



# The Land Narrative: Rethinking Israel's National Land Policy



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## ABSTRACT

The land narrative tells the unique story of Israel's national land policy. Its historical and ideological roots are in the early 1900s, when the Zionist movement and the Jewish National Fund were founded, but it continues to influence spatial policy and land allocation in Israel today. The land narrative is based on the distinction between the urban sector and the rural-agricultural sector and on the clear preference—at least at the ideological level—for the rural-agricultural sector. However, despite the decision-makers' clear preference for the members of the cooperative and communal rural sector, over time the urban residents' have received more land rights de facto. This study provides an explanation of this dissonance by exploring the land narrative, examines its broad implications for Israeli society, and discusses its future implications.

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## Introduction

Since the 1990s, Israel's national land policy has undergone fundamental changes, including various levels of privatization. Nonetheless, only toward the end of the twentieth century, with the public resonance of the High Court of Justice ruling in the Mizrahi Democratic Rainbow (MDR)<sup>1</sup> case (HC 224/00),<sup>2</sup> land policy issues began to make their way onto the public agenda. A significant leapfrogging was the 2009 reform, which, for the first time, allowed legally sanctioned privatization of nationally owned lands. Yet even these essential changes were received quietly, without significant public or academic discussion (Hananel, 2012, 2013).

A lack of interest in land issues was also manifested in research, especially with regard to the decision-making processes in the body empowered by law<sup>3</sup> to shape the land policy through its

decisions—the Israel Lands Council (ILC). This paper examines the functioning of the ILC in shaping, constructing, and reflecting Israel's national land policy. Through content analysis of protocols from the deliberations of the ILC, the study reveals Israel's land narrative, which is distinct from the familiar Zionist-national meta-narrative. The land narrative is based on the dichotomous distinction between urban and rural-agricultural land, and consequently between urban and rural-agricultural settlers. According to the narrative, cooperative and communal rural settlements and settlers are preferable from the national standpoint to urban settlements and those who live in them.

Furthermore, the study reveals a gap between the intention of decision-makers (members of the ILC) and the actual policy is obtained. Thus, despite a clear preference that the members of the cooperative and communal rural sector has among decision-makers, urban residents actually receive more land rights. This study provides an explanation of this dissonance. Thus, familiarity with the land narrative affords a better understanding not only of Israel's land policy but also of the power relations between individuals and groups within society.

I will demonstrate the importance of the land narrative and its manifestations by presenting the historical and ideological roots of Israel's national land policy, and then review the significant privatization process it has in each sector in recent years. Thus, the final section address the gap between the policy that was made, and the intention of decision-makers, and provide an explanation for this gap, based on an understanding of the Israeli unique land narrative and its broad applications. As we shall see, although this

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<sup>1</sup> The MDR (Ha-Keshet Ha-Democratit Ha-Mizrachit) is an apolitical, non-parliamentary social-change group representing the Mizrachim (Jews from Arab and Muslim lands), which criticizes Ashkenazic (Western) Jews' hegemony in Israeli society and institutions. It focuses on inequality in allocating Israel's public lands. [www.ha-keshet.org.il](http://www.ha-keshet.org.il).

<sup>2</sup> HCJ 244/00 Association for a New Discourse for a Democratic Discourse in Israel et al. v. The Minister of National Infrastructure, PD 56(6) 25.

<sup>3</sup> The Israel Lands Administration Law, 1960, establishes a statutory body (*Minhal Mekarke'ei Yisrael*, the Israel Lands Administration—the ILA) to administer nationally owned land. Clause 3 of the ILA Law, 1960, states that the national land policy will be shaped by the ILC's decisions.

article focuses on the ILC, the land narrative is manifested in daily practice in many ways that touch on spatial issues, such as land use planning policy and other aspects of Israeli life.

The main section focuses on the attitude of the ILC's members toward Zionist-national considerations in their decision-making, comparing their consequent views of agricultural land and urban land. As we shall see, it is this attitude that shapes and nourishes the land narrative and influences the differential attitude of the decision-makers toward the inhabitants of each of the two sectors.

Despite the land policy's geopolitical importance and its significant effect on minorities in Israel, it hardly appears in ILC deliberations. Therefore, questions regarding Israel's attitude toward these groups in general, and in relation to land policy in particular, merit separate studies and public debate. Furthermore, the ILC protocols I examined show no deliberations regarding economic and budgetary issues, or even regarding privatization, despite the significant privatization processes undergone over the years, which will be discussed later on (Hananel, 2010, 2012, 2013).

Throughout this paper, I refer to Israel within its internationally recognized borders, exclusive of the occupied territories. This distinction is important, because since 1967 the concepts of "Jewish settlements" and "Jewish settlers" have become identified with Jewish settlement in the West Bank and the Gaza Strip. In this paper, "settlements" and "settlers" refer only to the Jewish cooperative and communal rural settlements within Israel's internationally recognized borders.

### Israel's national land policy: historical, ideological, and legal background

Israel's national land policy was shaped to a large extent by the Zionist movement and the Jewish National Fund (JNF) at the beginning of the twentieth century. Its two basic principles were established already at the Fifth Zionist Congress in 1905: (a) national ownership of the land; (b) preservation of the agricultural land. The land narrative explains the affinity between the two.

Of the two principles, the most important is national land ownership, which was reinforced by the establishment of the JNF. The JNF was set up as a national foundation to collect donations from world Jewry, earmarked for acquiring land in Eretz Israel (Douchan-Landau, 1979, 53–79). Hence the JNF saw the land acquired as the collective property of the Jewish people that could not be sold or transferred to private owners. This principle is based on a biblical justification, Gods Commandment: "And the land shall not be sold in perpetuity; for the land is Mine," (Leviticus 25:23–24). The lease period was also based on the Bible, specifically, the commands regarding the jubilee year, during which all lands are to be returned to their original owners and all slaves are to be liberated.

Underlying the link between Scripture and the essentially socialist-Zionist ideology was the desire to create a new Jew and a new nation according to ideals quite different from those of the Diaspora and of Eretz Israel at the time, whose landowners lived far away and regarded their large estates simply as a source of profit. The first basic principle was to build a society without private land ownership that would regard its common holdings as an end and not a means. This was to be achieved through a cooperative society based on farming.

The second basic principle was to preserve agricultural land; for this, cooperative and communal rural settlement was the key. The combination of these two principles largely reflects the Zionist vision. The principle of national land ownership reflects the goal and the principle of preserving agricultural land reflects the means or the tool for achieving that goal.

Consequently, cooperative agricultural settlement was viewed as the primary means of realizing the Zionist idea, as necessary for

defining the demographic map, and as a central component of the security policy of the Yishuv<sup>4</sup> (Alterman, 1997).<sup>5</sup> These settlements were largely identified with the cooperative and communal rural sector (moshavim and kibbutzim). They were considered essential to the establishment of the State of Israel and later to its continued existence. Urban settlement, in contrast, was seen as individual or family settlement, motivated by personal reasons. Therefore, it was not considered ideological, and its contribution to the Zionist settlement project was seen as marginal.

The State of Israel, established in 1948, adopted the two basic principles of the JNF land policy in three laws, which came into effect on the same day, July 29, 1960. A year and a half later, in November 1961, a treaty was signed between the State Israel and the JNF. The Basic Law: Israel Lands (*Mekarke'ei Israel*) of 1960 defined the nationally owned lands as the lands owned by the state, the Development Authority, and the JNF. It also stated that these lands may not be transferred by sale or in any other manner and must remain under national ownership. The second law, The Israel Lands Law, 1960, defined seven exceptional circumstances under which ownership of nationally owned lands could be transferred. The third act, The Israel Lands Administration Law, 1960, established a statutory body (*Minhal Mekarke'ei Israel* [ILA]<sup>6</sup>) to administer publicly owned lands. According to section 3 of the ILA law, land policy must be shaped by decisions of the Israeli Lands Council (ILC) (Kats, 2001).

As a result, most of the land in Israel (93%) is nationally owned. In this, Israel is unique among Western countries. Consequently, Israeli public-national land use is diverse. It includes residential, commercial, and industrial land uses in addition to the traditional uses of public land, such as parks, natural resources, and infrastructure. Therefore, land policy in Israel affects, both directly and indirectly, the majority of Israelis, who reside, work, and spend their leisure time on national land (Alterman, 2003).

### Israel's land narrative

Already in the early twentieth century the majority of the population in Eretz Israel lived in urban areas,<sup>7</sup> yet most ideological, economic, and cultural attention went to the cooperative and communal rural sector. "[The urban population] was considered inferior ... [T]he greatest concern of the Zionist leadership was that urban growth would deplete the resources they required for agricultural development" (Cohen, 1970, 5–10). This paradox has been woven into the national land policy since the early twentieth century and to this day affects spatial policy and land allocation.<sup>8</sup>

The land narrative, as mentioned above, is based on the decision-makers' preference for the cooperative and communal rural sector over the urban sector. According to the narrative, rural-agricultural settlements and settlers are preferable from the national standpoint to urban settlements and those who live in them. A salient example of how Israeli legislation granted rural-agricultural land

<sup>4</sup> The Yishuv, literally meaning "the settlement," was the name given to the Jewish presence in pre-independent Israel.

<sup>5</sup> Whereas previously the focus of the Jewish people worldwide had been on returning to the holy sites such as Jerusalem and Tiberias (De-Shalit, 1995).

<sup>6</sup> The Legislative Amendment Act of 2009 changed the name from Israel Lands Administration to Israel Lands Authority. The initials remain ILA.

<sup>7</sup> In the early twentieth century, and especially when the state was established, most of the population was urban, concentrated along the coast between Haifa and Tel Aviv and around Jerusalem (Sharon, 1951).

<sup>8</sup> The land narrative is reflected also in the land-use planning policy. The Planning and Building Law of 1965 refers to the preservation of agricultural land as a central goal of planning at every level. This is emphasized in the first amendment to the law that provides for the appointment of the Committee for the Protection of Agricultural Land (CPAL) alongside the country's highest planning body, the National Planning and Building Board (Alterman, 1997).

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