pictures taken by Ben Packer and posted to his Facebook page on November 20, 2014 show that Givat Oz HaGaon had already established a synagogue.¹⁷⁷

According to Israeli architect and scholar Eyal Weizman, this progression of factors ought to be seen as the early stages of an Israeli-sanctioned settlement in the Occupied Palestinian Territory, designed to be permanent:

*The outpost-seed could then evolve into a ‘mature’ settlement when conditions permitted. This is the reason why contemporary outposts... should not be seen differently to settlements, but rather as a stage in their evolution.*¹⁷⁸

On February 6, 2017 Israel’s parliament voted to retroactively legalize illegal settlement outposts in the West Bank.¹⁷⁹ This adds further substantiation regarding the effective permanence of Givat Oz HaGaon in militarily occupied territory.

On June 8, 2017, Israel’s Agriculture Minister, Uri Ariel, spoke at Givat Oz HaGaon. According to the organizers of the event and the driving force behind the establishment of the settler outpost, “Women in Green”:

*After some words regarding the three youths, the main import of the minister’s words was that the time has come for sovereignty. The minister called on the prime minister to establish many more communities and do a lot of planting, to build and continue forward.*¹⁸⁰

Women in Green believe that the Occupied Palestinian Territory should come under permanent Israeli sovereignty, and they actively champion this cause throughout Israeli society. Their goal is for Israel to annex the entire West Bank, while maintaining a system of Jewish supremacy over the lives of all those living in the region.¹⁸¹

The support provided by JNF Canada for the Jewish-only settlement outpost of Givat Oz HaGaon clearly indicates that JNF Canada is partaking in activities in the Occupied Palestinian Territory that are designed to permanently alter both the demography and geography of the territories. This is not considered charitable activity under Canadian law, and — through JNF Canada’s charitable status — has put Canada in violation of international law.

Avne Eitan

¹⁷⁷ Ben Packer Facebook page, <https://www.facebook.com/rabbibenpacker/posts/10102387763838948> (accessed June 25, 2017).

¹⁷⁸ Eyal Weizman, *Hollow Land: Israel’s Architecture of Occupation* (London: Verso, 2007) 84.

¹⁷⁹ Raoul Wootliff, “In historic first, Israel legalizes West Bank outposts with sweeping new legislation,” *The Times of Israel*, <http://www.timesofisrael.com/in-historic-first-israel-legalizes-west-bank-outposts-with-sweeping-new-legislation/> (accessed June 25, 2017).

¹⁸⁰ Women in Green, “Minister Uri Ariel at Oz VeGaon: the Time has Come for Sovereignty!,” <http://womeningreen.org/minister-uri-ariel-at-oz-vegaon-the-time-has-come-for-sovereignty/> (accessed June 25, 2017).

¹⁸¹ Women in Green, “About Us,” <http://womeningreen.org/about-us/> (accessed June 26, 2017).

Avne Eitan is an illegal settlement established in the Israeli-occupied Golan Heights that has received support from JNF Canada. It is described as follows in a 2013-2014 JNF Canada calendar:

In 2006 Avne Eitan, a cooperative farming community in the Golan Heights, welcomed 17 families that had been evacuated from Gush Katif. KKL-JNF reclaimed 140 acres of land converting it into a vineyard and orchard for the new residents. The site provides optimal conditions for growing high-quality grapevines and deciduous fruit trees (e.g. apples, peaches, nectarines). Land reclamation includes clearing (weeds and rocks), plowing and improving farm roads leading to and from the main highway.¹⁸²

The settlement is also mentioned in the JNF Canada magazine in 2014, reporting that Toronto had honoured a supporter with a lifetime achievement award:

Max's most recent project was the development of a new community in the Golan Heights named Avnei Eitan, for families who were evacuated from the Gaza Strip.¹⁸³

JNF Canada appears to be contradicting itself — it claims in its calendar that the farming community was already established, and that KKL-JNF (not JNF Canada) was helping 17 new families become established in the community. It then claims that the project “was the development of a new community in the Golan Heights named Avnei Eitan, for families who were evacuated from the Gaza Strip.”

It appears JNF Canada is misrepresenting its own sponsored projects both to its donors and to the Canadian public, and is once again conflating itself with KKL-JNF.

To confuse matters even further, a page on KKL-JNF’s website states:

This project, which was made possible thanks to a generous donation from Friends of JNF Canada Dr Max and Gianna Glassman, will help both families evacuated from Gush Katif — who have had to struggle to rebuild their homes and their livelihood after the evacuation — and veteran Avnei Eitan residents alike, and enable them to develop local agriculture and absorb newcomers.¹⁸⁴

The website goes on to state:

¹⁸² Jewish National Fund of Canada, “2013/2014 Calendar,” 18. [Document 33]

¹⁸³ JNF Canada, *Roots* (April 2014), 8. [Document 19]

¹⁸⁴ Keren Kayemeth LeIsrael, “Gush Katif Evacuees Return to Farming in the Golan Heights,” <http://www.kkl-jnf.org/people-and-environment/kkl-jnf-projects-partners/dfu-2015/avnei-eitan-dfu/> (accessed June 26, 2017). [Document 34]

In Gush Katif Gadi Kidron grew vegetables – mainly tomatoes and peppers – both for export and the local market. In Avnei Eitan, however, he has chosen to focus on peonies for export to the flower exchange in Holland. He also grows nectarines and peaches. “Farming is Zionism and it’s a way of life,” he told us. “The support of [JNF Canada](#) is very important to us, as [sic] will enable us to make a living from farming, the profession to which we are so deeply attached,” he said gratefully in conclusion.

Thus, in KKL-JNF and JNF Canada’s descriptions, the same project is described variously as being conducted by KKL-JNF, “Friends of JNF Canada,” and JNF Canada.

According to officially declared Canadian public policy, “Canada does not recognize permanent Israeli control over territories occupied in 1967 (*the Golan Heights, the West Bank, East Jerusalem and the Gaza Strip*)...”¹⁸⁵

UN Security Council Resolution 465 article 7 — which is legally binding under international law—states its position very clearly. It “calls upon all States not to provide Israel with any assistance to be used specifically in connexion with settlements in the occupied territories.”

JNF Canada maintains that this land has been “reclaimed,” but it is evident that this land never belonged to KKL-JNF or even to Israelis — it is occupied Syrian territory that Israel has annexed in contravention of both international law and officially declared Canadian public policy.

Furthermore, it is clear that this project does not fulfill a charitable purpose, such as relieving poverty. Each family evacuated from illegal Israeli settlements in the Gaza Strip was compensated with \$450,000, on average, by the Israeli government.¹⁸⁶

2.5.2 JNF Canada forests and parks help Israel effectively annex occupied territories

JNF Canada-sponsored forests and parks that straddle the internationally recognized borders of Israel — known as the “Green Line” or 1949 Armistice Agreement border — and which are at least partially located in the OPT, have created “facts on the ground” that allow Israel to effectively annex this land in the OPT. The route of Israel’s unilaterally-built Separation Barrier has included these lands within the OPT on the Palestinian side of the Barrier, and is under Israel’s full control. At times, the route of the Barrier goes around the trees belonging to the projects that were sponsored by JNF Canada.

The existence of the Separation Barrier has meant the *de facto* annexation of Palestinian lands by Israel on the Palestinian-side of the Green Line, and may lead to their *de jure*

¹⁸⁵ Government of Canada, “Canadian Policy.”

¹⁸⁶ Jewish Virtual Library, “Gaza Disengagement Plan: Compensation for Jews Who Lost Homes in Disengagement,” <http://www.jewishvirtuallibrary.org/compensation-for-jews-who-lost-homes-in-disengagement> (accessed June 26, 2017).

annexation in the future. The Barrier was ruled illegal by the International Court of Justice in a 2004 Advisory Opinion,¹⁸⁷ and officially-declared Canadian policy has deemed the Barrier to be illegal, with Canada clearly opposing the path of its construction.¹⁸⁸

JNF Canada has directly funded the creation of “facts on the ground” that have given Israel an excuse to extend the Barrier into the OPT. The Barrier has protruded further into the occupied West Bank in order to navigate around portions of the JNF Canada-funded projects located within the OPT. These particular divergences from the Green Line appear to be influenced by the fact that several JNF-funded parks and forests traverse the Green Line.

Begin Park

A cached page of JNF Canada’s previous website entitled “Our Projects” includes in its list Begin Park.¹⁸⁹

It goes on to describe Begin Park and its history, making no mention of the depopulated and demolished village of al-Qabu, whose ruins are covered over by the park.¹⁹⁰ Al-Qabu was depopulated on October 22-23, 1948, after the 1948 Arab-Israeli war, and was demolished in 1949-50. According to the Israeli NGO Zochrot, Ras abu ‘Ammar, another depopulated and demolished Palestinian village, was also located within the area that is now Begin Park.¹⁹¹

Within Begin Park, there is no mention on the signage of the fact that the depopulated and demolished Palestinian villages of al-Qabu and Ras abu ‘Ammar are within the boundaries of the park.¹⁹²

A brochure about the park reads: “Entwined in the ‘dramatic’ topography are 3,000 years of intensive settlement. The park holds the archaeological remains of a Jewish community from the First Temple Era, and from the time of the Mishnah.”¹⁹³

Many of those expelled from al-Qabu live in a refugee camp just minutes away.¹⁹⁴

¹⁸⁷ International Court of Justice, “Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory,” <http://www.icj-cij.org/docket/files/131/1671.pdf> (accessed June 26, 2017).

¹⁸⁸ Government of Canada, “Canadian Policy.”

¹⁸⁹ JNF Canada, “Our Projects.” [Document 14]

¹⁹⁰ Zochrot, “al-Qabu tour- Report,” <http://zochrot.org/en/tour/50075> (accessed June 26, 2017).

¹⁹¹ Bronstein, “Most KKL Forests.”

¹⁹² BADIL Resource Center for Palestinian Residency and Refugee Rights, “The Jewish National Fund: A Para-State Institution in the Service of Colonialism and Apartheid,” *Al Majdal* 43 (Spring 2010) http://www.badil.org/phocadownload/Badil_docs/publications/al-majdal-43.pdf (accessed June 26, 2017) 17-20.

¹⁹³ Kadman, *Erased*, 121.

¹⁹⁴ BADIL, “The Jewish National Fund,” 17-20.

Begin Park extends beyond the Green Line — Israel’s internationally recognized border — into the occupied West Bank.¹⁹⁵ The route of the Separation Barrier is projected to go around Begin Park, effectively further annexing this land from the Palestinians.¹⁹⁶ To note again, this is in clear violation of international law and officially-declared Canadian policy on the Israeli-Palestinian conflict:

*Canada opposes Israel's construction of the barrier inside the West Bank and East Jerusalem which are occupied territories. This construction is contrary to international law under the Fourth Geneva Convention. Canada not only opposes Israel's construction of a barrier extending into the occupied territories, but also expropriations and the demolition of houses and economic infrastructure carried out for this purpose.*¹⁹⁷

Yatir Forest

The northern part of Yatir Forest crosses over into the Occupied Palestinian Territory. Furthermore, the Separation Barrier has been built to go directly around this forest within the occupied West Bank.¹⁹⁸

JNF Canada’s connection to this park is clear. JNF Canada lists the forest on a cached page from its old website.¹⁹⁹ The page is entitled “Our Projects,” and contains a link to a page that briefly describes Yatir Forest and the predominantly non-native species of trees that KKL-JNF has planted there.²⁰⁰

The 2009 JNF Ottawa Negev dinner booklet notes the following: “Ottawa helped to create...” and lists “Jubilee Forest at Yatir, Negev dinner — Cantor David Aptowitz.”²⁰¹

On April 30, 1998, the Hon. Noël A. Kinsella (Acting Deputy Leader of the Opposition) said the following in the Senate:

Honourable senators, there is one fiftieth anniversary project known as the Jubilee Forest at Yatir in the Negev Desert. I am pleased that New Brunswickers from the province I represent are working on that project by planting a New

¹⁹⁵ Google Maps, <http://bit.ly/2sL8IYK> [Document 35]

¹⁹⁶ United Nations Office for the Coordinator Humanitarian Affairs – Occupied Palestinian Territory, “10 Years since the ICJ Advisory Opinion,” Google Earth of Begin Park. [Document 36]

¹⁹⁷ Government of Canada, “Canadian Policy.”

¹⁹⁸ United Nations Office for the Coordinator Humanitarian Affairs – Occupied Palestinian Territory, “10 Years since the ICJ Advisory Opinion,” Google Earth of Yatir Forest. [Document 37]

¹⁹⁹ JNF Canada, “Our Projects.” [Document 14]

²⁰⁰ Jewish National Fund of Canada, “Yatir Forest,” Our Projects, http://web.archive.org/web/20111110163515/http://site.jnf.ca:80/projects/projectsyatir_forest.html (accessed June 24, 2017)

²⁰¹ Jewish National Fund of Ottawa, “2009 Negev Dinner,” <http://ottawa.jnf.ca/wp-content/uploads/22.2009-2010-ottawa-bk.pdf> (accessed June 27, 2017) 48.

*Brunswick forest as an important part of the Jubilee Forest. The New Brunswick forest will consist of more than 20,000 trees at Yatir, which is located at the northeastern gateway to the Negev Desert, 25 kilometres northeast of Be'er Sheva and 22 kilometres west of Masada in the Dead Sea.*²⁰²

According to JNF Canada's Toronto office, Yatir Forest is also home to the Toronto Community Forest.²⁰³

Canada Park

During the June 1967 war, the roughly 10,000 unarmed residents of the villages of Imwas, Beit Nuba, and Yalu were expelled by the IDF. Subsequently, the three villages — which lay in a bulge of land called the Latrun salient — were demolished. Canada Park was built over the ruins of the destroyed villages of Yalu, Imwas and Deir Ayyub (depopulated and demolished in 1948) and over lands belonging to the village of Beit Nuba, each located in the Latrun salient.²⁰⁴

Canada Park sits beyond the Green Line, and hence is located in the occupied West Bank. Canada's Ministry of Global Affairs officially accepts this point as fact. In a document written by the Government of Canada entitled "Ayalon/Canada Park and the Jewish National Fund of Canada," the Government of Canada admits that Canada Park is located in occupied territory, and affirms that the Fourth Geneva Convention applies to the Occupied Palestinian Territory.

The Government of Canada also acknowledges the forced expulsion of up to 10,000 Palestinian civilians from their lands, the destruction of their villages, and the establishment of Canada Park over the villages' lands and ruins. As well, it acknowledges that JNF Canada funded the park's establishment, and that the organization has charitable status through the CRA.²⁰⁵

Despite these facts, JNF Canada has repeatedly reported in its annual tax returns that its activities taking place in other countries are only taking place within Israel (country code IL).²⁰⁶ However, any activities taking place in the Israeli Occupied Territories (country code PS) are required to be identified as such. This means that JNF Canada has been

²⁰² Parliament of Canada, "Debates of the Senate (Hansard)." 1st Session, 36th Parliament, Volume 137, Issue 56, http://www.parl.gc.ca/Content/Sen/Chamber/361/Debates/056db_1998-04-30-e.htm (accessed June 27, 2017) 21.

²⁰³ Jewish National Fund of Canada, *Roots* (April 2011), *Jewish National Fund of Toronto*, 14. [[Document 38](#)]

²⁰⁴ John Reynolds, "Where Villages Stood: Israel's Ongoing Violations of International Law in Occupied Latroun, 1967-2007," *Al-Haq*, <http://www.vho.org/aaargh/fran/livres10/Latrun.pdf> (accessed June 26, 2017) 9. [[Document 39](#)]

²⁰⁵ Government of Canada, "Ayalon/Canada Park," 31.

²⁰⁶ Government of Canada, "JNF Canada — Quick View."

filling out its tax return in violation of Canadian tax laws for each year in which money raised went towards its main project.

In a fundraising letter from JNF Canada dated September 1984 and addressed to its members, JNF Canada asks for donations for Canada Park, which it falsely claims is located in Israel: “Income tax receipts will be issued for all contributions and your donation will help complete the Grove in Canada Park, in Israel...”²⁰⁷

What took place in 1967 — and what JNF Canada’s flagship project attempts to cover up — is clearly a war crime under article 53 of the Fourth Geneva Convention:

*Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations.*²⁰⁸

The villagers were entirely peaceful, holding up white flags as a symbol of non-violence. In addition, the villages were demolished after the war had already ended. Moreover, in the process of demolishing the homes, the IDF killed eighteen elderly Palestinians who were unable or unwilling to evacuate their homes.²⁰⁹

Despite irrefutable evidence, KKL-JNF’s Director of Information, Benny Mushkin, denied that Yalu is situated within the park. When confronted with the facts surrounding the location of Canada Park over the ruins of depopulated and demolished villages, his response was: “All we did was take the area that was here, reconstructed it, enhanced it and improved it ... The area is much, much nicer now than it was before.”²¹⁰

Photos taken by Israeli Joseph Onan of the demolition of village structures in the Latrun salient, following the forced displacement of the Latrun villagers, reveal that KKL-JNF bulldozers were used.²¹¹ This means that KKL-JNF was at least partially responsible for the demolition of these villages. It is unclear if funds raised by JNF Canada were ever used in this activity of KKL-JNF.

KKL-JNF’s role in appropriating lands in the Latrun salient is also made evident in this statement KKL-JNF made as a report to the World Zionist Congress, following the June 1967 War:

²⁰⁷ Jewish National Fund of Canada, fundraising letter, September 1984. [Document 40]

²⁰⁸ International Committee of the Red Cross, “Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949. Prohibited Destruction. Article 53.” <https://www.icrc.org/ihl/WebART/380-600060?OpenDocument> (accessed June 27, 2017).

²⁰⁹ Reynolds, “Villages,” 21.

²¹⁰ Candian Broadcasting Corporation, “Canada Park: A Peace with No Peace,” <https://youtu.be/8rZmzIqK6Fc?t=1s>.

²¹¹ Joseph Hochman, photos of KKL-JNF bulldozer at Imwas. [Document 41]

Development work of utmost security importance has already been started in the Golan Heights, Samaria and Judea [the latter two comprising roughly the West Bank]. ...

The JNF secured a large quantity of mechanical equipment in order to complete the reclamation of land in all these areas before the beginning of the sowing season. These efforts were successful. The fertile land which our settlements in the north and in the Latrun bulge have now gained will perhaps give them some compensation for the suffering that was inflicted on them over so many years. Along the Syrian border [i.e. the new truce line in occupied Syrian territory] we have reclaimed 1,500 acres [about 6,000 dunams] between Al-Hummah and Banyas in the north, and in the Latrun bulge we are now reclaiming nearly 10,000 acres [40,000 dunams].²¹²

The fact that Canada Park now covers over the lands of these villages is directly responsible for impeding the return of evacuees to their homes and properties — a demand they have been consistently making that is accorded to them under international law. In a letter addressed to an Israeli Prime Minister, Defense Minister and President, the residents of Imwas, Yalu and Beit Nuba wrote:

We ask only for our legitimate humanitarian right to return to the villages from which we were driven and expelled. Before the war in 1967, we lived peacefully in our villages on the West Bank-Israeli border, with no problems with our Israeli neighbours. We were in no way a threat to security or a destabilising presence in the area.²¹³

Under international law, the villagers have every right to return to their properties; Israel is in fact required under the Fourth Geneva Convention to implement this return. As article 49 of that Convention states:

... the Occupying Power may undertake total or partial evacuation of a given area if the security of the population or imperative military reasons so demand. Such evacuations may not involve the displacement of protected persons outside the bounds of the occupied territory except for when material reasons it is impossible to avoid such displacement. Persons thus evacuated shall be transferred back to their homes as soon as hostilities in the area in question have ceased.²¹⁴

It would be easier for the Latrun villagers to re-establish villages and agriculture on this land as it had existed following the depopulation and destruction of the villages — without trees, stone monuments, signs and other park features funded by JNF Canada, as

²¹² Lehn and Davis, *Fund*, 140.

²¹³ *Ibid.*, 88.

²¹⁴ International Committee of the Red Cross, "Treaties."

can be seen in the four images of the village site starting from 1958, and including each decade until 1988.²¹⁵

Most of the former Palestinian owners of the land are barred by Israel from accessing the land. A 1986 UN Special Committee reported to the UN Secretary-General that the villagers of the Latrun salient were being denied their right of return to their land that at that time was taken over by a JNF Canada project.²¹⁶

This land is treated as though it is part of Israel, and not in occupied territory. Israel has full control of the land, rather than demonstrating temporary use of the occupied land for military or other reasons, as permitted under international law.

Article 46 of the Hague Convention (IV) states that “Family honour and rights, the lives of persons, and private property, as well as religious convictions and practice, must be respected. Private property cannot be confiscated.”²¹⁷

Article 55 of the same convention states:

*The occupying State shall be regarded only as administrator and usufructuary of public buildings, real estate, forests, and agricultural estates belonging to the hostile State, and situated in the occupied country. It must safeguard the capital of these properties, and administer them in accordance with the rules of usufruct.*²¹⁸

The Hague Conventions are considered “embodying rules of customary international law. As such, they are also binding on States that are not formally parties to them.”²¹⁹

As an occupying power, Israel has the right to make use of or enjoy occupied lands as a temporary administrator and usufructuary. However, Israel, with the financing of JNF Canada, has used the land and resources in the Occupied Palestinian Territory for projects that have altered and impaired the substance of the land, rendering it no longer useable for the original purposes of its Palestinian owners (including growing food, building homes, grazing animals, etc.).

²¹⁵ Reynolds, “Villages,” 30.

²¹⁶ United Nations General Assembly, “Report of the Special Committee to Investigate Israeli Practises Affecting the Human Rights of the Population of the Occupied Territories,” October 20, 1986, <http://bit.ly/2tfqwz> (accessed June 27, 2017). [Document 42]

²¹⁷ International Committee of the Red Cross, “Treaties, State Parties and Commentaries,” Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land. The Hague, 18 October 1907, Article 46, <http://bit.ly/2sbDLhD> (accessed June 27, 2017).

²¹⁸ International Committee of the Red Cross, “Treaties, State Parties and Commentaries,” Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land. The Hague, 18 October 1907, Article 55, <http://bit.ly/2tQ2u8h> (accessed June 27, 2017).

²¹⁹ International Committee of the Red Cross, “Treaties, State Parties and Commentaries,” Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land. The Hague, 18 October 1907, <https://www.icrc.org/applic/ihl/ihl.nsf/INTRO/195> (accessed June 27, 2017).

The purpose of this JNF Canada project may be gleaned from the words of KKL-JNF official Michal Katorza who bluntly stated: "... a large portion of JNF parks are on lands where Palestinian villages used to stand, and the forests are intended to camouflage this."²²⁰

According to a report conducted by Al-Haq — an organization regarded as a “well respected Palestinian human rights organization” in a Canadian government memo — Canada is complicit in violations of international law through JNF Canada’s charitable status:

*...by indirectly supporting the establishment, maintenance and expansion of a recreational park on occupied territory, Canada, far from fulfilling its positive obligation to put an end to the illegal situation created by Israel in this part of the OPT, is responsible for breaching its duty of non-recognition and is complicit in the creation of facts which consolidate the illegal situation and prejudice the realisation of the Palestinian right to self-determination.*²²¹

The Separation Barrier bordering Canada Park violates Canadian public policy because it extends into the Occupied Palestinian Territory. In addition, while Israelis can freely visit Canada Park, the Barrier prevents Palestinians in the rest of the military occupied West Bank from visiting this area, despite the fact that there are many Palestinians residing in the West Bank who were born there, or who have immediate family members who were born there.

The park covers Palestinian cemeteries, ruins of mosques and the ruins of villages that are of significance to Palestinians — particularly those who were forcibly removed from the area by Israel in 1967.

The CBC’s *Fifth Estate* made a documentary on Canada Park in 1991 entitled “Canada Park: a Park with No Peace” which delves into meticulous detail about this project.²²²

Dr. Ismail Zayid (a complainant), who is from Beit Nuba but has lived most of his life in Halifax, Nova Scotia, has sent formal letters to numerous Ministers of National Revenue for over four decades regarding the establishment of Canada Park through tax-deductible donations from Canadians.

In a letter from July 27, 1991, addressed to the Honourable Otto Jelinek, Minister of National Revenue at the time, Dr. Zayid writes:

I wrote on Dec. 16, 1984 to the Honourable Mr. Perrin Beatty, the then Minister of Revenue expressing concern that Canadian tax-deductible dollars are being used in an illegal act and in violation of international law. ...

²²⁰ Kadman, *Erased*, 43.

²²¹ Reynolds, “Villages,” 68.

²²² CBC, “Canada Park.”

*I was informed by Mr. Beatty that the matter is under further investigation. I wrote again on Feb. 15, 1986 to the Honourable Elmer Mackay, the then Minister of Revenue Canada, requesting to know the outcome of this investigation. I was informed by the office of the Minister of National Revenue on Feb. 28, 1986 that the matter is being reviewed and I will be provided with a reply as soon as possible. (copies of correspondence enclosed) To this date, I have had no reply.*²²³

On November 20, 1991, Deputy Minister of Revenue Canada Pierre Granville responded, stating:

I am unable to discuss particular aspects of the situation you outline as the confidentiality provisions of the Income Tax Act prevent me from discussing the taxation affairs of taxpayers, including those of a registered charity. ...

... the law does recognize as charitable, land conservation activities in general including such activities as developing parks and planting trees.

*I am aware of the concerns that you have raised both in the past and more recently, and I can assure you that the Department gives serious consideration to complaints that are received. ... For the time being, the results of the investigations cannot be communicated to the public because of the confidentiality provisions of the Act. We are looking at the possibility of amending the Act in the near future to be able to disclose the outcome of our investigation of charities.*²²⁴

A document for CRA spokespersons entitled “Canada Revenue Agency Media Lines,” dated August 4, 2010, states:

In looking at organizations applying for charitable registration that engage in activities in the Occupied Territories there are two main issues that the CRA considers; whether the activities taking place in the Occupied Territories contravene Canadian public policy, and whether the activities themselves are charitable.

*The Federal Court of Appeal has ruled, in the case of Magen David Adom V Canada that there is no clear public policy prohibiting charitable activities in the Occupied Territory. Therefore, in the absence of legislation or some other clear and compelling public pronouncement, the CRA cannot treat the fact that otherwise charitable activities taking place in the Occupied Territories are a barrier to charitable status.*²²⁵

²²³ Letter from Dr. Ismail Zayid to Minister of National Revenue Otto Jelinek, July 27, 1991. [\[Document 43\]](#)

²²⁴ Letter from Deputy Minister of National Revenue Pierre Gravelle to Dr. Ismail Zayid, November 20, 1991. [\[Document 49\]](#)

²²⁵ Ewa Roy, “Canada Revenue Agency Media Lines,” *Access to Information Act* document, <http://ijvcanada.org/wp-content/uploads/2014/05/CRA-access-to-info-on-JNF.pdf>, (Accessed June 27, 2017) 4-5.

While the complainants recognize the *Magen David Adom V Canada* ruling establishing that charitable activities in the Occupied Palestinian Territory are not a barrier to charitable status, the provision of ambulance services (as was the case with Magen David Adom) contrasts starkly with the establishment of Canada Park and the other projects funded by JNF Canada in the occupied territories, none of which fit the CRA's requirements for charitable activity.

In the case of Canada Park, it cannot be considered a charitable activity to a) establish a recreational area in a foreign OECD country, situated over the ruins of peoples' homes; b) sponsor the appropriation of lands taken violently from civilians in militarily occupied territory; c) create physical changes to land in occupied territory of a permanent nature; d) provide facts on the ground influencing the route of Israel's illegal Separation Barrier; e) prevent villagers evacuated during war from returning to their properties; and f) all the while show a persistent unwillingness to even acknowledge the mass injustices concealed by the project.

JNF Canada has continued to solicit donations used for Canada Park,²²⁶ with funds as recently as 2015 apparently going towards a wildflower trail in the park.²²⁷

JNF Canada described Canada Park in the *Ottawa Jewish Bulletin* (December 7, 2015 issue) as follows:

*Canada-Ayalon Park is the site of early battles of the Macabees in the years 167 to 165 BCE with remains of fortresses and tunnels that match the Bar Kochba period style. There were also fierce battles in the Ayalon Valley between the Hasmoneans and the Seleucids in the second century BCE. Many battles also took place here during Israel's War of Independence, between the IDF and the Jordanian Legion.*²²⁸

Despite JNF Canada's knowledge of the Latrun villages that existed within the boundaries of Canada Park up until their depopulation and destruction in June 1967, JNF Canada continues to omit this information for both its donors, and the Canadian public at large that has subsidized this JNF Canada-sponsored project over several decades.

Because KKL-JNF's signs in Canada Park made no mention of the villages of Imwas and Yalu, the Israeli NGO Zochrot filed a complaint through the Israeli High Court of Justice. Before the hearing took place, KKL-JNF installed two signs in the park mentioning these villages, but failed to note that they were depopulated and demolished in 1967. One of the signs was subsequently defaced, while the other was stolen.²²⁹ This follows a pattern, as Israeli academic Noga Kadman has noted:

²²⁶ JNF Canada, *Roots* (April 2011), 40. [[Document 38](#)]

²²⁷ Jewish National Fund of Canada advertorial, *Ottawa Jewish Bulletin*, December 7, 2015, <https://issuu.com/ottawajewishbulletin/docs/ottawa-jewish-bulletin-2015-12-07> (accessed June 27, 2017) 9.

²²⁸ *Ibid.*

²²⁹ Reynolds, "Villages," 31-32.

I found that JNF publications ignore forty out of sixty-seven villages (60 percent) in parks about which publications were produced. Signs fare worse, even though they are physically located on or near the village ruins: signs do not mention thirty-nine of the fifty-two villages (75 percent) located in signposted parks. Moreover, 86 percent of the village names are missing from signs directing visitors to a different part of the park, and 80 percent of the village names do not appear on the park maps attached to JNF publications and posted in the park itself. In total, thirty-five depopulated villages are mentioned in some way by the JNF — whether in print, signage or both...

Many villages are not presented as Arab — and never as Palestinian — and at times even their names are not mentioned. Information is rarely provided regarding the date of establishment of the villages, their population, their income sources, and other details about their residents' lives...

The texts ignore acts of attack, massacre and expulsion committed against the villages and their residents. They do not specify explicitly the severance of the village's existence. The texts also ignore the fate of the residents made into refugees and omit the policy of village demolition. This approach matches the Israeli narrative that eschews responsibility for the refugee problem and tries to keep the issue off the agenda.²³⁰

KKL-JNF's webpage about Canada Park (which it has renamed "Ayalon-Canada Park") continues to erase the memory of the villages depopulated and demolished in 1967, failing to acknowledge them or their tragic fate.²³¹

2.5.3 JNF Canada supports Israel's illegal annexation of East Jerusalem

On its previous website, JNF Canada refers to Jerusalem as "the capital of the State of Israel." It goes on to say that "[t]he Jewish National Fund decided to confer upon the city a gift to pay homage to its beauty, endurance and unifying power and, at the same time, serve the growing needs of it [sic] population."²³²

However, under international law, East Jerusalem is considered to be part of the Occupied Palestinian Territory. Canada does not recognize Jerusalem as the capital of Israel — as our embassy is in Tel Aviv — nor does the entire international community. In addition, Canada does not formally recognize Israel's annexation of East Jerusalem, which is also considered illegal under international law.²³³

²³⁰ Kadman, *Erased*, 114-15.

²³¹ Keren Kayemeth LeIsrael, "Ayalon Canada Park: Biblical and Modern Israel," <http://www.kkl-jnf.org/tourism-and-recreation/forests-and-parks/ayalon-canada-park.aspx>, (accessed June 27, 2017). [Document 44]

²³² JNF Canada, "Our Projects." [Document 20]

²³³ Government of Canada, "Canadian Policy."

On the Government of Canada's website under "Canada-Israel Relations," a fact sheet on Israel describes Israel's capital as "(TBD)" [i.e. "to be determined"].²³⁴

Israeli geographer Shaul Ephraim Cohen makes clear the political role played by KKL-JNF regarding land use:

*...it is most important to understand the role of the JNF in the control of land in and around Jerusalem. The focus on the JNF stems from its critical position in the planning and execution of many of the land policies, and its dominant role in the creation of the Green Belt. Further, more than any other agency, the JNF comes into contact with Palestinian landholders in the mutual contest for control of specific plots of land. Thus, while a host of bodies have direct and indirect participation in the creation of the Green Belt, it is the JNF that provides the key to the understanding of events on the Israeli side of the conflict, and the use of planting as a tool in the competition for land.*²³⁵

Mount Scopus and the Slopes Park Project

Projects contributing to Israel's permanent control over and annexation of East Jerusalem are in contravention of both officially stated Canadian policy on the Israeli-Palestinian conflict and UNSC resolutions 465, 446 and 2334. The projects on Mount Scopus in East Jerusalem are an example of this.

According to officially stated Canadian policy,

*Canada considers the status of Jerusalem can be resolved only as part of a general settlement of the Palestinian-Israeli dispute. Canada does not recognize Israel's unilateral annexation of East Jerusalem.*²³⁶

Despite this, JNF Canada lists Mount Scopus as one of its projects on its previous website:

*As part of the "Redeemers of Jerusalem" program the Jewish National Fund of Canada will help meet the extraordinary challenge of Mount Scopus. Trees were planted along the slopes which is now a budding forest, a nature path was mapped out and a scenic observation plaza was built with a view of the Jerusalem skyline.*²³⁷

²³⁴ Government of Canada, "Embassy of Canada to Israel," http://www.canadainternational.gc.ca/israel/bilateral_relations_bilaterales/fs-israel-fd.aspx?lang=eng, (accessed June 27, 2017).

²³⁵ Cohen, *The Politics of Planting: Israeli-Palestinian Competition for Control of Land in the Jerusalem Periphery*, 107.

²³⁶ Ibid.

²³⁷ JNF Canada, "Our Projects." [[Document 20](#)]

A May 2007 JNF Canada document entitled “JNF Information Update” describes one of its projects on Mount Scopus (in East Jerusalem), “The Gerald Halbert Park & Observation Plaza,” as being

*...located east of the Mt. Scopus campus of The Hebrew University, in the northern part of the city. The site has a tree grove and stunning view of the Judean Desert, Mountains of Moab, and southern Jerusalem.*²³⁸

Again, JNF Canada is admitting to creating “facts on the ground” in occupied territory, and is hence working towards preventing the possibility of a contiguous Palestinian state from forming, as required by both international law and official Canadian policy.

An April 2003 issue of *The Hamilton Jewish News* has an ad for the annual JNF Hamilton fundraising gala (Negev Dinner), which states that

*Proceeds from the 2003 Hamilton Negev Dinner will go toward The Greening of Mount Scopus. One of the most beautiful sites within Jerusalem, with its peak soaring to 2,736 feet, Mount Scopus is located on the northernmost part of the ridge of the Mount of Olives. The afforestation of the once barren Mount Scopus hillside has been an integral part of Jewish National Fund of Canada’s programs, one of which is to create a series of forests and parklands surrounding Jerusalem.*²³⁹

Gilo Forest and Park

A May 2007 document produced by JNF Canada describes Gilo Forest and Park as being “set up by Friends of JNF” and “... located near the Gilo neighborhood, in south Jerusalem. The park includes active recreation spots and playground equipment.”²⁴⁰

In the words of Ofer Ayoubi, head of Gilo’s community centre, “If you think Gilo is in the Occupied Territory, I suggest you visit us and see the contiguity between Gilo and [the neighborhoods of] Katamon, Talpiot, Har Homa, and Malha. The [Green] Line is long gone here.”²⁴¹

Unfortunately, people have been led to believe that the settlement of Gilo is a suburb of Jerusalem, when in fact it is on land occupied by Israel that is meant for a future

²³⁸ Jewish National Fund of Canada, “JNF Information Update,” May 2007, 3. [[Document 45](#)]

²³⁹ The Hamilton Jewish News, ad for Jewish National Fund of Hamilton 50th anniversary Negev Dinner Tribute, April 2003. [[Document 46](#)]

²⁴⁰ JNF Canada, “Update,” 3. [[Document 45](#)]

²⁴¹ B’tselem, ““The [Green] Line is long gone”: Gilo to be expanded, creating annexable bloc that includes Cremisan Valley and extends to Har Gilo,”” East Jerusalem, http://www.btselem.org/jerusalem/20150105_expansion_of_gilo_settlement (accessed June 27, 2017).

Palestinian state. Moreover, the project prevents expansion of the Palestinian communities while saving land for illegal Israeli settlement expansion.

According to a *Jerusalem Post* article, the illegal settlement of Gilo was reportedly expanding by adding 1,100 apartment units “built partially on the open areas of the Gilo forest...”²⁴²

More recently, the human rights organization *B’tselem* reported that KKL-JNF is one of three landowners of a parcel of land that is slated for construction of housing units — for Jewish families only.²⁴³

3.0 CONCLUSION

We are very confident that this formal complaint — delivered to you, the Honourable Minister, and the CRA — will result in the Government of Canada upholding Canadian law by initiating the revocation of JNF Canada’s charitable status.

JNF Canada is fully aware of the numerous efforts over the years by human rights advocates to expose its activities, yet it continues to promote its controversial agenda unapologetically. As a result of decades of impunity, JNF Canada acts as though the rules simply do not apply to it.

As a final resource, we encourage you to watch a JNF Canada promotional video from 2014.²⁴⁴ In it, you will see an organization with the slogan “100% Israel” that refuses to acknowledge the occupied territories of East Jerusalem, the West Bank and the Golan Heights. Rather, it shows these territories on its map as being part of the State of Israel. This clearly demonstrates that JNF Canada is aware that the projects it has supported within occupied territories are knowingly designed — and undoubtedly intended — to be permanent in nature.

We will continue to monitor closely the activities of JNF Canada and KKL-JNF, as well as any action taken by the Government of Canada with regard to this issue.

We trust that, with the facts now readily available via electronic media, it would be increasingly problematic for the Government of Canada to ignore mounting concerns

²⁴² Melanie Lidman, “Government okays 1,100 housing units in Gil,” *The Jerusalem Post Online*, <http://www.jpost.com/printarticle.aspx?id=239828> (accessed June 27, 2017).

²⁴³ B’tselem, “Har Gilo.”

²⁴⁴ <https://www.youtube.com/watch?v=GRH5ZpaQww4>; note that all of JNF Canada’s maps of Israel/Palestine show the entire region as encompassing Israel’s sovereign territory. This video is one particularly glaring example. For screenshots of the relevant images from the film, see Documents 47 and 48.

about Canadians subsidizing JNF Canada and KKL-JNF's work. In addition, other organizations that are considered "too political" to obtain tax-deductible status in Canada may wonder why one particular group is being favoured over others.

If the Government of Canada can allow such an organization to maintain its charitable status in the face of this extensive evidence, then we will have no choice but to conclude that the Government of Canada is unwilling to uphold Canadian law. Currently, the Government of Canada is putting the interests of JNF Canada above those of Canadian taxpayers, and above the interests of our country — which has been implicated for fifty years in the discriminatory and oftentimes illegal work of JNF Canada and its intermediary, KKL-JNF.

The time has come for the Government of Canada to make the lawful decision to initiate the revocation of JNF Canada's charitable status.

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