

al_majdal

Issue No.49 (Spring-Summer 2012)



quarterly magazine of

BADIL Resource Center for Palestinian Residency and Refugee Rights

TRANSFER OF POPULATION... RETURN OF THE PEOPLE



NAKBA 64 DOUBLE FEATURE.

- **FORCED POPULATION TRANSFER IN PALESTINE**
- **THINKING PRACTICALLY ABOUT RETURN**

BADIL takes a rights-based approach to the Palestinian refugee issue through research, advocacy, and support of community participation in the search for durable solutions.

BADIL was established in 1998 to support the development of a popular refugee lobby for Palestinian refugee and internally displaced rights and is registered as a non-profit organization with the Palestinian Authority.

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Acknowledgments

Badil thanks Simone O'Broin and Adriana Zarralaqui for their help in putting together this issue of *al-Majdal*.

Front cover photo: One of the Nakba-63 posters, May 2011. (©Jamaa Al-Yad Collective (jamaalyad.org))

Back cover photo: Carlos Lattuf Caricature, May 2012.

Production and Printing: al-Ayyam

BADIL welcomes comments, criticism, and suggestions for *al-Majdal*. Please send all correspondence to the editor at al-majdal@badil.org

The views expressed by independent writers in this publication do not necessarily reflect the views of BADIL Resource Center.

al-Majdal is a quarterly magazine of BADIL Resource Center that aims to raise public awareness and support for a just solution to Palestinian residency and refugee issues.

Electronic copies are available online at:
www.badil.org/al-majdal/

PUBLISHED BY

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Residency & Refugee Rights

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ISSN 1726-7277

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Symbols of Nakba, Visions of Return

by Hazem Jamjoum



Nakba Commemoration in Washington, D.C. 16 May 2012.
 (© Photo: Noura Erakat)

For peoples engaged in struggle, the potency of symbolism is undeniable. In the Palestinian case, the symbols of struggle cover the world throughout which we have been dispersed, and exhibit the depth of a century-old quest for freedom. Among the most potent of these symbols is the *kufiyyeh*, a headdress associated with 1936-1939 worker and peasant uprising against British occupation and Zionist colonization. Many images are also symbols, like the iconic photographs of the expulsions of 1948 and the first tents of the refugee camps, and those of martyrs and freedom fighters. There are also the keys. Refugees carried these keys to the homes lodged in their memories to which they were sure they would return; logos of the leading militant factions; a caricature character with the spiky hair of a hedgehog witnessing the bitter ironies of loss and victory; the map of a homeland resembling a sharp shard of glass carved out by European powers and gifted to the world's most famous Diaspora, only to create today's largest and longest standing refugee population; and a flag designed as part of a British colonial campaign against its rival Ottoman empire, later to become a banned symbol of resistance raised in acts of defiance by protesting youth throughout the 1980s.

Today a certain disconnect, a rupture, has emerged constituting a discomfiting space between the symbol and what it symbolizes. The locks into which refugees' keys fit are now buried—together with the doors and the houses they guarded—under bustling

cities and Jewish National Fund parks and picnic areas. The weapons adorning some of the leading factions' logos are today used to police the mothers and cousins of their bearers. The Palestinian flag now adorns the mahogany desks and buildings of an Authority seeking to talk its way to whatever scraps of land and sovereignty the colonial power will allow to fall from the negotiating table. The map of Palestine bears the name of the colonizer's regime on most maps produced today, and a more accurate map of the "State of Palestine," if such a scrap is to somehow fall from the table, looks more like ghettos in the form of a splatter of blood than a bandage to a century of wounds. How long will it be before settlers produce Handhala T-shirts in the Jews-only settler-colonies to sell to Palestinian refugees in neighboring countries and Westerners seeking to replace their tattered Che Guevara paraphernalia with something fresh?

For Palestinians, as for others who have fought and continue to resist to assert their humanity, some of the most important symbols are dates. For Palestine, the dates associated with massacres, battles, prisoner swaps, the passing of U.N. resolutions, the outbreak of uprisings and wars and military assaults combine to form what is nothing short of a "Palestinian calendar."

The defining date on this calendar is May 15, and as with other symbols it is characterized by a rupture.

The date is meant to mark the establishment of the colonizer's state, an establishment which actually took place on May 14, 1948. When the clock struck twelve that night, the British occupation of Palestine officially ended, the first day of Zionism's victory had begun. The systematic population transfer of Palestinians from Palestine by political and military means, symbolized by May 15 -the Nakba- actually began in December of 1947. Half of the Palestinians displaced in 1948 had already left their homes. This process has not stopped in the sixty-four years that have since passed.

May 15 now marks the end and the beginning of the year on the Palestinian calendar. When the sun rose and set on that date, we stopped speaking of sixty-three years of the denial of our return, the theft of our country, our separation into camps, Banks, Strips, ID card colors and the Palestinian rainbow of travel documents; we started to speak of sixty-four.

In this double feature issue of *al-Majdal*, we look at both the ongoing nature of the Nakba, and share some preliminary visions for the dawn of a new day in Palestine. In their commentaries, Rich Wiles and Nidal Azza discuss the creative ways in which Palestinians have resisted the ongoing Nakba. Noura Erakat and Rania Madi relate the achievement of an unprecedentedly coordinated effort by Palestinian human rights organizations in provoking the Committee on the Elimination of Racial Discrimination's recognition, and condemnation, of Israeli apartheid on both sides of the green line.

In the first feature of this issue the focus is on the crime of population transfer; a central aspect of the ongoing nature of the Nakba. Joseph Schechla offers an overview of population transfer, focusing on the development of international law criminalizing this practice since the 1930s, and Israel's place as one of the leading state perpetrators of this crime. The following articles offer case studies of Israel's policies and practices of population transfer. Salman Abu Sitta examines Israeli authorities' use of Ottoman law, specifically of the *mawat* classification of land, as cover for stripping Palestinian Bedouin of their property in the Naqab; while Mercedes Melon describes the ways in which Israeli policies and practices in the occupied Jordan Valley have continued the forced transfer of Palestinians from, or within, that area. Amjad Alqasis ends the section with an analysis of the ways in which Zionism and, specifically, the legal use of the concept of Jewish nationality have constituted root causes of the population transfer of Palestinians.

In the second section we publish the discussion documents from the February 2012 joint BADIL-Zochrot study visit to Cape Town. One of the goals of the visit was for participants to see, hear and learn about population transfer under the South African Apartheid regime, how the struggle for return was waged, and how displaced South Africans experienced return as part of liberation after the fall of political Apartheid in 1994. In the last days of the visit, the participants from Badil and Zochrot discussed the ways in which their experiences could be incorporated into a vision of Palestinian refugee and IDP return. Out of these discussions emerged three documents: one on working towards return, another on reparations and a third on visions for a new state. The purpose of these documents is to stimulate broader discussion on visions and practicalities of return in the Palestinian case.

This issue of *al-Majdal* marks the sixty-fourth year of the Nakba: "Year 64" on the Palestinian calendar. As with the passage of the day, time ticks forward; the number on demonstration placards and Nakba commemoration posters gets bigger. But as with the night, the longer it has been since the descent of darkness, the closer we are to the break of dawn.

Dear Palestine, Happy New Year.

**Hazem Jamjoum is a graduate student in Arab and Middle Eastern Studies at the American University of Beirut and the editor in chief of al-Majdal.*

The Fluidity of Resistance

by Rich Wiles and Nidal Azza

March of Return, 15 May 2011, Maroun al-Ras, Lebanon.
(© Photo: Constanza Araya)



*“The fish,
Even in the fisherman's net,
Still carries,
The smell of the sea.”*
--Mourid Barghouti

“We did not go into the battle because we love to be hungry or in pain, but for our dignity and the dignity of our nation.”

With these words, Thaer Halahla from Hebron encapsulated the spirit of resistance. Halahla, and the hundreds of dignified hunger strikers who carried on their struggle even in the face of imminent death each made personal decisions to resist. An act of resistance is not a selfish one; it is an act for the dignity and liberation of humanity. The Palestinian street similarly rose up in support of the political prisoners, and within it, Palestinians of all factions, religions and social backgrounds showed how national unity comes from the hearts of the masses and not from decisions or agreements dictated by 'leaders' in Ramallah or Gaza City. The historic and ongoing struggle was built by the masses, and will always be lead by them.

The original Palestinian Nakba fragmented Palestine 64 years ago. It marked the initial mass implementation of Zionist designs to reconstruct the nation as one comprised of a Jewish majority despite its indigenous Palestinian population. Its effects continue to be felt everyday in Palestine not as a historic event, but as the outbreak of a process that continues to shape the lives of Palestinians in every corner of today's world. As a result of this ongoing process, Palestinians today represent the largest refugee community on this planet.

International mass-media, which mirrors the Western agendas that created, and continue to support, the colonial enterprise in Palestine, widely misrepresents Palestinian resistance. In this context, a deeper look at this multi-faceted resistance can be valuable. People around the world remember that Palestine still exists when TV sets show images of *Intifadas*. However, even away from the peaks and troughs of mass-uprisings encapsulated by the *Intifada*, resistance is an ongoing and developing process. An *Intifada* cannot sustain itself for over 60 years, yet everyday grassroots resistance within an ongoing revolutionary process can and has sustained itself within Palestine and among Palestinian people around the world.

The 64th year of the ongoing Nakba is now upon us, and wide ranging events are being held across Palestine, in the Arab world, and further afield across Europe, North America and elsewhere. Though marked by a significant growth in the solidarity movement, these events are led by Palestinians, they are shaped by Palestinians, and they are needed by Palestinians not to commemorate an event from the past, but to reinforce a national and human identity and culture that itself has been repressed and denied for decades. Grassroots popular initiatives do not grab international attention in the way *Intifadas* may do, but if it were not for intra-community, intra-family, and even personal reinforcement of culture and identity, Palestine's struggle may have been confined to the history books decades ago.

Fatima Lamaa' is a 67 year old refugee living in Deheisheh camp. Israeli soldiers killed her brother Ali in 1980 as they attempted to force-feed him during a prisoners' hunger strike in Nafha prison. Fatima remembers:

My brother Ali told me once: 'resistance is not only armed struggle; we have to use the power of pens, colors, songs, folklore...etc'. Since then, I have been making Palestinian embroidery. My favorite pieces are the map of historic Palestine including the Palestinian names of cities and villages, the key with the mantra 'We Will Return' and the traditional bridal dress with its vibrant colors. For me, embroidery is a means of resistance by which I reflect and demonstrate my hope and my identity.

The ideas of Ali and the ongoing resistance of Fatima extend from, and build upon, Palestinian ideas globalized through the work of Ghassan Kanafani, Mahmoud Darwish and Naji al-Ali, among others. For such people, resistance was not limited to the gun, but also built and implemented with words, ideas, and colors. Resistance has infinite breadth, and unlimited possibilities. Fatima's use of traditional embroidery as resistance is a clear statement about the reinforcement and celebration of her identity. The need for such identity affirmation is particularly significant given the displaced nature of the Palestinian people, and such practices have been an intrinsic part of Palestinian life both within the borders of historic Palestine and for those in the *shatat* (diaspora).

In the aftermath of the original Nakba in 1948, as Faisal al Hourani wrote in *Duroub al Manfa* (Paths of Exile), education became the 'alternative homeland' for Palestinian refugees. This notion was not about replacing the homeland or the struggle for it with education. Instead it referred to the fact that for Palestinians the deep belief and ongoing success in education became a major tool *within* that struggle. This belief in education continues today, as does its role in affirming national identity and creating ideas for use within the struggle. These facts are not lost within the new generation.

Khalid Waleed is 24 years old and was born in exile in a Bethlehem refugee camp. He remembers well the reinforcement of this belief in education that was passed down by older generations of his family.

My grandfather often recalled the words that his father had spoken to him whilst they were collecting wheat in Jordan after the Nakba: "If we were not displaced, you would inherit hundreds of dunams in Bayt Jibreen. Now, I have nothing to give you. In fact, you have to help me to secure the family's basic needs. All I can give you is advice; continue your studying which will help build your future and that of our people."

Such sentiments are strongly evident within the specific Palestinian experience, but they also embody a universal and human experience of resistance. Colonized people across the world use such tools in their struggles as do communities in exile. Nelson Mandela famously stated while he was being held in Pollsmoor National Security Prison in 1988 that “education is the most powerful weapon you can use to change the world.” Mandela’s ANC held the same belief in education as did Palestine’s struggling masses. Similarly it worked to reaffirm cultural practices including music, native languages and African literature. Similar patterns are evident within many other struggles, and this only works to reinforce the human and universal nature of the struggles of the oppressed and their forms of resistance. A look at the resurgence of indigenous languages and arts amongst indigenous communities around the world highlights this fact.

On Nakba Day 2011, refugees within the oPt marched towards 1948 Palestine but were violently stopped by the Israeli Occupation Forces along with the Apartheid Wall and Israeli military checkpoints.
(© Photo: Rich Wiles/BADIL)



Within Palestine, intra-family and intra-community resistance does not grab international media headlines, yet it is probably the single most powerful tool in affirming and celebrating national identity that has been practiced by the Palestinian people since the Nakba. This grassroots work has historically always been reinforced by community-wide actions.

Popular grassroots demonstrations have always figured prominently in this context, yet clearly the battle of a child with a stone against an Israeli tank is a hugely one-sided battle. The stone will never break the tank, yet inside the hearts of Palestinians it will strengthen national belief and involvement in the struggle for rights, which subsequently greatly reaffirms collective identity and unity. Akram Shorouf, from the village of Nuba near Khalil (Hebron) was never naive about the power balance in such grassroots demonstrations, yet wholeheartedly believed in the need for collective participation.

We knew that popular demonstrations, irrespective of their size, would never alone be enough to liberate Palestine, yet we were convinced that they were both useful and necessary. We knew that burning tires, closing entrances of our camps, and throwing stones at Israeli tanks were nothing in terms of confronting heavily armed and trained Israeli forces. We knew that demonstrations were necessary to challenge Israeli occupation, reaffirm our collective unity and national identity, and to push the international community and public opinion to see the real face of Israel and the occupation.

On a local level, the Boycott, Divestment and Sanctions (BDS) movement could in many ways be said to follow this pattern. In terms of affecting real change, the global BDS movement has far reaching aims and powerful strategies, but internally within occupied Palestine one may question how much the Israeli economy can really be challenged by Palestinians who have an economy that is entirely under the colonizer's control. The potentialities of BDS, however, as a way to build a global movement proactively working together as part of the Palestine liberation struggle cannot be underestimated; nor can its power in reinforcing the belief in collective human work within the struggle be ignored. Such resistance is ultimately much more powerful as a tool of unification across Palestinian society than anything potentially offered by national political parties. As 51 year old Abdel Qader Nassar comments,

I feel that the boycott of Israel is one of the most meaningful and practical tools available. I feel that through BDS I am actively doing something to defend my dignity and humanity.

The ever-developing and widening of resistance's scope is essential in preserving and affirming national identity in the course of confronting the comprehensive colonial campaign targeting the very existence of the Palestinian people. Thus, to maintain their existence and identity, Palestinians have found themselves obliged to struggle not only on the political level, but also in social, cultural, and economic arenas as well. Creativity has been demonstrated in the ability to employ the maximum of people power and in the use of the best available means of struggle in the suitable circumstances and time. Therefore, while Palestinians continue resisting, the tools of resistance continue to morph, develop and expand.

Resistance is a permanent fixture within the rigors of Palestinian daily life and existence. Still, there remain significant days annually in which collective actions are stepped up. Land Day (March 30) is prime example of such days, as is Nakba Day (May 15). In 2011, Nakba Day proved highly significant in terms of the progression of resistance. It represented the first time that Palestinian refugees have, en-masse, taken proactive steps to actually enforce their right of return physically. In spite of the inaction by the international community of states and so-called rights agencies, refugees marched to the borders of their homeland. In Syria and Lebanon, Palestinians tried to physically cross the borders to pro-actively practice their right to return to their occupied homeland. The murderous response of Israeli forces was well documented. Many of these protestors fell as martyrs amidst the silence of international bodies who, on paper, support the rights that these dignified human beings were striving to practice. At checkpoints within occupied Palestine similar 'Marches of Return' were also met with the might of the internationally-funded Israeli military machine.

Within the context of Nakba 64, events around May 15 will again feature a broad-based spectrum of resistance activities. The exact shape of activities planned by refugees in surrounding Arab countries are being kept tightly under wraps given the undoubted violence that any action will endure, but the proactive struggle that was developed to new stages last year should be seen as a beginning of a new stage of struggle rather than anything that was or can be defeated by age-old Zionist techniques.

Across historic Palestine, resistance will take on myriad forms and expressions. Art murals will be created in refugee camps and public exhibitions will highlight the ongoing Nakba. Children will gather to listen to community oral history projects with community elders, and people of all ages will take to the streets in protest. Kites and flags emblazoned with designs highlighting the Ongoing Nakba will be flown in streets, and over the Apartheid Wall. *Awda* ('Return') sports competitions will be staged, and children will ride bikes to deliver Nakba 64 literature and names of Palestine's historic villages to houses ensuring that no one is forgotten. Many other such events are being held across all corners of Palestine within the program of national events although they remain aimed at local level community participation rather than the attraction of huge national crowds. Such intra-community events are targeted at a level that will

increase grassroots participation across all levels of the community and including all ages. This is part of the resistance of cultural and identity-based affirmation and strengthening of collective unity and identity.

On wider national levels similar patterns emerge. The national distribution of posters and banners, the national distribution of resistance and political statements, as well as major collective national events for Nakba Day are all practices which work towards the same ends. The major demonstrations in central Ramallah and Gaza City will draw many thousands of Palestinians into the streets, and there is little doubt that further thousands will take a more direct route towards their true homes and the pro-active struggle for rights as they head towards the Qalandia checkpoint separating them, in Ramallah, from al-Quds (Jerusalem). Between the Qalandia demonstrators and the rest of their country will stand nine meters of US-funded concrete Apartheid Wall and several thousand rounds of ammunition, tear gas and other weaponry, also paid for by Israel's international supporters.

Within Palestinian communities in exile similar patterns will emerge. From London to Washington DC, from Paris to Geneva, activities are being planned and implemented by Palestinians who refuse to be silent and refuse to let geographical separation translate to detachment from the struggle.



A young refugee originally from Bayt Mahseer dances Dabka, the traditional Palestinian folk dance that since 1948 has become a significant form of resistance. (© Photo: Rich Wiles/BADIL, 2010)

There is also a spontaneity in resistance; an element of surprise through which things can happen at any moment. For these reasons, the true shape of coming resistance activities, for Nakba 64 and beyond, can never be predicted. The resistance will develop as the masses wish, and its creativity and elements of surprise will continue.

Within Palestinian households and families the world over, the traditions of resistance—whether through the preparation of traditional foods, the reading to new generations of the works of Kanafani and Darwish, the passing-on of embroidery skills, or any of the innumerable other ways in which resistance manifests—continue to live on and be celebrated. Within Palestinian communities events will always be held as part of the affirmation of identity and culture. On a larger national and international level large scale public events continue to not only grow but widen in their ideas, reach and creativity. All of this work has become part of daily Palestinian life. For Palestinians, existence is resistance, and in common with Palestinian existence, Palestinian resistance is also a fluid, ever developing and ever broadening process.

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UN Committee Concludes Israeli System Tantamount to Apartheid in 2012 Session

by Noura Erakat and Rania Madi



2012 Israel Apartheid Week Brochure
(© BADIL)

Between mid-February and early March 2012, the Committee on the Elimination of Racial Discrimination (Committee) held its 80th session where it evaluated the compliance of several states with the 1966 International Convention on the Elimination of all Forms of Racial Discrimination (ICERD). Among those states was Israel who became a party to the treaty in 1979. The Committee’s concluding observations and recommendations are notable because they establish that Israel’s policies in the Occupied Palestinian Territory (OPT) are tantamount to Apartheid and that many of its policies within Israel itself violate the prohibition on Apartheid as enshrined in Article 3 of the Convention.

Apartheid in the ICERD and the Apartheid Convention

The ICERD is a short document, comprised of only seven substantive articles. It is a powerful document, however, as it both imposes positive duties upon a state to combat racism as well as negative duties mandating that states refrain from infringing on the equality of all persons to education, health, society, family, nationality, religion, work, and to be free from violence. Entered into force in 1969, the ICERD preceded the ratification of the International Convention on the Suppression and Punishment of the Crime of Apartheid (Apartheid Convention) by seven years.

Article 3 of ICERD condemns “racial segregation and apartheid” and obligates State parties to “prevent, prohibit and eradicate all practices of this nature under their jurisdiction.” While Israel is not a party to the Apartheid Convention, it is a party to the ICERD. Moreover, while some commentators claim that the definition of the crime of Apartheid in the Apartheid Convention is particular to the case of South Africa, no such disagreement over the applicability of the crime exists in the ICERD.¹

Applicability of the ICERD in the oPt

Palestinian human rights organizations began bringing their claims arising out of the Occupied Palestinian Territory (OPT) before the Committee in 1998. Israel has consistently rejected the applicability of human rights treaties to the Territory it occupies. Significantly, it does not contend that another body of law is better suited for the Territory. To the contrary, it argues that even Occupation Law, established in the Fourth Geneva Convention Relative to the Protection of Civilians in Times of War (FGC), is applicable only as a matter of discretion and not law. Israel's contention would render the OPT a legal black hole. Authoritative human rights bodies, however, have rejected these claims.

The Committee on Economic, Social, and Cultural Rights as well as the Human Rights Committee have held that human rights law is applicable to the OPT. In its *Advisory Opinion on Legal Consequences of Construction of a Wall in the Occupied Palestinian Territory*, the International Court of Justice also affirmed the applicability of human rights law to the OPT. The Committee for the Elimination of All Forms of Racial Discrimination has affirmed the applicability of ICERD repeatedly. Accordingly, despite Israel's enduring protests, the Committee for the Elimination of Racial Discrimination has reviewed the State's compliance with the Convention in 1998, 2003, and 2007.² At those Review Sessions, the Committee had made significant findings but nothing as bold or firm as its conclusions and observations in this 2012 Session.

Apartheid and Israel: Highlighting the strides between 2007 and 2012

In the Committee's 80th session, members of the Palestinian Council of Human Rights Organizations (PCHRO), including Badil, collaborated with one another in unprecedented ways. Rather than submit separate reports and make separate oral statements and share separate written statements, during this session, these human rights organizations closely coordinated their written and oral interventions. Collectively, the organizations demonstrated how racial discrimination between Jews and non-Jews drove the ban on family reunification; the forced population transfer of indigenous Bedouins in the Negev; underpinned the lack of a constitutional right to equality; explained the dramatic spike in settler violence; the disproportionate allocation of water; the forced population transfer of Palestinians from East Jerusalem; the systematic destruction of Palestinian homes; and the unequal access to justice and accountability in Gaza. Their collaboration paid off in tangible ways as indicated by the Committee's Concluding Observations.

The Committee has come to describe the situation within the OPT as demonstrative of Apartheid. Whereas in 2007, it noted that Israel cannot legitimately distinguish between Israelis and Palestinians in the OPT on the basis of citizenship, in 2012 it states that it is extremely concerned by the *de facto* segregation and discrimination within the Territory between Jews and non-Jews. The distinction is of paramount importance. Whereas states can legitimately discriminate between citizens and aliens, they cannot legitimately privilege communities under their jurisdiction based on race and ethnicity. Here, the Committee is noting that Israel's discriminatory practices do not distinguish between citizens and non-citizens but between Jews and non-Jews. In paragraph 24 it writes:

The Committee is particularly appalled at the hermetic character of the separation of two groups, who live on the same territory but do not enjoy either equal use of roads and infrastructure or equal access to basic services and water resources. Such separation is concretized by the implementation of a complex combination of movement restrictions consisting of the Wall, roadblocks, the obligation to use separate roads and a permit regime that only impacts the Palestinian population (Article 3 of the Convention).

The Committee draws the State party's attention to its General Recommendation 19 (1995) concerning the prevention, prohibition and eradication of all policies and practices of racial segregation and apartheid, and urges the State party to take immediate measures to prohibit and eradicate any such policies or practices which severely and disproportionately affect the Palestinian population in the Occupied Palestinian Territory and which violate the provisions of article 3 of the Convention.

The Committee also addressed the discriminatory zoning and planning policy as a comprehensive system aimed at achieving a “demographic balance” (para. 25). Accordingly, it urges Israel to reconsider the "entire policy" in order to ensure equal access to, and enjoyment of, land and its resources among Palestinian Bedouin communities.



An Israeli soldier checks the Israeli-issued ID card of a Palestinian at one of the many checkpoints within the city of Hebron. (© Photo: Rich Wiles/BADIL, 2012)

The Committee rejected Israel’s argument that military exigencies necessitate the differentiated treatment among the OPT’s population. To the contrary, the Committee concluded that in order to prevent racial discrimination in the criminal justice system, Israel must "ensure equal access to justice for all persons residing in territories under the State Party's effective control" (para. 27). It considers the trial of children as contravention of international norms and regards administrative detention as no less than arbitrary detention under international human rights law. Rather than accept the disparate treatment of Palestinians and Jewish settlers as resulting from the application of Occupation Law, the Committee attributes the discriminatory treatment to Israel's establishment of two sets of laws; one for Palestinians and another for Jewish settlers.

Apartheid within Israel

Perhaps the most significant developments in the Committee’s Conclusions concerned its application of Article 3 violations to the treatment of non-Jewish persons within Israel itself. In paragraph 11 it notes

... with increased concern that Israeli society maintains Jewish and non-Jewish sectors, which raises issues under article 3 of the Convention. Clarifications provided by the delegation confirmed the Committee’s concerns in relation to the existence of two systems of education, one in Hebrew and one in Arabic, which except in rare circumstances remain impermeable and inaccessible to

the other community, as well as separate municipalities: Jewish municipalities and the so-called "municipalities of the minorities."

The Committee noted racial discrimination between Jews and non-Jews as facilitating unequal access to land and housing rights within Israel in ways that mirror its policies in the OPT. Consider, that whereas in 2007, the Committee took issue with the role of para-state organizations and their role in confiscating land for exclusive Jewish use and enjoyment, in the 2012 Conclusions, the Committee places this burden upon the State itself and notes that the State party must "ensure equal access to land and property and to that end, abrogate or rescind any legislation that does not comply with the principle of non-discrimination."

The Committee was particularly concerned with *Israel Land Administration Law* of 2009, the 2010 *Amendment to the Land (Acquisition for Public Purpose) Ordinance (1943)*; and the 2010 *Amendment to the Negev Development Authority Law* (1991). It considered the *Admissions Committee Law* (2011), which gives individuals and private persons the right to discriminate against persons in regards to housing, as a "clear sign" that concerns about segregation remain pressing (para. 11). This finding undermines Israel's attempts to circumvent the holding in *Ka'adan v. The Israel Lands Administration* (2000), which deemed discriminatory housing and land policies illegal, by exporting the discriminatory scheme to private actors. It also emphasized that Israel should withdraw the discriminatory *Law for the Regulation of the Bedouin Settlement in the Negev* proposed in 2012, which the Committee found to be tantamount to "legaliz[ing] the ongoing policy of home demolitions and forced displacement of the indigenous Bedouin communities" (para. 2).

In line with this bold approach, the Committee urged Israel to rescind the *Citizenship and Entry into Israel Law* and to facilitate the reunification of all families irrespective of their ethnic, national or other origin

By extending its application of Article 3 to Israel and by finding that it exists as a *de jure* policy within the OPT, the Committee did in its 2012 Concluding Observations what the 2001 *World Conference Against Racism, Racial Discrimination, Xenophobia, and Related Intolerance*, better known as the Durban Conference, could not achieve. In fact, the Committee has urged Israel to "give effect to the Durban Declaration and Programme of Action." Bearing in mind Israel's objections to the process and the document, the Committee encouraged the State Party to reexamine its position and to adopt policies to implement Durban because of the document's significance for "a large segment of humanity" (para. 31). This marks a significant milestone in the struggle for Palestinian human rights. Whereas, compliance with the FGC would ultimately remove the military occupation and return the situation to its *status quo ante*, human rights law would reverse those conditions of inequality that have developed as a result of the Occupation's prolonged nature. Moreover, the Committee acknowledged that the discriminatory treatment between Jews and non-Jews within Israel concerning their human rights, including land and housing rights, is tantamount to Apartheid. The Committee's developments certainly vindicate the efforts of Palestinian human rights organizations and their partners. However, its inability to enforce its recommendations heightens the significance of, and the need for, the continued work of human rights organizations, scholars, and activists.

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**Endnotes: See online version at: <http://www.badil.org/al-majdal>

Prohibition, Prosecution and Impunity for the Crime of Population Transfer

by Joseph Schechla



Israeli forces carry out home demolitions in Al-Khader village south of Bethlehem, 27 July 2005.
(© Photo: Ahmed Mizher, Maan Images)

The cruelty of population transfer is as old as the earliest civilizations. Such felonious practices are supposed to be vestiges of an uncivilized and ignoble past. With the development of international law in the twentieth century, population transfer is now punishable as both a war crime and crime against humanity. However, firm and enforceable prohibitions have been long in coming and inconsistently upheld.

Toward Prohibition

Vanquishing the oppressive Neo-Assyrian regime in 546 B.C., Persian Emperor Cyrus the Great reversed the practice and left us the first human rights charter, the Cyrus Cylinder (539 B.C.), which articulated in law the unacceptability of the acquisition of territory by force and the often concomitant practice of population transfer. The Cylinder also codified the right of return.

The English Crown eventually perfected population transfer in both ideology and practice, with legal and religious rationale devised to dispossess the Irish people of their lands a century before the British colonization of North America.¹ There, population transfer rose to the level of sacrament with the colonial-minded Protestants and fundamentalists clearing the American Colonies of its natural habitat and its populations in a pious re-enactment of scripture.² In parallel, and in latter-day contradiction, the United States has contributed greatly to the norms that have criminalized the practice of population transfer.

Pressed to specify the meaning and parameters of Martial Law, U.S. President Abraham Lincoln issued General Order No. 100 (Lieber Code),³ which specifically recognized population transfer as unconscionable. It asserted that “Private citizens are no longer murdered, enslaved, or carried off to distant parts...”⁴

Forced Population Transfer in Palestine

Thereafter, the First International Conference of American States (1890) rejected population transfer as a function of illicit territorial gain and established the international diplomatic and legal tradition of non-recognition of territorial acquisition by force.⁵ The Hague Regulations (1907) later concurred, but remained silent on the presumably unthinkable practice of population transfer. The resurgent practice of population transfer later required the prohibition of such specific practices in the legal developments that were to follow.

Fifteen years after The Hague Regulations, Winston Churchill's White Paper on the influx of foreign population in Palestine (1922) observed that:

*It is essential to ensure that the immigrants should not be a burden upon the people of Palestine as a whole, and that they should not deprive any section of the present population of their employment.*⁶



A Bedouin farmer in the al-Hadiya area of the Jordan Valley holds the 6 pending demolition orders that have been issued on his family's tents.
(© Photo: Rich Wiles/BADIL, 2011)

That principle preceded recognition of a people's rights to subsistence and livelihood, both individually as well as a component of collective self-determination.⁷ However, the post-WWI "Transfer Agreements" between successor States created a retrogressive precedent. Despite the horrendous human and economic losses arising from the post-WW I Agreements,⁸ they only emboldened other intentional perpetrators.

The precarious interwar years compelled French foreign minister Aristide Briand to propose a bilateral treaty 85 years ago, renouncing war as a means for settling disputes between France and the United States. In the rosy afterglow of Charles Lindbergh's solo flight to Paris the month before, U.S. political support for the pact was bipartisan.⁹ However, on implementation, the Kellogg-Briand Pact (Pact of Paris) did not live up to its aim. It remained static even after its entry into force in 1929, as the U.S. conducted its Banana Wars in Central America, Japan invaded Manchuria, Italy invaded and annexed Abyssinia/Ethiopia, and Germany and the Soviet Union invaded Poland.

Nonetheless, the pact is an important multilateral treaty binding the nations that signed it, and a legal basis for criminalizing territorial acquisitions by force and/or population transfer.¹⁰ Despite other State behavior at the time, international lawyers refer to 1932 as the date population transfers became legally prohibited.¹¹ U.S. Secretary of State Henry L. Stimson's statement of January 7, 1932 against the Japanese occupation of Manchuria was pivotal. Echoing the long-standing position of the other American States, the U.S. "did not intend to recognize any situation, treaty or agreement [that] may be brought about by means contrary to the covenants and obligations of the Pact of Paris..."¹² The League of Nations Assembly affirmed

this principle in a resolution passed on March 11, 1932, unanimously adopting this 42-year-old inter-American policy (with China and Japan abstaining).¹³ Other pacts in the same period enshrine principles logically consistent with the “established” prohibition against acquisition of territory by force, which typically involves the push and pull factors of population transfer.¹⁴

Under its League of Nations Mandate, however, the British government’s Peel Commission (1936–37) recommended partition of Palestine between Zionist settlers and indigenous Palestinians with a corresponding “compulsory population exchange.” Shortly thereafter, the Woodhead Commission (1938) and the McDonald White Paper (1939) contradicted that position,¹⁵ to the Zionist strategists’ disappointment.

Some Zionist ideologues cited the post-WWI population-exchange agreement between Greece and Turkey, as they perceived it as a legalizing precedent for their own transfer scheme.¹⁶ Envoy Malcomb McDonald upheld the Churchill recommendation,¹⁷ advising against unlimited immigration, the indispensable pull factor of the Zionist population transfer project. He presciently warned that permitting the current trend would spell interminable conflict.¹⁸ *House of Commons MP Reverend* Dr. James Little ominously observed that “the House is being asked to set up a witches’ cauldron in Palestine, something similar to that which a former Government set up in Ireland.”¹⁹

By the end of the 1930s, a moral, legal and international relations line had been drawn, establishing the unacceptability of the acquisition of territory by force and its concomitant practice of population transfer. However, the colonizers continued to resent and defy the norms.²⁰

Resurgence and Criminalization

All of the *jus cogens* legal development did not deter the crime from being repeated. Population transfers continued defiantly through the subsequent decade in such diverse cases as the “option clauses” and “Transfer Agreements” concluded with the Third Reich,²¹ the partition of India, the Allies’ forced transfer of Germans after WW II²² and, of course, the Nakba of Palestine and the nearly simultaneous Chinese annexation of Tibet.

In light of these developments, the law prohibiting population transfer became more explicit during and after WWII. The earliest explicit mention of population transfer in an international legal document was the recognition of “forced resettlements” as a war crime in the Allied Declaration on German War Crimes that was adopted by representatives of the nine occupied countries, exiled in London, in 1942.²³ The Polish Cabinet in Exile issued a decree on the punishment of German war crimes committed in Poland, which provided that life imprisonment or the death penalty would be imposed “if such actions caused death, special suffering, deportation or transfer of population.”²⁴

With the International Military Tribunal (IMT) the Allies tried the principle war criminals. The IMT Charter introduced into international law the notions of crimes against the peace, war crimes and crimes against humanity. It defined “war crimes” to include deportation of civilian population of or in occupied territory for any purpose.²⁵ Article 6(c) of the Charter defined “crimes against humanity” to include:

*...deportation and other inhumane acts committed against any civilian population before or during the war...in execution of, or in connection with any crime within the jurisdiction of the Tribunal...*²⁶

In addition to the four Powers that approved the IMT Charter, 19 other States acceded to it as well. The United Nations General Assembly also affirmed the principles of international law recognized by the IMT Charter and reflected by the judgment of the Tribunal.²⁷

The IMT judgments at Nuremberg variously dealt with displacement of civilians from the occupied territories and their replacement by German settler-colonists. In the Nuremberg Trials, critical violations of economic/ social/cultural rights (ESCR) were adjudicated under the auspices of two central themes; Germanization and spoliation. Germanization had as its goal the assimilation of conquered territories politically, culturally, socially, and economically into the German Reich. In order to achieve Germanization, the Nazis sought obliteration of the former national character of the conquered territories and the extermination of all elements that could not be reconciled with the Nazi ideology. The conduct associated with Germanization included forced displacement, deportation and/or population transfer of the inhabitants of occupied territories, as well as the transfer and settlement of German nationals into occupied territories or settlements encircling occupied territories.²⁸ Spoliation referred to the plunder, pillaging and destruction of public or private property and the exploitation of the natural resources and the people of the occupied territory.

The cases of Alfred Jodl and Alfred Rosenberg are exemplary of the prosecution of violations as crimes against humanity and war crimes, namely, destruction of property, plunder of private and public property, and deportation. The Nuremberg Trial prosecutors and judges repeatedly condemned the practice of "Germanizing" or "Nazifying" occupied or "annexed" territories by deporting or expelling the original population and moving in German settlers. In this respect, the Nuremberg Trial set the precedent for what would later be codified in Article 49 of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949: that population transfers and colonization in occupied territory constitute both a war crime and a crime against humanity, and that deportation of persons is illegal.

In the years that followed WWII, multilateral institutions and experts sought to clarify the legal prohibition of population transfers as especially problematic for international relations, the pursuit of the peace and the forward development enshrined in the UN Charter. In light of the scourges of the war, the States gathered in 1949 to adopt the Fourth Geneva Convention and revived the issue from the silence of its predecessor, the 1907 Hague Regulations. In addition to States, legal experts remained seized with the codification and specification of law prohibiting the crime of population transfer.²⁹ Legal developments in the next decade added further clarity to the prospects of prosecution. An ECOSOC resolution³⁰ led to a 1967 debate in the United Nations that resulted in an instrument affirming the non-application of a statute of limitations on war crimes and

crimes against humanity.³¹ Ten years later, the Additional Protocol I to the Geneva Conventions reaffirmed population transfer as a grave breach.³²

Twenty years ago, the UN Sub-Commission on the Prevention of Discrimination and the Protection of Minorities conducted its analytical mandate through a comparative lens. Its 1992 resolution on "the human rights dimensions of population transfer, including the implantation of settlers and settlements,"³³ mandated a study that focused on incremental and *en masse* forced eviction, on the one hand, and

Household items scattered in the fields of al-Hadidiya following IOF demolitions in the village.
(© Photo: Rich Wiles/BADIL, 2011)



colonization—in cross-border operations—and under a State's domestic demographic manipulation practices. The study³⁴ found that the “pull” factor (implantation of settlers and settlements) likely would constitute a breach of international law, whether carried out within or across state borders, violating a “bundle of rights.”³⁵ In its discussion of “population transfer” as a legal term, the Sub-Commission stated that the term:

...implies purpose in the act of moving a population; however, it is not necessary that a destination be predefined. The State's role in population transfer may be active or passive, but nonetheless contributes to the systematic, coercive and deliberate nature of the movement of population into or out of an area. Thus, an element of official force, coercion or malign neglect is present in the State practice or policy. The State's role may involve financial subsidies, planning, public information, military action, recruitment of settlers, legislation or other judicial action, and even the administration of justice....³⁶ Transfer can be carried out en masse, or as "low-intensity transfers" affecting a population gradually or incrementally.³⁷

While the Sub-Commission's population transfer rapporteur mechanism culminated in a model “Draft Declaration on Population Transfer and the Implantation of Settlers” in 1997,³⁸ that exercise preceded by one year the explicit prohibition and enforcement in a binding international treaty. The Rome Statute of the International Criminal Court (ICC) defines “Deportation or forcible transfer of population” as a crime against humanity (Article 7) and “Unlawful deportation or transfer” as a war crime (Article 8). The International Criminal Tribunal for the Former Yugoslavia has used such prohibition on population transfer to convict at least 15 politicians and military commanders charged with forced deportations.³⁹ Other accused perpetrators are under indictment for population transfer crimes and face trial before the ICC, pending their apprehension.⁴⁰

Conclusion

While such trials are essential to the transitional justice processes in those affected countries, the prosecution of war crimes and crimes against humanity has remained selective. The question persists as to whether international criminal justice can achieve the intended deterrence of crimes such as population transfer. In the cases of population transfers in Cyprus,⁴¹ East Timor and Western Sahara throughout and since the 1970s, many States did not uphold even the *erga omnes* non-recognition doctrine.⁴² The case of forced displacements and related crimes in Sri Lanka, Israel's military ally,⁴³ remains unaddressed and likely to spawn future upheavals.⁴⁴ Meanwhile, no State party, High Contracting Party to the Geneva Conventions, or depositary government has fulfilled its obligation to “ensure respect” for the Fourth Geneva Convention, including its quintessential Article 49.⁴⁵

With the long-confirmed demise of any putative “peace process,” events have led authoritative experts to call upon the UN to withdraw from the Middle East Quartet's lawless approach.⁴⁶ Indeed, the push and pull of population transfer continues at the level of punishable crime. However, the current political process actually impedes enforcement, with no small credit to the compliant selectivity of the current ICC Prosecutor.

Meanwhile, Israeli political leaders boldly persist in calling for more population transfer.⁴⁷ As contradictory politics continue to undermine the force and meaning of international criminal law on population transfer, the politicians may doom humanity to repeat its unspeakable practice.

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**Endnotes: See online version at: <http://www.badil.org/al-majdal>

Living Land: Population Transfer and the *Mewat* Pretext in the Naqab¹

by Salman Abu Sitta

Al-Araqib village in the Naqab—some families are now sleeping in old vans
after their houses and tents have been demolished.
(© Photo: Rich Wiles/BADIL, 2011)



Father: This land was Arab land before you were born. The fields and villages were theirs. But you do not see many of them now. There are only flourishing Jewish colonies where they used to be... because a great miracle happened to us...

Daughter: How can one take land which belongs to someone else, cultivating that land and living off it?

Father: There is nothing difficult about that. All you need is force. Once you have power you can.

Daughter: But is there no law? Are there no courts in Israel?

Father: Of course there are. But they only held up matters very briefly. The Arabs did go to our courts and asked for their land back from those who stole it. And the judges decided that yes, the Arabs are the legal owners of the fields they have tilled for generations.

Daughter: Well then, if that is the decision of the judges... we are a law-abiding nation.

Father: No, my dear, it is not quite like that. If the law decides against the thief, and the thief is very powerful, then he makes another law supporting his view.

--The father was Maariv founder and first editor, Dr. Israel Carlebach. This exchange was published in Ma'ariv, 25th December 1953.

Since December 1947, the Zionist movement has carried out the largest, planned and comprehensive ethnic cleansing operation in modern history: the ongoing Nakba. Between that month and April of 1949,

675 Palestinian towns and villages were totally depopulated. Their inhabitants are still homeless and are refugees to this day. Israel was declared on 78 percent of the Mandate territory of Palestine, 93 percent of which is Palestinian-owned land.² In the southern half of Mandate Palestine, the Naqab (Negev), Jewish possession did not exceed 60,000 dunams; amounting to less than 0.5 percent of the 12,577,000 dunams of the Beer Sheba district. This negligible Jewish presence was augmented by force through the military occupation of the district in 1948 (the town of Beer Sheba was occupied on October 21, 1948), massacres and forced displacement of the indigenous population leading to the almost complete ethnic cleansing of the district. The majority of the more than 100,000 native Palestinians of the district were expelled to the Gaza Strip, Al Khalil (Hebron) district, Jordan, and the Sinai.

After declaring its independence, Israel applied martial law to those Palestinians who had not been displaced beyond the borders of the new state. In the Beer Sheba district, it took the drastic measure of rounding up all those Palestinians who remained, 12 percent of the original population of the district, and concentrated them in a reserve to the north and north east of the town of Beer Sheba. This area, known as the *siyag* (“fenced off area”), makes up 7 percent of the district. In 1952, Israel confiscated a further 1,225,000 dunams of the land owned by the internally displaced southern Palestinians who had become its citizens; reclassifying them as Present Absentees. Then in 1965, it passed the *Planning and Construction Law* which rendered around forty of the Palestinian villages in the *siyag* (as well as a further dozen villages in the Galilee) unrecognized, meaning they were not to receive any government services (such as water, electricity, education, roads, waste collection and healthcare) and that all construction in these areas became illegal.

Beginning in 1968, Israel planned seven townships—the so-called “recognized villages” of Rahat, Tel Sheva, Kessifa, Ar’ara, Shegib, Hura, Laqiya—on a total land area of 57,778 dunams. The combined purpose and effect of the recognized and unrecognized communities is to confiscate what remains of Palestinian land in the Naqab, and concentrate the Palestinian population in residential dormitories to provide cheap labor for Jewish industries while detaching them from their land and depriving them of their pastoral and agricultural livelihoods. By 2002, about 50 percent of the 130,000 Palestinians in the district had been concentrated in the planned townships, while the other half had managed to resist displacement and remain in the squalid conditions of the unrecognized villages.

Various aspects of displacement and land confiscation in the Naqab—including such practices as the terrorism perpetrated by the “Green Patrols;” ongoing house, school and clinic demolitions; the environmental and health impact of industrial zones and the dumping of toxic wastes; and the aerial spraying of poisonous pesticides on Palestinian crops and communities—have been discussed elsewhere.³ What I examine in what follows is one particular aspect of the Naqab’s ongoing Nakba: Israel’s use of the Ottoman “*mewat*” classification of land as legal justification for the ongoing confiscation of Palestinian land in the Naqab.

The *Mewat* Pretext

Israel considers itself a successor state. If this assumption refers to its military conquest outside the limits of the Partition Plan, then the inadmissibility of conquest and the Fourth Geneva Convention safeguard the sanctity of the property of the subjugated people. International law stipulates that, upon extending a new sovereignty on a territory, people and land go together, both stay protected. Expelling people and confiscating their land is not permissible. On the other hand, if this assumption refers to the UN Partition Plan resolution No. 181, which was the basis of Israel’s declaration of independence in 1948, this resolution

clearly stipulates that Arabs in the Jewish-majority state (and vice versa) shall enjoy full civil and political rights, including ownership, without discrimination on any grounds and of course without expulsion.

As such, Israeli authorities had to find ways of inventing legal justifications for the confiscation of Palestinian lands. In the Naqab, the main justification has been that Palestinians did not have rights to their land under the regime's that preceded Israel, and the title to these lands should thus revert to the state. The Head of the Land Title Settlement Unit in the Southern District, Havatzeler Yahel, gave a summary of the standard Israeli position in this regard when he boldly stated that "neither the Ottoman Empire nor the British Mandate recognized the ownership of nomadic Bedouin over land in the Negev... Israeli Law... is based on earlier Ottoman and British Legislation."⁴ The Goldberg Report follows the same contention, based as it is on the claims that the Ottomans never recognized the Bedouin ownership in Beer Sheba and that the Palestinian population of the Naqab are "nomads."⁵ In examining the legal arguments surrounding these claims, we find that the main Israeli justification is that the lands of the Naqab were classified as *mewat* lands under Ottoman law, and that this classification continued under the British Mandate.

According to Ottoman Law, *mewat* land is that which is dead, uncultivated, or vacant. Article 103 of the 1858 Ottoman Land Code specifies *mewat* land as (1) vacant (2) grazing land not possessed by anybody (3) not assigned *ab antiquo* to the use of inhabitants and (4) land where no human voice can be heard from the edge of habitation, a distance estimated to be 1.5 miles (2.85 km). The latter is a distance travelled on a horse in about 40 minutes, in wilderness where no human being lives ordinarily. The text of Article 103 reads as follows:

The empty (Khali) places, such as rocky or stony areas, or lands where cultivable soil is scarce or grazing land not held by anyone with tapu or not assigned ab antiquo to the use of towns and villages or far from towns and villages such that a clear loud cry would not be heard from the edge of cultivation, is mewat land. Any one in need of a tract from this land can, free of charge, break up or dig a place with permission and make it a field on condition that its raqaba belongs to Beit el Mal. All the applicable legal rules of other agricultural areas will then apply to this land fully. But if the person who had permission to dig [and cultivate] a place did not do so for 3 years without a good reason, the place is given to someone else. If someone digs one of these lands without permission and made it into a field, he will be charged bedl mithl (equivalent price) and the land will be allocated to him and he will be granted title deed (tapu).⁶

It is clear that the objective of the Ottoman law was to *encourage* cultivation for the good of the community and not to restrict it. In 1969, the Israeli Knesset passed a law stating that "all *mewat* land is state land," and that long-time possession does not confer ownership rights.⁷ By claiming that Naqab lands were classified as *mewat* and then passing legislation transferring *mewat* lands to state control, Israel seemingly got around the international legal protection of Palestinians and their properties in the Naqab. The main problem, as I show in the next section, is that at no point in the centuries of Ottoman rule, or the decades of British occupation, were the lands of the Naqab ever classified as *mewat*. On the contrary, Palestinians' ownership of these lands was recognized in both the Ottoman and Mandate periods.

Ottoman Period

Ownership of land in Islam rests ultimately with the *umma* (Islamic nation), as God's trustee. The Ottomans adopted and developed the same Islamic principle into a refined set of state laws. In the words of Halil Inalcik, an authority on Ottoman history, "the underlying argument always was that such lands belonged

to God, or to the imam as His trustee, who represented the Islamic community, it was his duty to see that such lands were administered in the way that would best serve the interests of the community and Islamic state.”⁸ The principle was applied in a two-tier system: (1) *rakaba*, ownership rested with the Caliph, imam, Sultan or state, (2) *tasarruf, manfa’a*, usufruct. While the first was always held by the state, the second was granted to a member(s) of the community, *ra’iya*, in a manner close to independent ownership in that the land in question may be inherited. Over 90 percent of arable land in the Ottoman empire, was considered state land (*miri*). The rest had been removed from this domain by a special dispensation from the Sultan. The underlying aim was to put all land for the use of the community as cultivators of the land and a source of income tax for the general benefit of the *umma*. Accordingly, foreigners were not allowed to own land. Late in the nineteenth century, under intense European pressure, the Ottoman laws restricting the sale of land to non-Muslims were relaxed. But these sales were insignificant.

For over fourteen centuries, the land was cultivated under Islamic rules, and Beer Sheba land was no exception. It was cultivated where possible according to rainfall and taxes were paid. There was no question that such land was not *mawat*. We have one of the earliest Ottoman documents to prove this. The *Dafteri Mufassel* of 1596, one of the earliest Ottoman Tax Registers, gives information on sites in the Beer Sheba Sub-District which grew wheat, barley and summer crops (e.g. maize, melon) and paid taxes accordingly. Remarkably, the names of these sites remained the same until the 1948 ethnic cleansing of Palestine.

At no time, whether before the promulgation of the Ottoman Land Code of 1858 or after, did the Turks challenge the land ownership of Palestinians in Beer Sheba. Three hundred years after the *Dafteri Mufassel*, at about the end of the nineteenth century, we have further confirmation that the Turkish authorities recognized the land ownership in Beer Sheba. On May 4, 1891, upon orders from the Ministry of Interior in Istanbul, the Gaza District Council (which the British split into two sub-districts: Gaza and Beer Sheba for the same region: Bilad Gazzeh) decided to “register these lands in the Gaza District of Jerusalem *Mutassarefiyat* and cultivated by ‘urban (tribes) at the Land Registry (*tapu*) since absence of this registration may cause conflict and inter-fighting.”⁹

The council sent a five-member committee of notables together with official surveyors “to delimit and record the lands of each tribe. The officials sent by the *Mutassarefiyat* delineated 5 million dunams out of lands exceeding 10 million dunams [of the District] among its ancient holders with the approval of the Special Military Committee. Then the approval of the sheikhs was obtained.” The Turkish document goes on to state that three survey officers were needed to plot demarcation points on a “proper basis.”¹⁰

The boundaries of individual ownership of the land in most of Palestine, including Beer Sheba, was known and acknowledged by Custom Law (*al-urf wa al-ada*). In other words, it is an observed legal practice and the relevant actors consider it to be law. On this basis tracts of land were bought, sold, inherited and taxes paid for. The town site of



Entry of British Forces to Jerusalem in 1917,
(© Ottoman Archive)

Beer Sheba itself was “purchased”, not confiscated, from al-Mohamadiyeen, Azazema, in 1900. If the land was *mawat* or state land, this would not be needed. A proof of this may be found in two documents registered at the Shari’a Court in Jerusalem, in the period 1906-1910. The first of these two documents deals with appointing a power of attorney to carry out the transaction of the ownership of a tract of land in Abu Sdeir “whose borders are known, requiring no description or delimitation as well-known to all,”¹¹ and the second in Khirbet Muleih “judged by District Council to be the property of Sheikh Ismail.”¹² These locations are deep into Beer Sheba district and roughly correspond to sites in the 1596 Tax Register.

Thus it may be concluded that during the Ottoman period (1517 – 1917), land ownership in Beer Sheba was recognized, its boundaries were defined through customary law; land was purchased and sold by individual owners; and citizens paid taxes. There is no evidence whatsoever that land in the Beer Sheba district was at any point classified as *mawat*.

The Period of the British Mandate

Arab scholars have written about Palestinian clans since the tenth century, and particularly through the description of *Dar al Haj al-Masri* and *al-Shami*. European accounts of Naqab lands and tribes began with the Napoleon *Description de l’Egypte*, and continued through the writings of European missionaries, travelers and spies such as W. M. Thompson, Edward Hull, Victor Guérin, Alois Musil, Max von Oppenheim, T.E. Lawrence, C. Leonard Woolley and Britain’s Royal Geographic Society.¹³ Each of these records, taken on its own, would be sufficient to dispel the Zionist mythologies that have been used to justify the confiscation of Beer Sheba land on the pretext that this land had no owners and that it was barren. Taken together, the Zionist myth of a “land without a people” appears for what it is: a pure forgery and outright mendacity.

Beer Sheba Sub-District, as delineated by the Mandate government of Palestine, is the largest district of Palestine, at 12,577,000 dunams, or 62 percent of Israel today. Apart from grazing, its southern half is rich



Fence Area, al-Naqab,
January 2010
(© Photo: Hazem/
BADIL)

in minerals and archeological sites dating back to the fourth century A.D, while the northern half is fertile and was the home of 95 percent of the district's population who used to live and cultivate their land, with only 5 percent living on grazing. The total population of Beer Sheba district was about 100,000 in 1948. Israeli population estimates are considerably lower because they erroneously use the 1931 census figures, which do not correct for underestimation of females or absence of figures for some tribes.

The British Mandate government listed 77 official clans (*ashiras*) grouped into seven major tribes, in addition to Beer Sheba town and about a dozen settlements around police stations. As illustrated earlier, the land ownership has always been held by Custom Law, on which basis individual plots were sold, inherited, mortgaged, rented, divided or taxes paid. This customary ownership of land was recognized by the British government in the person of Colonial Secretary Winston Churchill, and Herbert Samuel, the first High Commissioner of Palestine.¹⁴ In March 1921, Churchill met with leading Beer Sheba sheikhs, Sheikh Hussein Abu Sitta and Sheikh Freih Abu Middain, and assured them that their land ownership and Custom Law are respected.¹⁵ Indeed, Article 45 of the Palestine Order in Council confirmed that legal jurisdiction in Beer Sheba district would be governed by tribal custom. The government waived the Land Registry fees to facilitate the acquisition of title deeds, but the clans did not take up the offer as they saw no need for confirming land ownership on paper. Their response was "with this (pointing to their swords), we register", meaning they could defend their land against aggressors.

During the British military administration (1917-1920), the Zionists took steps for the eventual takeover of territory in Palestine. Chaim Weizmann headed the newly formed Zionist Commission for Palestine and appointed Herbert Samuel, the Jewish future High Commissioner for Palestine, as the head of its Advisory Committee.¹⁶ Weizmann urged the British to close Land Registry books to prevent rise in land prices and called for the formation of a Land Commission to examine land status in Palestine. The most urgent task was to possess as much land as possible, particularly 'state land, waste land', 'abandoned' and uncultivated land, whose definition was left to interpretation.¹⁷ When Samuel took his post as High Commissioner of Palestine under the Mandate, his bias was clearly in favor of Zionist interests. During his tenure (1920-1925) he issued dozens of ordinances changing or modifying land laws in order to enable Zionist acquisition of land. As a prelude he engineered the formation of the Land Commission to evaluate available land for Jewish settlement.

Contrary to general practice in which country surveys begin with topographical maps, there was great rush to produce cadastral maps. A survey department was hastily established using the services of highly experienced British colonial officials, particularly from Egypt. The aim, as Weizmann demanded, was to undertake "legal examination of the validity of all land title deeds in Palestine."¹⁸ Thus, the extent and ownership of private land, if proven beyond doubt, would be determined. All else would be subject to interpretation as 'state or waste land', open for Jewish settlement.

The Zionist pressure on the British Mandate to start immediately land survey pertaining to ownership of land, rather than the basic topographical mapping, caused confusion and delayed the surveying project for almost eight years. The necessary ordinance ("the Land Settlement Ordinance") was finally promulgated in 1928 using the Australian Torrens system. The British started applying this system, and by the end of 1946, the initial triangulation was completed for Palestine from Khalasa in the south to el Khalisa in the north. The emphasis was always on the coastal plain and water resources and, in particular, on areas with Jewish land ownership or interest.

The British, however, left Palestine in a hurry in May 1948 leaving the armed Zionists to deal with the defenseless Palestinians. As such, the map of completed Land Settlement (of title), up to 1947, which

covered only 20% of Palestine (5,243,042 dunams as of 30 April 1947) corresponds very closely to the area in Palestine proposed to be the northern part of a Jewish state under the Partition Plan of 1947. In this area lies the Jewish-held land during the Mandate, which was about 5% of Palestine. During the Mandate, the British saw no urgent need to complete Land Settlement in the Galilee, West Bank and Naqab because it was predominantly Arab. After 1948, Israel used this accidental fact to show that no title existed for Arab owners in these areas. Thus, Israeli legislation created new criteria for settlement of title to deny Arab ownership and confiscate land, and were particularly applied to Palestinian properties in Beer Sheba.

When Britain decided to abandon its obligations in Palestine after WWII, without completing the Land Settlement, the British Mandate, by way of compensation, undertook an aerial survey in 1945-1946. Over 5000 aerial photos were taken mostly at a scale of 1:15,000, yet again with emphasis on the coastal areas with Jewish concentration, and less emphasis on the West Bank, Jordan River and Beer Sheba district. The populated northern half of Beer Sheba district was covered by this aerial survey. The photographs show intensive and close cultivation everywhere, which belies the Israeli myth that it was barren. This is further proof that cultivation and land ownership have been maintained and recognized, at least since 1596.

Further proof can be found in British policies and practices regarding mevat land under the Mandate. Herbert Samuel and his legal secretary Norman Bentwich, known for their Zionist sympathies, reformulated Art 103 of the Ottoman Land Code that was intended to revive mevat land (as described above), to do the opposite by punishing those carrying out such cultivation. Instead of recognizing the title (*tapu*) of a person who cultivated mevat and paid its value (*Bedl Misl*) to the state, Bentwich's Mevat Land Ordinance of 1921 provides that a person who breaks up mevat without authorization has no legal right to title over the land and is also committing a wrongful act and would be treated as a trespasser. In spite of this Ordinance, a more lenient view was later taken by the British administration, and the practice during the Mandate was to make *tapu* grants on payment of *Bedl Misl* to persons who could show cultivation and revival of mevat lands even if they had no authorization to do so.¹⁹ The practice of not enforcing this Ordinance, was confirmed by the last official report by the Government of Palestine, prepared for the Anglo-American Committee of Enquiry in 1947, which stated that "it is frequently difficult to assume that there was in the past no grant, and consequently it is not safe to assume that all the empty lands south of Beersheba or east of Hebron, for instance, are mevat... [indeed] it is possible that there may be private claims to over 2000 square kilometers which are cultivated from time to time. The remainder may be considered to be either mevat or empty miri."²⁰

The British retracted some of their Zionist policies and instituted in 1940 a law restricting the alienation of Arab land to Jews. Zionist attempts to avoid the application of the 1940 Transfer Regulations by fraud or deceit had been rebuffed by the Mandate authorities. For example, much of land claimed by Zionists in Beer Sheba was not legally registered. The fortnightly reports of the Beer Sheba District Commissioners to the High Commissioner in Jerusalem, forwarded to London, are replete with examples of such fraud and illegal land dealings, particularly in the 1940s. A case in point is this excerpt from the Gaza Fortnightly Report No. 161, of 1-15 October 1945 from District Commissioner (Gaza) to Chief Secretary, Jerusalem:

para 209: Protests have been raised at attempted ploughing by Jews of land in Asluj to which they have an extremely doubtful title. I am hearing a case under the Land Dispute (Possession) Ordinance, pending a decision by the Land Court. There are large areas in Beer Sheba sub-district which the Jews claim to have bought before the date of the Land Transfer Regulations but which are not registered in the Land Registry.²¹

In order not to be exposed, the Jews submitted to the following court session an undertaking to the District Commissioner not to plough the land in question. Otherwise the Court would have clearly ruled against them. The land was never registered in the Land Registry. Yet it appeared as 'Jewish' in maps prepared by the Jewish National Fund's Yosef Weitz, and settler colonies were built on it after 1948.



Collection of Documents shown by a 1948 Palestinian Refugees (© BADIL)

The British Mandate never considered lands in Beer Sheba district as State Land or State Domain. Indeed, maps showing State Land (Domain) in Palestine in 1947, just before the end of the Mandate clearly do not include the land of Beer Sheba. To conclude, the British did not even enforce their own 1921 mewat ordinance created by Herbert Samuel. More importantly, like the Ottoman authorities before them, the British Mandate authorities recognized Palestinians' individual and customary ownership in Beer Sheba. They did not consider this land to be mewat or State land.

The Absurdity of the *Mewat* Pretext

In two excellent papers, Ronen Shamir and Sandy Kedar have analyzed the anomalies of the Israeli claim that Beer Sheba land is mewat.²² They have summarized the Israeli courts' arguments for a mewat classification of Beer Sheba lands as follows:

1. The voice criterion is not acceptable. What was needed is a "modern" or "objective" criterion.
2. The distance to mewat land should be greater than 1.5 miles (2.5 km). The distance is the criterion.
3. The distance is to be measured from a town or village.
4. Cultivated (*miri*) tract of land is not an acceptable point of measurement, as a town or village would be.
5. Similarly, a movable abode such as tents is not an acceptable reference, even if this cluster of tents includes a school or cemetery.

6. Also unacceptable is an inhabited area with amenities, houses and some cultivation around a government centre such as police or railway station.
7. Also unacceptable are measurements from an isolated house at the edge of a village.
8. An Arab tribe abode should prove existence before 1858, otherwise all cultivated land after 1858 will be classified mewat (the case of Arab Suead).
9. To prove that an area is not mewat, cultivation must cover at least 50% of the land.
10. Tax records are not proof of ownership.
11. RAF aerial photography (1945) is acceptable if it shows more than 50% cultivation, as certified by the government expert, provided that the holder possessed and cultivated the land for 20 years. That is, if land was cultivated in 1945 as shown on aerial photos, it should be held and cultivated till 1965. (All Palestinian lands were confiscated according to Land Acquisition (Validation of Acts and Compensation) law, 1953. This makes this condition impossible to fulfill.)
12. The onus of proof of ownership lies with the holder – that is, he has no ownership rights unless he proves the opposite. His long history before the arrival of the Jewish immigrants does not count.

In short, the Israeli judiciary has made it absolutely impossible for Palestinians to argue that their land is not mewat land, thereby “legalizing” the state confiscation of these lands. Of course, Israeli law is the law of the conqueror, a tool to deprive the vanquished of their rights. Thus, mirroring the conversation between father and daughter quoted at the beginning of this essay, not only does the Israeli legal system offer no redress for Palestinians, it has been one of the primary means through which Zionist injustices have been committed.

The failure of the Zionist cultivation policies

The often-touted slogan, stated in Israel’s declaration of independence, that Israel made the desert bloom, has met with abject failure. With very limited means and capital, depending on rain only, Palestinians before 1948 were able to cultivate anywhere between 2 to 5 million dunams. Israelis, with their massive capital wealth, have only been able to irrigate around 880,000 dunams. Their agricultural produce hardly competes with the produce of the limited agricultural land in Gaza with its salty water.



Demonstration in Israel against ethnic cleansing in Naqab. Jerusalem 2010
(©Association For Protecting and Supporting Naqab Beduins)

Another indicator of this failure was the dismal performance of the so-called “development towns.” Jews from Arab countries, who were brought in on the assumption that they were used to hot arid climate, failed to flourish in the Naqab. The Ashkenazi Kibbutzim have

fared no better. There are no new recruits, their population is aged, the remnants of the 1948 conquest. Although Jewish settlements of the Beer Sheba district consume about half of the irrigation water, the value of their produce is negligible.

Jewish immigrants have tended to congregate near urban centers. Only 73,000 of the Jewish Israelis in the Beer Sheba district have moved in to the rural Kibbutzim and Moshavim in the vast area of 12,000 sq. km. That is 10 percent of Palestinian population of Beer Sheba had they not been ethnically cleansed in 1948. The remaining 800,000 Jewish Israelis in the district live in three cities and a number of dysfunctional “development towns.” Of those, over 200,000 are recent Russian immigrants and twice as many are Arab Jews lower down on the socio-economic ladder.

On the other side of this, the Palestinians from Beer Sheba number about three quarters of a million. About 15 percent of them have managed to remain in Israel and the rest are refugees. Most of these refugees are in the occupied and blockaded Gaza Strip, crammed at a density of 5000 persons/sq. km while those who dispossessed them roam their land at a density of 6 Jewish Israelis/sq. km. Those Palestinians who managed to remain have fared little better, they are denied the right to their property, their houses are continually demolished, their crops destroyed, and their villages remain unrecognized. Israeli practices have led to the confiscation of most of their lands, leaving them in very poor economic, social and educational conditions. For example, the largest Palestinian town in Beer Sheba, Rahat, is the poorest in Israel. In terms of education, the percentage of those students who complete secondary education is 10 percent, compared to 47 percent for Jewish students and, significantly, 44 percent for Palestinian refugees students. In other words, Palestinian refugees facing severe economic and political hardships, achieve levels of education comparable to Jewish students, while Palestinian citizens of ‘democratic Israel’ fare far worse.

Postscript

I have shown above that the main legal pretext for Israel’s continuing confiscation of Palestinian land in the Naqab, and the displacement of those Palestinians who have remained upon it, is based on a series of fictions and lies. This legal pretext is nothing more than a flimsy veil for an outright colonial policy of land theft. A reminder of how this policy has continued came on Sunday March 18, 2012. On that day, a Beer Sheba court rejected the case of the Uqbi family for the ownership of their land in the Naqab village of Araqib on which the family has lived for hundreds of years. The Israeli court accepted the testimony of an Israeli government “expert;” a professor of Polish ancestry who does not know Arabic and who testified, contrary to research that he himself had published earlier, that the Palestinians of Araqib were merely shepherds who came from Saudi Arabia with their sheep and then left. By claiming that Palestine is a land without people and that Palestinians do not exist, and by actually expelling Palestinians and confiscating their land, Israel converted this myth into a constant war crime.

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***Endnotes: See online version at: <http://www.badil.org/al-majdal>*

The Forcible Transfer of the Palestinian People from the Jordan Valley

by Mercedes Melon

Homes demolished by the Israeli military in Al-Hadidya,
Jordan Valley. 21 June 2011.
(@Photo: Keren Manor/Activestills)



Forcible transfer and deportation are terms that commonly evoke images of people being loaded onto trucks or trains or violently driven away.¹ Forcible transfer, however, may also take the form of involuntary or induced movement of people resulting from the creation of insecurity, disorder, or other adverse conditions, for the purpose of, or resulting in such migration. Article 49 of the Fourth Geneva Convention prohibits all forcible transfers. Only the security of the population of the occupied territory or imperative military reasons can exceptionally justify total or partial evacuation of an area under occupation. Those evacuated shall be transferred back to their homes as soon as hostilities in the area in question have ceased.

A key criterion to assess the forcible nature of the displacement is whether or not the transfer is the result of the individual's own genuine choice to leave.² As developed in the case law of the International Tribunal for the Former Yugoslavia (ICTY), forcible transfer is understood as the forced displacement of persons from where they reside to a place that is not of their own choosing and "includes threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power against such person or persons or another person, or by taking advantage of a coercive environment."³ The ongoing forcible transfer of the Palestinian people from or within the Jordan Valley in the Occupied Palestinian Territory (OPT) is a clear example of this kind of transfer (sometimes misleadingly called "indirect transfer").

The facts speak for themselves. Although there is uncertainty as to population levels in the past, it is estimated that between 250,000 and 300,000 Palestinians lived in the Jordan Valley on the eve of the 1967

Israeli military occupation.⁴ After more than 40 years of occupation, the Palestinian population in the area has been dramatically reduced to 56,000.⁵ However, the displacement of Palestinian people from their homeland is not a phenomenon relegated to the past, but an ongoing process, particularly in this resource rich and geopolitically strategic area.

During 2011, more than one third of all Palestinians forcibly transferred in the West Bank were residents of the Jordan Valley, nearly 60 percent of whom were children.⁶ If we consider that the area contains vast land reserves and abundant water resources, making it the most fertile region of the OPT, the estimates appear striking. How did this dramatic decrease in population occur?

The 1967 “voluntary” exodus

The circumstances surrounding the plight of the Palestinian people in the Jordan Valley during and after the 1967 War refute the widespread misperception that the 1967 exodus was largely “voluntary,” as compared to the forcible nature of the 1948 exodus.

Israel’s military strategy during, and just after, the 1967 War aimed to drive out tens of thousands of Palestinians from their villages, towns and refugee camps in the West Bank and the Gaza Strip.⁷ This was particularly the case for the Jordan Valley where Israeli forces expelled 88 percent of the area’s population eastwards, across the river to Jordan. The village of Jiftlik, for example, was razed to the ground, rural communities were depopulated, and virtually all residents of three 1948 large refugee camps surrounding Jericho fled or were expelled to Jordan.⁸ Despite not being the site of any major military battles during the 1967 war, the Jordan Valley suffered the highest population loss in the entire West Bank in the war and its aftermath.⁹

Israel’s purpose of removing the Palestinians from the area is confirmed by the measures it took to prevent the return of those who had fled during the war and the period that followed. These measures included the routine shooting of civilians trying to return, or “infiltrate,” to their lands across the Jordan River¹⁰ as well as the inclusion of Jordan Valley landowners on a secret “black list” in order to deny their entry into the West Bank.¹¹ At the same time, from 1967 to 1994, Israel undertook a mass withdrawal of residency rights from hundreds of thousands of Palestinians who travelled abroad during that period, effectively preventing them from returning to their homeland.¹² Then, after the eruption of the *intifada* of 2000, Israel barred almost all Palestinians from returning to, or visiting, the areas.¹³

The Palestinians remaining in the Jordan Valley would be, from 1967 onwards, subject to Israel’s policies aimed at minimising the number of Palestinians in the area,¹⁴ while maximising Israeli control over the land, water resources and transport routes.

Deprivation of land and water resources

The policy to take control over the land included legal and administrative changes, financial incentives to settlers and institutional coordination.¹⁵ Israel began by declaring in 1967 nearly 60 percent of the Jordan Valley as closed military areas, effectively banning Palestinian access to, and development of, the land.¹⁶ Through subsequent military orders, Israel seized control of the water resources of the OPT.¹⁷

Israeli decision-makers saw Jewish civilian presence as a necessary element to guarantee and maintain

control over the occupied land, and so the Occupying Power immediately began to transfer its own civilian population into the area; an action expressly prohibited by Article 49(6) of the Fourth Geneva Convention, regardless of its motive.¹⁸ By the end of 1968, the Israeli military had established three military outposts in the Valley.¹⁹ The eventual shift from military outpost to predominantly agricultural colonies from the early 1970s in the Jordan Valley adequately illustrates the colonizing nature of the settlement enterprise while refuting Israel's alleged security needs to justify the occupation of the Jordan Valley.

The built up area and the land cultivated by the existing 38 settlements take up a further 10 percent of the Valley. Although the actual settler population in the area is quite small, most of the approximately 9,400 settlers²⁰ are farmers who cultivate large tracts of land and use most of the water resources. This has rendered the Jordan Valley the area of the OPT most relentlessly exploited by settlement agricultural production.

The deliberately discriminatory nature of Israel's policies results in a striking inequality of access to water between Israelis and Palestinians in the Jordan Valley. Indeed the water available to the Palestinians of the Valley falls far short of that recommended by the World Health Organisation.²¹ The situation is even worse for the Palestinians living in the rural communities of the Jordan Valley who are not even connected to the water network system.

Furthermore, the water extraction ratio in the Israeli settlements is the highest in the West Bank.²² The deep wells serving the Israeli colonies have dried up the Palestinian wells and springs in the area.²³ The Israeli pumping stations, including those on or near the lands of Palestinian communities, are closed and fenced off. With no access to running water, in some cases the rural Palestinian inhabitants survive on water supplies that the World Health Organization classifies as an indicator of an emergency response situation.²⁴ Palestinians have no choice but to buy their own water—water that they are entitled to extract for themselves under international law—from the Israeli water company Mekorot. They often have to buy water from mobile tanks that deliver water of dubious quality at much higher prices.²⁵

Meanwhile, in the same area, Israeli settlers enjoy intensive-irrigation farms, lush gardens and swimming pools.²⁶ It should thus come as no surprise that the 9,400 Israeli settlers living in the Jordan Valley consume more than six times the quantity of water consumed by the more than 56,000 Palestinians in the area.²⁷

And the Oslo Accords came to life

Under the Oslo Accords, more than 90 percent of the Jordan Valley was classified as “Area C,”²⁸ meaning full Israeli civil and military control extending to land registration, planning, building and designation of land use. The 1995 Interim Agreement called for the gradual transfer of power and responsibility in the sphere of planning and zoning in Area C from the Israeli military's “Civil Administration” to the Palestinian Authority.²⁹ Yet, this transfer was never implemented and Israel's continued control over planning and zoning in Area C has, according to the World Bank, “become an increasingly severe constraint to [Palestinian] economic activity.”³⁰

Israel's implementation of the Oslo Accords has consolidated its control over the Jordan Valley. It has used this control to effectively appropriate more Palestinian land and restrict Palestinian mobility and economic activity with disastrous effects upon the Palestinian civilian population.

Approximately 40 percent of the Jordan Valley's population is comprised of semi nomadic Bedouin and herder communities that have traditionally grazed their herds throughout the area. Today, the local population is restricted to enclaves, surrounded by Israeli settler infrastructure on the one hand, and no-go areas on the other.³¹

Moreover, although Palestinians can, in theory, cultivate what remains of their land, as part of its policy of minimising Palestinian presence and growth in Area C the Occupying Power has imposed harsh restrictions on building and freedom of movement on the area; restrictions that apply only to Palestinians. Israel prevents Palestinians from constructing any infrastructure or implementing development projects such as water wells, reclaiming of agricultural land, opening agricultural roads or extending irrigation networks. Thus, despite its vast agricultural potential, the Israeli restrictions on access to the land and its water resources have turned the Jordan Valley into the least-cultivated Palestinian area.³²



Huge trenches have been dug in the Jordan Valley as part of the Apartheid Wall system to prevent Palestinian access to agricultural lands, these areas are also 'live-fire zones' for the Israeli army. (© Photo: Rich Wiles/BADIL,2011)

The final push

Palestinians cannot build or renovate homes or any other infrastructure in Area C without first obtaining permits from the Israeli military's Civil Administration. These permits, however, are rarely issued.³³ The restrictions imposed on Palestinians force many of them to build without the required permits to meet their needs, despite the ever-present risk, and practice, of demolition.³⁴

The Palestinians' inability to obtain permission for legal construction and Israel's policy of demolishing their homes due to lack of building permits lead to the displacement of hundreds of Palestinians in Area C.³⁵ Systematic destruction of Palestinian infrastructure is particularly rampant in the Jordan Valley. Consider that in June 2009, the Jordan Valley registered a dramatic increase of demolitions in closed military zones³⁶ and, in July 2010, the Israeli government instructed its military to increase demolitions of "illegal" Palestinian buildings in the Jordan Valley.³⁷ As a result, approximately 40 percent of the structures demolished during 2011 in the West Bank, including East Jerusalem, were located in the Jordan Valley.³⁸ These demolitions affected at least 2,000 Palestinians in the Valley, and more than 4,100 in the entire occupied West Bank.³⁹

The inability to carry out legal construction inevitably impacts the provision of basic services to, as well as livelihoods of, Palestinians in the Jordan Valley. The PA is unable to undertake any infrastructure projects in Area C without the approval of the Israeli military's Civil Administration. Therefore, while the Interim Agreement saw the transfer of responsibility for the provision of education and health services in Area C to the PA, the virtual impossibility of obtaining building permits from the Civil Administration for the construction or expansion of public buildings, such as schools and clinics, makes the provision of these services practically impossible.⁴⁰

As a result of the Occupying Power’s illegal practices, the communities living in the Jordan Valley—considered a “high risk” area⁴¹—represent some of the most vulnerable in the West Bank, and are regarded as priority groups for humanitarian assistance due to their lack of access to basic services (such as education and health) and infrastructure (including water, sanitation and electricity).⁴²

In addition to severely limiting the amount of water available to Palestinians and denying them permits to restore old wells and build new ones, Israel has continuously destroyed water cisterns and the other basic rainwater collection systems that serve rural and herder communities.⁴³ Moreover, during the summer months, the Israeli army has stepped up pressure on Palestinian herder communities to force them out of the Jordan Valley. The army not only confiscates the villagers’ water tanks, it also deprives the villagers and their flocks of water by restricting their movement in the area.⁴⁴

Palestinians in the Jordan Valley face additional daily challenges, such as restricted access to land for grazing and agriculture, violence from Israeli settlers living nearby and regular harassment from Israeli soldiers.⁴⁵ Tightened restrictions on access in and out the Valley, which is surrounded by checkpoints and roadblocks, have separated the area from the rest of the occupied West Bank.⁴⁶ These restrictions have also exacerbated the hardship of the communities living there, contributing to the erosion of standards of living, increasing poverty and growing aid dependency.⁴⁷

Conclusion

Not only did the Occupying Power expel the majority of the Jordan Valley’s population *en masse* during the 1967

war, it has also implemented measures effectively preventing displaced Palestinians from returning. Israel’s policies of extensive land appropriation, water deprivation and the establishment of colonies have crippled the agricultural and herding economy of the Palestinian residents of the area, virtually depriving them of their means of livelihood.

Combined with movement restrictions and severe curtailment of the ability to build—thereby preventing Palestinian residents from having access to housing, health and education—the Occupying Power’s policies in the Jordan Valley perversely force the transfer of the protected population from or within the area. Given the unbearable living conditions created by Israel’s policies, it is evident that Palestinian residents of the Jordan Valley do not exercise anything resembling a genuine choice when leaving their place of residence.

Article 49(1) of the Fourth Geneva Convention only exceptionally allows evacuation of an area if the security of the civilian population under occupation, or imperative military necessity, so demand. Imperative military necessity involves a very stringent test and Israel’s alleged general



Homes demolished by the Israeli military in Al-Hadidya, Jordan Valley. 21 June 2011. (©Photo: Keren Manor/Activestills)

security concerns do not justify its discriminatory policies in the area. There is no evidence that the declaration of the closed military zones, their large areas, or their outlines respond to military necessity.⁴⁸ Home demolitions and eviction of persons on the grounds that they live in “closed military areas” are unjustifiable. Indeed, there does not seem to be any security grounds justifying the occupying authority’s *de facto* deportation or transfer of Palestinians from the Jordan Valley.

Israel’s practices constitute internationally wrongful acts giving rise to state responsibility and individual criminal liability. The violation of the prohibition of forcible transfer amounts to a grave breach of the Fourth Geneva Convention and, as such, it is encompassed by the war crimes provision of the Rome Statute of the International Criminal Court (ICC).⁴⁹

The forcible displacement of the protected Palestinian population is closely linked to the Occupying Power’s unlawful transfer of its own civilian population into the Occupied Territory. Undoubtedly, the transfer of Israel’s own civilian population into the Jordan Valley entails severe consequences for the Palestinian protected population living there, threatening its separate existence.⁵⁰ Furthermore, such transfer makes the return of people displaced from the area and the restitution of their property more difficult.⁵¹

Israel’s aim of changing the demographic composition of the area in order to create or consolidate territorial claims is particularly evident in the Jordan Valley and plainly contravenes the purpose of Article 49(6) of the Fourth Geneva Convention.⁵² Ultimately, the absolute prohibition of the transfer of the Israel’s nationals to the OPT strengthens the prohibition of using land belonging to the occupied territory or its inhabitants for the furtherance of Israel’s own interests.⁵³ The transfer of Israeli nationals to the Jordan Valley serves economic, social or strategic needs, primarily the colonisation and subsequent annexation of the area. Regardless of the motive, the transfer of Israel’s own civilian population into the OPT amounts to a war crime under the Rome Statute of the International Criminal Court.⁵⁴

The State of Israel is responsible for the commission of unlawful acts in violation of its obligations under international law.⁵⁵ It must, therefore, bring these violations immediately to a halt. Israel is also legally obliged to restore the situation to the way it was before the unlawful acts were committed, which entails restoring the properties to their legitimate owners, facilitating the return of displaced individuals back to their homes, and making full reparation for the loss or injury caused.⁵⁶

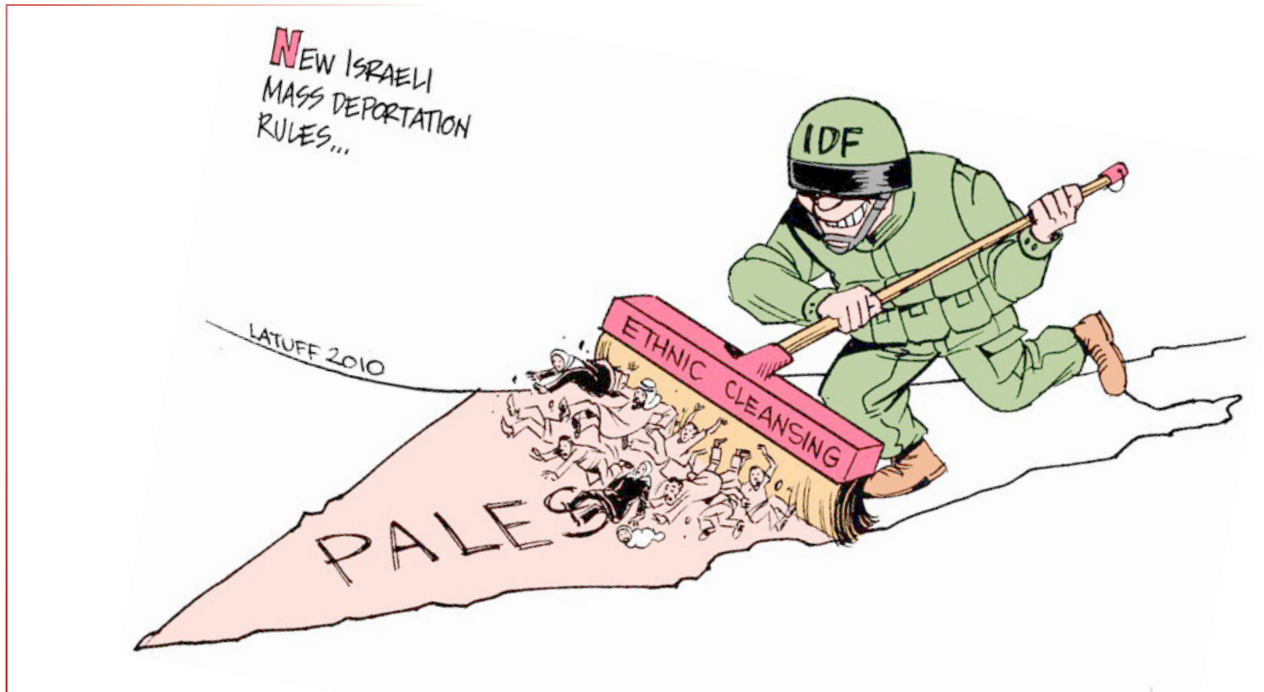
Furthermore, international law on state responsibility sets out the rules on the obligations of third parties. Individual states have an obligation not to recognise illegal situations created or actions taken by the violating state, an obligation not to render aid or assistance and to cooperate to bring to an end the serious breaches of international law, such as Israel’s extensive unlawful appropriation of Palestinian land, the forcible transfer of the Palestinian population and the transfer of its own population to the OPT. In this respect, the UN Security Council has expressly called upon all High Contracting parties to Fourth Geneva Convention to ensure respect by Israel of its obligations under the Convention.⁵⁷

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***Endnotes: See online version at: <http://www.badil.org/al-majdal>*

Zionism: A Root Cause for Ongoing Population Transfer of Palestinians

by Amjad Alqasis



In 1973, The United Nations rightfully condemned ‘the unholy alliance between Portuguese colonialism, South African racism, Zionism and Israeli imperialism.’¹ And only two years later the same international organization determined ‘that Zionism is a form of racism and racial discrimination.’² Although this resolution was revoked in 1991, at the behest of the U.S. administration, in order to pave the way for the Madrid Peace Conference that same year, the equation of Zionism with racism is still valid. Apartheid is based on the principle of the establishment and maintenance of a regime of institutionalized discrimination in which one group dominates others. In the case of Israel, the driving-force behind the Palestinian reality of apartheid is Zionist ideology; its manifestation is population transfer and ethnic cleansing.

Zionism

The Zionist Movement was formed in the late Nineteenth century with the aim of creating a Jewish homeland through the formation of a ‘national movement for the return of the Jewish people to their homeland and the resumption of Jewish sovereignty in the Land of Israel.’³ As such, the Zionist enterprise combined the Jewish nationalism which it aimed to create and foster, with the colonialism of transplanting people, mostly from Europe, into Palestine with the support of European imperial powers. Jewish history was interpreted towards constructing a specific Jewish national identity in order to justify the colonization of Palestine. As Ilan Pappé rightly concludes, however, “Zionism was not... the only case in history in which a colonialist project was pursued in the name of national or otherwise non-colonialist ideals.

Zionists relocated to Palestine at the end of a century in which Europeans controlled much of Africa, the Caribbean, and other places in the name of ‘progress’ or idealism...⁴ What is unique to Israel, however, is the effect of Zionism on the people it has claimed to represent. By basing itself on the idea of Judaism as a national identity, adherents of the Jewish faith around the world would become, as per Israeli law, Jewish “nationals,” whether or not they accepted said classification. To date, Israel continues to be the only country in the world that defines its citizenry extra-territorially.

The creation of a Jewish nation state in a land with a very small Jewish minority could only be conceivable through the forced displacement of the existing indigenous population alongside the implanting of the new Jewish settlers. For the indigenous Palestinians who managed to remain within the boundaries of what became Israel, their own national identity was relegated to inferior status. Article 2 of the State Education Law, for example, states that “the objective of State education is... to educate each child to love... his nation and his land,... [to] respect his... heritage, his cultural identity... to impart the history of the Land of Israel... [and] to teach... the history of the Jewish People, Jewish heritage and tradition...”⁵ Beyond being subject to institutionalized discrimination, these Palestinians who managed to remain within the part of Palestine usurped in 1948—of whom today there are over 1.2 million—are forced to be citizens of a state in which they are ineligible for nationality.

As mentioned above, however, the main manifestation of Zionist apartheid has been population transfer. The task of establishing and maintaining a Jewish state on a predominantly non-Jewish territory has been carried out by forcibly displacing the non-Jewish majority population. Today, nearly 70 percent of the Palestinian people worldwide are themselves, or the descendents of, Palestinians who have been forcibly displaced by the Israeli regime.⁶ The idea of “transfer” in Zionist thought has been rigorously traced by Nur Masalha in his seminal text *Expulsion of the Palestinians: The Concept of “Transfer” in Zionist Political Thought, 1882-1948*, and is encapsulated in the words of Israel Zangwill, one of the early Zionist thinkers who, in 1905, stated that “if we wish to give a country to a people without a country, it is utter foolishness to allow it to be the country of two peoples.”⁷ Yosef Weitz, former director of the Jewish National Fund’s Lands Department, was even more explicit when, in 1940, he wrote that “it must be clear that there is no room in the country for both people (...) the only solution is a Land of Israel, at least a western Land of Israel without Arabs. There is no room here for compromise. (...) There is no way but to transfer the Arabs from here to the neighboring countries (...) Not one village must be left, not one (Bedouin) tribe.”⁸ Rights and ethics were not to stand in the way, or as David Ben-Gurion argued in 1948, “the war will give us the land. The concepts of ‘ours’ and ‘not ours’ are peace concepts, only, and in war they lose their meaning.”⁹

The essence of Zionism, therefore, is aptly summarized as the creation and fortification of a specific Jewish national identity, the takeover of the maximum amount of Palestinian land, ensuring that the minimum number of non-Jewish persons remain on that land and the maximum number of Jewish nationals are implanted upon it. In other words, Zionism from its inception has necessitated population transfer notwithstanding its brutal requisites and consequences.

Population Transfer

Based on one of the ultimate aims of Zionism—the forcible transfer of the indigenous Palestinian population beyond the boundaries of Mandate Palestine—many Israeli laws, policies and state practices as well as specific actions of para-state and other private actors have been developed and applied. This forcible transfer or ethnic cleansing started even prior to 1948 and is still ongoing today.

Forced Population Transfer in Palestine

The idea of transfer did not end with the establishment of Israel in 1948. Between 1948 and 1966, various official and unofficial transfer plans were put forward to resolve the “Palestinian problem”. These included plans to resettle Palestinian refugees... [and the] establishment [of] several transfer committees during this period. The notion of population transfer was raised again during the 1967 war... and similar proposals for population transfer also emerged during and after the second intifada [in 2000].¹⁰

According to the Sub-Commission on Prevention of Discrimination and Protection of Minorities of the former Commission on Human Rights, The essence of population transfer remains a systematic coercive and deliberate... movement of population into or out of an area... with the effect or purpose of altering the demographic composition of a territory, particularly when that ideology or policy asserts the dominance of a certain group over another.¹¹

Palestinian houses in Jaffa are being knocked down and replaced with luxury waterfront apartments for Israelis. (© Photo: Rich Wiles/BADIL)



This ethnic cleansing, today, is carried out by Israel in the form of the overall policy of “silent” transfer and not by mass deportations like in 1948 or 1967. This displacement is silent in the sense that Israel carries it out while trying to avoid international attention by displacing small numbers of people on a weekly basis. It is to be distinguished from more overt transfer achieved under the veneer of warfare in 1948. Here it is important to note that Israel’s transfer policy is neither limited by Israel’s geographical boundaries nor those of the occupied Palestinian territory (OPT). Israel is in essence treating the territory of Israel and the OPT as one legal entity.

The Israeli policy of silent transfer is evident in the State’s laws, policies and practices. The most significant

of these include: governance and enforcement of residency rights; land rights; regulation of natural resources; the application of justice; law enforcement; and the status of Zionist para-state actors. Israel uses its power in such areas to discriminate, expropriate and ultimately to forcibly displace the indigenous non-Jewish population from the area of Mandate Palestine. So for instance the Israeli land-planning and zoning system has forced 93,000 Palestinians in East-Jerusalem to build without proper construction permits because 87 percent of that area is off-limits to Palestinian use, and most of the remaining 13 percent is already built up.¹² Since the Palestinian population of Jerusalem is growing steadily, it has had to expand into areas not zoned for Palestinian residence by the state of Israel. All those homes are now under the constant threat of being demolished by the Israeli army or police, which will leave their inhabitants homeless and displaced.

Another example is the government-approved Praver Plan, which calls for the forcible displacement of 30,000 Palestinian citizen of Israel due to an Israeli allocation policy which has not recognized over thirty-five Palestinian villages, located in the Naqab (Negev).¹³ Israel deems the inhabitants of those villages as illegal trespassers and squatters, and are therefore, facing the imminent threat of displacement, This despite the fact that in many cases, these communities predate the state of Israel itself.

The Israeli Supreme Court bolstered the Zionist objective of clearing Palestine of its indigenous population in its 2012 decision prohibiting family unification between Palestinian-Israelis and their counterparts across and beyond the Green Line. The effect of this ruling has been that Palestinians with different residency statuses (such as Israeli citizen, Jerusalem ID, West Bank ID or Gaza ID—all issued by Israel) cannot legally live together on either side of the Green Line. They are thus faced with a choice of living abroad, living apart from one another, or taking the risk of living together illegally.¹⁴ Such a system is used as a further means of displacing Palestinians and thereby changing the demography of Israel and the OPT in favor of an exclusive Jewish population. This demographic intention is reflected in the Court's reasoning for its decision, where it stated that "human rights are not a prescription for national suicide."¹⁵ This reasoning was further emphasized by Knesset-member Otniel Schneller who stated that "the decision articulates the rationale of separation between the [two] peoples and the need to maintain a Jewish majority... and character..."¹⁶ This illustrates once more the Israeli state's self-image as an exclusively Jewish state with a different set of rights for its Jewish and non-Jewish, mainly Palestinian, inhabitants.

Jewish Nationality

All the different means with which Israel triggers the displacement of Palestinians are linked to the central concept of Jewish nationality as it is the legal mechanism that enables and guarantees the constant discrimination against the non-Jewish population. This same concept is the link between Zionism and the constructed "right" of the Jewish nation to settle and occupy the territory of Mandate Palestine. In other words, the concept of Jewish nationality is the lynchpin of the Israel's regime of apartheid as it addresses both aims of Zionism: the creation and maintenance of a specific Jewish national identity, and the colonization of Mandate Palestine through the combination of Jewish settler implantation and the forcible transfer of all non-Jewish inhabitants.

The way this concept is embodied in law is through the separation, unique to Israel, of citizenship (Israeli) from nationality (Jewish), a separation confirmed by the Israeli Supreme Court in 1972.¹⁷ This separation has allowed Israel to discriminate against its Palestinian citizens and, even more severely, against Palestinian refugees by ensuring that certain rights and privileges are conditional upon Jewish

nationality. The main source of discrimination against Palestinian refugees originate from the Israeli *Law of Return* 1950 and the Israeli *Citizenship Law* 1952 which grants automatic citizenship to all Jewish nationals, wherever they reside, while simultaneously preventing Palestinian refugees from returning to, and legally residing in, that territory. The Israeli regime has basically divided the Palestinian people into several distinct political-legal statuses as shown in the figure below. Despite their differing categorizations under Israeli law, Palestinians across the board maintain an inferior status to that of Jewish nationals living within the same territory or beyond:

“Category 1: Privileged Status:

Jewish Nationals	→ Living abroad and in Israel	→ Full political, social and economic rights and benefits
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Category 2: Inferior Status:

Palestinian citizens of Israel	→ Living abroad and in Israel	→ Inferior rights and access to benefits
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Palestinians in the OPT	→ Living under occupation	→ Restricted rights: no/ severely limited right to enter Israel/move within the OPT, no/ severely limited political, social and economic rights
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Palestinian refugees	→ living abroad	→ Forcibly displaced, made stateless and no right to return to their homes.” ¹⁸
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The international community judged the South African apartheid regime based on its racist ideology elements and its violations of international norms and standards. It is time to judge Israel similarly. The first significant step in that direction would be reinstating United Nations General Assembly Resolution 3379 of 10 November 1975 declaring Zionism as a form of racism, and paving the way for the end of Israeli impunity and apartheid.

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***Endnotes: See online version at: <http://www.badil.org/al-majdal>*

The BADIL-Zochrot Study Visit to Cape Town: *An Introduction*

by BADIL-Zochrot



BADIL and Zochrot study visit participants hearing from migrant worker activists in Imizami Yethu township near Cape Town, South Africa; February 2012.
(© Photo: Rana Beshara / BADIL)

The return of displaced Palestinians to the lands from which they have been displaced and denied return for over six decades is the central issue around which the Palestinian struggle for freedom and self-determination revolves. Among those who value justice and respect for international law, there is no disagreement that refugee and IDP reparation (return, Restitution, rehabilitation, compensation and non-repetition) is central to a just and lasting solution to the woes of the region. For both Badil and Zochrot, it is this aspect of the liberation of Palestine to which we have dedicated our efforts for over a decade since our organizations' establishment. Through the course of our work, however, we have found that conceptions of "return" have remained somewhat superficial. This is true among the settler community that sees it as a calamity to be avoided at any cost as well as among the indigenous community that equates return to a reversal of six decades of settler-colonialism; the return to a paradise lost.

We have found ample value in exercises that connect Palestinians and Jewish-Israelis and challenge them to envision the return, its practicalities, its obstacles, and the ways of overcoming them. Such exercises, we have found, are a step towards making return a concrete reality. How, for instance, is return to materialize to a village whose inhabitants numbered less than two thousand before the Nakba, and who now number in the tens of thousands? Are the descendants of large landowners to return to bountiful properties, while the many more descendants of workers, sharecroppers and tenant farmers to return to no property at all? Is what remains of Palestine's terraced hillsides to be turned into concrete jungles of parceled out houses over which present and future heirs can differ? What will be the fate of a productive factory that lies on the land of Palestinian returnees? These are just a sample of the questions that a materializing return will have to answer.

The case of Palestine, however, is not the only one in which mass forced displacement has been carried out, nor will it be the only one in which return will constitute part of a just solution. Indeed, there is much for us to learn from cases of expulsion and return stretching from East Timor, the former Yugoslavia and Cyprus, to Rwanda, Zimbabwe and South Africa. The idea is not to replicate models but rather to try and learn their lessons and incorporate them into our thinking of Palestinian return. A particularly rich source of such lessons, as it turns out, is post-Apartheid South Africa.

The Western Cape and its enchanting cosmopolitan capital, Cape Town, have the highest rate of inequality of any place on our planet. Along with the rest of South Africa, Dutch and, later, British military occupation and colonization brutalized the indigenous population. By 1913, the colonial power successfully legislated the concentration of the indigenous majority on less than fourteen percent of the territory of South Africa. The morsels of land reserved for the natives were comprised of non-contiguous rural territories that the Apartheid regime would later claim constituted independent states known as the Homelands or Bantustans. Black-owned farms outside these territories would later be designated as “black spots,” their owners stripped of their title and carted off to the Bantustans. These Bantustans acted as containers of sixteen million cheap Black laborers for white owned mines and factories. If the white capitalists needed such workers they could get them, if they didn’t, the workers could just rot in their territories where they would be policed by their own kind. In urban spaces, the “Group Areas Act” confined each non-white “race” to its own area. The areas that were mixed before the “Group Areas Act,” such as Cape Town’s District 6, had to be racially purified. The way the Apartheid regime achieved such racial purity is one all too familiar in Palestine. In South Africa, this kind of violence was better known by the horrifying description: “forced removal.” By 1994, at least 2.5 to 3.5 million South Africans had been subject to forced displacement.

After liberation in 1994, the new political leadership of South Africa attempted to reverse the effects of Apartheid, partly by allowing displaced South Africans to go through legal procedures for return to, and restitution of, properties from which they had been displaced. Indeed, restitution was enshrined as a constitutional right. Now, almost two decades later, most of the 80,000 individual and collective claims for return and restitution have yet to be settled, and there is a widespread feeling that the return and restitution process has fallen far short of success.

It was the possibility to learn from some of the successes and failures of this process that drove activists from Badil and Zochrot to visit Cape Town from the second to the tenth of February, 2012. After several days of valuable visits, tours and presentations (a sense of which is provided in the acknowledgments below), our group spent two days divided into three working groups; each devoted to one of three topic areas: working towards return; reparations; and visions for a new state. Preliminary outcomes from the discussions were presented to the whole group, and the larger group’s feedback formed a foundation for further discussions within the working groups. Rapporteurs from each group then drafted the discussion papers, shared them with the broader group for a final round of feedback, bringing them to the state in which they have been published here.

The section on "Working towards Return" provides an overview of the various aspects of the work needed in preparation of the return of Palestinian refugees. These include knowledge building, network and coalition building among refugee communities, facilitating grassroots initiatives, and so on. The group that produced the “Reparations” section started its discussion with a focus on restitution. The experiences in South Africa suggested that a broader and more flexible focus was needed for dealing with land, housing and property for both those on the land and those returning to it. The discussion thus focused on different ways in which rights to return and restitution could be balanced with rights to housing, economic development needs, and the respect for the environment and the landscape. The section "visions for a new

state" attempts to propose mechanisms, processes and ideas for the post-colonial and transitional stage in Palestine, covering various aspects such as reconciliation, justice and trauma healing; de-Zionizing the realm of culture, memory and education; and an outline for a future polity in Palestine.

The discussions were not simulations of negotiations processes between Palestinians and Israelis. All of us involved are firmly committed to the liberation of Palestine and the return of Palestinian refugees, even if these may mean somewhat different things to each of the participants. As such, most of the discussions took the end of Zionist apartheid, occupation and colonization as a starting point while focusing our energies on the exercise of envisioning a post-Zionist Palestine with the lessons from Cape Town as backdrop. To some readers, these discussions may seem too lofty. Indeed, as one participant aptly asked as we started our discussions "how am I to imagine a post-liberation future when I am still under occupation?" Added to this challenge was that of thinking about possibilities in a rapidly and continuously changing present. The Israeli regime's strategy of creating and changing facts on the ground, blocking off Palestinian chances of restoring what once was, means that what may be workable one day becomes impossible on the next. As such, participants faced the challenge of trying to maintain a principled flexibility, with the knowledge that the site of a depopulated Palestinian village or urban neighborhood may not look the same next year or even next week.

We hope that whoever reads this will not treat it as a manual of return proposed by Badil and Zochrot, but rather as what it is: an attempt to begin to discuss and answer questions about return by a particular group of people at a particular time after engaging in a very particular experience. At least as important as the suggestions involved in the vision set out in the three documents that follow are the questions that underpin them. If others take these questions and pose them to themselves and people in their surroundings, we will have achieved our preliminary goal of transforming the thinking about return from pure abstraction to something more concrete, in the hope that our struggle will contribute to it someday becoming a lived reality.

Acknowledgments

We take this opportunity to thank all of the people who made our experience in Cape Town a rich one: Anthony and the other migrant and local activists of Imizami Yethu; Mbongeni, Mcedisi Twalo and the Anti-Eviction Campaign activists in Gugulethu as well as Theodora "Noma" China who shared her home and her story with us; Professor Ben Cousins and the Institute for Poverty, Land and Agrarian Studies at the University of the Western Cape; Judge Siraj and Faiza Desai; Braam Hanekom of PASSOP Afrika; Father Michael Lapsley of the Institute for Healing and Memory; Dr. Anwar Nagia, Archbishop Desmond Tutu; Bonita Bennett, Mandy Sanger and the rest of the staff at the District 6 Museum; Xhoxho who let us into the house in District 6 to which she returned; Michael and Craig from Doxa Productions; and George Mukundi Wachira, Delphine Serumaga and Hugo van der Merwe from the Center for the Study of Violence and Reconciliation.

Special thanks go to Mercia Andrews, Fr. Edwin Arrison, Heidi Grunebaum, Aslam Levy, Carol Martin, Lutfi Omar, Firdouza Waggie and the other comrades of the Cape Town Palestine Solidarity Campaign. Not only did they organize our trip, they made sure that it was a spectacular one, imbuing it with a magic that none of us could ever forget. Major gratitude is also due to HEKS-EPER who funded a project that, despite its importance, most, if not all, other funders would shy away from. Last, but far from least, a thank you to "Mama" Latisha and the rest of the staff who put up with us at the St. Pauls Church guest house.

Working towards Return

by BADIL-Zochrot

On Land Day, March 2012. Young Palestinian Refugees look towards the Green Line which runs through the middle of al-Walaja village. (© Photo: Rich Wiles/BADIL)



In what follows we offer an overview of the various dimensions and aspects of the work needed in preparation for the return of Palestinian refugees. In general, we believe that the struggle for return needs to be cumulative, flexible, and sustainable:

1. Cumulative struggle: working towards return involves several dimensions and spheres of activity (as discussed below). These different aspects should be seen as supporting, feeding into and building on one another. In this way a versatile and coherent, rather than a disconnected and haphazard, struggle can evolve.
2. Flexible struggle: working towards return must be attuned to (sometimes sudden) changes in geopolitical circumstances, with a readiness to make quick shifts in strategy and priorities if necessary.
3. Sustainable struggle: the work described below needs to take place continuously, not only before the return itself, but also during and after the return process. The point is to avoid what happened in South Africa, where the civil society struggle against Apartheid focused on bringing about formal regime change, and when this happened in 1994, civil society lost its orientation in the new reality while many aspects of Apartheid persisted in different forms.

Dimensions of working towards return

First, underlying all of the expected preparatory work is our shared **vision** for the future society that would be formed in the wake of the return. It is our view that the principles comprising this vision should also inform, as much as possible, all aspects of the preparatory activity leading up to the return itself. These principles include, but are not necessarily limited to:

1. Democracy based on universal human rights, including the right of return
2. Social and economic justice
3. Cultural and educational justice
4. A peaceful, non-aggressive society

Second, we have identified four major geopolitical **spheres of action** in which the preparation of the return is to take place:

1. The Palestinian and Jewish diasporas;
2. The 1948 territory, comprising the Palestinian and Jewish populations currently living in the State of Israel ;
3. The 1967 territory with its Palestinian population (we subsume the Jewish settlers under the 1948 rubric due to their legal status as citizens of Israel);
4. The international community, comprising governments, NGOs, trade unions and so on.

Third, we have identified various **lines of action** that could be undertaken within one or more of the abovementioned spheres. By “lines of action” we refer to *general types* of activity, as opposed to specific, concrete actions. The main lines of action we have identified are the following:

1. Facilitating grassroots initiatives
2. Raising awareness and transforming consciousness
3. Advocacy and campaigning
4. Network and coalition building
5. Knowledge building
6. Adaptability to contingencies

Fourth, we have identified specific, concrete **forms of action**, which may be mapped out according to the sphere(s) to which they pertain and the line(s) of action that they embody. The table below lists the various forms of action we have come up with and associates each of them with its appropriate sphere(s) and line(s) of action.

What is most important in the model we offer here is primarily its general structure rather than the specific details it contains; spheres, lines, and forms of action may be added or removed as needed. In this sense, our “roadmap” for preparing the return may and should develop over time.

Forms of action

	DIASPORA (P/J)	1948 (P/J)	1967 (P)	INTERNATIONAL COMMUNITY
Facilitating grassroots initiatives	<ul style="list-style-type: none"> Helping to develop diaspora solidarity, support & participation in local initiatives Helping to establish action/working groups on the visions & practicalities of return; for example, locality-based working groups planning the return to specific places 	<ul style="list-style-type: none"> Providing resources, knowledge, and logistical support for local, community-based grassroots initiatives (e.g. marches, squats, study groups etc.) 		<ul style="list-style-type: none"> Helping to develop international solidarity, support and participation in local initiatives
Raising awareness & transforming consciousness	<ul style="list-style-type: none"> “Counter-Taglit” tours on both sides of the “green line” for young people of the Jewish and Palestinian diasporas, in order to familiarize the latter with the Nakba and the reality of apartheid Educating refugee communities about their legal status; their human, social, and cultural rights; and the actual current situation in the country Establishing working groups that will formulate visions of return and will play an active role in determining what return would look like 	<ul style="list-style-type: none"> Establishing a Nakba museum / education center(s) Organizing/facilitating visits of 1967 Palestinians to 1948 territories Attaining wider public exposure for current work done by Zochrot & Badil 		
	<ul style="list-style-type: none"> “Transformative healing workshops” to acknowledge past and present wrongdoings and to heal the emotional difficulties associated with them, so as to move from the position of “victim” to that of “victor” (along the lines of the workshops offered by Father Michael Lapsley’s Institute for the Healing of Memories, South Africa) 	<ul style="list-style-type: none"> Psychological preparation of both returning & receiving communities Using various forms of art as a tool for raising awareness, including creative/unconventional visual tools and various forms of theater (e.g. street theater, playback theater) 		

	<p>Advocacy & campaigning</p>	<ul style="list-style-type: none"> Working with diaspora communities to apply international pressure on Israel on the issue of return 	<ul style="list-style-type: none"> Advocacy campaigns for return vis-à-vis the Israeli government, Israeli NGOs and the general Israeli public Lobbying at different levels of Israeli governance (government, legal system, media, etc.) 	<ul style="list-style-type: none"> Advocacy campaigns for return vis-à-vis the Palestinian Authority (?) 	<ul style="list-style-type: none"> Working in the international community (governments, trade unions, NGOs, etc.) to gain wider international recognition of the right of return and to apply international pressure on Israel on this issue
<p>Network & coalition building</p>	<ul style="list-style-type: none"> Creating a democratically organized, community-based "Coalition of Return" to coordinate and implement the return process continuously before, during, and after the return. The communities directly involved in & affected by the return (i.e. all Palestinian communities around the world & the Jewish community in I/P) will form the core of the Coalition and will have voting rights in the Coalition's General Assembly and other decision-making bodies. Other communities, organizations, and individuals supporting the return will participate in the Coalition as observers without voting rights. Using social networking & mapping technologies to establish ongoing connection & communication among Palestinians & Palestinian communities around the world 				
<p>Knowledge building</p>	<ul style="list-style-type: none"> Establishing "professional forums" (e.g., lawyers' forum, planners' forum, etc.) to prepare the professional knowledge needed for the return, as well as to undertake various "counter-activities" (e.g., counter-mapping, counter-legislation, etc.) Continuing the current knowledge-building work done by Zochrot & Badil 				
<p>Adaptability to contingencies</p>	<ul style="list-style-type: none"> Collecting documents and oral histories on Palestine and the Nakba, with a view to gathering systematic data that would assist the various groups working on practicalities of return Maintaining sensitivity to changing geopolitical circumstances and being prepared to undertake quick shifts of strategy & priorities in response to these changes 				

Reparations

by *BADIL-ZOCHROT*

The project of building houses for the repatriation of refugees from District 6, Soth Africa. 2012.
(© Photo: BADIL)



Some of the Lessons from the South African Restitution Experience

In the discussions, meetings and visits conducted as part of the BADIL-Zochrot study visit in Cape Town, several issues were raised that we saw as being of direct relevance to restitution and reparations in the case of Palestine. These included the following:

(note: some of these may not have been directly experienced in South Africa, but were raised as questions and concerns by study visit participants in their examination of the South African restitution experience)

1. In assessing return and restitution claims, the evidence accepted as part of these claims in the South African case included a combination of official documents, archival materials and "triangulated" (cross-referenced) oral history (e.g. asking former neighbors). We found this to be a good combination of rigor and flexibility that can be adapted to Palestinian reparations claims.
2. Several South African activists characterized the post-liberation state as a "Nanny State," in which there was an overreliance by citizens on the transitional authority/state institutions at the expense of community and citizen empowerment. A possible lesson is to encourage community claims in which the onus is on civil society level activity among claimants (e.g. claimants struggling to return to a particular village or urban neighborhood) to develop and put forward their own plans for how to implement their own reparation and return.
3. Purely rights-based approaches that emphasize the restitution of properties and/or the responsibility of the state in acquiring the land from subsequent occupants in order to return them to their returnee owners are replete with problems. These include:
 - a) Such approaches often reward perpetrators of Apartheid by allocating state funds to purchasing properties from them at market prices;

- b) Issues of economic sustainability and development objectives are not built-in to restitution. As such, restituted farm-land may be turned into housing with negative effects both on the economic and environmental level);
 - c) Economic disparities among returnees, as well as between returnees and occupants can be further entrenched. For instance, those with access to resources are more likely to be able to submit well-argued claims because of access to information and lawyers; those who owned a great deal of property before displacement end up with much more than those who did not own property; etc.
 - d) The passage of time has meant that communities and claimants are exponentially larger in number and diversity than they were at the time of displacement (for example, a village that had one thousand inhabitants in 1948 is a place of origin to many more thousands of people today; a refugee couple from 1948 is likely to have a family numbering dozens of heirs today; a third- or fourth-generation Palestinian refugee is likely to have claim to several properties in several locations depending on what was owned by the refugee's grandparents and great-grandparents).
 - e) Even with a flexible mechanism that incorporates a broad range of acceptable evidence for deciding claims, not all refugees may be able to prove rightful ownership of properties.
4. The involvement of global powers and international financial institutions (such as the International Monetary Fund and the World Bank) in determining the shape of post-apartheid transition proved to be detrimental to the liberated people of South Africa. By entrenching class differences that existed largely along racial lines, economic arrangements made, that overwhelmingly favored the wealthy elite minority, have served to make the poor poorer, while increasing the fortunes of the very few. One lesson from this is that any financial assistance to be accepted to facilitate post-apartheid transition should be unconditional, and that priority should be given to self-reliance and creativity in securing the funds necessary for the process.

Assumptions

A fundamental assumption that our discussions assumed as given was that Zionism and its hold on power in Palestine has been overcome. As such, we aimed to propose and discuss ideas about the restitution of land and property to displaced Palestinians to be carried out as part of a transitional arrangement. In this, we further assumed the existence of a transitional authority with access to such resources as state funds and expertise.

Furthermore, and although we did not reach complete consensus on this, we assumed the transition to be taking place in the context of a state on the entire mandate territory of Palestine, in which all Palestinians (whether or not they have been displaced) and Israelis receive the citizenship of the new unified state, while allowing for multiple citizenships.

Principles

Our discussions on the mechanisms of reparations, restitution and land and property redistribution, gave rise to the following key principles:

1. Palestinians have a guaranteed right to choose whether or not to return and receive compensation.
2. The fundamental human rights of all citizens are to be guaranteed, particularly their rights to equality and housing. The right to housing of all citizens is to be central to the constitution and priorities of the new state.

Thinking Practically about Return

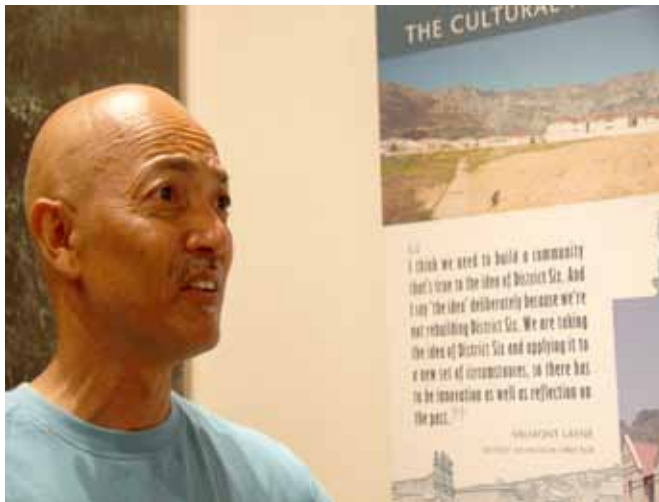
3. Refugee/returnee participation must occupy a central position in all decision making relating to the reparations process.
4. There can be no discrimination on the basis of gender between claimants.
5. Citizenship is to be given to all refugees who want to return. This is to be done at the beginning of the process, as soon as returnee claims are processed.
6. Special attention is to be given to environmental and economic sustainability, the creation and preservation of public space, and the beauty of the landscape.
7. To the greatest extent possible, all Palestinian claims are to be treated equally. The purpose of return and reparations is not to return the descendants of landlords and peasants to the socioeconomic positions of wealth or poverty that they were in before the Nakba.
8. The title of absentee landlords who did not live in Palestine pre-1948 is not to be recognized.
9. Claims are to be dealt with on the basis of the specificities of their context rather than developing a set method and mechanism of restitution to be applied to all claims. The aim of the reparations process should be far-reaching redistribution rather than return to the pre-1948 situation.
10. Incentives (e.g. awards, recognition) should be established for people who compromise something to facilitate the return and reparations process.

Initial Proposals for Reparations Process

What follows are some preliminary ideas on ways in which the reparations process can be carried out in line with the lessons, assumptions and principles outlined above.

Phase One (before, during and after return)

South African activist speaks to BADIL-Zochrot members about his family's experiences of forced removals from District 6 and political arrests, 2012. (© Photo: BADIL)



Examine and map the existing situation of each locality. Localities are places of origin including villages, urban neighborhoods and can also include refugee camps (for those who would prefer to remain in these areas) throughout the Mandate territory of Palestine. These can combine the 1947 and present maps of the country. Such mapping exercises would aim to enable the development and presentation of different reparations scenarios (zoning plans, economic development ideas, etc.) of land use upon return. Such models can include (one or more of):

- Rebuilding community space (establishment of a new locality);
- Economic project/s: tourism, industry, agriculture, national parks, universities etc.;
- Urban, sub-urban, rural absorption options;
- Small and large / collectively and privately owned farms and agricultural projects;
- Monetary compensation/restitution;
- Other options.

Work on the tasks related to this phase can begin now, and build both on work already conducted to map out various localities and on technological advancements that allow for mapping and representation of the space and features of different localities that can be presented to displaced communities.

Phase Two: Implementation

In implementing reparations, we discussed *four possible tracks* that returnees can use. These tracks are mutually exclusive, that is, returnees cannot submit claims as part of more than one track.

Track One: Individual Returnee (Fast Track)

Individuals would return without any form of property restitution. The incentive for this would be speedy processing of their claims. Successful claimants would immediately receive their citizenship papers and a modest compensation package while forfeiting other reparations packages. Such claimants would also be considered to have facilitated the reparations process and receive recognition as such.

Track Two: House Still Standing (Direct Restitution Track)

This would only apply to properties (particularly homes) that are still standing, whether or not they are currently occupied. Such claimants would file claims for restitution and go through mediation and arbitration in cases where there is a “second occupant” (e.g. someone living in the house).

Second Occupant Cases

While only a minority of cases, second occupant cases (cases where an original owner was forced to abandon the property which was later occupied by the occupant who acquired it in good will) are associated with a host of problematic issues deserving of further investigation. The guiding principles for such cases *should give priority to consensual resolution* (through mediation) while guaranteeing the right to housing for both the original owner and the occupant. This track does not apply to people who were tenants at the time of displacement. Some of the guidelines that emerged from our discussion on how to deal with such cases included:

- In all cases, legal title should revert to the original owner and their heirs.
*We faced a point of disagreement on the issue of possession, namely, whether eviction and relocation of the occupant is permissible under any circumstances. In such cases, some of the proposals included the possibility of allowing occupant's possession to continue until the occupant passes away (lifetime lease).
 - In all cases, the state/transitional authority is responsible for finding housing for whichever party ends up without housing as a result of the arbitration. If the occupant gives up the house, considering the possibility that s/he gets full compensation which enables him/her to acquire another house or compensation amount at the market value of the relinquished property that can be inherited by the occupants' heirs.
 - Israeli regime members given property by party and/or state should be considered as having very weak claims to maintain occupancy of the properties.
- Public acknowledgement of the history of the property (how its original owners were displaced and how it was later obtained by the occupant) can be considered as options in the mediation and arbitration process.

Track Three: Community Reparation Track

This track is itself divided into three phases.

Phase 1 (3-5 years)

First phase would be to allow claimants to sign up to a community of returnees based on locality (e.g. Deir Aban, Haifa, Bethlehem, etc.). The communities refer to localities throughout the country but not restricted to refugees from them, i.e. it is entirely based upon the returnees' choice. For example, the Deir Aban community can include refugees from Ajjurr who wish to join them.

Phase 2 (can begin immediately alongside the work of mapping and planning return communities)

This phase involves community meetings, preferably led by community members themselves, in which different workable scenarios of return are presented to and discussed by returnees. Participatory and community-led process in which decisions can be made as to how to allocate and divide the restituted property and in which kind of community and life style they wish to live. The foundation for this is to be based on community approval and expert feedback regarding feasibility. In this process, economic and environmental sustainability are to be given priority alongside community approval.

Phase 3 (upon reaching community approval of a reparations plan)

Implementation of reparations plan with emphasis on community leadership and participation.

Track Four: Public Housing Track

In this track, the state/transitional authority plans and constructs housing units in places most suited to such construction on the basis of economic and employment development goals, (in ways that learn from the successes and failures of the Jewish Aliyah processes) in which housing projects are planned in relation to development considerations, possibilities and objectives. Individual refugees can sign up to be considered for housing in these housing projects. Priority will be given to the returnees originally from the areas in which these housing projects are built. Track Three returnees whose localities cannot be restituted can also be given priority for such housing, while also receiving forms of compensation (monetary and or leases on an individual or community level for lands that cannot be restituted).

*There is a question as to whether title to the housing should belong to the recipients or to the state.

Issues of Concern

In our discussions, several issues were raised that require much further discussion and exploration. Initial thoughts were outlined on how to deal with such issues as follows:

- In cases of collective property claims (Track 3 reparations), who can claim to represent the community? The goal should be horizontal returnee participation in which there is broad based and participatory decision making, mediated by the transitional authority and community members and leaders chosen by the community. "Popular return committees" elected by community claimants are one possible mechanism for representation.

- Where will the money for all of this come from? A substantial allocation of the state budget is essential (the current Israeli State's military budget, for example, should be rendered unnecessary by the reparations process). Furthermore, international community funding will be essential, and can draw on the possibility of short term continuation of existing international funding for such bodies as UNRWA and the Palestinian Authority.

- How far back do we go? What is the cutoff/starting point in time? Possibilities discussed included leaving the option for claims open (i.e. if a returnee can make a valid claim for any time in the past then the claim should be considered); or to set a cutoff date of the earliest cases of Palestinian evictions under the British mandate in the 1920s.

-Who has title in communal reparations (Track 3)? Leaving the answer to this question open, to be decided on the basis of the particular locality's context.

Possibilities can include municipal authority ownership, private ownership in cases where the small plots of land are allocated, state ownership also a possibility. What to do in cases in which there is no community level consensus or agreement requires further exploration.

-Much of the reparations results may lead to segregated communities where Jewish and non-Jewish citizens live in isolation from one another. How can such a situation be avoided for the purposes of medium and long-term integration and reconciliation?

Incentives should be created for mixing communities (e.g. housing subsidies, larger compensation packages for people opting to live in communities of the “other”). Current (Jewish) occupants who relinquish, and thereby facilitate reparations process can be given priority access to other returnee housing.

-What is to be the fate of the OPT and the settlements?

Also to be treated as context sensitive. Title for land where settlements have been built on privately owned land should be returned to the rightful owners with mediation and adjudication as to options for settlers, including relocation, tenancy agreements, etc. There should also be special arrangement for settlers who took land violently on their own volition. All rural and agricultural lands (not built-upon) should be immediately restituted to owners.

-With the influx of returnees, how is employment and economic capacity to be created to minimize pressure on the state, economy and environment?

This should be given particular emphasis in community mediation processes (Track 3) as well as priority in the reparations process as a whole. Compensation packages can also incentivize the possibility for some claimants, particularly those with other passports, to opt out of the reparations process, while maintaining the primacy of returnees’ choice.

-With such an ambitious process of creating and guaranteeing housing for returnees, is it not a contradiction to allow for continued cases Jewish homelessness in the country?

The right to housing should be guaranteed for all citizens of the state, which includes Jewish citizens. Issues of prioritization require further discussion, including prioritization between Palestinian claimants.

-What about Internally Displaced Palestinians on both sides of the “Green Line”?

There should be no differentiation between external and internal refugees in terms of access to the reparations process.

-What about restitution of Jews expelled from Palestinian areas?

The reparations process should be open to Jewish citizens’ claims.

-What about refugees who wish to remain in the OPT?

This option should remain open, and perhaps even incentivized through various compensation packages. It may form the basis for a fifth track of claimants (a compensation track).

-What about refugees who wish to remain in host countries?

For those who do not possess citizenship in these host countries, this is a matter for negotiations with the host countries. Such cases can also be included in the “compensation track” suggested in the previous item.

-What about Jews displaced from Arab countries?

This is primarily an issue to be decided by the countries of origin, and can be an issue taken up for negotiations between the new state and those states.

Outstanding Issues/Questions

These are issues requiring further discussion and exploration that were raised but not discussed:

- What possible issues/problems might emerge from having a differentiated legal regime over land (e.g. collective in some cases, state ownership in others, and private ownership in others?)
- Given that there will be no discrimination on the basis of gender, and that the majority of claimants will undoubtedly be family members (i.e. married, parents of adult offspring): how many claims can a family submit? How can this be administered?
- Given the limitations on resources, job opportunities and available housing, and given that successful claimants will have an immediate right to citizenship, how is the timing and prioritization of return to be decided.
- Should there be a limitation on alienation (particularly sale) of restituted property as in the South African case?
- What about lands sold to Israelis in bad faith or under coerced agreements?
- What about the Mizrahim who are the other victims of Zionism?

Issues of Disagreement

These are issues on which we could not reach consensus within our discussion groups.

Note: some of these have been mentioned above.

- One state solution vs. two-state solution in which reparations for displacement takes place.
- Permissibility of forced eviction in second occupant cases where no agreement can be reached through mediation.
- Regarding refugees who choose to stay in their host countries: The refugees will choose whether to return to Palestine or stay in the host country and give up their return. Disagreement over goals of incentives to be offered: one argument was that reduced compensation in such cases is desirable

to maximize state resources available to be invested within the new state. Another argument was that incentives given for people to stay in their host countries would help prevent rapid overpopulation and pressure on state capacities and resources.

Sunlight catches blossom flowers outside one of Bayt Jibreel's original Palestinian houses.
(© Photo: Makbula Nassar.)



Visions for a New State

by BADIL-Zochrot



A displaced child looks out across the valleys of South Hebron Hills in the village of Umm Fagarah following the demolition of the village mosque and two houses. 2012
(© Photo: Rich Wiles/BADIL)

1. Reconciliation and Justice

Truth and Reconciliation Process

Redressing continued injustices suffered by Palestinian victims of Zionist colonization and state violence should be a multi-tiered process that entails several different and parallel mechanisms. A legal system set up by the transitional authority would determine, through extensive and transparent deliberations, specific criteria for indicting perpetrators as well as levels of culpability for acts of violence. In general, violent acts committed as part of justified Palestinian armed resistance to occupation will not be considered on par with violence perpetrated by the occupiers.

However, we believe that the meaning of justice cannot and should not be limited to formal and/or state-sanctioned legal procedures, and that there should be several decentralized mechanisms for accountability, out of which the courts (and their legal power to mete out punishment) constitute merely one. The majority of those involved in acts of violence, oppression and other forms of human rights violations should be held accountable through public hearings from the national to the local and communal level.

The purpose of the reconciliation process is twofold: redressing injustice through restitution (implemented through mechanisms determined by the transitional authority) and public acknowledgment of injury. We are convinced that a focus on truth-telling rather than crime will encourage the majority of Israeli-Jews to confront and work through Palestinian stories of loss, imprisonment and resistance as well as promote collective healing and a renewed sense of shared humanity.

Trauma and Healing

It is our belief that the unique cultural makeup of society in Palestine calls for careful planning and mobilization of available resources in any process of healing trauma. First, we acknowledge that the significance of religion in people's lives requires that religious communities and leadership be called upon to take a role in the process. Second, we propose adapting traditional reconciliation mechanisms and practices from our own cultural contexts such as the *Sulha*.

In addition, we should explore the adaptation of practices from other similar contexts of decolonization, ethnic and inter-communal violence and subsequent reconciliation, such as the Truth and Reconciliation Commission (TRC) in South Africa and the *Gacaca* courts in Rwanda. Moreover, we deem it vital to consult with organizations and institutes with global experience in several other contexts, such as the Centre for the Study of Violence and Reconciliation (CSV) and the Institute for Healing of Memories in Cape Town.

Overall, the prevailing approach in our proposal is to stress the concept of *Ubuntu* and similar approaches from our immediate cultural spheres that favor *restorative* rather than *retributive* justice, and are based on shared experience in which "I am human because you are human."

On an institutional level, we propose establishing government-funded trauma centers and other programs of psycho-social support targeting not just individuals but also their communal context, and seeking healing not just the lives of individuals but also the fabric of social relations. Such centers will also promote platforms for community discussions and bringing people together. This will hopefully contribute to building communities that do not dwell on memory and victimhood but are future-oriented yet commemorating survival and promoting victory over adversity. On a national level, we believe creative use of various media (such as the visual arts, theater and print media) will also promote healing and reconciliation.

Finally, it is vital to stress that the process of healing will ideally espouse not only trust among individuals and communities, but equally important, bolster faith in the process of reconciliation itself.

2. De-Zionization of Culture and Education

Commemoration

Our fundamental approach is that the healing of painful (individual and collective) memories does not entail imposing forgetfulness or silence, but rather encouraging the formation of life-affirming memories and commemorating struggle and survival instead of victimhood and injury. Therefore, a key aspect in the emerging culture of memory must involve decolonizing and repurposing buildings and other former sites of oppression and violence, such as prisons and ethnically cleansed locales. As these sites of memory should be meaningful to as broad as possible sections in society, they will be selected through public consultation. While some sites of commemoration will be state-funded and maintained, others will be constituted by communities, reflecting the diversity and multiplicity of memory.

Symbols and Languages

In the realm of symbols and in the spirit of the new culture of reconciliation, the transitional authority and the subsequent political structure in Palestine will institutionalize bilingualism as an official policy. Arabic and Hebrew will thus become the state's official languages, on an equal basis.

Concomitant with the formation of this emergent culture, we propose promoting public discussion about the name of the new state, its flag and other symbolic representations. Recognizing that de-Zionizing lived and public spaces constitutes a vital aspect of creating a shared homeland, we also acknowledge the importance of remapping and renaming streets and other public spaces through public consultation where possible, aiming to make these spaces meaningful to all.

Education

Acknowledging that the culture of reconciliation will only be sustainable through education, and moreover, that post-memory and trauma are transmitted across generations, we wish to stress the importance of overhauling and rethinking the entire state education system. The key principle guiding this reform will be the promotion of diversity and pluralism within one formal state-funded system. The new educational vision promoted by the system will endorse and celebrate processes of healing and reconciliation taking place in society at large. It is vital that education from kindergarten to university be free and accessible for all. Additionally, the medium of instruction will be at the discretion of each school; while relatively homogeneous communities may opt for either Hebrew or Arabic, others may favor a bilingual immersion approach. In any case, proficiency in both languages will be mandatory for all students, with instruction starting already in the pre-kindergarten age. Finally, special bilingual education will be provided to newcomers as well as the country's current adult citizens.

Although neither language will be privileged in the realm of law, initially the acquisition of Arabic will be promoted among the Jewish population in order to bring the two languages to par.

3. Statehood

Structure

We believe that the structure and specific political formation of the new state should be determined democratically through broad public consultations and deliberations. Acknowledging that many issues will be contentious and subject to heated public debates, we tentatively set forth several guiding principles that we consider ideal. It is our hope that the new political structure created in de-Zionized Palestine will be that of a single democratic state (as opposed to the logic of ethnic separation embedded in the "two-state solution") with clear separation of church and state. This society will ideally be demilitarized, but due to the highly speculative and futuristic nature of this document, and the unstable political situation in the region, we have not managed to come to an agreement regarding the necessity of a standing army.

Citizenship

One powerful lesson learned from the ethnicized and racialized Zionist and South African systems of immigration and pass laws is that in the new state, such system must be completely de-racialized. A paramount aspect of this process will be repealing the 1950 Law of Return, which grants automatic and privileged citizenship to Jews, and prioritizing naturalization of Palestinian refugees in its stead. Diaspora Jews will be permitted to apply for citizenship, although not as part of any prioritized process.

We envision an immigration system that is on the one hand flexible, yet also embedded with mechanisms to control potential influx of non-Palestinian immigrants. Nevertheless, given the bitter lessons learned from the Zionist State, the new political entity in Palestine will offer asylum to refugees and persecuted individuals regardless of race, ethnicity, religion, gender or sexual orientation in accordance with international law.

Palestine's Ongoing Nakba is the Responsibility of Israel and the International Community

Joint statement on the 64th Anniversary of the 1948 Nakba

May 14, 2012

For nearly a century the great powers of the international community have continued to unjustifiably marginalize and ignore the will of the Palestinian people, effectively stripping them of their fundamental rights. In 1922, the League of Nations rubber stamped the British Mandate in Palestine, paving the way for the implementation of the colonial Balfour Declaration and the establishment of a Zionist homeland in Palestine at the expense of the Palestinian people. In 1947, the General Assembly of the United Nations issued resolution 181, the partition plan for Palestine, under which the state of Israel was created, and which effectively led to the attempted destruction of Palestinian society, including the displacement of nearly two-thirds of the indigenous population. Since 1967, the UN Security Council has debated the meaning and validity of resolutions calling for Israel's withdrawal from territories occupied by force in the 1967 War. Since the "peace process" was launched in the early 1990s, not only has the international community been unable to compel Israel to respect the agreements it has signed, but has also been unable to stop grave violations of Palestinian rights. The impotence of the international community, which initially enabled the trampling of Palestinian human rights, continues to allow for the continuation of the ongoing Nakba; for the constant deprivation of the Palestinian people from the enjoyment of their fundamental rights.

For sixty-four years the Palestinian people have suffered the Nakba, the effects of which have escalated and the consequences of which have varied, to the point where it has become an ongoing Nakba because of the colonial and racist policies practiced by Israel against all Palestinians, whether they reside in Palestine or in exile. In 1948, the UN General Assembly—the same body that facilitated the partition of Palestine through resolution 181—passed Resolution 194. This resolution has called for the return of Palestinian refugees to their homes from which they were displaced, the restitution of their properties and compensation for the injury done to them. Since its adoption, the international community has failed to implement this resolution. Beyond this, it refrained from providing international protection for Palestinian refugees, protection that refugees in the rest of the world are entitled to under international law. In 1967, the UN Security Council issued resolution 237 demanding that Israel allow the return of those displaced by the Israel's military occupation of the West Bank, Gaza Strip, Golan Heights and Sinai Peninsula. Since then, the international community has avoided even reminding Israel of that binding resolution.

Since the launch of the so-called "peace process," the international community has been unable to muster the will to hold Israel accountable for its refusal to fulfill its international obligations and its violations of international law. At most, international actors chastise "both sides" instead of demanding that the occupier ceases its illegal practices. Reports, including those of the various United Nations agencies, confirm the ongoing displacement of Palestinians on both sides of the Green Line; the systematic and institutionalized racial discrimination that Israel inflicts; the continuation of settler implantation; the Judaization of Palestinian villages and towns; the confiscation and seizure of natural resources; the oppression in all of its forms, including collective punishment; the blockade on the Gaza Strip; and other colonial and racist policies. Indeed, Israel's crimes and violations have only increased and intensified since the launch of the so-called "peace process".

International shortcomings in the protection of Palestinians is evident in the continued reduction of the services provided by UNRWA, one indicator of an international, and mainly Western orientation towards liquidating this agency that has been responsible for providing humanitarian assistance to Palestinian refugees until they are able to exercise their right to return under Resolution 194. No less significant are the shortcomings evident in the work of UNHCR to provide international protection for Palestinian refugees, especially those who have been displaced from Iraq after the U.S. invasion and occupation of that country. Most of these Palestinians—dispersed to countries such as Norway, Italy, Cyprus and Syria—continue to face the instability of their condition, the denial of their rights to legal refugee status, and/or the absence of other basic services.

Now, as the Nakba has continued for sixty four years, the undersigned organizations stress the following:

1. A just solution to the conflict is only possible if the causes, effects and driving forces behind the ongoing Nakba come to an end; and that a solution that rests on the fundamental principles of human rights and justice necessarily entails forcing Israel to submit to the rules of international law;
2. The enforcement of international law and the implementation of international resolutions, including the realization of the principles of international accountability, require immediate and effective action on the ground to put a stop to Israel's daily violations of Palestinian rights;
3. The inability of the United Nations and its agencies to implement its decisions, and particularly General Assembly Resolution 194 of 1948 and Security Council Resolution 237 of 1967, does not relieve states individually or collectively, or civil society in general from assuming their responsibilities to enable and facilitate the return of Palestinian refugees to their original homes from which they were displaced, the restitution of their property, and compensation for the damages inflicted upon them as a result of their displacement;
4. The continued use of avowedly "balanced" language by the relevant international bodies, those tasked with ensuring the enforcement of international law, and the United Nations in general through the use of vague formulas effectively equate the victim and the perpetrator, the oppressor and the oppressed. This contributes directly to the continuation of the Nakba and the violation of the rights of the Palestinian people by offering Israel the pretext and excuses to evade its responsibilities and escape accountability;
5. The end of the UN Conciliation Commission for Palestine that was tasked with ensuring the protection for Palestinian refugees according to Resolution 194, and the restriction of the work and mandate of UNRWA, places a greater responsibility on UNHCR to provide such protection for Palestinian refugees by ensuring their enjoyment of their rights according to the 1951 Refugee Convention, and specifically the application of Article 1.D.
6. More than at any other time in the past, the PLO is required to adopt a strategy that aims to put an end to the reduction of services provided to Palestinian refugees throughout their places of exile by working to ensure that the budget of UNRWA is not dependent upon donations and emergency grants; that it is treated like any other specialized UN agency by having its budget decided upon directly by the UN General Assembly.

 BADIL Resource Center for Palestinian Residency & Refugee Rights
 Al-Mezan Center for Human Rights
 ADDAMEER Prisoner Support and Human Rights Association
 Defence for Children International - Palestine Section
 Women's Centre for Legal Aid and Counselling



**“Concentration and Containment of the Palestinian People in Israel Proper and the oPt”
BADIL’s written statement to the HRC 19th session, (March 2012)**

BADIL Resource Center for Palestinian Residency and Refugee Rights
ENGLISH ONLY
HUMAN RIGHTS COUNCIL
Nineteenth Session, Item no. 7
27 February - 23 March 2012

Written statement submitted by Badil Resource Center for Palestinian Residency and Refugee Rights, a non-governmental organization with special consultative status.

Concentration and Containment

1. In 2011, approximately 1,100 Palestinians were displaced in the OPT solely due to home demolitions conducted by Israeli forces. 70% of Area C of the West Bank is reserved for the exclusive use of the Israeli military and the construction of colonies. Of the remaining land, 29% is severely restricted for Palestinians.¹

2. Additionally, only 13% of East Jerusalem is zoned for Palestinian construction – much of which is already built up – compared with 35%, which has been expropriated and zoned for the use of Israeli settlements. Based on Israeli policy which effectively bans Palestinian residents of Jerusalem from obtaining construction permits – even on the allocated 13% – 93,100 Palestinians were forced to build their homes without proper building permits and are at risk of displacement due to Israel’s discriminatory policy of demolishing houses.²

3. Moreover, on 11 September 2011, the Israeli Government approved the Praver Plan, which recommends the destruction of fourteen villages in the Beer Sheba district located in the Negev, effectively displacing 30,000 Palestinian citizens of Israel from their homes.³

4. The state of Israel is treating the territory of Israel and the Occupied Palestinian Territory (OPT) as one legal entity, which has two effects: (1) it places Israeli Jewish nationals, wherever they may reside, in a privileged position regarding land, housing and planning laws and (2) this is at the expense of Palestinians, wherever they may reside, who are collectively discriminated against by land, housing and planning laws. Thus, Palestinians living in the OPT as well as Palestinian citizens of Israel are discriminated against by Israel’s land, planning and zoning regime. This institutionalized discrimination is evident in land ownership; planning policies; freedom of movement between areas; and access to infrastructure.

5. Israel’s discriminatory land laws constitute a pillar of its colonial apartheid system. All Israeli land laws legislated since the Absentees’ Property Law of 1950 have served to expropriate individually and communally owned Palestinian land, transfer title to Israel or agencies affiliated with the World Zionist Organization/Jewish Agency, and to establish a land regime which reserves the right to the land for Jewish nationals as defined by the Law of Return.⁴

6. In order to achieve this aim, Israel has implemented various land and planning laws. These laws were formulated with two general policies in mind: (a) the ‘confiscation and colonization’ of the vast majority of Palestinian owned land; and (b) the ‘concentration and containment’ of the Palestinian population within small pockets of land, which are dispersed and fragmented across the OPT and within Israel.

7. This has resulted in many Palestinians being expelled from their homes and having their houses demolished without any offer of resettlement or proper compensation. Israel has intentionally caused this situation to arise and is therefore in breach of its international obligations to provide, among others, adequate housing to the occupied population or its own Palestinian Arab minority, for which it is responsible.

OPT

8. The Oslo Process 1995 resulted in the West Bank being divided into Areas A, B and C. This “administrative division” has served to reinforce Israel’s aim of concentrating and containing the Palestinian population.

9. The division of the West Bank into three ‘areas’ has left Palestinians with disproportionately less land to live on (Area A and B) and has prevented them from expanding naturally according to their needs, which has resulted in poor housing, overcrowding and restricted access to essential infrastructure. Area C which covers 60% of the West Bank remains under full Israeli civil and military control.⁵

10. Since the occupation began in 1967 “Israel has not permitted the establishment of any new Palestinian municipalities. Instead, Israel has used its authority under military law to confine the boundaries of existing municipalities.”⁶ This is “[d]espite the enormous growth of the Palestinian population since 1967.”⁷ Military Order 418 created a planning regime that affords “maximum control [to] the Israeli government...over all aspects of planning and development in the Palestinian communities.”⁸ Thus “[i]n the 1990s, Israel drew up detailed perimeter plans for some 400 Palestinian villages in the West Bank, essentially limiting [them] to their existing boundaries and prohibiting any development beyond them.”⁹ As a result of these combined policies, Areas A and B are “drastically fragmented and interspersed with, and encircled on all side by, vast areas of Israeli control[led]” Area C.¹⁰ Furthermore, the house demolitions and expulsion of Palestinians (particularly from Area C and East Jerusalem) has forced them to find housing in Areas A or B, thus exacerbating and increasing the already poor and deprived situation. This is particularly evident in the refugee camps throughout the OPT.

11. This containment of an ever-growing Palestinian population has resulted in many families living in overcrowded and damaging conditions because they are prevented from building on nearby land. The natural increase in population and the lack of modern facilities and infrastructure has left many families in substandard, underdeveloped houses.

12. Moreover, all Israeli/Jewish only colonies in the OPT – “the vast majority of [which] are established on land seized by Israel”¹¹ – must initially be authorized by the Joint Settlement Committee. This committee is composed in equal proportion of representatives of both the government and of the World Zionist Organization, preventing Palestinian inhabitants of the OPT from participating in any decision making that directly affects their housing situation. Houses in these settlements “are ostensibly sold on the free market to any buyer, though in fact they are sold exclusively to Jews.”¹² This demonstrates the discriminatory nature of Israel’s initial policies in confiscating land almost exclusively from Palestinians, while resettling only Jewish/Israeli settlers in those colonies throughout the OPT.

Israel

13. Within Israel itself population density levels in Arab villages are nearly four times higher than those in Jewish villages.¹³ As a result, Palestinians in Israel have been forced to build without the required planning permission, out of necessity.¹⁴ While authorities fight this “with the full force of their legal power,” similar practices among the Jewish community are treated “very tolerantly.”¹⁵

14. Furthermore, the average area of jurisdiction of Palestinian cities and local councils has decreased by 45 percent since the British Mandate. This is despite a sixteen-fold increase in the built-up areas of Palestinian communities.¹⁶ Therefore, most Arab localities “are dependent on decisions made by planning commissions on which, in the main [Palestinians] have no representation.”¹⁷

15. Much like in the West Bank, Palestinian communities often find themselves ‘cut-off’ from the surrounding lands.¹⁸ By contrast, even “the smallest Jewish localities...have detailed building plans and regulations regarding land use.”¹⁹ As summarized: “Israeli space has been highly dynamic, but the changes have been mainly in one direction: Jews expand their territorial control by a variety of means including on-going settlement, while Arabs have been contained within an unchanged geography.”²⁰ It is hardly surprising, therefore, that while today the Palestinian population makes up 18 percent of the total Israeli population, it owns only 3.5% of the land.²¹

Conclusion

16. BADIL- urges the member States of the Human Rights Council to:

- Register Israel’s system of institutionalized discrimination that distinguishes between Jewish nationals and citizens and Palestinian Arabs and extends from Israel Proper to the OPT.
- Register Israel’s continuing practices of house demolitions, land confiscations, and its adoption of policies resulting in inadequate housing and living conditions.
- Condemn Israel’s policy of land and resources grab in area c and in east Jerusalem in order to build and/or expand colonies while the Palestinian communities in these areas are prohibited from acquiring permits to build houses on their own land. To call upon Israel to immediately revoke all orders concerning the demolition of houses and eviction of Palestinians in the OPT.
- Condemn Israel’s practice of prohibiting Palestinians living in Area C and in East Jerusalem of receiving building permits and therewith hindering the natural growth of those communities.

*Endnotes: See online version at: <http://www.badil.org/en/legal-advocacy>

BDS Campaign Update (January – May 2012)

Demonstration against Israeli assault on Gaza Strip in Toronto, Canada on 27 December 2009. Photo: Coalition Against Israeli Apartheid (© caiaweb.org)



UK's student body endorses divestment

January 6, 2012—In a historic move, the National Union of Students (NUS) in the UK has committed its “resources and support” to any students wishing to organize their own campaign targeting companies complicit in Israel’s occupation and breaches of international law, and particularly Eden Springs and Veolia. This comes soon after the NUS’ National Executive Committee voted to condemn the collaboration between King’s College London (KCL) and Ahava.

BDS Campaign in France gains momentum after AGREXCO liquidated

January 15, 2012—The third national weekend of training and debates organized by the BDS French Campaign and held in Lyons saw the participation of more than 100 activists from all over France to share their experiences and exchange their views on different aspects of the campaign. The French campaign’s successful actions against the Israeli firm AGREXCO, which had been the campaign’s priority in 2011 were underlined and saw citizens’ actions and demonstrations that played a decisive role in the legal liquidation of the company, which represented an important victory over colonization and apartheid.

Italian BDS movement gains strength

January 21-22, 2012—The third national meeting of the BDS movement in Italy was held in Bologna with the participation of around 80 activists from over 20 cities representing groups, associations and political parties throughout the country. The scope of the meeting was to evaluate the progress of ongoing campaigns, establish strategic objectives and shared work methods, exchange information between the various Italian groups working on BDS and reassess organizational aspects of the BDS movement in Italy.

The meeting concluded with a commitment to further intensify the BDS movement in Italy, linking with movements in Europe and around the world, and a call on all Italian activists and people who hold dear issues of justice and peace to join in the struggle for civil, political and human rights of all the Palestinian people.

Distributor in Japan Drops Ahava due to its Illegal Practices

January 31, 2012—DaitoCrea, the general agent in Japan for Ahava Dead Sea Laboratories, announced on its website that they would no longer be distributing Ahava products manufactured in the Israeli illegal settlement of Mitzpe Shalem in the West Bank. This is the second major BDS victory in Japan, following on the success of the “STOP MUJI” campaign in 2010; where Palestine Forum Japan activists used a variety of tactics, including sending post cards, organizing a Twitter campaign, and staging in-store protests to pressure MUJI, a large Japanese retail chain that sells consumer goods and electronics, not to open a planned store in Israel.

Occupy Oakland movement endorse BDS

February 2, 2012—Participants of the Occupy Oakland movement voted to back the Palestinian-led BDS movement during a regular general assembly meeting at Oscar Grant plaza. In a near-unanimous passage of the proposal by 135 people voting yes, 12 abstentions, and 1 no vote, Occupy Oakland vowed to stand with the BDS movement.

Naples, Italy Stands For Palestinian Rights

February 13, 2012—The City Council of Naples, Italy approved a motion condemning Pizzarotti for its involvement in the Israeli high-speed train cutting through the occupied Palestinian territory. The decision of the Naples City Council, which follows that of Rho (Milan) on November 30, 2011, is a strong sign for responsible action by local authorities, in this case one of Italy’s largest cities. The BDS victory in Naples was won through the campaigning of the *Stop That Train* coalition which has called on all local administrations to endorse the “Pizzarotti-Free Cities” campaign and pass similar resolutions against Pizzarotti until it ceases involvement in projects in violation of international law.

England and Wales Green Party calls for revocation of JNF charitable status

February 28, 2012—Members of the Green Party of England and Wales voted overwhelmingly to support an international call for action against the practices of the Jewish National Fund in Israel and the Occupied Palestinian Territories, and to revoke its charity status in the UK. The Green Party endorsement of the Stop the JNF Campaigns comes after similar motions passed by the Scottish Green Party, Scottish Friends of the Earth, the Iona community and various trade unions all repudiating the JNF’s claim to be an “environmental charity” as well as the Early Day Motion by 64 members of the British parliament stating that there is just cause to consider the revocation of the JNF’s charitable status.

Canadian Graduate Students Vote to Divest from Israeli Occupation

March 21-22, 2012—Graduate students at Carleton University in the Canadian capital Ottawa overwhelmingly voiced their support for the Palestinian people, by voting for the university’s pension fund to divest from four companies that are complicit in the occupation of Palestine. The vote took place through a referendum question in which over 72 percent of the graduate students voted in favor of divestment. The referendum came about as part of a campaign spearheaded by Students Against Israeli Apartheid, formed in 2008, exactly twenty years after the Carleton Anti-Apartheid Action Group forced the university to divest from South African Apartheid.

Major Norwegian retail chain joins Ahava boycott

March 23, 2012—Norwegian retail chain VITA announced that they will stop all sales of products originating from settlements in occupied Palestine, particularly Ahava. VITA has been the main retailer of Ahava products in Norway, and this decision will be a serious blow to the sales of Ahava products in Norway. VITA's position of not wanting to contribute to the Israeli occupation is shared by Norgesgruppen, the company holding 49 percent of the shares in VITA. BAMA, another Norgesgruppen company has implemented the same policy regarding Israeli fruit and vegetables for several years already. The VITA decision came after a period of active lobbying from Norwegian People's Aid and the Norwegian Union of Municipal and General Employees (Fagforbundet), providing VITA and VITA's owners with information about Ahava and their production in the Mitzpe Shalem settlement.

National M.E.Ch.A. Endorses Palestinian Boycott Call Against Israel

March 30, 2012—At the 19th annual national conference of M.E.Ch.A. (Movimiento Estudiantil Chicano@ de Aztlán), the largest association of Latin@ youth in the US, chapter leaders voted by a landslide decision to endorse the global call for Boycott, Divestment, and Sanctions (BDS) on Israel due to its military occupation and settlement of Palestine. The announcement coincided with international observances of "César Chávez Day" and "Land Day," commemorating ongoing civil rights and anti-colonial struggles for Latin@s and Palestinians. The conference included 600 participants and took place in Phoenix, Arizona.

G4S contract with the European Parliament cancelled on Palestinian Prisoners Day

April 17, 2012—The European Union declined to renew a contract with private security company G4S amidst concerns raised by MEPs and campaign groups about the role the company plays in equipping Israeli prisons in which Palestinian political prisoners are held in violation of international law. G4S has provided security services to the buildings of the European Parliament since 2008 but the contract award notice (service contract 118611-2012) published on the EU official tenders' website showed that G4S had lost its contract with the European Parliament. In March 2011, a group of 28 Members of the European Parliament, including 8 MEPs from Denmark and 6 from the UK wrote a letter to former EU Parliament President demanding that the Parliament drop G4S as the principal security contractor if it continued to provide security services to illegal Israeli settlements, checkpoints and Israeli prisons at which Palestinians are detained. Their demands were a response to investigations conducted by the Danish NGO DanWatch and a report made by the Israeli research project "Who Profits" which revealed and documented G4S' implication in illegal activities in the Occupied Palestinian Territory.

UMass Boston Student Senate Calls For Divestment from Boeing

April 18, 2012-- The UMass Boston Undergraduate Student Government unanimously passed a bill demanding that the UMass Foundation, the university's investment fund, divest from Boeing and other companies profiting from war crimes and/or human rights violations. The decision to divest from Boeing is based on the company's record of actively manufacturing and selling weapons that have been used in direct attacks on Palestinian civilians, a violation of international humanitarian law and human rights. The bill specifically highlights the connection between Boeing and Operation Cast Lead, Israel's 3-week military onslaught against the Gaza Strip in 2008-09, during which 1,300 Palestinians were killed, most of them civilians, including 412 children. Boeing produces the Hellfire missile and AH-64 Apache attack helicopters, both of which are documented to have been used in Operation Cast Lead.

Egypt to boycott 'pro-Israel' Adidas kit manufacturer

April 19, 2012—Egypt Football Association (EFA) president Anwar Saleh confirmed that Egypt will boycott the Adidas sportswear company to comply with the decision of the Arab Youth and Sports

Ministers. The decision came after an announcement earlier in April by the Arab Council of Youth and Sports Ministers that “all companies that have sponsored the marathon in Jerusalem, including Adidas, will be boycotted.” Sports apparel manufacturer Adidas was the only non-Israeli sponsor of that race, and which the Council considered to be an attempt by “Israel to mislead public opinion into believing that Jerusalem is its capital which is a violation of all UN resolutions.” EFA officials have announced that their boycott of Adidas will entail the loss of 1.7 million euros for the Egyptian organization.

Scottish TUC delegates unanimously support BDS and Palestine freedom struggle

April 25, 2012—The 450 delegates to the Annual Conference of the Scottish Trades Union Congress (STUC), the umbrella group for every trade union in Scotland, voted unanimously and repeatedly against Israeli apartheid, with resolutions to: campaign to expose the role of the racist JNF (Jewish National Fund) in the Israeli apartheid system; support the participants in the Welcome to Palestine initiative who tried to travel peacefully to Palestine via Tel Aviv Airport; fully support the Palestinian-Brazilian call for the World Social Forum-Free Palestine in Brazil in November; and support the Palestinian hunger strikers and the work of Addameer, the Palestinian prisoner support organization.

Co-op boycotts exports from Israel’s West Bank settlements

April 28, 2012—The UK’s fifth biggest food retailer and its largest mutual business, The Co-operative Group, decided to end trade with companies that export produce from illegal Israeli settlements. It is the first major European supermarket group to do so. The decision directly affects four companies and contracts worth some £350,000: Agrexco, Arava Export Growers, Adafresh and Mehadrin, Israel’s largest agricultural export company. Other companies may be affected by the policy.

Over 150 Professors in US come out in defense of right to support BDS

April 28, 2010—Over one hundred and fifty prominent US college professors signed a letter objecting to an advertisement in The New York Times by David Horowitz naming individual faculty members at several US colleges and accusing them of inciting murder of Jewish children, and likening the movement to boycott Israel (BDS) to Nazism. The response letter was not published by the New York Times, but is available online at:

<http://pennbds.org/press-releases/20120428-letter-to-the-editor-of-the-nyt>

United Methodist Church steps up support for the Kairos Palestine document

May 2, 2012—The General Conference of the United Methodist Church decided to call for an explicit boycott of all Israeli companies “operating in the occupied Palestinian territories,” knowing that this constitutes the absolute majority of Israeli corporations. This and the overwhelming support for the “Kairos Palestine” document and its call “for an end to military occupation and human rights violations through nonviolent actions,” which include boycott, divestment and sanctions (BDS), will pave the way forward for further action by the Church to hold Israel accountable for its colonial and apartheid regime.

Global Appeal for Stories of Palestinian Displacement



BADIL is delighted to announce the launch of the new 'Ongoing Nakba Education Center' (ONEC) website:
www.ongoingnakba.org

The participatory website uses multi-media tools to build a significant advocacy resource relating to the historic and ongoing displacement of the Palestinian people. The website is already online in both english and arabic, although it is constantly being updated and developed with new tools. In this regard, BADIL is launching an international call to Palestinians everywhere, and to non-Palestinians working to support the dissemination of stories of Palestinian displacement.

We are seeking multi-media tools such as photographs, short films, or audio recordings through which stories of Palestinian displacement are told. These tools can relate to any period of Palestinian history and can be in either english or arabic.

These tools may include photo stories of demolitions or mass displacements, oral history audio recordings or interviews with or by displaced people, short films about an issue or area of displacement, or any other related multi-media productions.

This call may be particularly relevant to photographers, film-makers, journalists, oral history programs, academics, or activists working around these issues, but this call is not limited to professionals in these areas. We are not only seeking finished professional productions, or materials made with professional equipment. Raw collections of photographs, unedited film or audio can also be very valuable to the project and BADIL's experienced team will work to turn raw materials into strong edited advocacy tools about displacement. In all cases, people contributing materials will be credited for their work.

If you are have any potential multi-media advocacy tools, or are interested in producing some, please contact BADIL for further information on the below email: rich@badil.org

<p>ONGOING PROGRAM OF PUBLIC EVENTS, DAILY ACCESS TO PUBLIC LIBRARY</p> <p>ROTATING PHOTOGRAPHY EXHIBITIONS FOCUSING ON ONGOING DISPLACEMENT</p> <p>OPEN DAILY FROM MAY 2012</p>			<p>برنامج مستمر من الأنشطة العامة بما في ذلك الاستخدام اليومي للمكتبة</p> <p>معارض فوتوغرافية متجددة تركز على التهجير المستمر</p> <p>مفتوح يوميا</p> <p>بدءاً من أيار ٢٠١٢</p>
	<p>NEW PARTICIPATORY WEBSITE FEATURING A WIDE AND EXPANDING RANGE OF MULTI-MEDIA ADVOCACY TOOLS RELATING TO THE ONGOING NAKBA.</p>	<p>موقع إلكتروني متخصص لرصد تهجير الفلسطينيين المتواصل، يحتوي على مجموعة كبيرة ومتنوعة من المواد الإعلامية التي تتناول أوجه النكبة المستمر.</p>	
<p>WWW.ONGOINGNAKBA.ORG</p>		<p>WWW.ONGOINGNAKBA.ORG</p>	

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Al-Majdal is Badil's quarterly magazine, and an excellent source of information on key issues relating to the cause of Palestine in general, and Palestinian refugee rights in particular.

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ABOUT THE MEANING OF AL-MAJDAL

al-Majdal is an Aramaic word meaning fortress. The town was known as Majdal Jad during the Canaanite period for the god of luck. Located in the south of Palestine, al-Majdal was a thriving Palestinian city with some 11,496 residents on the eve of the 1948 Nakba. Majdalawis produced a wide variety of crops including oranges, grapes, olives and vegetables. Palestinian residents of the town owned 43,680 dunums of land. The town itself was built on 1,346 dunums.

The town of al-Majdal suffered heavy air and sea attacks during the latter half of the 1948 war in Palestine. Israeli military operations (Operation Yoav, also known as “10 Plagues”) aimed to secure control over the south of Palestine and force out the predominant Palestinian population. By November 1948, more than three-quarters of the city’s residents had fled to the Gaza Strip. Israel subsequently approved the resettlement of 3,000 Jews in Palestinian refugee homes in the town. In late 1949 Israel began to drive out the remaining Palestinian population using a combination of military force and administrative measures. The process was completed by 1951. Israel continues to employ similar measures in the 1967 occupied West Bank, including eastern Jerusalem, and the Gaza Strip.

Palestinian refugees from al-Majdal now number over 71,000 persons, and Israel has Hebraized the name of their town as “Ashkelon.” Like millions of other Palestinian refugees, Majdalawis are not allowed to return to their homes of origin. Israel opposes the return of the refugees due to their ethnic, national and religious origins. *al-Majdal*, BADIL’s quarterly magazine, reports about and promotes initiatives aimed at achieving durable solutions for Palestinian refugees and displaced persons based on international law and relevant resolutions of the United Nations.

End of a Talk with a Jailer

From the narrow window of my small cell,
...I see trees that are smiling at me
and rooftops crowded with my family.
And windows weeping and praying for me.
From the narrow window of my small cell -
I can see your big cell!

-- Samih al-Qasim (Palestine)

Freedom to the Political Prisoners of Israeli Apartheid

