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BDS

Boycott, Divestment, Sanctions

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.

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Boycott, Divestment and Sanctions

Human rights, international law and the United Nations Charter and resolutions provide the only road map for a comprehensive, just and lasting peace in the Middle East. This was the message of Palestinian, Israeli and international civil society activists meeting in Paris in July 2005 under the auspices of the UN. The message followed a call by broad sectors of Palestinian civil society for a campaign of boycott, divestment and sanctions (BDS) against Israel until it complies with international law.



Graffiti on the Wall close to the entrance to Bethlehem. © Nathalie Bardou/BADIL.

A non-violent grassroots strategy

Boycotts, divestment and sanctions provide a non-violent strategy towards a solution of the conflict based on universal principles set down in international law and in the UN Charter and resolutions. The Palestinian call for boycotts, divestment and sanctions against Israel was released on the first anniversary (9 July 2005) of the International Court of Justice (ICJ) advisory opinion on the legality of Israel's construction of a Wall in the occupied West Bank.

In that opinion the Court said the construction of the Wall constitutes breaches by Israel of various of its obligations under international humanitarian and human rights law. It said Israel should tear it down, repeal and render ineffective related legislation, make reparations for damages and return land and immovable property, and where that is materially impossible, pay compensation. Israeli measures to protect the life of its citizens have to conform with applicable international law. While the opinion is advisory in nature – i.e. it was not a judgment – it is nonetheless a declaratory statement of the law in force by the highest international court.

Since the ICJ ruling a year ago Israel has constructed more than 214 km of the Wall; another 176 km are currently under construction. It recently approved the route of the Wall in and around Jerusalem. As of



October 2004, Israel had confiscated an estimated 8,000 acres for the Wall's construction; another 89,500 acres are between the Wall and the 1949 Armistice Line ('Green Line'). Palestinians living in this area are finding it increasingly difficult to obtain permits to continue to reside there. Thousands have already been displaced. Nearly a quarter of a million Palestinian refugees that live within 3 km of either side of the Wall will be affected. It is estimated that the Wall could be completed by early 2006.

States should do more to uphold the law

With states focused on Gaza 'disengagement' (i.e. redeployment), little has been done to obtain Israel's compliance with the ICJ opinion. The United States warned Israel that the Wall "must be a security, rather than a political, barrier", but when the government of Israel recently admitted before the Israeli High Court that the route of the Wall in Jerusalem was also designed for political reasons, the US failed to respond. Expansion of Jewish colonies in the West Bank continues with more than 6,000 housing units under construction or completed during the first half of the year, but the Swiss government says that there is little sentiment for an international conference to seek Israel's compliance with international humanitarian law.

There are certain rights under international law (*erga omnes*) whose violation by a state imbues obligations on all states to ensure compliance. The ICJ said that the Wall violates two such rights: self-determination and respect for international human rights and humanitarian law. The ICJ found that the Wall severely impedes the right of the Palestinian people to self-determination. And it said that Jewish colonies in the OPTs have been established in breach of international law. For such violations states are bound to ensure Israel's compliance with international law.

The ICJ could not have been clearer about the obligations of the international community. It said that states must not recognize the illegal situation resulting from the construction of the Wall in the occupied territories; they must not aid or assist in maintaining the situation created by the construction of the Wall; they should prevent any impediment, resulting from the Wall's construction, to the exercise of the right of the Palestinian people to self-determination; and, they should ensure Israel's compliance with international humanitarian law.

We, representatives of Palestinian civil society, call upon international civil society organizations and people of conscience all over the world to impose broad boycotts and implement divestment initiatives against Israel similar to those applied to South Africa in the Apartheid era. We appeal to you to pressure your respective states to impose embargoes and sanctions against Israel. We also invite conscientious Israelis to support this Call, for the sake of justice and genuine peace.

Call for boycott, divestment and sanctions by Palestinian civil society organizations, 9 July 2005

Boycott, divestment and sanctions fill the gap

International actors have 'dropped the ball' when it comes to supporting the rule of law in the Israeli-Palestinian conflict. Local and international human rights organizations have long complained of lack of effective action to uphold and strengthen human rights and humanitarian law in how the conflict is waged and in the parameters for a comprehensive solution. The ICJ advisory opinion on the Wall highlights this gap in stark terms. Civil society actors have therefore 'stepped up to the plate'.

The call by Palestinian civil society for boycott, divestment and sanctions defines the root cause of the conflict, key elements for a comprehensive solution based on international law, and a method of non-violent but punitive measures until Israel ends the occupation and colonization of all Arab lands and dismantles the Wall; recognizes the fundamental rights of the Arab-Palestinian citizens of Israel to full equality; and, respects, protects and promotes the rights of Palestinian refugees to return to their homes and properties as stipulated in Resolution 194.

The key lesson of the South African struggle is that international isolation is expedited by effective internal mobilization and sustained people's resistance. The challenge facing Palestinian civil society is to build a strong BDS campaign inside Palestine and among Palestinian communities in exile. Efforts to engage Israeli civil society on the basis of universal rights, moreover, must continue and expand. BDS cannot afford to fail. The status quo is not an alternative. Non-violent, punitive measures like boycott, divestment, and sanctions will help shorten the struggle and reduce the human suffering of all involved.



1st Anniversary of the ICJ Advisory Opinion on the Wall Estimated Number of Refugees Affected

Phase	Refugees directly affected and located less than 3 km West of the Wall	Refugees directly affected and located less than 3 km East of the Wall	Sub-total of refugees affected by phase
Phase I	35,451	97,618	133,069
Phase II	0	2,273	2,273
Phase III*	2,443	55,776	58,219
Phase IV	6,429	22,108	28,537
TOTAL	44,323	177,775	222,098

* Includes the Ariel bloc.

Statistics are compiled from the 1997 Palestinian Central Bureau of Statistics (PCBS) census taking into consideration an approximate 3.5% annual population growth and the most recent map of the Wall prepared by the UN Office of the Coordination of Humanitarian Affairs (OCHA). While data is disaggregated according to phase of the Wall, some villages may be included in the wrong phase due to unclear delimitation of most phases.

The data is a gross estimate of the number of refugees living in localities located 3 km to the East and West of the Wall. The data does not account for internal population movement and does not purport to assess the exact effect of the Wall on refugees. It is reasonable to assume, however, that many refugees, as well as non-refugees residing in these areas, will face land confiscation, destruction of property, and denial of access to their lands, thus directly affecting their means of livelihood. The Wall and its associated regime may thus lead to the forcible displacement of thousands of Palestinian refugees for a second or third time in 57 years.

One year after the International Court of Justice (ICJ) called upon Israel to cease construction, dismantle the Wall and restitute Palestinians affected, the government of Israel announced that the Wall would be completed by early 2006. The construction of the Wall is not only a threat to the exercise of the right to self-determination by the Palestinian people, as recognized by the ICJ, it is also causing new displacement. (See, *Majdal* 23 and 25)

Some of the displaced are being uprooted for the first time in their lives. For others like Hussein Diab from the southern West Bank village of al-Burj, this is the second displacement. "These experiences are not new ones – to me or many of my neighbours," Hussein notes. "As a child, my family was forced from our home in 1948. We ended up in al-Burj as refugees. At the time, I was only young and I did not feel the full extent of my loss."

"This time the pain and suffering is much worse. ... Our village is no more than a prison. All the land is gone – all that is left of the village is the houses." In 1948 the village's inhabitants were expelled to its eastern parts, forcing them out of the western part of the village and confiscating its lands. The 1949 armistice line runs through the center of the village. The theft of the village's lands is now being repeated by the Wall. ('Community Voices,' Stop the Wall Campaign)

No one knows the extent of Wall-related displacement. Monitoring reports from 2004 by the Palestinian Central Bureau of Statistics indicated that several thousand people had already been forced to move from areas close to the Wall in the northern West Bank due to house demolition, land confiscation and mobility restrictions. Field reports indicate that fewer and fewer Palestinians are receiving permits to reside and/or travel in and out of areas between the 1949 armistice line ('Green Line') and the Wall.

The construction of the Wall in and around Jerusalem, moreover, is expected to affect tens of thousands of Palestinian Jerusalemites who will be 'outside' the Wall. While Israeli officials have said that they intend to facilitate entry to and exit from Jerusalem for those affected, the implementation of the permit regime in the close areas between the green line and the Wall in the northern West Bank suggest that over time, Israel will gradually limit entry and exit until it is no longer possible.

The construction of the Wall in the Jerusalem area, moreover, will completely sever eastern Jerusalem from its natural hinterland in the West Bank with grave social, economic and political implications for the entire Palestinian population of the occupied territories. Still no one is monitoring either the scope or the impact of this new displacement. No UN agency has a mandate to register, monitor, protect and assist, if necessary newly displaced Palestinians in the territories.

UN General Assembly resolution ES-10/15, 2 August 2004 called upon the Secretary General to establish a register of damage caused to all natural or legal persons concerned in connection with paragraphs 152 and 153 of the ICJ. advisory opinion. This register has yet to be established. Given the impact of the Wall, the international community should urgently consider requesting UNRWA or another UN agency in the OPTs to register and follow-up with the plight of those Palestinians displaced by the Wall. The real solution, however, will only come when the international community musters sufficient political will to pressure Israel to tear down the Wall in compliance with the ICJ opinion.

Boycott, Divestment, and Sanction

Visions – Missions – Strategies: Can Palestinian NGOs Make a Difference?

by Muhammad Jaradat

What do the Palestinian people really want? Foreign visitors and partners of Palestinian NGOs often ask this question. The 'Palestinian Civil Society Call for Boycott, Divestment and Sanctions against Israel' provides the answer. Is the solidarity movement and partners in the northern hemisphere ready to engage?



Campaigners urge Church of England to follow the recommendation of the Anglican Consultative Council and vote to divest from companies supporting Israel's illegal occupation of Palestine. © War on Want.

Visitors and partners of Palestinian NGOs who visit the region say that they often leave with the impression that Palestinian civil society has a multiplicity of agenda. Different and contradictory messages are sent not only by the Palestinian Authority and civil society, but even by civil society organizations themselves.

In the course of a century of struggle, the Palestinian people have learned that mis-communication with powerful western states and their societies can be explained as much by western cultural bias and a politically-motivated unwillingness to hear as by the Palestinian lack of skills for communication and public relations.

Although Palestinian refugees have petitioned, rallied and organized for their right of return for more than fifty years, western diplomats and academics continue to ask what refugees really want. This question



was often raised in numerous meetings held during the Oslo years when the parties continued to meet and talk about a solution to the conflict.

What do Palestinians really want?

“What are we saying about the core issues of the conflict?” A group of more than a dozen Palestinian and Arab Syrian NGOs from the Arab territories occupied by Israel in 1967 decided to take this question at face value and re-examine their advocacy message. This question guided a series of three working sessions held in the spring of 2004.

For the first time since the collapse of the Oslo process and the second Palestinian *intifada*, members of local NGOs compared their perspectives about the root causes of the protracted conflict, scenarios for solutions based on two-state and one-state models, and their relationship with Jewish-Israeli civil society. (See, “Palestinian NGO Consultation for a Rights-based Solution to the Conflict,” *al-Majdal* 22).

The exercise revealed consensus on the following issues:

- the Palestinian *Nakba* of 1948 (not the 1967 occupation of the West Bank and Gaza Strip) is the single most dramatic event that determines Israeli-Palestinian relations until this day;
- the Palestinian struggle is a struggle for liberation and freedom from Israel’s racist and colonial regime which denies return to the refugees and continues to forcefully displace, dispossess, occupy and fragment the Palestinian people;
- at the core of the conflict is a political ideology which maintains this racist and colonial regime, i.e. the ideology called Zionism by Israelis and Arabs in the region (the need to reopen debate with allies about the meaning of Zionism was affirmed as a means to clarify that the conflict is not driven by ethnicity or religion);
- the Palestinian people as a whole (refugees in exile, those living under occupation in the West Bank and Gaza Strip, and the discriminated citizens of Israel) are the core actors in the struggle which must be guided by the principles of international law and involve all those, including Jewish people in Israel and elsewhere, who share these principles;
- equal respect of the fundamental rights and freedoms of all is the key to peace (not partition of the land and separation of the people);
- peace in Palestine will become a realistic option only when massive and systematic human rights violations come to an end and Israel is held accountable. Regional and international isolation is a necessary tool for holding Israel accountable and bringing about the end of its racist legal and military regime.

Communicating the message to global civil society

The 2004 NGO consultations concluded that a renewed and concerted advocacy effort was needed to convey this Palestinian message in an era when official diplomacy has once again failed. In the short term, advocacy should be directed primarily towards global civil society. The immediate objective should be alliance-building for a broad campaign to isolate Israel until it complies with international law. A broad successful civil society campaign was considered to be the only means to pressure powerful and reluctant western governments to live up to their obligations under international law and impose sanctions against Israel in the long term.

Ten local NGOs subsequently formed the *Occupied Palestine and Syrian Golan Heights Advocacy Initiative* (OPGAI) to undertake a first collective effort at civil society awareness-raising and advocacy at the 2005 World Social Forum (WSF) in Porto Alegre, Brazil. The OPGAI delegation made a substantial contribution to the final statements issued by the *Assembly of Social Movements* and the *Anti-War Movement Assembly* which call for boycotts, divestment and sanctions against Israel until it complies with international law, including the right of return of Palestinian refugees (See, “Another World is Possible,” *al-Majdal* 25). Post-WSF assessment confirmed the importance of a joint message, collective advocacy efforts, recruitment of a broad range of international allies, and the need for building the campaign with civil society back home.



Boycott, Divestment and Sanctions - Definitions

Boycott: The word 'boycott' originates from an English land agent based in Ireland, Captain Charles Cunningham Boycott, whose ruthlessness in evicting tenants led his employees to refuse all cooperation with him and his family. Today boycotts are used by activists and civil society to ostracize or punish individuals, corporations or states for their wrongful behavior. Boycotts generally occur when people refuse to have dealings with a person or organization. This may happen when people refuse to buy a product as a protest or means of coercion.

However, it should be stressed that boycotts serve a more important purpose than to simply ostracize, punish or coerce individuals, corporations and states; *they draw attention to issues of concern*. In the Palestinian context, boycotts of settlement products educate people about the history of the Israeli occupation. Boycotts have no legal basis, however, and should not be confused with "sanctions", "embargoes", "reprisals" or "countermeasures" which refer to inter-state practice (i.e. the practices adopted by states and international organizations).

Divestment: Divestment occurs when people and organizations sell shares in companies to try to put pressure on them to withdraw their investments from a particular country. Shareholder activism relates to the process of purchasing shares in companies that do business with a particular country with the aim of working from the inside to get the company to change its business practices. This may take place by introducing shareholder resolutions at annual general meetings.

The publicity generated from these acts increases public awareness of the unlawful policies and practices of states. Many businesses will not want their reputation tarnished from being associated with a regime that is accused of grave human rights violations. Moreover, there is the "hassle" factor which played an important role in the struggle against Apartheid South Africa: business executives become tired of being challenged at board meetings and shareholder's meetings and by friends at parties; eventually it is easier to get out.

Sanctions: The word 'sanction' is a general word used to refer to countermeasures or reprisals adopted by states and international organizations. Embargoes are a specific type of sanction. Under international law a state which has been injured by a breach of international law may take reprisals against the state which has injured it. Obligations *erga omnes* are concerned with the enforceability of norms of international law, the violation of which is deemed to be an offence not only against the state – or entity directly affected by the breach, but also against all members of the international community.

In practice sanctions or countermeasures (the terms are used interchangeably) are normally approved of by one of the political organs of the UN (i.e. by the Security Council or by the General Assembly). Resolutions passed by the Security Council under Chapter VII of the UN Charter are binding (unlike those passed under Chapter VI or by the General Assembly). During Apartheid it was the General Assembly which initiated the sanctions campaign. It was not until 1977 after decades of work in the General Assembly that a mandatory arms embargo was imposed on South Africa by the Security Council.

Building the campaign back home

Building a Palestinian civil society campaign is a complex and difficult task which strains the capacity of local NGOs limited by:

- physical fragmentation and despair among the people caused by the military occupation;
- Israel's plan to destroy the land-base for Palestinian self-determination by means of the Wall, colonies, and the prospect of permanent imprisonment of more than a million people following its redeployment from the Gaza Strip;
- the way in which international providers of humanitarian assistance and development aid accommodate the facts on the ground created by Israel's colonial enterprise; and,
- the inability of the Palestinian leadership tied by political agreements and diplomacy to provide effective support and a political perspective.

Many Palestinian NGOs operate in isolation from the people and are not accountable to a constituency. Large sectors of Palestinian civil society, including business, public institutions and NGOs, depend on cooperation with official and non-governmental Israeli actors for income, benefits and privileges, while such cooperation and dependence is encouraged by international donors and 'peacemakers'.

Strengths, weaknesses, opportunities and threats concerning an internal and external Palestinian civil



society advocacy campaign were part of the agenda of a four-day workshop organized by OPGAI at the YMCA-Beit Sahour in May 2005 for local organizations and networks. The workshop was led by veteran advocacy activists from South Africa and the Netherlands who shared lessons learned from the South African Anti-Apartheid Campaign. Participants concluded that a Palestinian civil society advocacy

The success of this campaign will depend on the ability of the Palestinian people and civil society organizations around the world to reach a consensus about the root causes of the conflict and the need to transform Israel's racist and colonial regime into a regime based on the rule of law. Global isolation of the current Israeli regime will help shorten the struggle and reduce the human suffering involved.

campaign must build on the strength inherent in local experience with struggle against colonialism and occupation, the vitality of the Palestinian youth, and the moral justice of the cause and its legitimacy under international law and UN resolutions.

The growing number of Israel-divestment and boycott initiatives launched by faith-based organizations and the solidarity movement abroad were seen as an opportunity for Palestinian civil society organizations to take on an active role. The fact that success is possible was demonstrated by the Palestinian Campaign

for the Academic and Cultural Boycott of Israel (PACBI) which, against all odds and even if only in the first round, had succeeded to win the support of the British Association of University Teachers (AUT) for a resolution to boycott cooperation with two Israeli universities.

The workshop concluded with a public presentation of results and recommendations. Participants called for an international advocacy campaign to be launched on the occasion of the first anniversary (9 July 2005) of the advisory opinion of the International Court of Justice (ICJ) on Israel's Wall in the occupied Palestinian territories. They emphasized the need for broad consultation and coordination with political parties, unions and NGOs for this purpose.

While the Palestinian Anti-Apartheid Wall Campaign, OPGAI and PACBI had been the first to call for boycotts, divestment and sanctions against Israel, local Christian institutions were encouraging their churches abroad to divest from Israeli companies and multinational corporations complicit with the occupation. Some local NGOs had appealed to governments for sanctions. A group of Palestinian NGOs working in the health sector had already declared suspension of cooperation with Israeli organizations which do not take an express and active stand against the occupation.



"Palestine – Resistance is not Terrorism" - demonstration at the 2005 World Social Forum in Porto Alegre, Brazil. © Tayseer Maray/Golan for Development.

All felt the need to adopt a common set of principles to guide local non-





cooperation ('anti-normalization') with and external advocacy for the isolation of Israel. And all felt that united action could provide maximum protection from adverse reactions by partners and donors abroad. A series of civil society consultation meetings hosted by the Palestinian NGO Network (PNGO) in May – June 2005 resulted in the adoption of guiding principles and the decision to issue a joint statement on the first anniversary of the ICJ advisory decision.

Palestinian civil society calls for boycott, divestment and sanctions

The joint *Palestinian Civil Society Call for Boycott, Divestment and Sanctions against Israel* (See, document section) was released to the press in Palestine and disseminated via the internet on 9 July 2005. In Beirut, Lebanon, it was presented on the same day to a representative of UN Economic and Social Commission for Western Asia during a rally against Israel's 'Apartheid Wall' organized by the 150 members-strong Coalition of Lebanese Civil Society Organizations. The Call constitutes a historic document in several ways:

- It was endorsed by 171 Palestinian unions, networks and organizations which form the political, professional and cultural backbone of Palestinian civil society;
- Endorsing organizations reflect the three integral parts of the Palestinian people: Palestinian refugees, Palestinians under occupation, and Palestinian citizens of Israel;
- Signatories call for Israel's isolation until it respects three basic conditions for the exercise of the Palestinian people's inalienable right to self-determination: ending occupation and colonization; full equality of the Arab-Palestinian citizens of Israel; and, the right of Palestinian refugees to return to their homes and properties as stipulated in UN Resolution 194.

While responses and reactions abroad have yet to be gathered and assessed, the internal challenges ahead are clear and well-defined. A sustained effort is needed from Palestinian NGOs in order to raise public awareness and encourage active participation in the campaign by popular organizations and political groups. The latter represent the source of strength, struggle and resilience of the Palestinian people, and their mobilization can enable professional and externally-dependent NGOs to withstand political and financial pressure from abroad. More in-depth discussion is needed among Palestinian advocacy NGOs to clarify and justify the call for a comprehensive popular boycott of Israel which, unlike the call for selective divestment and sanctions, remains contested and rejected by many allies and partners of the Palestinian people in Europe and North America.

Ultimately, however, the success of this campaign will depend on the ability of the Palestinian people and civil society organizations around the world to reach a consensus about the root causes of the conflict and the need to transform Israel's racist and colonial regime into a regime based on the rule of law. Like in the case of South Africa, this transformation will have to be brought about by the struggle of the people of this country. Global isolation of the current Israeli regime, however, will help shorten the struggle and reduce the human suffering involved.

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The Role of International Campaigns for Boycott, Divestment and Sanctions

by Bangani Ngeleza and Adri Nieuwhof

More and more people are drawing comparisons between Apartheid South Africa and Palestine/Israel. It is a key lesson of struggle that international isolation is expedited by effective internal mobilization and sustained people's resistance campaigns.



Boycott call against Apartheid South Africa, Apartheid Museum in Johannesburg. © BADIL.

South Africa

The colonisation of South Africa started in 1652 when Jan van Riebeeck of the Netherlands, representing the United East Indian Trading Company, set foot on what was later called the Cape of Good Hope. He reported that he found a “kind of” empty land. This was a blatant lie: thousands of years before Christ, the Khoi-San lived on the land. In 1658, Van Riebeeck gave permission to the white employees of the trading company to stay in South Africa after their contracts expired. Some 40 years later, the British joined the Dutch in the colonisation of South Africa.

In 1948, the National Party of D.F. Malan came to power, using racist slogans in its political campaign. Malan consistently spoke of Apartheid, a Dutch word, and succeeded in introducing Apartheid in the law. According to the Apartheid government, black people needed to be separated from whites, with the result that for decades the Apartheid regime deported Africans out of the self-declared white areas to the Bantustans. Black people were seen as “slaves”, just good enough to work for the whites; all they needed was minor education to perform unskilled labour. Mixed marriages were forbidden. The Dutch and the South African Nationalists shared the Dutch Reformed religion and their language is very similar. The



blood ties that were felt made the Dutch for a long time supporters of their oppressive blood brothers and sisters.

Palestine/Israel

The Second World War was a dark period in European history with the Nazi persecution of Jews, Roma and Sinti, homosexuals, communists and people resisting the Nazi's. The tragedy of the holocaust hit the Jewish population hard. Before the Second World War 140,000 Jews lived in the Netherlands and it is estimated that 110,000 Jews (80 percent) were murdered⁽¹⁾ Compared to Belgium, France and Germany this was a remarkably high percentage; in these countries, this figure did not exceed 40 percent. It must be clear that the failure of the Netherlands government to protect its Jewish citizens has left the Dutch with feelings of guilt, matched by a special bond with Israel.

Comparing South Africa and Palestine/Israel

In our view, the comparison between Apartheid South Africa and Israel boils down to flagrant violations of human rights and other international (e.g. humanitarian) laws. The roots of these violations can be found in considering blacks and Palestinians respectively as inferior. Ronnie Kasrils, South African Minister of Intelligence and former commander in the ANC's military wing, addressed the national Assembly during a debate on the report of a fact finding mission of parliamentarians in the Middle East. He noted that on the basis of their observations the parallel can be drawn with "oppression being experienced by Palestinians under the hand of Israel, and the oppression experienced in South Africa under Apartheid rule".⁽²⁾

In the case of the Netherlands, a similarity can be found in the deep ties that - for different reasons – were and still are felt with South Africa and Israel.

The four pillars of the liberation struggle in South Africa

The struggle for liberation of black people in South Africa started well before 1948, the year of the formal adoption of Apartheid as a state policy by colonial forces under the leadership of the Nationalist Party. After almost three centuries of unorganised, sporadic resistance the South African Natives African Congress, later renamed the African National Congress (ANC) was founded in 1912. It was the result of a realisation by the African population of the need for an organised and unified approach.

Dialogue: Between 1912 and 1948 the ANC's approach favoured dialogue. During this time the leadership of the ANC believed in the humanity of whites in South Africa. They believed in the possibility of reaching a just settlement through persuasion. These beliefs were rebutted by a racist regime that persisted with its policies of dispossession. The pursuit of a solution through dialogue was never abandoned by the ANC, but it was later supplemented by other strategies directed at putting pressure on the regime to come to the negotiating table. Dialogue thus remained the ANC's first pillar in its liberation struggle.

Armed resistance: After the declaration of Apartheid as state policy, the ANC Youth League, under the leadership of, amongst others, Nelson Mandela, Walter Sisulu and Oliver Tambo started to agitate within the ANC for a change in strategy. They saw a need to explore the armed struggle as an option. In 1960 *Umkhonto WeSizwe*, the armed wing of the ANC, was founded. Its main target was attacking symbols of oppression, and not people. From 1960 – nearly 50 years after the formation of the ANC – until its integration into the South African National Defence Force in 1994, armed resistance was the second pillar of the ANC's liberation struggle.

International pressure: Already in 1959, Chief Albert Luthuli, then president of the ANC, asked the British people to boycott South Africa, stating that "...non-white South Africans have responded to attacks on them by sending deputations and submitted petitions to the authorities.... When these approaches were unsuccessful, they turned to passive resistance and then boycott."⁽³⁾ From this point onwards, the ANC sent delegations to address the international community on the need to isolate the Apartheid regime. The



call for international pressure through boycotts, sanctions and divestment became an important third pillar of the ANC's struggle for democracy.

International pressure gained momentum and in 1969 revolving credit loans by US banks amounting to US\$40 million were terminated when institutions and individuals withdrew about US\$23 million from the banks concerned. In 1973, loans of about US\$70 million by a consortium of US and European banks were also terminated. This trend continued and South Africa declared a debt standstill in 1985, due to capital flight.

In a way it was an awakening to the fact that oppressive regimes often eschew humanistic considerations. They do so because such considerations expose their immorality and threaten the fundamentally unjust basis upon which these regimes are constructed.

The success of calls for international isolation was partly due to the important role that was played by South Africans in exile. They worked tirelessly at raising the level of awareness of the international community to the atrocities being committed by the Apartheid regime.

The impact of calls for boycotts, sanctions and divestments against an oppressive regime often takes decades to show, but once results can be seen, they act as an "avalanche" whose end is the demise of the oppressive regime.

Mass mobilisation: The three pillars mentioned above contributed to the ultimate demise of Apartheid, but by far the most significant pillar was that of mass mobilisation inside the country. Early ANC

campaigns such as the defiance campaign against unjust laws of the 1950s were informed by the analysis that it is the masses of the oppressed themselves who will determine the course of their liberation. The height of mass mobilisation was the formation of the Mass Democratic Movement (MDM) in the 1980s.

This movement was formed to fill a void that was left by the banning of political activity and political formations, including the ANC.



Delegation from the South African Native National Congress (forerunner of the ANC) that went to England in 1914 to convey the objections of the African people to the 1913 Land Act. © University of the Witwatersrand Library, Department of Historical Papers/ANC.

The MDM brought together all formations that were opposed to Apartheid, including trade unions, students' organisations, women's organisations, NGOs, civic structures, academic formations, sympathetic business structures, etc. These were all brought together under the banner of the United Democratic Front (UDF). Some of the campaigns that were organised included the 'million signature campaign' denouncing Apartheid in 1984. Two years later, the largest stay-away in the history of South Africa took place. Other actions included a rent boycott in Soweto and a two day strike to protest the exclusion of Black people from parliamentary elections.

These are a few examples of how the MDM maintained an internal boycott campaign, which was the major spur to an overwhelming international response that saw the imposition of a comprehensive embargo against South Africa.

Palestinian call for isolation of Israel

One year after the publication of the advisory opinion of the International Court of Justice on the

Statement by Albert Lutuli Appealing to the British People to Boycott South African

In May, 1960, the Union of South Africa will be 50 years old. The Government is preparing to celebrate this jubilee with great enthusiasm, but most South Africans see no cause for celebration. During this 50 years Non-White South Africans have almost completely lost their right to be represented in Parliament, their right to take any job for which they are fitted, their right to hold land in freehold; their school education is now to be of a specific kind, the open universities of Cape Town and Witwatersrand are to be closed to them, they cannot move about freely within the country of their birth. At the same time these White South Africans who believed in these rights and freedoms have seen them destroyed one by one.

What has been the response of Non-White South Africans to these attacks on them? They have sent deputations and submitted petitions to the authorities and they have tried to influence the course of events through their meagre Parliamentary representation. When these approaches were unsuccessful they turned to passive resistance and then boycott. They have consistently forsworn violence and pledged themselves to non-violence. But with trade unions frowned upon, strikes illegal and their buying power limited, Non-White South Africans face real problems in mounting sufficiently effective internal pressures to be able to influence the South African Government. They look for assistance abroad and particularly to the people of Britain, by whose Parliament the original Act of Union was approved.

Next year it is proposed to conduct a limited boycott of South African produce in Britain for a period of one month. The boycott is a protest against apartheid, the removal of political rights, the colour bar in industry, the extension of passes to African women and the low wages paid to Non-White workers. In the towns and cities of South Africa over half the African families live below the breadline.

It has been argued that Non-White people will be the first to be hit by external boycotts. This may be so, but every organisation which commands any important Non-White support in South Africa is in favour of them. The alternative to the use of these weapons is the continuation of the status quo and a bleak prospect of unending discrimination. Economic boycott is one way in which the world at large can bring home to the South African authorities that they must either mend their ways or suffer for them.

This appeal is therefore directed to the people of Great Britain to strike a blow for freedom and justice in South Africa and for those whom the State would keep in continuing subjection in the Union. If this boycott makes the South African authorities realise that the world outside will actively oppose apartheid it will have struck that blow for freedom and justice in our country.

December 1959

Albert J. Lutuli
President-General,
African National Congress

G.M. Naicker
President,
South African Indian Congress

Peter Brown
National Chairman,
Liberal Party of South Africa

illegality of the Wall, Palestinian civil society is jointly calling for international campaigns for boycotts, divestment and sanctions against Israel. As was learned during the liberation struggle in South Africa, international campaigns will be more successful when they are inspired and supported by activities inside. Some lessons can be learned by looking back on successful campaigns in the Netherlands, such as the campaign for an oil embargo and putting pressure on Shell to withdraw from South Africa by urging consumers not to fill their petrol tanks at Shell stations, so long as Shell was economically benefiting from Apartheid policies.

Factors for a successful campaign

Campaigning is first of all about moving people, about touching their heart and offering them an opportunity to act. In the case of Israel, the key issue is to stand up against violations of human rights



Nelson Mandela voting in South Africa's first democratic election in April 1994. © ANC.

and other breaches of international law. It is possible to organise campaigns to raise awareness as such, but it is more effective to consider what the public can contribute. In order to achieve this, one has to start by researching where the links are between your country and Israel. This is in order to assess what will hurt the economy or the public image of Israel and where success is possible.

After the choice of targets is made, a campaign has to look for partners that can give support, such as the churches, social movements, political parties and politicians and opinion leaders. A clear message with concrete demands needs to be developed and the campaign needs to be well planned. This includes informing the public through the media, organising events, picket lines and demonstrations. Campaigning is not about easy victories, but about consistent, solid work. It requires patience.

All it takes is some courage

In the Netherlands, campaigns to boycott Israel will be met with resistance, just like the campaigns for isolation of the South African Apartheid regime. One can predict that Israel and its supporters will accuse people involved in such campaigns of anti-Semitism. Such accusations should not become the focus of the debate. Therefore, the reaction should be to focus on the violation of human rights by Israel. These

include: violations by Israeli occupying forces in the Palestinian territories, the building of the Wall and settlements on Palestinian land, the inequality of Jewish and Palestinian citizens in Israel.

Most of all, it is important to stress the deep longing for peace by the Israelis and the Palestinians. Campaigns for boycotts, divestment and sanctions should be guided by the courage to speak out and act against injustice. As Mandela writes in his memoirs: "I learned that courage was not the absence of fear, but the triumph over it. I felt fear myself more times than I can remember, but I hid it behind a mask of boldness. The brave man is not he who does not feel afraid, but he who conquers that fear."

Bangani Ngeleza is member of a family that was actively involved in the African National Congress (ANC). His father spent 10 years on Robben Island, his brother was in the ANC's military wing, his mother was in and out of prison because of her activities for the ANC Women's League, and the author himself participated in ANC-linked student and teacher movements. Adri Nieuwhof was a member of the Holland Committee on Southern Africa, mobilising material and financial support for the ANC and organising campaigns for boycotts, divestment and sanctions.

Endnotes:

- (1) See, http://nl.wikipedia.org/wiki/Geschiedenis_van_de_Nederlandse_Holocaust.
- (2) See, http://www.mediareviewnet.com/RONNIE_KASRILS_SLAMS_ISRAEL.htm.
- (3) Statement by Albert Luthuli (Jointly with Dr. G.M. Naicker and Peter Brown) appealing to the British people to boycott South Africa.

Academic Freedom in Context: the Boycott of Israeli Universities Remains a Moral Imperative

by Omar Barghouti and Lisa Taraki

The Palestinian Campaign for Academic and Cultural Boycott of Israel was launched in Ramallah in April 2004 by a group of Palestinian academics and intellectuals to join the growing international boycott movement. On April 22 the British Association of University Teachers (AUT) decided to boycott Haifa and Bar Ilan Universities because of their “complicity in the racist and colonial” policies of Israel. On May 26 the Zionist lobby in Britain succeeded to reverse the AUT motions on the basis of misleading arguments.



“No Power in this World Can Uproot Us from our Land”. Banner on a Palestinian home targeted for confiscation to build student housing for Hebrew University in the late 1990s. © BADIL.

The Association of University Teachers (AUT) in Britain has reversed its 22 April decision to boycott Israeli universities. If misinformation, intimidation and bullying were among the tactics used by boycott opponents to achieve this result, the tool they most persistently used was the claim that the academic boycott infringes upon academic freedom. Freedom to produce and exchange knowledge and ideas was deemed sacrosanct regardless of the prevailing conditions. There are two key faults in this argument. It is inherently biased - regarding as worthy only the academic freedom of Israelis. The fact that Palestinians are denied basic rights as well as academic freedom due to Israel’s military occupation is lost on those parroting it. And its privileging of academic freedom as a value above all other freedoms is antithetical to the very foundation of human rights. The right to live, and freedom from subjugation and colonial rule, to name a few, must be of more import than academic freedom. If the latter contributes in any way to suppression of the former, more fundamental rights, it must give way. If the struggle to attain the former necessitates a level of restraint on the latter, then so be it.



Are academic freedom and basic human rights mutually exclusive? In most cases, no, though in situations of persistent oppression and enduring breach of international law supported - explicitly or implicitly - by academic institutions, the answer is a resounding yes. Towards the end of the Apartheid era, when the world boycotted South African academics as part of the overall regime of sanctions and boycotts endorsed by the United Nations, a degree of violation of academic freedom was entailed. This was accepted by the international community as a reasonable price to pay for contributing to the defeat of Apartheid and the attainment of more basic freedoms denied black South Africans for generations. Freedom from racism and colonial subjugation was correctly perceived as more important than the unwanted side-effects on the academic and other freedoms of individual academics opposed to Apartheid.

In the Israeli context what is being defended by the opponents of the boycott is not only the unfettered access of Israeli academics to the global community of scholars and participation in the free exchange of ideas, but also the material and symbolic privileges of academic life. In this sense, rejecting academic boycotts in order to preserve Israeli academics' freedoms and privileges, while ignoring the more vital rights and freedoms of Palestinians - whether academics or not - is a blatant case of double standards.

The concept of academic freedom has been abused by opponents of the boycott and misunderstood by many others. In democratic societies the academy takes a grave view of scholars whose writings and activities can be interpreted as inciting racial hatred. For example, academics in the United States and Europe who have denied that the holocaust occurred, or who have otherwise challenged accepted facts about it have faced harsh disciplinary measures from universities and censure from colleagues and professional associations. In Israel, however, where racism against Palestinians and Arabs is a feature of everyday discourse and practice, the concept of academic freedom is so elastic as to include the freedom to propound racist theories and incite hatred, support ethnic cleansing, and worse.

Boycotts and sanctions are not exact sciences. They affect real institutions providing jobs and services to real people, many of whom may not be directly implicated in the injustice that motivated the punitive measures. Any boycott, intended to redress injustice, will in the process harm some innocent people. That goes without saying. One must therefore resort to clear, morally consistent criteria of judgment to arbitrate whether the cause of the called-for boycott and its intended outcome justify that unintended harm. In the case of Israeli universities the weight of the causes could not be more morally imperative or politically pressing.

For decades Israeli academic institutions have been complicit in Israel's colonial and racist policies. Funded by the government, they have consistently and organically contributed to the military-security establishment and, therefore, to perpetuating its crimes, its abuse of Palestinian human rights and its distinct system of Apartheid.

Contrary to the image - created and skillfully marketed by Israel and its apologists, academics included - of the Israeli academy as a bastion of enlightenment and a solid base for opposition to the occupation, Israel's academy is in fact part of "the official Israeli propaganda", according to Ilan Pappé, one of the leading Israeli "new historians" who exposed the systematic ethnic cleansing of Palestinians during the *Nakba*.

Not only do Israeli academics defend their state's colonial narrative, but they also play a more active role in the oppression process. Almost all of them serve in the occupation army's reserve forces, thereby participating in, or at least witnessing in silence, crimes committed with impunity against Palestinian civilians. In the last 38 years of illegal occupation few academics have conscientiously objected to military service in the occupied territories. Those politically opposing the colonisation of Palestinian land remain a depressingly tiny minority.

The academic freedom on campuses is grossly exaggerated. It is constrained within limits set by the Zionist establishment and dissenters who dare challenge these boundaries are ostracised.

Another purpose of the proposed academic boycott is to "provide a means to transcend the publicly-sanctioned limits of debate", in the words of Oren Ben-Dor, a British academic of Israeli origin. "Such freedom is precisely what is absent in Israel," he adds.

From this angle the boycott is seen as generating true academic freedom. "The Zionist ideology which



Divestment: Using Economic Leverage to Advance International Law

Since the International Court of Justice found Israel's construction of the Wall in the occupied West Bank to be illegal, numerous faith-based organizations, academic institutions and others are increasingly thinking about using economic leverage through divestment to create the conditions for a solution of the Israeli-Palestinian conflict based on international law and UN resolutions.

The Presbyterian Church-USA, which voted for a process of phased, selective divestment at its 216th General Assembly in July 2004, describes divestment as a proven, responsible strategy to address injustice. This strategy, says the Church, has been used successfully in South Africa, Sudan, Indonesia and elsewhere. The focus of the action is to motivate real change in Israeli policies and movement toward peace. The PC-USA identified six criteria for divestment, four of which target Israel's protracted occupation of the West Bank, eastern Jerusalem, and the Gaza Strip. The other two target multinational corporations that enable violence by either Palestinians or Israelis and the construction of the Wall. Other mainline Protestant churches have subsequently adopted similar measures. This includes the Anglican Church, the New England Annual Conference of United Methodist, the United Church of Christ and the World Council of Churches.

Students and faculty at academic institutions across the US have also been active in divestment campaigns. This includes divestment initiatives at Columbia, Duke, Harvard, Princeton and Yale among many other universities. In April 2005 the Association of University of Wisconsin Professionals adopted a resolution calling upon the University Wisconsin Board of Regents to divest from companies that provide the Israeli Army with weapons, equipment and supporting systems. The campaign gained significant momentum when the Faculty Senate of the University of Wisconsin-Platteville passed a similar resolution at its regular meeting in January 2005. The UW-Platteville senate became the first University faculty body in the United States to adopt a resolution calling for divestment from companies providing material aid to Israel. A similar resolution was adopted by the Teaching Assistant Association and called on the Board of Regents to divest from weapon manufacturers.

For links to academic divestment initiatives in the US see, www.divest-from-israel-campaign.org. For more information on the PC-USA selective, phased divestment program see, www.pcusa.org/stepstowardpeace.

stipulates that Israel must retain its Jewish majority is a non-debatable given in the country - and the bedrock of opposition to allowing the return of Palestinian refugees. The very few intellectuals who dare question this sacred cow are labelled 'extremists'." Ben-Dor attacks those on the Israeli "left" who opposed the boycott as "sophisticated accomplices to the smothering of debate."

Irrespective of the individual accountability of Israeli academics a judicious and methodical scrutiny of the culpability of Israeli academic institutions in the crimes perpetrated against the Palestinian people will reveal an abundance of incriminating evidence. Even Baruch Kimmerling, a renowned Israeli academic opposed to the academic boycott, writes: "I will be the first to admit that Israeli academic institutions are part and parcel of the oppressive Israeli state that has... committed grave crimes against the Palestinian people."

Israel's hysterical reaction to the possibility of boycotts - recently manifested in charging Benjamin Netanyahu with the task of fighting academic boycott - and the profound debate that has ensued around the world on Israel's illegal occupation and other forms of oppression show that the success in portraying Israel as boycottable has touched a raw nerve. By winning this round in the boycott process Israel has proven yet again what is already widely recognised: the Israeli lobby has enough influence in the media and the academy to avoid carrying out Israel's obligations under international law. The facts on the ground will remain, however. Israel's colonial wall, its ever expanding settlements, its indiscriminate killing of Palestinian civilians, its relentless land and water theft and its abuse of Palestinian human rights are too real to be ignored by the international community.

Just as in the South African case, a comprehensive regime of boycotts, divestment and sanctions remains not only the most politically effective but also the most morally sound, non-violent strategy in forcing full Israeli compliance with international law.

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Julius Nyerere on the Boycott of South Africa

When I was a schoolboy, a friend of mine took me to the tailor one day and had me measured for a pair of shorts. We were great friends. His was mine and mine was his. He knew I needed a pair of shorts very badly. A few days later I got my pair of shorts, well made, fitting perfectly. I was proud of myself and proud of my friend. But it was not long before I discovered how my friend had obtained the money with which he had bought that pair of shorts for me. I returned it to him immediately. I could not disapprove of the manner in which the money had been obtained and still enjoy what the money had bought for me.

It is this same principle which makes me now support the boycotting of South African goods. We in Africa hate the policies of the South African Government. We abhor the semi-slave conditions under which our brothers and sisters in South Africa live, work and produce the goods we buy. We pass resolutions against the hideous system and keep hoping that the United Nations and the governments of the whole world will one day put pressure on the South African Government to treat its non-European peoples as human beings.

But these resolutions and prayers to the United Nations are not enough in themselves. Governments and democratic organisations grind very slowly. Individuals do not have to. The question then is what an individual can do to influence the South African Government towards a human treatment of its non-white citizens.

Can we honestly condemn a system and at the same time employ it to produce goods which we buy, and then enjoy with a clear conscience? Surely the customers of a business do more to keep it going than its shareholders. We who buy South African goods do more to support the system than the Nationalist Government or Nationalist industrialists.

Each one of us can remove his individual prop to the South African system by refusing to buy South African goods. There are millions of people in the world who support the South African Government in this way, and who can remove their support by the boycott. I feel it is only in this way that we can give meaning to our abhorrence of the system, and give encouragement to sympathetic governments of the world to act.

It is most fitting that Jamaica, that island which has solved its racial problems so well, should have taken the action it has in support of the boycott. It is equally fitting that the Trade Union Congress of Ghana should immediately have given its support. I was personally happy to participate in a meeting in London where the boycott was launched. Already the authors of apartheid are beginning to feel the sharp effect of the boycott. But they cannot feel it fully until every person in the whole world who disapproves of the South African system withdraws his support of it by withdrawing his contribution to its upkeep.

I must emphasise that the boycott is really a *withdrawing of support* which each one of us gives to the racials in South Africa by buying their goods. There is a very real sense in which we are part of the system we despise, because we patronise it, pay its running expenses.

We are not being called upon to make much of a sacrifice. We are not being called upon to go hungry and court imprisonment. That is the lot of our brothers and sisters inside South Africa. We are being asked to substitute other goods for South African goods, however much of a sacrifice this may mean to our suffering brethren in South Africa itself. We are not being called upon to support or not to support the oppressed in South Africa. We are being called upon to stop supporting those who oppress them.

The issue is as simple as that. Let every man and woman who disapproves of the South African system search his or her conscience, and decide to support or not to support the racials of South Africa.

Julius Nyerere

President of the Tanganyika African National Union

On 26 June 1959, Julius Nyerere, then President of the Tanganyika African National Union (TANU) and Prime Minister of Tanganyika, was the principal speaker - along with Father Trevor Huddleston - at a meeting in London which launched the Boycott Movement. (It was re-named Anti-Apartheid Movement in 1960.) Mr. Nyerere became President of Tanganyika (later Tanzania) when it attained independence in 1960. This letter was written to the editor of Africa South magazine (October-December 1959).

Boycott: An Effective Tool Against Apartheid

by Nathalie Bardou

729. These three numbers on product bar-codes identify goods “Made in Israel”. Since the second intifada dozens of boycott campaigns against Israeli products have sprung up around the world to protest violations of international law in the West Bank, eastern Jerusalem and the Gaza Strip. An increasing number of protagonists, including non-governmental organizations (NGOs), famous personalities, universities and even political parties have already called for or participated in cultural, academic, sport and trade boycotts.



Does it mean that all boycott campaigns have a wide following? No, but together with divestment and sanctions, boycotting goods produced by countries that violate international law can be an efficient means of non-violent struggle. These three tools are not only used to “punish and ostracize” but also to “attract the attention” of the international community to the violation of human rights and humanitarian law.



The BIG Campaign boycott van in the United Kingdom. © BIG Campaign.

“Focusing only on boycott could be a mistake,” says Bengani Negeleza, whose family was actively involved in the African National Congress (ANC) in South Africa. “From my experience, all tools were important in South Africa; the boycott was as important as the military struggle. What is effective is the association of all those tools. It’s true, however that there is a huge psychological impact of being targeted by a boycott or a divestment campaign. Boycotts give products and companies an unwanted negative image.”

Adri Nieuwhof, who was a member of the Holland Committee on South Africa during the Apartheid era, and together with Negeleza facilitated a training session with NGOs from the occupied Palestinian territories and Syrian Golan, gives the example of the boycott of coffee from Angola. “Boycotters succeeded to associate the horrible situation in Angola with the products itself. One year later, no Angolan coffee was sold in the Netherlands. The impact of divestment is similar. As government’s respond to pressure from voters, companies may also respond to pressure from stockholders.”

Boycott finds its power from covering all aspects of life

Many of the boycott campaigns that target Israeli goods focus on products manufactured in colonies (i.e. settlements) established in the occupied West Bank, eastern Jerusalem, and the Gaza Strip. Cosmetics, wine, toys, and hundreds of different settler products contribute, through their sales, to the viability of the colonies which the International Court of Justice has found to be illegal under international law. Most of the time, the customers outside Israel are unaware of the origins of these goods. Identifying which

Boycott Information on the Internet

Palestinian Campaign for Academic and Cultural Boycott

www.boycottisrael.ps

Gush Shalom

www.gush-shalom.org/Boycott/boyceng.htm

Boycott Israeli Goods Campaign (UK)

www.bigcampaign.org/boycott.html

Boycott Israeli Goods (US)

www.boycottisraeligoods.org

European Campaign on Boycott, Divestment and Sanctions

www.against-the-wall.org

products are made in Israel and those that originate from the occupied territories is made even more difficult since many are labeled as 'Made in Israel.' As of mid-2004, however, products shipped to the EU are supposed to be labeled with both the town and national origin.

There is, however, a lot of information available about what goods are produced in Israeli colonies through the internet. Some web sites, like the one from the Israeli NGO Gush Shalom provide a list of hundreds of products made in colonies located in occupied Palestinian territories. Other campaigns, such as the Boycott Israeli Goods (BIG) campaign, provide detailed lists of products made in Israel and the colonies as well as international companies

supporting colonies and the occupation. Because the origin of products is generally not specified, many campaigns simply call for a boycott on all products made in Israel. Other campaigns boycott institutions that directly or indirectly support the occupation. (See, 'Academic Freedom in Context,' in this issue)

Israeli products can be easily identified by the bar-code which begins with the three numbers "729". Israeli products are identifiable in few seconds regardless of the information on the package. Some of the products made inside Israel proper and targeted by boycotts are famous brands in western countries like Carmel (fruits and vegetables), Epilady (depilatory for women), Agrofresh (cucumbers) or Jaffa (fruits and vegetables). Boycotts also target international companies who provide financial support to Israeli manufacturers or assist Israeli military forces, including: Coca Cola, L'Oreal, Estee Lauder, Danone, Levi-Strauss, Celio, and Caterpillar.

Boycott takes patience and mobilization from inside

But boycott campaigns require patience and hard work. They are not always immediately successful. After being informed by the Council for the Advancement of Arab-British Understanding (CAABU), Harrods, a London-based department store decided in 2002 to remove some settler products from its shelves. This included Achva Halva and Beigal and Beigal Pretzel from the Barkan Industrial Zone (West Bank) or Yarden Wines from Katzrin (Golan Heights). Following pressure from the Israeli Embassy, however, Harrods was forced to step back. Nevertheless, the boycott campaign was far from failure because Harrods decided to mark on its shelves the precise origin of those products.

"It took more than 25 years between the first call for boycott in 1959 to the final reaction of the international community in the mid-80's," says Bengani Negeleza. "It's a very long process before tangible results are achieved." Negeleza and Nieuwhof both emphasize the importance of internal mobilization as key to any successful boycott campaign. "The boycott campaign in South Africa started inside the country with consumers themselves, and it's very important to underline this because without any involvement from inside the country, it's more difficult to spread the message of boycott outside."

"Concerning South Africa, it was obviously not possible for people to stop buying essential foodstuff, but we convinced them to boycott certain products for one week for example. After this we met with human right organizations, churches, students associations, women's groups and business organizations from around the country. The success for us was not the number of people taking part in the boycott but the media coverage of the event, which gave us more credibility and showed the strength of the resistance inside the country. Thanks to this first step, we managed to send the message outside the country and start the international solidarity movement."

This is the challenge for a successful boycott of Israeli goods. Commenting on the situation in Palestine, Nieuwhof remarks: "I don't feel a strong push inside Palestine. This is maybe what weakens the message of boycott against Israeli products, and it is, in my opinion, the main difference between what happened in South Africa and what we see in Palestine."

Nathalie Bardou is an intern with BADIL. She previously worked as a journalist with Groupe-Ayache in France.

A Message for the EU: Withdrawing Preferential Trade with Israel is an Appropriate Response to Israel's Violation of International Human Rights Law

by Victor Kattan

Ever since the International Court of Justice (ICJ) rendered its advisory opinion on the wall to the General Assembly on 9 July 2004, there have been calls from various quarters for boycotts, divestment, and sanctions against Israel. Some of the questions that have arisen in this context are whether sanctions are legal, whether they will work against Israel, and if not, what alternative means are available to pressure Israel to comply with international law.



The Wall blocking a road near the northern West Bank town of Qalqilya. © Nathalie Bardou/BADIL.

Sanctions against Israel though lawful are problematic

Economic coercion is generally not prohibited by international law. Article 2 (4) of the UN Charter only prohibits the use of *armed* force – not economic force. A Brazilian proposal to extend the prohibition of this Article to include economic force was rejected during the drafting of the Charter in 1945.

The only prohibition of economic coercion is contained in the 1970 *Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States*. This prohibits the use of economic measures if its aim is ‘to coerce another state in order to obtain from it the subordination of the exercise of its sovereign rights’. However, this does not apply to Israel since sanctions would not subordinate its sovereign rights for a purpose that is inconsistent with the principles of the Charter. Rather, it is Israel’s policies and practices in the Occupied Palestinian Territories (OPTs) that conflict with the principles and purposes of the Charter.



Comprehensive sanctions against Israel must be authorised by the UN Security Council. Article 41 of the Charter authorises the Security Council, as the principal political organ of the UN, to direct states to take measures against the incumbent state not involving the use of armed force. However, this would need the assent of all of the permanent members of that body. State practice would suggest that the USA would veto such an attempt and so too would Britain, and possibly France (who normally abstain or shield behind the US veto).⁽¹⁾

Comprehensive sanctions, such as a trade embargo or an arms embargo (similar to the 1977 arms embargo against Apartheid South Africa) would involve a complete halt (as far as that is possible) of trade in such items with Israel. However, for these to be effective all states would need to cooperate.⁽²⁾

Why withdrawing preferential trade is not a sanction

In the absence of an agreement providing otherwise, goods imported into one country from another

UN Charter – Article 41

The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.

would normally be subject to customs and excise duty (i.e. a tax). Preferential trade agreements waive or lower this tax. The EU, like all states and international organizations, is under no obligation to confer gifts or favours, in the form of economic aid or trade concessions to any other nation. This is because preferential trade is discretionary. It is a privilege and not a right. Israel is taking advantage from something that it would not otherwise be entitled to benefit from. Withdrawing preferential trade from Israel cannot therefore be a sanction.

Although Israel is not a member of the EU (and is therefore not entitled to profit from the common market), it benefits from trade concessions granted through the application of the *EU-Israel Association Agreement* to its territory.⁽³⁾ This agreement extends the advantages of being a member of the EU (such as free trade) to Israel (without having to be burdened with the costs of being a member). The EU also benefits because it has another market to export its capital, goods and services.

However, the association agreement is conditional upon respect for human rights, democratic principles and the rule of law.⁽⁴⁾ The preamble to the agreement states that “the principles of the United Nations, particularly the observance of human rights and democracy” form the very basis of the association.

Article 2 provides:

“Relations between the Parties, as well as the provisions of the Agreement itself, shall be based on respect for human rights and democratic principles, which guides their internal and international policy and constitutes an essential element of this agreement.”

According to three separate UN reports by Catherine Bertini, John Dugard and Jean Ziegler, and reports by Amnesty International, Human Rights Watch and a plethora of other NGOs, Israel does not respect the human rights of the Palestinian people in the OPTs. It is therefore in breach of its humanitarian and human rights obligations under international law. Moreover, the ICJ, from which there is no appeal, held that the construction of the wall “constitutes breaches by Israel of several of its obligations under the applicable international humanitarian and human rights instruments.”

It is therefore difficult to see why Israeli products should continue to be exempt from EU customs and excise duty when it is in material breach of this agreement. Article 60 (1) of the *Vienna Convention on the Law of Treaties between States and International Organizations* provides that “[a] material breach of a bilateral treaty by one of the parties entitles the other to invoke the breach as a ground for terminating the treaty or suspending its operation in whole or in part.” Whilst a material breach



UN Special Rapporteurs call for action to enforce international law

With regard to Member States, the Ministers call upon them to take measures, including by means of legislation, collectively, regionally and individually, to ... impose sanctions against companies and entities involved in the construction of the Wall and other illegal activities in the Occupied Palestinian Territory, including East Jerusalem.

Declaration of the 115 Member States of the Non-Aligned Movement, August 2004

The Special Rapporteur reminds States of their obligation not to recognize the illegal situation resulting from the construction of the Wall and not to render aid or assistance in maintaining the situation created by such construction. In addition, all States parties to the Fourth Geneva Convention are obliged to ensure compliance by Israel with the international humanitarian law embodied in this Convention. Israel's defiance of international law poses a threat not only to the international legal order but to the international order itself. This is no time for appeasement on the part of the international community.

John Dugard, UN Special Rapporteur on human rights in the Occupied Palestinian Territories, August 2004

There is only one possible weapon to fight for the right to food: that's Article 2 of the contract of association between Israel and the European Union... Grave violations of the right to food have been recorded, they are clear. This accord must be suspended.

John Ziegler, UN Special Rapporteur on the Right to Food, October 2004

of a treaty, however serious, does not *ipso facto* put an end to the treaty, it does give the other party, subject to certain safeguards, the right to invoke the breach as a ground for terminating the treaty.

It is submitted that in light of the advisory opinion, the very legality of this agreement is questionable.

The EU can act unilaterally

The EU, as an international organization made up of its constituent states, has a responsibility, in the same way as states do, to abide by the ICJ's advisory opinion. The EU is set up by treaties which are governed by international law. The European Court of Justice has held that customary international law is binding upon the EU.⁽⁵⁾ At least two of the obligations set out in the ICJ's advisory opinion are of a customary character. Further, all 25 members of the EU voted in favour of the General Assembly resolution which demanded that Israel comply with its legal obligations as identified in the advisory opinion.⁽⁶⁾

The ICJ called upon all states to prevent the wall from impeding the exercise by the Palestinian people of their right to self-determination and also to ensure Israel's compliance with international humanitarian law. The EU is not having much success issuing statements, declarations and demarches. Something more substantive is necessary.

The EU can act unilaterally and there is a precedent for this. On 22 April 1980, during the hostage crisis at the American Embassy in Tehran, the EU imposed sanctions against Iran for violating the laws of diplomatic immunity. The EU acted after the Soviet Union vetoed a resolution in the Security Council that sought to impose sanctions on Iran. It justified its act by saying "the situation created a concern for the whole international community". If the EU could then act without express authorisation from the Security Council, it could surely do so today. The EU need not be concerned about US vetoes. The US may have a seat in the Security Council, but it does not have a seat in the European Council.

The EU would rather breach its own laws than censure Israel

The EU has been ambivalent when it comes to censuring Israel. On the one hand, it says it is committed to the "two state vision" enshrined in the Roadmap and in Security Council resolutions 1397 and 1515. On the other hand, it has done nothing substantive about Israel's Wall which is snaking its way throughout the West Bank. In February 2005, President George W. Bush said at a press conference in Brussels that a "state of scattered territories will not work". But this is precisely what the Palestinians will get if nothing is done about the Wall.

Lawyers Challenge EU and UK over Inaction on Palestine

Lawyers acting for campaigns group *War on Want* sent letters in July to the President of the European Commission and the UK Foreign Secretary challenging them to provide evidence of any action they have taken to curtail human rights abuses against Palestinians living under Israeli military occupation. UN Special Rapporteurs have called on the EU to suspend the EU-Israel Association Agreement, under which Israel exports enjoy preferential access to EU markets, on human rights rights.



"Israel continues to defy international law with its actions in Palestine, and each new day of the occupation sees more Palestinians condemned to poverty and despair," said Johan Hilary, Director of Campaigns and Policy at *War on Want*. "Neither the EU nor the British government have honoured their obligations to the Palestinian people as called for by the International Court of Justice. As it assumes the EU presidency, we call on the British government to suspend the EU-Israel Association Agreement and bring Israel into line with humanitarian law."

War on Want has campaigned to raise awareness of the poverty caused by Israel's military occupation of Palestine. For more information see, www.waronwant.org.

The EU is allowing politics to prevail over law. But in a democratic society it should be the other way around. Sanctions are a non-violent measure designed to induce Israel to comply with international law. Withdrawing preferential trade is not even a sanction. It is a cardinal principle of international law that no benefit can be conferred from an illegal act (*ex injuria non oritur jus*). The EU in allowing Israel to benefit from its unlawful policies and practices in the OPTs - through the application of the association agreement - is doing precisely that.

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Endnotes:

- (1) See, Victor Kattan "A state cannot indefinitely stand against the world": An interview with UN Special Rapporteur John Dugard, *The Electronic Intifada*, 23 September 2004 at the following web site: <http://electronicintifada.net/v2/article3112.shtml>.
- (2) See, the example of sanctions against Apartheid South Africa in Shridath Ramphal, *South Africa: The Sanctions Report* (Prepared for the Commonwealth Committee of Foreign Ministers on Southern Africa). New York: Penguin Books, 1989.
- (3) This agreement entered into force during the Presidency of Ehud Barak in June 2000. It replaced the 1975 free trade agreement, which replaced the 1964 non-preferential trade agreement signed with the European Economic Community. The territorial requirement does not include the Arab territories occupied by Israel.
- (4) The *Euro-Mediterranean Agreement* establishing an Association between the European Communities and the Member States and Israel, which was signed on 20 November 1995 and entered into force on 1 June 2000 can be located at OJ 2000, L 147, 21 June 2000. For further reading see, Esa Paasivirta, 'EU Trading with Israel and Palestine: Parallel Legal Frameworks and Triangular Issues,' 4 *European Foreign Affairs Review* (1999): pp. 305-326; and by the same author, "Human Rights, Diplomacy and Sanctions: Aspects to "Human Rights Clauses," in the "External Agreements of the European Union" in Jarna Petman and Jan Klabbers, *Nordic Cosmopolitanism: Essays in Honour for Martti Koskenniemi*. Leiden: Brill 2003, pp. 155-180.
- (5) See, the opinion of M. Darmon AF in joined cases 89, 104, 114, 116, 117 and 125-129 185, *Ahlström Osakeyhtiö* [1988] ECR 5193 para 49; Case C-286/90 *Anklagemyndigheden v. Pouslen und Diva Corp.* [1992] ECR I-6019, para. 9; Case C-162/92 *Racke* [1998] ECR I-3655, para. 24; Case C-405/92 *Mondiet* [1993] ECR I-6133 paras. 12 and 13; Case C-27/96 *Danisco Sugar* Case [1997] ECR I - 6653 para. 21; Case C-29/99 *Commission v. Council* ECR I - 11221 [2002] paras. 83 and 84; and finally see C-216/01 *Budvar v Ammersin* (2003) at para. 154.
- (6) H.E. Mr. Richard Ryan, Ambassador, Permanent Representative of Ireland to the United Nations, on behalf of the European Union, explained the EU's vote at the General Assembly as follows, "[t]he European Union reaffirms its commitment to a negotiated two-state solution agreed between the parties which would result in a *viable, contiguous, sovereign and independent Palestinian State* existing side by side in peace with an Israeli in secure and recognized borders [emphasis added]." 6 May 2004, EU Presidency Statement – the question of Palestine – explanation of votes (New York).

Wallajeh: Displacement, Dispossession and Demolition

by Ali Durrani

This story shares many similarities with every Palestinian story, yet the story of the Wallajeh village seems unrivaled in its absurdity. Encircled by the District Coordinating Office (DCO) checkpoint in Beit Jala, the Jewish settlements of Gilo and Har Gilo, the Biblical Zoo (which sits on Wallajeh land), Hadassah Ein Karem hospital, and Teddy Kollek football stadium, Wallajeh has nearly been subsumed by "Greater Jerusalem." Indeed, Israel 'unknowingly' annexed almost half of the village of 2000 people to the municipality of Jerusalem 38 years ago.



The remains of a demolished Palestinian home in the village of Wallajeh. © Nathalie Bardou/BADIL.

On 21 October 1948, almost all Wallajeh homes sitting on 17,704 dunums (4,426 acres) were demolished via Israeli Operation Har'el; most residents were forced to flee to refugee camps in Jordan. Today, the vast majority of the village population remains in Jordan with an estimated 12,500 refugees registered with UNRWA.⁽¹⁾ Some individuals and families slowly returned to Wallajeh. Subsequently, they began to build rooms (some even resided in caves) on the remaining portion of their village, seeing their displacement as a temporary matter.

In the 1960's, residents gradually came to the realization that their inability to return to their lands and properties may be more permanent, and many began building houses. However, after the 1967 Israeli occupation of the West Bank, legally building in Wallajeh became nearly impossible as housing permits were seldom granted. Also in 1967, while mapping the Israeli annexation of the eastern part of Jerusalem, government surveyors unknowingly included the Ein Juweiza neighborhood of Wallajeh, which holds 92 homes with hundreds of villagers.

In the early 1980's, the Civil Administration commenced demolishing 'illegal' homes, which meant all villagers who built after 1967 (ostensibly without a permit) were subject to losing their homes. In 1981, while homes continued to be demolished, Israeli officials finally discovered that they had annexed Ein Juweiza, and the body in charge of demolition switched to the Jerusalem municipality. For over 14 years, these Wallajeh villagers had no idea that they were actually living in eastern Jerusalem.

However, the sudden transition from the West Bank to eastern Jerusalem seemingly made little difference; village homes were still being demolished. "Nothing has changed," noted Wallajeh villager Sheerin al-Araj, a trainer for conflict transformation. The Jerusalem municipality provided nothing to the annexed portion of the village by way of schools, utilities, health or social services, though the city was more than eager to provide more home demolition.

The Wall

There is an apparent Israeli strategy of divide and conquer when it comes to Wallajeh, which is reflected in the original design of the Wall's path bisecting the eastern Jerusalem/West Bank sides of the village. Such a seemingly impractical plan of keeping part of the Palestinian village in the West Bank fits perfectly into the Zionist idea of development according to Sheerin al-Araj: "as much as land as possible with as less [sic] people as possible." Fortunately, the villagers prevailed, and the court ruled that the Wall's path divided the village in two for no particular reason.

As things currently stand, the Wall will encircle all of Wallajeh, excluding it from Jerusalem, with the sole exit to the West Bank via an underground tunnel.⁽²⁾ This will make travel to Jerusalem increasingly arduous and time-consuming, especially for villagers employed in Jerusalem. Additionally, the Wall will separate many villagers from their farmlands, possibly depriving them of their primary (if not only) means of livelihood.

Differing strategies of how to deal with their plight have divided villagers. Lower Wallajeh residents generally maintain the position of rejecting the eastern Jerusalem annexation as a fact, and Upper Wallajeh residents wish to accept the annexation and attempt to legalize their status as residents of Jerusalem. Such differences have led to mistrust and harsh feelings between many villagers. The main obstacle to gaining residence in Jerusalem is the "Center of Life" test, which, realistically, no Wallajeh villager could pass. Indeed, in Israel's continual drive to Judaize eastern Jerusalem, the Interior Ministry has required rigorous documentation for "confirmations of places of employment, *arnona* [land tax], electricity, water, and telephone bills" to gain residency in Jerusalem.⁽³⁾

Even villagers living in annexed Ein Juweiza have no substantive documentation from the Jerusalem municipality that proves a significant connection with Israel. By not providing Ein Juweiza with any services despite levying taxes, the municipality effectively claimed jurisdiction over the land but not its inhabitants. Moreover, the future denial of access to Jerusalem through the wall is the clearest indication that Israel has no desire to grant any villagers Jerusalem residency. However, even an application for Jerusalem residency entails certain risks. Sheerin's uncle had 80 dunums of land annexed to Jerusalem, but if he applies for a Jerusalem ID to legally access his land, he admits to not living on that land - making him an "absentee" and subjecting his land to Israeli confiscation.

Israeli officials adopted their typical tack for desired land expropriation. There are currently 20 orders of demolition for 17 'illegally built' houses in Wallajeh, which have about 12 months remaining in which to contest the orders in court or miraculously obtain a license. In addition, many residents face exorbitant fines of 7,000-300,000 shekels for building without a license.

Residents also experience harassment from the occupation forces, who admonish residents to sell their homes and leave Wallajeh. Israeli municipal authorities want villagers in Ein Juweiza to sign a document that stipulates that their homes are in eastern Jerusalem, and that they are residing illegally in Jerusalem as they hold West Bank identification cards. Such an admission simplifies the process of annexation and displacement, and eliminates the need for a lengthy litigation ordeal for the government to demolish homes.



The Israeli plan is simple: the signed document would allow the Israelis to expel residents to the West Bank; the vacated lands would then be considered “abandoned” by the Israeli Custodian of Absentee Property; and this would clear the way for Israeli state acquisition or transfer to a parastatal institution like the Jewish National Fund (Himnuta, a JNF subsidiary, already claims to own lands in this area). No resident has yet signed any such document.

Consequently, Israeli authorities have increased pressure to ‘convince’ villagers to leave ‘voluntarily;’ for instance, border police began arresting Wallajeh villagers for living ‘illegally’ in Israel. Traveling to Beit Jala or Ramallah has become increasingly difficult, as the villagers hold West Bank ID, providing Israeli pretext for harassment. Sheerin al-Araj is accustomed to lengthy checkpoint delays due to the intransigence of Israeli soldiers who refuse to believe she lives in Wallajeh. She even brings a utility bill when traveling as proof that she lives in her home.

Muhammad and the legal mountain

The story of Muhammad Mousa al-Sheikh typifies the Wallajeh villager experience, if only because the Israelis sought to test their methods of forced displacement on him and his family before implementing them on the rest of the village. Muhammad is the oldest of six brothers, each brother has spent varying times in prison for resistance activities against the Israeli occupation, so much so that until recently, it had been about 20 years since all the brothers had been together. They live among a family of 20 in a two-story home in Ein Juweiza that is under orders for a second floor demolition in 2006 (the first floor was legally built prior to annexation). In 1998, the family first received demolition orders and a 49,000 shekel fine for building a second floor without a permit from the Jerusalem municipality.

Muhammad contested the demolition orders in court and won, but still had to pay the fine. In 2002, the municipality issued another demolition order, and in August 2003, the municipality commenced destroying the second floor of the al-Sheikh home. The Israelis began second floor demolition before the family could remove any of their possessions. At this time, Muhammad managed to get the court to stop the order. Although the second floor was rendered uninhabitable, “it was an achievement for us to get them to stop the demolition,” said Muhammad. He’s unsure of whether it is the location of the al-Sheikh home or the resistance activities of his brothers that is the main cause of the Israeli actions towards them.

In February 2004, the Israeli occupation forces began to intensify its harassment of the al-Sheikh family. After Muhammad missed one monthly payment on their fine, border police/police/army arrested all of the brothers. Though the standard procedure for missed payment is penalty or interest charges, the brothers remained in jail for 5 days before paying bail. Just two months later, at 4am on an April morning, the entire family (except one sleeping brother) was taken out of the home by Israeli forces, and five of the brothers were detained.

The brothers believed that they were about to witness their home being demolished, but they were



Demolished house in Wallajeh with the Israeli colony of Gilo in the foreground. © Nathalie Bardou/BADIL.



taken to checkpoint 300 near Bethlehem where the Israeli border police told them, “we caught you in Jerusalem without a permit.” This came as quite a shock to Muhammad and his brothers, as the Palestinian Authority provided electricity, water, and other utilities, while the Jerusalem municipality provided nothing aside from bulldozing. “We never asked [Jerusalem] for anything. We never dealt with them,” said Muhammad.

The police offered the brothers a way out: if they signed a document recognizing that they lived in Jerusalem, they would be released. If they had signed, the brothers would have been free after two hours of detention. Instead, the brothers’ collective refusal to recognize the annexation of their land marked the beginning of a peculiar 15-day ordeal in jail. In court, the judge said that without the document signed the government did not have a case, and ordered the brothers released.

However, the government added security related charges, so the judge issued a temporary order keeping them in jail. Upon appeal, a different judge noted there was no case against the brothers, and that they could go until the government could provide the admission of annexation documents. The men were finally released on 23,000 shekels bail, though the army subsequently began arresting other Wallajeh villagers for illegally residing in Jerusalem.

In June 2004, the army demolished the homes of Wallajeh residents Dr. Omar Ayub Radwan and Mahmoud Abu Khiara. The villagers petitioned the Israeli Supreme Court, and the court issued a temporary order for the government to cease arresting and harassing the people of Wallajeh. The army stopped arresting villagers but made its presence known by demolishing ‘illegally built’ farm houses in January 2005.

The villagers had to get another Supreme Court temporary order against the army to stop demolitions in general. Refusing to be thwarted in their quest to drive Wallajeh villagers away, the army then resorted to confiscating all cars with Palestinian license plates for being in Israel without permission. Fortunately for one Wallajeh family, they owned one car with Palestinian plates and one car with Israeli plates, so the disappointed army begrudgingly left the family with one car.

In any event, as for the al-Sheikh family, the brothers managed to pay off the 49,000 shekel fine in February 2005. However, in March 2005 the Israeli authorities issued an additional fine of 30,000 shekels for their illegally rebuilt second floor. Payment of this second fine is made no easier by the fact that three of the brothers are unemployed, and the second floor of their home is scheduled to be demolished in June 2006. When asked about the prospect of leaving, Muhammad Mousa al-Sheikh reflected the attitude of Palestinians in general, “it will never happen.”

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Endnotes:

- (1) The figure is based on Salman Abu-Sitta, *The Palestinian Nakba: The Register of Depopulated Localities in Palestine*. London: Palestinian Return Centre, 1998. The 1997 numbers are multiplied by 3.5% annual growth rate for 2005.
- (2) Applied Research Center in Jerusalem, ‘Trapped Within the Claws of Occupation- Bethlehem Western Rural Villagers Stripped of Their Lands,’ (19 May 2005), available at, http://www.poica.org/editor/case_studies/view.php?recordID=572.
- (3) *The Quiet Deportation Continues: Revocation of Residency and Denial of Social Rights of East Jerusalem Palestinians*. Jerusalem: Ha’moked/B’Tselem, 1998, p. 16.

Family Reunification Ban on Palestinians Extended

On 30 May 2005 the Israeli Knesset extended by an additional three months limitations on the granting of residency and citizenship status to Palestinians who marry Israeli Arabs. Coalition Chairman Gideon Sa'ar said "the solid majority today in the Knesset plenum testifies to the determination to maintain the security of Israel and its character as the state of the Jews." (*Ha'aretz*, 30 May 2005)

The amended law only permits Palestinian women over the age of 25 and Palestinian men over the age of 35 to apply for family reunification with their Israeli spouses. These criteria are arbitrary in nature and apply to only a small percentage of the couples seeking family reunification, as most marry at an earlier age. Israeli authorities are not required to inform applicants about the basis of the allegations of their relatives or to give them the opportunity to challenge those allegations. Only new applications will be processed.

"Supporters of the amendment, including prominent members of the academic world," says Hassan Jabareen, lawyer and General Director of Adalah – the Legal Center for Arab Minority Rights in Israel, "claim that every country is permitted to determine its immigration policy. This is true. However, first of all, we are not talking about immigration, but about granting legal status to the partner of a citizen." (*Ha'aretz*, 18 May 2005)

"Secondly, there is no democratic country in the world that restricts immigration on the basis of ethnicity. Thirdly, the ethnic component - the 'Arab' component in our case - is the identity of 20 percent of all the citizens of the State of Israel, and therefore, such a step has the power to grant open and official legitimization for discrimination against Arab citizens, in all areas."

"The central issue here is that we are not talking about immigration, as the government claims, but about abolishing the personal freedom of Arab citizens, and their right to choose their partner and to conduct a normal family life. This restriction does not affect the Jews or the foreigners in Israel, and it has no parallels in democratic countries today."

"However, it does have parallels in the past: in the 1950s, the State of Virginia in the United States forbade miscegenation (mixed marriages of blacks and whites). For that reason, the Lovings were forced to leave Virginia, and appealed challenging the constitutionality of the law. The U.S. Supreme Court overturned this legislation because it was racist. In 1980, at the height of apartheid, the South African court overturned - out of its recognition of the right to conduct a family life - an order forbidding a black woman to live with a black man who, because of his work, had received a permit to live in a white area."

"Supporters of the amendment claim that it is necessary in order to maintain the Jewish majority in the country. However, if this goal allows the government to take such a drastic step, and to undermine basic constitutional rights such as the right to a family life, then why shouldn't the Natserat Illit municipality, for example, prevent Arab citizens in the future from purchasing apartments in its jurisdiction, claiming that this is essential in order to protect the Jewish character of Natserat Illit, or alternatively, impose a higher arnona (property tax) on Arab residents, in order to deter them from building a house within its jurisdiction? That is the slippery slope of the demographic argument, behind which lies racism."

Amnesty International described the as discriminatory in its explicit denial of family rights on the basis of national origin. The latest amendment and extension of the law, says Amnesty, rather than bringing it into line with international human rights standards and Israel's Basic Laws, includes exceptions to the law based on age and gender. (Amnesty International, Joint Letter to Israeli Knesset Members, 22 May 2005)

In Memoriam

Between 29 September 2000 and 30 June 2005, 5,626 Palestinians, including 23 inside Israel, were killed by Israeli security forces (PRCS). During the same period 664 Israeli civilians and 304 members of the Israeli security forces were killed. (B'tselem) In total, 30 Palestinians and 10 Israelis (8 of whom were civilians) were killed between 1 April and 30 June 2005.

For a full list of names of Palestinians killed visit the website of the Palestinian Human Rights Monitoring Group:
http://www.phrmg.org/aqsa/fatalities_list.htm

No Longer Willing to Foot the Bill for War Crimes and Negligence

by Hussein Abu Hussein and Zaha Hassan

The youngest among the dead was two-month old Dina Mattar. Eight other children and six adults died that night, 22 July 2002, along with Dina. Around 140 people were left maimed or injured. There was no warning except maybe for the sound of the F-16 flying over their apartment building but who among the dead and injured would have guessed at that time that the F-16 was coming to drop a one-ton bomb in their densely populated neighborhood in Gaza City? The Israeli "operation" to take out one man, Hamas leader Salah Shehadeh, was dubbed a success by Israeli Prime Minister Ariel Sharon. The blast not only destroyed the building housing Shehadeh but it also destroyed parts of adjacent apartment buildings with families asleep in their beds.



Destruction of refugee shelters in 'Azza refugee camp (Beit Jibrin) during a 2001 Israeli invasion of Bethlehem. © BADIL.

In rare form, the international community was quick to condemn Israel. The UN Secretary General stated that "Israel has the legal and moral responsibility to take all measures to avoid the loss of innocent life; it clearly failed to do so in using a missile against an apartment building."⁽¹⁾ The UN High Commissioner for Human Rights described the Israeli action as the "reckless killing of civilians" and noted that such is absolutely prohibited under international human rights and humanitarian law.⁽²⁾ Avoiding any reference to legal obligations existing under international law, Israeli Foreign Minister Shimon Peres described the bombing as "a mistake" and regrettable.⁽³⁾ Other Israeli government officials stated that the dropping of the bomb in such a densely populated part of Gaza City was the result of an intelligence failure.⁽⁴⁾

Whether one characterizes the Israeli atrocity in Gaza City as a violation of human rights and humanitarian law, i.e., a war crime, or as negligence on the part of Israeli military intelligence, under international law compensation is owed to the victims and the families of the victims of the Israeli attack. Today, some Israeli



government officials including the Minister of Defense would like to turn international law on its head however. They argue that the state of Israel can no longer foot the bill for its war crimes and negligence as the list of those Palestinians who would be entitled to compensation has grown astronomically since the start of the *al-Aqsa Intifada* in 2000. These government officials have submitted a bill in the Knesset that would deny Palestinian residents of the occupied Palestinian territories (“OPT”) compensation for all negligent acts and omissions including war crimes committed by Israeli occupation forces and other agents of the state of Israel in the OPT. If passed, the bill will have retroactive effect and will be applicable to all incidents occurring since 29 September 2000, the start of the second Palestinian uprising, in cases where witnesses have not yet offered testimony in Israeli courts.

Only in 2002, the Israeli Knesset passed an amendment to its tort law which erected a number of legal barriers for Palestinians from the West Bank and Gaza Strip to obtaining compensation for the unlawful actions of Israeli soldiers. Prior to the 2002 Amendment, Israel’s tort law provided that the state of Israel and its agents may not be held civilly liable for injuries, deaths, or property damage occurring during “wartime actions.”⁽⁵⁾ The 2002 Amendment expanded the definition of “wartime action” to include any action intended to “combat terror.” Virtually any Israeli military action occurring in the OPT could be considered aimed at combating terror by Israeli courts. Given the deference that Israeli courts have shown the military when the military has claimed that it was acting for “security reasons,” the likelihood of Palestinian victims of Israeli human rights abuses convincing an Israeli judge that an act of the Israeli military did not fall within the ambit of “combating terror” is very low. In addition to the expansion of the definition of “wartime action,” the 2002 Amendment created a number of procedural and evidentiary burdens that made it more difficult for Palestinians to successfully pursue a claim for compensation in Israeli courts.⁽⁶⁾

Israeli exceptionalism threatens the credibility of international legal institutions and the stature of international law. Victims of negligence and war crimes at the hands of the Israeli military and other public officials not only deserve their day in court, they are, under international law, entitled to it.

The latest amendment to Israel’s tort law proposed this year by the Minister of Defense and others goes even further by closing the door completely on compensation for human rights violations and negligent acts and omissions committed by the Israeli military and public officials against Palestinian civilians in the OPT. The proposed amendment provides that the state may not be held civilly liable for any injury it causes to a subject of an enemy state or to a person active in a terrorist organization. It also provides that the state may not be held civilly liable for any injury to a resident of a “conflict zone.”⁽⁷⁾ Under the proposed amendment, the Minister of Defense has the sole discretion in determining which areas are deemed zones of conflict.

The idea behind the bill is that in a war situation each side should be responsible for damages and injuries to their own population regardless of who caused the damage or injuries. Thus, under this rationale, when Israel dropped the one-ton bomb in the densely populated neighborhood in Gaza City, the Palestinian Authority would be expected to pay compensation to the 140 Palestinian men, women and children who were maimed and injured and to the families of the 15 person who were killed in the attack. The Palestinian Authority would also be required to pay for the rebuilding of the destroyed apartment buildings and compensate families for any lost property.

Of course, the new amendment to Israel’s tort law is absolutely contrary to international law and the laws of all civilized nations. In fact, Article 3 of the *Hague Convention of 1907* provides that a belligerent party is liable to pay compensation for its acts violating the laws of war involving any persons forming part of that party’s armed forces. Article 29 of the *Fourth Geneva Convention of 1949* also guarantees the right to reparation. Various other international human rights and humanitarian instruments set out that the right to an effective legal remedy is a human right.⁽⁸⁾ Ironically enough, Israel has been one of the strongest proponents of seeking compensation for victims of war crimes from perpetrators of those crimes. For years, Israeli practice has been to hold the Palestinian Authority accountable in Israeli courts for deaths and injuries to Israeli citizens committed by Palestinian militants. Israel has been able to secure millions of dollars of compensation to its citizens by seizing tax revenue belonging to the Palestinian Authority.

The new proposed amendment also infringes Israel’s *Basic Law on Human Dignity and Liberty* since it



blocks civil actions based solely on the nationality of the plaintiff and his/her place of residence rather than on the quality of his/her claim. The discriminatory intent and effect is most apparent when one considers that under the proposed amendment Israeli settlers residing in the West Bank or the Gaza Strip are excluded from the legislation's reach. This is because the proposed amendment would apply only to "enemies" of Israel. Thus, for example, if a stray bullet from Israeli occupation forces in the West Bank hit an innocent civilian, the determining factor on whether the injured would be able to obtain compensation from the State of Israel would depend on his/her nationality.

Besides being against international law, Israeli practice and constitutional principles, the law defies logic and creates a disincentive for the stronger party in a conflict to refrain from indiscriminately bombing the weaker side and causing unnecessary loss of life and destruction of property.

Israeli law professors and legal scholars have been vocal in their opposition to the proposed amendment. During discussion of the bill before the Knesset Constitution and Law Committee on June 15, 2005, virtually all those members of the public present arguing against passage of the bill agreed that it is discriminatory, contrary to democratic values, and violative of constitutional principles contained in Israel's Basic Laws. Some also argued that it shows a lack of confidence in the Israeli judiciary's ability to adjudicate compensation cases from the OPT. None of the legal scholars present could think of any other country in the world that had enacted a comparable exception to their tort law.

While the nations of the world continue to tiptoe around the Israel-Palestine conflict afraid to disturb the possibility of a final agreement being reached sometime soon, Palestinian homes continue to be bulldozed, land continues to be expropriated, settlements continue to grow, the Separation Wall continues to be built within the occupied territories contrary to the decision of the International Court of Justice, and Palestinians continue to be injured and killed by Israeli occupation forces. And now, if this new Israeli bill passes, those Palestinians who have suffered at the hands of the Israeli military, which stands today mainly to defend its illegal occupation, will be denied their international right to compensation for their injuries. Since international forums have not been willing to take up the claims of Palestinian victims of Israeli human rights abuses, the amendment leaves Palestinians inside the OPT without any effective legal redress for their injuries.

The international community and persons of conscience must not let this latest example of Israel trying to exempt itself from the norms of international law go unnoticed. Israeli exceptionalism threatens the credibility of international legal institutions and the stature of international law. Victims of negligence and war crimes at the hands of the Israeli military and other public officials not only deserve their day in court, they are, under international law, entitled to it.

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Hussein Abu Hussein is an Israeli human rights lawyer, authorm and chair of Ittijah, Union of Arab Community Based Organizations in Israel. He resides in Um Al Fahm, Israel. Hussein Abu Hussein may be reached at ahusein@zahav.net.il.

Postscript: On 27 July 2005 the Israeli Knesset voted 5415- in favor of the law. Members of the Knesset (Mks) from the Likud, Labor, Shinui, Shas, National Religious Party and National Union parties voted in favor of the amendments. MKs from Meretz-Yahad and the Arab parties, as well as one member of Labor voted against. One Labor MK abstained.

Endnotes

- (1) BBC News World Edition Online, *World Condemns Gaza Attack*, 23 July 2002, available at http://news.bbc.co.uk/2/hi/middle_east/2146604.stm.
- (2) *Ibid.*
- (3) BBC News World Edition Online, *Peres Regrets Gaza Bombing Mistake*, 24 July 2002 http://news.bbc.co.uk/2/hi/middle_east/2148548.stm.
- (4) *Ibid.*

- (5) Torts Law (State Liability) 5712-1952, *Sefer HaChukim* 5712 (1952), p. 339.
- (6) These burdens included a shortening of the limitations period and disallowing presumptions favoring the Plaintiff such as that represented in the legal doctrine of *res ipsa loquitor*.
- (7) For an English translation of the Knesset bill see, HaMoked: Center for the Defense of the Individual website: www.hamoked.org.il/items/7601_eng.pdf.
- (8) See, e.g., Article 8 of the Universal Declaration of Human Rights: "Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law"; Article 2(3) of the International Covenant on Civil and Political Rights of 1966: "Each state party to the present convention undertakes—(a) to ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy notwithstanding that the violation has been committed by persons acting in an official capacity"; Article 6 of the International Covenant on the Elimination of All Forms of Racial Discrimination of 1965: "States parties shall assure to everyone within their jurisdiction...the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered..."

No One is Illegal – Week-long March for Refugee Rights in Canada

After years of fighting for status and struggling against unjust detention and deportation practices, self-organized committees of immigrants and refugees, and their allies, united on a campaign called *Solidarity Across Borders*. On 18 June 2005 they began a week-long trek, walking from Montreal to Ottawa, to force the Canadian Minister of Citizenship and Immigration to realize the urgency of their demands.

The four basic demands of the *Solidarity Across Borders* network are: the regularization of all non-status people in Canada; an end to deportations; an end to detentions; and the abolition of security certificates.

Lack of status, deportations, detentions, and security certificates all contribute to making migrants vulnerable to exploitation, poverty, insecurity and indignities that no one should suffer. In the current political context, as Canada rushes to harmonize its border policies with the United States and create a unified "Fortress North America" in the context of the so-called "war on terror", the situation of immigrants and refugees is worsening.

Every day, thousands of migrants and their families struggle against the uncertainties created by the racist and anti-poor processes of criminalization carried out by Immigration Canada. They are forced underground; threatened with detention or with deportation to often desperate situations; and subjected to discriminatory legal standards which fall far short even of international human rights standards. The migrants leading the march are simply demanding their basic rights to a secure life, dignity and a future.

For more information see, www.solidarityacrossborders.org.

For more on the situation of refugees, including Palestinian refugees, in Canada see, "Canada Wages War on Refugees: Palestinian Refugees Fight Back," *Majdal* 23.



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Israel Erects a Fence to Stop Visits to Palestinian Refugee Village of Miska

The Israel Lands Administration (ILA) closed the school in the depopulated Palestinian village of Miska with a locked gate and fence on 15 June 2005. The ILA took the action after refugees from Miska began visiting the school which is the only standing remnant of their village. Refugees had even used the old school to stage a play called 'Memory' by Salman Natour, a work that deals with the memory of the Palestinian *Nakba*.

When a journalist asked the ILA spokesperson to explain the extreme action, she responded that "inspectors of the ILA and Green Patrol noticed that there was an infiltration. The trespassers were not found and some of the equipment was removed. The supervisors closed the structure to prevent future trespassing."

The Palestinian inhabitants of Miska were expelled by units of the Alexandroni Brigade in April 1948 as part of a plan to clear out all Palestinian communities from the coastal area between Tel Aviv and Zikhron Ya'akov south of Haifa before 15 May when the British Mandate came to an end and Israel unilaterally declared its establishment. The Jewish National Fund began to destroy the village in June 1948.

In the upside world we are living in, observed Zochrot, an Israeli Jewish organization dedicated to raising awareness about the *Nakba* and Palestinian refugees, the residents born in this land become 'trespassers' and those who trespass their rights are 'inspectors'.

The people of Miske and Zochrot decided to overturn the fence and held a cultural event which included an art installation on the fence put up by the ILA. Over 200 participants and a few dozens of leading artists, who contributed art works, joined the protest in the village's school house.

For more information visit, www.zochrot.org.



*The fence erected at Miska around the old village school and Zochrot sign identifying the village and its origins.
© Nathalie Bardou/BADIL.*



Creating art on the fence at Miska. © Eitan Reich and Shahaf Haber

Addressing Women's Empowerment in Times of Occupation and Colonization

by Karine Mac Allister



Palestinian women crossing through an opening in the Wall in Abu Dis. © Nathalie Bardou/BADIL.

From 5 to 22 July 2005, the Committee for the Elimination of Discrimination Against Women (CEDAW) will meet with Israeli delegates to discuss Israel's state report. Israel's report to CEDAW is incomplete; it ignores discriminatory laws against internally displaced Palestinian Arab women in Israel, fails to address Israel's human rights' responsibilities towards Palestinian women in the Occupied Palestinian Territories (OPT) and disregards its international obligation to allow the return of Palestinian refugees, of which half are women.

This article provides a brief overview of the international framework for the achievement of women's rights. It then looks at Israel's policies affecting the rights of Palestinian refugee women around the world and Palestinian women in the OPT. Finally, it examines the challenge of empowering women while war crimes and crimes against humanity are perpetrated on a daily basis and inquires: how can women's rights be achieved in times of occupation and colonization?

CEDAW, Beijing and the Millennium Developments Goals

Over the past decade, women's equality and emancipation have become priorities of the international community. The 1995 Beijing Platform for Action and the 2000 Millennium Development Goals (MDGs) are two leading initiatives addressing the needs and interests of women. Out of eight Millennium Goals to be attained by 2015, two specifically concern women; namely ⁽¹⁾ the promotion of gender equality and the empowerment of women; and ⁽²⁾ the improvement of maternal health. The UNHCR has also made

the satisfaction of protection needs of women and children refugees a recurrent and central theme of its 2002 Agenda for Protection. More generally, governments are obligated under CEDAW and committed under Beijing to take a range of measures to guarantee women's "empowerment, full participation and equality in society" with the goal of furthering development and achieving peace.⁽¹⁾ The international community envisions women's rights as an organic component of peace and development.

Palestinian refugee women: rights denied

The international community continually affirms Israel's direct responsibility towards the realization of the core fundamental rights of the Palestinian people, namely, the right to self-determination, the right of return and the right to restitution and compensation.⁽²⁾ However, through its *Law of Return* (1950) and *Citizenship Law* (1952), Israel maintains a legal and administrative regime that works against the realization of Palestinians' fundamental rights.

More recently, Israel approved a law explicitly prohibiting the right of return of Palestinians. On January 1, 2001, the Knesset passed the *Ensuring Rejection of the Right of Return Law*⁽³⁾ which prevents refugees, defined as "a person who left the borders of the State of Israel at the time of war and is not a national of the State of Israel, including the persons displaced in 1967 and refugees of 1948 or a member of his family" to return "to the territory of the State of Israel except with the approval of a majority of members of Knesset." This law, as the *Law of Return* and *Citizenship Law*, is undoubtedly discriminatory as it specifically targets a national, religious and political group. Furthermore, the law breaches Israel's obligation to allow and facilitate the return of refugees when it stipulates that "the government of Israel will not make any commitment and will not enter into any agreement that is inconsistent with the provisions of this law."

As a result of Israel's defiance of international law⁽⁴⁾, an estimated 7 million Palestinian refugees around the world, of which half are women, are denied the opportunity to choose one of three durable solutions; return to their homes and properties, integration in the host country, or resettlements in a third country. The possibility to choose one of these three options constitutes the only acceptable remedy under international law. Of these options, return is generally the preferred solution by refugees and UNHCR, and the only option that constitutes a fundamental right.

Israel also denies Palestinian women in the OPT their fundamental human rights. Indeed, Israel recognizes its jurisdiction over the Jewish settlers living illegally in the OPT, and includes settlers in reports to human rights treaty bodies such as CEDAW.⁽⁵⁾ Conversely, as an occupying power, Israel denies it has jurisdiction over the protected persons living in the same territory. Concretely, it means that Palestinian women are not protected by human rights law while Jewish settler women are.⁽⁶⁾ In fact, Israel not only applies international human rights law to settlers, but also the *Israeli Basic Law: Human Dignity and Freedom* (1992), which is categorically prohibited under international humanitarian law as it changes the *status quo ante* of the territory.⁽⁷⁾ This discriminatory application of jurisdiction clearly violates Article 2(d) and (e) of CEDAW which stipulate that state parties will "refrain from engaging in *any act or practice* of discrimination against women..." and "take all appropriate measures to eliminate discrimination against women by *any person*, organization or enterprise. [Emphasis added]"

Palestinian women and conflict in the OPT

As a delegate of the International Committee of the Red Cross observed, "war is no longer, if it ever was, a man's business..."⁽⁸⁾ Women play an active role in times of conflict and occupation, they bear arms, sustain families and lead peace movements. They are not the stereotypical passive and vulnerable actor. For instance, women have active roles in Palestinian civil society and lead non-governmental organizations promoting democracy based on gender equality and social justice as well as equal participation in decision-making and peace negotiations. Nonetheless, as refugees and displaced persons, women are more vulnerable due to the trauma of forced displacement and exile, lack of coping mechanisms in times of crisis and an often precarious and uncertain status.

Women and children living in refugee camps have been particularly affected by the conflict. Israeli



missiles launched into crowded camps kill, injure and disable women and children. Until today house demolitions have denied the right to family life, security and housing of over 39,000⁽⁹⁾ Palestinians. The UN Special Rapporteur on violence against women, its causes and consequences and Amnesty International have recently published reports recounting incidents of Israeli occupying forces use of women human shields, harassment and humiliation of detained women and dehumanization of women at military checkpoints.⁽¹⁰⁾ Moreover, the unprecedented restrictions on freedom of movement and denial of access to essential services exacerbate the situation of Palestinian women.

The combined effect of these traumatizing events is seen in the proportionally higher percentage of women and girl child suffering from post-traumatic stress disorder (PTSD). A study by the Gaza Community Mental Health Programme on the prevalence of PTSD among children 10-19 years of age revealed significant differences between boys and girls in the acute level of PTSD whereby, 57.9 per cent of girls compared to 42.1 percent of the boys developed the symptom. The study also indicated that children living in camps suffer more than children living in towns (84.1 per cent and 15.8 per cent respectively).⁽¹¹⁾ Another study by Dr. Abdel Hamid Afana found that 73% of patients visiting primary health care clinic in the Gaza Strip had mental disorders and that the prevalence among females was higher (76.8%) than males (67%).⁽¹²⁾ These studies conclusively show that the conflict disproportionately affect women and girls, especially those living in refugee camps.

Women's empowerment, colonialism and occupation

Under article 3 of the Convention for the Elimination of Discrimination Against Women, states are obliged to respect, protect and promote fundamental human rights and "... ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men." Many, if not most, of the fundamental rights and freedoms necessary to the achievement of equality between men and women are denied to Palestinian women.

The UN Special Rapporteur on violence against women wrote in February 2005 that "security measures by the Israeli occupying forces combined with the response this provoked among various Palestinian elements have contributed to an integrated system of violence, which intersects with a traditional patriarchal gender order that creates traumatizing impacts on Palestinian women."⁽¹³⁾

In other terms, it is "... naïve to imagine an improvement of women's plight in wartime, without recognising the fact that they remain structurally disadvantaged in times of peace."⁽¹⁴⁾ Until the societal disadvantages affecting women's rights are addressed, the central issue to women's empowerment remains a sustainable resolution to the conflict, which involves "...an effective response to the core of the conflict in the region - i.e. the dispossession of the Palestinian people from their land."⁽¹⁵⁾

Hence, as stipulated in the preamble of CEDAW, the "...eradication of Apartheid, all forms of racism, racial discrimination, colonialism and foreign occupation and domination..." are prerequisites to the attainment of gender equality, development and peace. Only the implementation of Palestinians' fundamental rights such as the right to self-determination, the right to return and the right to restitution and compensation constitute a genuine and sustainable vector to women's empowerment. Until such core rights are fulfilled, the realization of women's fundamental freedoms and rights - education, health, participation in public life and the general advancement of women, will remain partially addressed.

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Endnotes:

(1) See, UNIFEM, Millennium Development Goals Must Link to CEDAW and Beijing Processes, UNIFEM Releases New Publication in Lead Up to Beijing + 10, News Release, 25 January 2005 and Beijing Declaration and Platform

Quick Facts

- About 3.5 million Palestinian women are refugees, of which 1.6 million are also stateless.
- Approximately 120,000 refugee women will be affected by the construction of the Wall.
- 52 women gave birth at checkpoints since 2002. Between September 2000 and December 2002, 19 women and 29 newborn infants died at checkpoints.
- 707 children and over 250 women have been killed since September 2000.
- 288 children and 126 women are currently in detention.
- Over 39,000 Palestinians, mainly women and children, had their shelter destroyed since September 2000.



for Action, Report of the Fourth World Conference on Women (4-15 September 1995), UN Doc. A/Conf.177/20, 17 October 1995, para. 13.

- (2) See, for instance UNGA Resolution 3236 (XXIX), 22 November 1974 which stipulates the right to self-determination, national independence, return to their homes and property of the Palestinian people. See also, UNGA Resolution 51/129 which recalls “resolution 394 (V) of 14 December 1950, ... to prescribe measures for the protection of the rights, property and interests of the Palestine Arab refugees” and “call once more upon Israel to render all facilities and assistance to the Secretary-General in the implementation of the present resolution.”
- (3) Sefer Hahukim (Laws of Israel), Booklet 1172 (10 January 2001), p.116 in Nimer Sultany, Citizens Without Citizenship, Mada’s First Annual Political Monitoring Report: Israel and The Palestinian Minority, 2000-2002. Haifa: Mada al-Carmel: Arab Center for Applied Social Research, 2003, p. 19.
- (4) UNGA Resolution 194, UN GAOR, 3rd Session, UN Doc. A/810 (1948) calls for three specific remedies which Israel should accord to 1948 Palestinian refugees pursuant to international law: (1) the right of return to their home, or repatriation; (2) the right of restitution of private property belonging to those displaced Palestinians returning under the right of return; and (3) the right of compensation for the use of property, damaged or destroyed property, or for the property of Palestinians choosing not to return. Resolution 237 stipulates that Israel should “facilitate the return of those inhabitants who have fled the areas since the outbreak of hostilities.” UNSC Resolution 237, S/RES/237, 14 June 1967. See also, the Universal Declaration of Human Rights: article 9 and article 13 and the International Covenant on Civil and Political Rights (ICCPR): article 12.
- (5) The Committee on Economic, Social and Cultural Rights also reiterated “its concern about the State Party’s position that the Covenant does not apply to areas that are not subject to its sovereign territory and jurisdiction, and that the Covenant is not applicable to populations other than the Israelis in the occupied territories.” The Committee on Economic, Social and Cultural Rights: Israel, E/C.12/1/Add.90, 23 May 2003, para. 15. See also, the International Court of Justice, Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, 9 July 2004, para. 112.
- (6) See, Human Rights Committee, Concluding Observations: Israel, CCPR/C/79/Add.93, 18 August 1998, para. 13.
- (7) Diakonia. “Informal excerpts taken by advocate Netta Amar from the Israeli High Court of Justice Hearings on the Wall” (unpublished), Jerusalem, 9 May 2005. It is interesting to note this Basic Law does not protect the right of equality for all. Hence, no statute protects the right to equality of the Arab minority in territories where Israel applies the Basic Law. For more information see, Legal Violations of Arab Minority Rights in Israel, A report on Israel’s Implementation of the International convention on the Elimination of all Forms of Racial Discrimination. Shafr ‘Amr: Adalah – The Legal Center for Arab Minority Rights in Israel, March 1998, p. 19.
- (8) ICRC, Women and Armed Conflict, Official Statement by Gabrielle Nanchen, New York, 7th March 2005.
- (9) This is an approximate number including the number of individuals affected by house demolition as a result of military attacks, lack of so-called permit building, punishment and the limited data available on the impacts of the first phase of the construction of the Wall.
- (10) See, for instance the report from Amnesty International, Israel and the Occupied Territories, Conflict, occupation and patriarchy, Women carry the burden, MDE 15/016/2005, pp. 6-9. Integration of the Human Rights of Women and the Gender Perspective: Violence Against Women, Report of the Special Rapporteur on violence against women, its causes and consequences, Yakin Erturk, UN Doc. E/CN.4/2005/72/Add.4, 2 February 2005.
- (11) UNRWA, Annual Report of the Department of Health 2003, p. 5.
- (12) Dr. Abdel Hamid Afana, “Gender and Other Predictors of Anxiety and Depression in a Sample of People Visiting Primary Care Clinics in an Area of Political Conflict: Gaza Strip”, 2 Rahat Medical Journal 1, February 2004, Pakistan.
- (13) Integration of the Human Rights of Women and the Gender Perspective: Violence Against Women, supra note 10, p. 2.
- (14) Supra note 8.
- (15) Integration of the Human Rights of Women and the Gender Perspective: Violence Against Women, supra note 10, p. 2.

The Military Commander is Not 'Minister of History' Petition to Post Signs in 'Canada Park'

Zochrot submitted a petition to the Supreme Court of Justice for permission to post signs at 'Canada Park' designating the Palestinian villages of Yalu and Imwas that were destroyed during the 1967 war. A third village, Beit Nuba, was also destroyed but the village is located slightly east of the park.

Zochrot has struggled for two years with the Civil Administration of the occupation in order to post signs at the remains of the villages in the park. Although many of the remains of the Palestinian villages are still standing, the existing signs at the park teach visitors about the different histories of Jews, Romans and others, but do not make any mention of the hundreds of years of Arab existence in the area.

"The purpose of posting signs on the history of the park," wrote Adv. Michael Sfard who is representing Zochrot, "is to provide visitors with information about the history of the area and in order to forward values such as knowledge of the land and its heritage. Omitting selective passages from the local history is an unreasonable and extreme decision, which mars these values."

"It raises the suspicion that the refusal to post the signs in the area is based on political motivations aimed at preventing visitors to the site from becoming acquainted with its Arab past. The commander is not the 'minister of history' and is not authorized to prefer one historical narrative over another."

In July 2005 the JNF agreed to place signs commemorating the villages of Yalu and Imwas which are located in the park. Eitan Bronstein, the director of Zochrot, said that the JNF's announcement was a "step in the right direction," but that Zochrot would not be satisfied until the signs are put up in an appropriate manner, including information on the number of residents of the village in 1948, and the current location of the refugees from the villages.

For more information visit the Zochrot website: www.zochrot.org.



Officials signs posted at 'Canada Park' west of Jerusalem. © Palestine Remembered.



The Palestinian village of Imwas in 1958 before its destruction. © Palestine Remembered



Preserving the Palestine Heritage: paper and film documents held by UNRWA need preservation

by Ron Wilkinson



Palestinian refugees during the early years of refuge. © UNRWA Archives.

Among its archives, UNRWA, the United Nations Relief and Works Agency for Palestine Refugees in the Near East, has thousands of slides, black and white photos with negatives, thousands of feet of 16 mm film dating back to 1948 plus video tapes from more recent times.

Hundreds of thousands, 296,680, of family files containing more than 16 million documents, including travel documents; land deeds; birth, death and marriage certificates; guardianship papers; utility and tax bills; curfew permits from the British Mandate period and other documents dating back to the period of Ottoman rule before World War I are also held by UNRWA. They are being preserved now through a project that is seeing the digitizing and indexing of these files.

UNRWA is responsible for the official registration of more than 4 million Palestine refugees who are eligible to receive assistance from the Agency. In addition to the safekeeping of official documentation and correspondence of refugees, housed in its Family Files, the Agency is responsible for the ongoing maintenance of registration information such as recording births and marriages, issuing updated registration and ration cards. Through the Palestine Refugee Records Project, the Agency is developing a unified computerized registration system. Not only will the project improve the Agency's efficiency, a unified computerized registration system will also form the backbone of a future Palestinian state's national archives.

Some of these files have been moved up to five times and have been held in less than ideal conditions. The files offer unique historical and genealogical source material but they suffer from increasing deterioration





due to age, chemical reactions, micro-organisms and wear and tear from staff who must use the files in updating refugee registration records.

The old system uses obsolete software, is housed in three separate, non-interlinking systems, experiences multiple operational difficulties including update delays, requires up to three months to update a registration card and has security and data integrity risks.

Preserving documents

At a cost of \$6.6 million which has already been pledged, UNRWA's Palestine Refugee Records Project is developing and installing a centralized, integrated information system that incorporates all of the records currently stored in three separate systems and permits interface with other Agency program data profiling refugee clients and preserve the millions of family file documents and protect them from further deterioration by electronic scanning and indexing.

A pilot scanning operation began in August 2004 at UNRWA's Jordan Field Office where some 40 per cent of all refugee records are stored. This scanning operation will continue in the Agency's other field offices in Lebanon, Syria, West Bank and Gaza Strip. Work has begun in at the UNRWA Field Office in Damascus, Syria.

Included in the preservation process is a socio-economic data base of Special Hardship Case families in UNRWA's five fields of operation first set up in 1991. This data base contains information on 55,000 families (217,400 individual registered refugees).

Preserving photos and films

To complete this archive of the Palestinian people, UNRWA needs to finish preserving its films and black and white photos. In its early days, UNRWA realized it needed to document the Palestine refugee story so from the time it began operations in 1950, it had an active public information office which began the visual documentation and even trained young photographers and cameramen when UNRWA still had its headquarters in Beirut, Lebanon.

While the family files have had a long journey, so have the photos and films. They were kept by UNRWA first in Beirut up to the mid-1970s, some were given to the PLO in Beirut and then those that were not destroyed during the Lebanese civil war or Israeli bombing were moved to UNRWA in Vienna, Austria where UNRWA moved briefly in 1976, moved back to Beirut and then again to Vienna in 1978 where it remained until the early 1990s. Some of the films went from Vienna to a film library in London, England for restoration, preservation and safekeeping in the 1980s.

In 1995, the photo library was moved with UNRWA headquarters to Gaza



A harsh winter destroys refugee tents set up to provide shelter as a result of the 1948 in Palestine. © UNRWA Archives.



where it remains today and much of the film library was stored in UNRWA's other headquarters branch in Amman, Jordan where it remains. Aside from the deterioration of these materials, they are in danger of being lost and the negatives and slides pilfered. Once they are fully catalogued and digitized, this risk is minimized.

The movement from place to place of these important documents and photos has not helped with their preservation. Some of the older films and negatives are damaged when exposed to air and being handled over and over again.

The Public Information Office at the Gaza headquarters has begun the preservation of photos by cataloging photos and slides and digitalizing most of them.

However there has been no concerted effort possible to completely preserve all of the visual archives which cover all UNRWA fields of operation. The Agency is currently exploring the possibility of doing the same with the still and film footage as it has with the family files and documents. The main barrier remaining, as usual, is money, but there is a desire within the Agency to fully preserve all of its archives so that one day it can be handed over to Palestinians and form the basis of a national archive. The Agency is currently looking into what needs to be done and preparing a project proposal based on its experience with the family files.

Ron Wilkinson is a past media consultant with BADIL

More information on the UNRWA photo and film library can be obtained from the Public Information Office, UNRWA Headquarters, Gaza and on the UNRWA web site, www.unrwa.org.

New Shelters for Rafah Homeless

In early July UNRWA handed over 109 new homes to 116 families from Rafah refugee camp whose shelters were destroyed over the past four years. By the end of December 2004, a total of 2,991 shelters, home to over 28,483 people had been demolished or damaged beyond repair in the Gaza Strip since the start of the second intifada. Of the total, 2,51 shelters accommodated 4,337 refugee families, of whom 3,633 families have been identified as being eligible for assistance under the Agency's re-housing program.

In total, in the Gaza Strip 775 shelters for 831 families have so far been rebuilt and another 148 shelters for 165 families are under construction. Plans for an additional 1,210 funded shelters for 1,285 families are currently underway in Rafah. However,

UNRWA still needs approximately \$28 million to cover the backlog requirement for a further 1,263 new shelters to house 1,352 homeless refugee families throughout the Gaza Strip.



New housing in Rafah in the Gaza Strip. © Ron Wilkinson/

UN Secretary-General appoints Karen AbuZayd as UNRWA Commissioner-General

After consulting the members of the Advisory Commission for the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), Secretary-General Kofi Annan has decided to appoint the Deputy Commissioner-General of UNRWA, Karen AbuZayd, as the new Commissioner-General of the Agency. Ms. AbuZayd, a national of the United States, succeeds Peter Hansen of Denmark.

In August 2000, Ms. AbuZayd was appointed to the post of Deputy Commissioner-General of UNRWA. On 1 April 2005, she became the Acting Commissioner-General. From her base in Gaza, she helped to oversee the education, health, social services and microenterprise programmes for 4.1 million Palestinian refugees. Since September 2000, her work has concentrated on providing emergency assistance to, and generating employment for, the victims of the current crisis in the West Bank and Gaza.



Newly-appointed UNRWA Commissioner General Karen AbuZayd. © UNRWA.

Before joining UNRWA, Ms. AbuZayd worked for the Office of the United Nations High Commissioner for Refugees (UNHCR) for 19 years. She began her humanitarian career in the Sudan in 1981, dealing with Ugandan, Chadian and Ethiopian refugees fleeing from war and famine in their own countries. From the Sudan, she moved to Namibia in 1989 to help coordinate the return of Apartheid-era refugees, a successful repatriation operation which led to elections and independence. A year later, the Liberian civil war erupted, and she moved to Sierra Leone to head the UNHCR office in Freetown, initiating a new emergency response, that of settling 100,000 Liberians in 600 villages along the Liberian/Sierra Leone border.

From 1991 to 1993 in UNHCR's Geneva headquarters, Ms. AbuZayd directed the South African repatriation operation and the Kenyan-Somali cross-border operation. She left Geneva to go to Sarajevo as Chief of Mission for two years during the Bosnian war. Four million displaced and war-affected people were kept alive by UNHCR's airlift and convoy activities, while thousands more were protected from ethnic cleansing by a UNHCR presence. Her last four years in the UNHCR were spent as Chef de Cabinet to High Commissioner Sadako Ogata and as Regional Representative for the United States and the Caribbean, where she focused on funding, public information and legal issues relating to asylum-seekers.

Before joining the UNHCR, Ms. AbuZayd lectured in political science and Islamic studies at Makerere University in Kampala, Uganda, and at Juba University in southern Sudan. She earned her B.Sc. at DePauw University in Indiana and her M.A. in Islamic Studies at McGill University in Canada.

Children of Palestine Experiencing Forced Migration in the Middle East

Edited by Dawn Chatty & Gillian Lewando Hundt

Palestinian children and young people living both within and outside refugee camps in the Middle East are the focus of this book. For more than half a century these children and their caregivers have lived a temporary existence in the dramatic and political volatile landscape that is the Middle East. These children have been captive to various sorts of stereotyping, both academic and popular. They have been objectified, much as their parents and grandparents, as passive victims without the benefit of international protection. And they have become the beneficiaries of numerous humanitarian aid packages which presume the primacy of the Western model of child development as well as the psycho-social approach to intervention. Giving voice to individual children, in the context of their households and their community, this book aims to move beyond the stereotypes and Western-based models to explore the impact that forced migration and prolonged conflict have had, and continue to have, on the lives of these refugee children.



Published by Braughn Books, 2005.



57th Anniversary of Nakba

The Right of Return is the Most Important National Right

by Husam Khader

Including the language of return in our literature, culture and school curriculum is essential to ending the Nakba. Those who think that any solution will do are either living an illusion, or just ignorant of the ability of Palestinians to resist.



Central 2005 Nakba commemoration in the West Bank city of Ramallah. © Elin Lundstrom/BADIL.

The news from beyond the prison walls and from within the darkness of our cells keep hope alive. These include the expanding scope of activities among refugees and the growth of speech about return; the increase in the number of institutions, centers and societies concerned with refugees; and, efforts to form a coalition to organize and unify the movement for return. This gives us some comfort. We feel that the blood of the martyrs who passed away during the battles for return has not been shed in vain, and that those who sacrificed their freedom for return have planted the seeds that will soon bear fruit.

As we commemorate the Palestinian disaster of 1948 this year our hope is renewed. The movement for return has begun to evolve from a reactive to a proactive movement. Actions are no longer intermittent, spontaneous or non-creative. Articulate strategies are being formed. Discourse on the right of return has become more defined and more powerful. Concepts, terms and methods are becoming more uniform. The search for mechanisms that could lead to real achievements has become serious. And we have begun to



see specialized research covering all aspects of the return issue - social, psychological, legal, historical, economic and cultural.

This is part of our dream that could not have been materialized without continuous, educated and hard work. We need to continue these efforts but the most urgent need is to bring all the findings together in one comprehensive database. A high level of coordination and networking among all the active organizations that work on the refugee issue is required to achieve such a step. It may be necessary to establish a special national library to include all research that has been conducted in this field, and then digitize it as soon as possible in order to make it easily accessible to any interested individual anywhere in the world.

This is a joint invitation to BADIL, the Palestinian Return Centre, and the the forced migration program [at an-Najah University] as well as all organizations interested in refugee related research. They should work hand in hand on such a project with the participation of every interested specialist in the field of refugee studies to build up together this important database. Today information is a major tool for struggle and essential for success. Organizations that deal with refugee issues have realized this fact. But they need to reform their way of thinking and their structures. The change will be difficult to achieve without true partnership among active organizations.

The *Nakba* is a historic event affecting the Palestinian presence on their land. All consequences, whether political, demographic, social or the bloody conflict cannot be solved without ending the *Nakba* and its consequences. Needless to say, incorporating the discourse of return in our literature, culture and curriculum is an essential step towards ending the *Nakba*. Those who believe that any solution can be imposed on our people are living an illusion or are just ignorant. Our people has protected its national rights through the various times of trouble and will continue to protect its absolute right of return. It is our primary national right that cannot be dissolved or given up.

Husam Khader is a PLC member, and the chairperson of the Palestinian refugee rights defense committee. He was arrested by the Israeli occupation forces at his house in Balata refugee camp near Nablus on 17 March 2003. He is still being held in Hadarim prison inside Israel. This article first appeared in Arabic in Haq al-Awda 10-11 (2005). Translation by Nimr Awaini.



Banner commemorating the Nakba on the main Bethlehem-Hebron road. © BADIL

The Right of Return is No Less Sacred than Jerusalem

by Archimandrite Father Dr. Atallah Hanna

I would like to extend my sincere congratulations to BADIL for the major contribution to support our national rights foremost being the right of return. *Haq al-Awda*, issued on the 57th Anniversary of the *Nakba*, emphasizes our principle affirmation that cannot be altered: "Palestinians who have been displaced from their land and their homes have the right to return to the homes of their forefathers." No party is authorized to surrender, negotiate or modify our right to return to our land, home and holy sites.

It is important to discuss the right of return, especially in the context of the current political debate and rhetoric of some personalities, as if our right of return can be altered or changed. We reaffirm that the right of return is a national, human and moral right. The question of displaced and scattered Palestinians is not marginal to the Palestinian issue. The national question was originally built around exile, displacement and the continuous disasters since the Israeli state was built on the ruins of our homes. Palestinian memory is weighed down by grief because of all those who have been uprooted from their homes, villages and cities.

How could some individuals speak of an alleged peace, dialogue, and negotiations in isolation from the issue of the exiled and displaced, which we believe are at the heart of the conflict? We Jerusalemites believe that our city is a holy one and it must be returned to its legitimate owners, but the right of return is no less holy than Jerusalem, because Jerusalem means the Jerusalemites. They are Jerusalem and Jerusalem is them. The land is for the people and the people are the land. They both represent the one Home and the one Cause.

We Palestinians should continuously speak about the right of return. It should not be limited to meetings or other occasions, press releases or fact sheets. Our political rhetoric should focus on the right of return, so must our school texts and mass media, as well as cultural and religious functions. All should devote some space to talk about the displaced persons who have been uprooted from their land and homes. We all should focus on their legitimate right to return to the land from which they were forced out.

I hope that BADIL is inspired by this principal. I hope that all religious and national institutions and functions will reserve space for the Palestinian refugees who look forward to the day of their freedom and return home. There can be no peace without achieving our national rights: freeing the land from occupation, the return of the refugees and the liberation of Jerusalem to become the capital of the independent Palestinian state.

Archimandrite Father Dr. Atallah Hanna is the spokesperson of the Orthodox Church in Jerusalem and the Holy Land. This article first appeared in Arabic in Haq al-Awda 10-11 (2005). Translation by Nimr Awaini.



Graffiti in the West Bank city of Ramallah for the 2005 Nakba commemorations. © Elin Lundstrom/BADIL.

May Peace be Upon You Um al-Zeinat

by Khalid Mansour

Although my father is an old man, he never tired of wandering around town. He use to spend hours and hours roaming its old roads. He was looking for something he had forgotten when he left town for the last time. My father insisted that I should set my foot on the fields that he knew so well, like he knew our names, his children's names.



Internally displaced Palestinians visit their village of Um al-Zeinat. © Makbula Nassar/Palestine Remembered.

“I am from al-Rubba al-Baida’ the white cliff where the Almighty will set up His throne on the day of judgment.” With these words that cannot be matched with any other statement of pride, my father described his village Um al-Zeinat. I heard these words in my childhood. They have been engraved in my heart, mind, and soul since then. It’s true that when I heard them coming from my father’s mouth, I thought that they were close to blasphemy. This is what I thought then. My father exaggerated the description of his town to the point where he made it sound like paradise.

When I grew up and visited the ruins of town along with my father in 1971, I was amazed with the beautiful and charming landscape. I knew then that my father was right! Um al-Zeinat is paradise itself. It has a proud towering mountain (Mount Carmel)! It has forests and woods. It has springs and water cisterns. It has wide open plains without the smallest stones. It also has uncultivated land, vineyards and olive groves.

The village sat like a fortress on the slopes of the great Mount Carmel. It overlooked the Mediterranean on the one side, and the plains of Marj Ibn Amer (Jezreel Valley) on the other. The land of Sahel al-Rawha lies flat and wide like the palm of your hand. It yields an abundance of wheat, corn and legumes in addition

to the olives that grow on its hillside and the fruits that every soul desires from figs, pomegranates and cactus fruit. Um al-Zeinat was 17 kilometers to the southeast of the majestic city of Haifa. To the west of it are the village of Ijzem and the forests of Carmel. To the north is the Druz village of al-Dalia and the forests of the Carmel. To the east lays Wadi al-Mileh and Marj Ibn Amer. To the south of Um al-Zeinat lays al-Rehania and the plains of al-Rawha.

Um al-Zeinat was a simple and quiet village. The population in 1948 was less than 1,750 persons. Its inhabitants were true peasants who loved land as much as their children. They never gave up a single foot of their property. They never sold a grain of soil to usurpers or agents. It was peaceful, but fortified at the same time, so it won the nickname given to it by the great Palestinian rebel Abu Durra. He called it a safe haven, and it really was a safe haven for many of those that rebelled against the British mandate or resisted the Zionist intruders. The British occupiers were not able to arrest any of the rebels in Um al-Zeinat, despite the fact that it was known as a stronghold for the resistance, a fact that was confirmed during the famous battle of Um al-Daraj.

I entered it for the first time in the company of my father, who introduced me to every one of its landmarks, its water cisterns like Bir al-Haramis, Bir al-Natif and Bir Shamhoris and its fresh water springs like Ein al-Bweida, Ein al-Safsafa, Ein al-Shmeilat, Ein al-Shqaq, the spring of al-Aliqa and the valley of Abu Nimer. He showed me around its ancient remains to prove its authenticity and its deeply profound roots in history. He showed me the Nawamees caves and the al-Ma'laq cave. He insisted that I should set my foot on every piece of land that he knew the local name for so well like he knew our names. He took me to Jorat al-Bir, al-Bteihi, al-Haj Hassan, Khallet al-Haj, Baqqar, al-Musrara, Wadi al-Melh, Jurmasha, al-Mathba'a, Thra' Nijm, Khallet al-Teena, Wa'arat al-Zaitoon, al-Mall, Khallet al-Zarad, al-Maqshoor, Umm al-Qdoor, Abu al-Wawiyat, and Um al-Sahali.



Hand drawn map of Um al-Zeinat with names of all the families living in the village before 1948. © Jamal Ghjazi Talib Muhammad Hussein Mousa/Palestine Remembered.



He introduced me to the location of the western threshing floor and the eastern one where weddings and celebrations took place. He showed me the location of the mosque, the school, and the two cemeteries including the old one where my great grandfather Mohammad al-Hamad was buried. He showed me the location of every house, he pointed out to me the location of our old home (Dar Subeh). He said: "This was the location of the Bisher's house, this is al-Marah neighbourhood where the Fahamneh family had lived." He pointed out Abu Khalil's house, Hassan's house, Sheikh Yousef's house, Hardan's house, the Khatib's house, Salama's house, and Abu Tarboosh, the Bayaries and he did not forget the house of Abu Hanna the only Christian who lived in the village. He was a shoe repairman, the tailor, the doctor and a storekeeper.

My father loved Um al-Zeinat. He was fond of its gardens and its people. I have never seen in my life anybody love anything in that way. He loved it to the point where while he was walking among its ruins he could recognize the houses that were totally erased by Jews in the 1970s. He identified them by the surrounding olive trees, the fig trees, the pomegranates and the cactus that are still there today, living and growing in the same place despite the attempt of the occupiers to erase everything that is Arab from the village. He stood by every house to remember, sigh and then say this is the house of ... and then mentioned every thing about that person's wife, his children and their whereabouts. Despite his old age, my father was never tired of roaming around town. He spent hours and hours wandering on its old roads. He was looking for something he might have forgotten when he left town for the last time.

When it was time to return, my father got in the car heavily and slowly. I think he wanted to tell us to leave him in his town. He wanted to tell us: "Go back to your camp without me." As for us, the second generation of refugees, we were so attached to our original home, we kept on organizing groups to make a pilgrimage every year, especially on the anniversary of the *Nakba* (15 May), a day that means a lot to us. On that day Zionists made us leave our homes, property, and livelihood by force. Since then we have been displaced and scattered. Since then we carry the name 'refugees' and have numbers on the United Nations records.

One day I asked my father: "Why did you leave your village? Why didn't you defend it?" He replied with agony in his heart. "We did everything we could, we resisted with all the means available to us, our weapons were very humble and very little. We had no training in comparison to the Jews who were well-trained and owned modern English guns but we didn't leave our homes till after the *Haganah* forces had killed many of our people and blew up a number of our houses."

The tales of refuge kept ringing in our ears and still do today. Out of loyalty to the truth we pass down this tradition to our children. Stories to remember and to pass down to the generations. My father, Abu Atef, died in 1986 - God's mercy on his soul - the memories of Um al-Zeinat and the people of Um al-Zeinat were his favorites tales. He had asked us to move his remains and the remains of his best friend Daoud al-Khalid to Um al-Zeinat when we liberate it .

May peace be upon you Um al-Zeinat, peace upon your plains, your hills, your fields, your fresh springs. May peace be upon your people who are scattered all over the world but still have the dream of coming back to you, to the land of their forefathers some day, despite of the long time and the long distance.

Khaled Mansour is a member of the political office of the Palestinian People's Party (PPP). He is also the director of Agricultural Relief in the Nablus district and a member of "Sanaoud" Committee for the Defense of the Right of Return in Nablus district. Mansour was born in Um al-Zeinat (Haifa district) and resides in al-Faraa refugee camp in the West Bank. This article first appeared in Haq al-Awda 10-11 (2005). Translation by Nimr Awaini.



Nakba Museum: Overcoming the Nakba through its Preservation

by Nihad Boqai'

In his book Imagined Communities professor Benedict Anderson discusses the primary role played by three institutions - the population census, the map, and the museum - in articulating national identities in southeast Asia during the previous decades. These institutions became the main centers of power used by the colonial state to create and develop a clear national identity. Based on Anderson's ideas, Israeli historian Hillel Cohen demonstrates in his research about displaced Palestinians inside Israel the reliance of Israel on these same institutions but in a totally reversed manner - to eliminate the "Palestinian case".



Palestinian delegation, including the author, visiting the Apartheid Museum in South Africa during a study tour to the country in 2003. © BADIL.

A 'zero sum game' approach has governed Zionist treatment of Palestinians since the dawn of the conflict. Palestinian presence and institutions are considered as a potential threat to the existence of the Zionist project in Palestine. It is necessary, therefore, to erase Palestinian memory in order to reformulate and recreate the historiography of the place. Such projects followed the forced displacement of Palestinians from their lands in 1948.

Zionist policy towards Palestinians, therefore, has two separate faces. The first masks the physical presence of Palestinians in their homeland. The second denies Zionist responsibility for what happened to the Palestinians in 1948.

At the same time, the Zionist movement constructed their narrative and collective identity for Jewish immigrants who came to the country from around the world and transformed the geopolitical landscape into an exclusively Jewish one. It drew upon a lengthy list of symbols, legends and policies about place, history and memory. The mass of immigrants were fused together under slogans like: "the melting pot", "redemption of the land", "Hebrew labor", "ingathering of the exiles" and "defense".. etc.

The museum became an integral part of this process. For example, information in the Israeli tourist guide introduces hundreds of national museums in Israel: about the army, settlement, labor, ancient Jewish history and other themes. The role of this institution is most obvious in relation to the Holocaust and the European ghettos.

This leads us to modern Palestinian history. Palestinians have suffered from continuous violation and



denial of their rights. The Palestinian struggle is thus a struggle for legitimacy and recognition. The catastrophe of 1948 represented a strike to heart of the Palestinian people and their history. It was a decisive episode that impacted their collective development as a people. But it was not a fatal strike; simply because Palestinians in the post-*Nakba* era continued to refuse their exile.

Nevertheless, the new reality after the *Nakba* has been characterized by the absence of a comprehensive and complete picture of what happened over five decades ago. This can be explained, in part, by the instability of occupation, threats, forced migration and difficulties of life in exile. At the same time they have had to bear the responsibility of struggling for their individual and collective rights. This persistent struggle is evident in every place where Palestinians live today.

During the last two decades, especially around the time of the Oslo political process, the importance of history and memory came to the surface in an unprecedented manner. Interest in the place of origin - i.e. displaced villages and cities - increased through documentation, historical research and documentary films. New issues were also addressed as Palestinians were more courageous in dealing with many subjects that had long been placed on the shelf, issues that were presumed to be “understood” by everyone or issues whose “time had not yet come.”

This is how refugee camps and displaced villages became major headlines for every topic related to the *Nakba*. These locations are considered material and living evidence of the crime of 1948. Although both camps and displaced villages have occupied a place of importance in the Palestinian narrative, the narrative itself was incomplete because it only provided a microcosm of the *Nakba*. In this context, there is an urgent need for a collective and comprehensive account. In this context, the museum plays an important role.

A Nakba museum

Museums are places for remembrance, education and mobilization. Commemorating the anniversaries of crimes, despite the pain it involves, is the best way to avoid the repetition of the same crime in the future. Therefore, the logic of “turning the pages of the past” (i.e. forgetting) as a step towards peace is nothing more than an attempt to distort historical facts. A *Nakba* museum could be part of a more comprehensive strategy that strives to overcome the *Nakba* through its preservation. It would be a symbol of the legitimacy of the Palestinian narrative and a mechanism to crack Israel’s state of denial. Such a museum would also be a means of confronting the Zionist narrative that has consumed the Palestinian people, and, at the same time, a place for Palestinians to come to terms with their own history.

Such a museum should cover more than the displaced village or the refugee camp which are limited in space. It should be able to provide a collective and coherent narrative in the context of associating the past with the present and then the past with present and the future. It would have a role to play in dealing with identity, history, memory, return and mechanisms for a solution, in addition to recognizing the legitimacy of the Palestinian narrative of the *Nakba*.

A *Nakba* museum should be informed by the notion of the catastrophe of 1948, not as past event, but an issue that is still waiting to be solved. Exile renders the institutionalization of memory a very difficult task and a very urgent one at the same time. Despite everything, we must remind ourselves, and the rest of the world, about the origins of the conflict and its consequences. Memory can help overcome the present circumstances and lead us to the future. This should be a Palestinian priority.

Nihad Boqai’ is the Coordinator of the Research, Information and Legal Advocacy Unit at BADIL. He is also the co-editor of Haq al-Awda. This article first appeared in Arabic in Haq al-Awda 102005) 11-). Translation by Nimr Awaini.





Empowerment at the Site of Memory

by Isabelle Humphries

History is a question of power in the present, and not of detached reflection upon the past. It can serve to maintain power, or can become a vehicle for empowerment.⁽¹⁾



Internally displaced Palestinians visit the village of al-Bassa in the Galilee. © ADRID.

My translator paused “He’s going too fast”, she said looking frustrated out of the tour bus window, “I can’t follow the stories he is telling.” Even with my limited Arabic I was following the guide better than she was. Rawda, as a Palestinian educated under the Israeli dictated curriculum for Arab schools, had never studied Palestinian history, excluded from the Israeli curriculum.⁽²⁾ As scenes of battles and massacres from the 1936-39 uprising and the *Nakba* of 1948 came floating past the bus window, the guide speaking excitedly through the microphone tried to bring the events alive for those staring eagerly out the window. Some of the older generation knew the stories, but many younger people had never learned these tales and folklore at school, nor would their parents have been taught them to be able to pass on.

The Israeli educational curriculum for Arab citizens plays a central role in denial of Palestinian history and identity. Umm Muhammad, an internal refugee (IDP) from Haifa, tells of her days as a school teacher in Nazareth. On Israeli ‘Independence Day’, she and her colleagues would have to raise the Israeli flag; ‘If the flag fell we would be interrogated as to why. We were slaves without thinking’. Teachers and children were required to sing the *Ha’Tikva*, the Zionist national anthem. Arab children are taught a curriculum which explicitly denies their Palestinian identity, and the state keeps watch to ensure that Arab schools fulfill this role. The political activity of Palestinian teachers both in the classroom and out of hours has always been strictly monitored. Teachers have been denied employment or fired for ‘security’ reasons.

Visits to the physical *lieux de memoire* of Palestinian dispossession function as an education that Palestinian schooling in Israel not only does not provide, but specifically excludes. Israel is fully aware of the potential function and power of history, its own education system playing a prominent role in socializing Jewish children into national traditions, an essential process for an immigrant settler nation. Palestinian students must follow the Israeli curriculum and the Israeli narrative of history, just as many indigenous minorities across the world are required to do. In her study of people native to the Colombian





Andes, Joanne Rappaport notes how European settler myths have been used as tools of domination denying people 'access to a knowledge of their own past so necessary for organizing in the present', a pattern replicated across the colonial world.⁽³⁾

The separation of Palestinians from their own culture and history is perhaps at its widest in the part of the community remaining inside Israel. Under the UNWRA education system Palestinian children are educated in the knowledge of Palestinian history and the national narrative. In the wider Diaspora pupils at least have access to Palestinian history, even if not specifically taught in school. Although Palestinians inside Israel are taught segregated from Jewish pupils, the curriculum is dictated by the state. In going to the site of memory, the landscape can act as a stimulus for the community to engage in the history and national memory denied at school, a counter-memory to the Israeli master narrative.

Rawda and I were part of a tour group organized by ADRID to the destroyed villages of the other half of Gaza, the part of the British mandate district occupied in 1948 (today inside the Green Line, not part of the Gaza Strip). Day trips are ADRID's primary community based activity, taking around fifty people of a mixed generational group to villages and other sites given significance in the Palestinian narrative. Individual village committees, other NGOs and political parties have also organized similar visits, often on specific memorial days such as Land Day or *Nakba* Day. While some excursions are designed for the community themselves, other events are aimed at showing the Palestinian alternative narrative to others; foreign delegations, media, or interested Israelis.

Inclusion in the narrative

Reclaiming this history helps Palestinians to position themselves in the wider narrative from which they have been excluded by Israel, their own fears and geographic circumstances, and at times by the external community. Palestinians inside Israel face a clash of narratives; they cannot sit comfortably within either the Israeli or Palestinian national story. As Israeli citizens, links with Palestinian roots are denied, yet even though the stones of history remain beneath their feet, the 1948 Palestinians have also been marginalized within the Palestinian national narrative.

Activity at the site of memory gives an opportunity to feel included once more in the wider Palestinian narrative; 'revalidating their own historical knowledge as an arm against their subordinate position in society'.⁽⁴⁾ On reaching one village, one man in his 60s grabbed my arm excitedly to tell me that this was the village of Sheikh Ahmad Yassin, killed only a few months previously.⁽⁵⁾ At the site of memory, internal refugees not only feel a connection with the past, but with the wider community and struggle from which they have been severed since 1948.

The increase in public activity at the site of destroyed villages has not only strengthened external links, but also bonds within the internally displaced community whose struggle has often been fragmented into individual village campaigns. The move towards public communal activities with the participation of refugees of different villages, other Palestinian members of the community and even certain members of the Jewish majority (for example groups like Zochrot) has once more reaffirmed the importance of the refugee issue inside as well as outside the 1948 border.

A community issue

While internal refugees are those who actually lost the home above their head, many aspects of their experience and memory of the *Nakba* are shared with the wider Palestinian population remaining within the Jewish state. Together they faced the uncertainty of the future; together they faced the same punishment for involvement in political activity, for raising any kind of awareness of the injustice of the *Nakba*. Many Palestinians not considered as refugees also lost lands in 1948, and in the confiscation that continues to this day. Although commemoration and protest activities at the villages are primarily led and organized by refugees themselves, many 'non-refugees' are active in this struggle alongside them. Hanan from Judeide-Maker is an 18 year old student and a regular participant in ADRID's tours; 'I came because my brother told me about these trips and it sounded interesting. I then brought my cousin along who is an internal refugee. This history is important for me too'.



As part of the 6th Mediterranean Social and Political Research Meeting held annually by the European University Institute of Florence, Dr. Lila Abu-Lughod (Columbia, USA) and Dr. Ahmad Sa'di (Ben-Gurion, Israel) convened a workshop to explore aspects of memory and commemoration across Palestine and the Diaspora. The Meeting is the largest European gathering of social scientists from Europe, the Middle East and North Africa, and the inclusion of the workshop reflects an increasing acceptance of discussion of the Nakba within mainstream academic discourse. The article is an edited extract from one paper concerning commemoration by internally displaced Palestinian refugees at the site of destroyed villages.

Isabelle Humphries (St Mary's College, University of Surrey, UK) is conducting PhD research on the narrative of the internal refugee community in Nazareth. For full copy of paper contact: isabellebh@hotmail.co.uk

Endnotes:

- (1) Joanne Rappaport. *The Politics of Memory: Native historical interpretation in the Columbian Andes*. Cambridge: Cambridge University Press, 1990, p.15.
- (2) *See, Second Class: Discrimination Against Palestinian Arab Children in Israel's Schools*. New York: Human Rights Watch, 2001, pp. 155-59.
- (3) Rappaport, *supra* note 1, p. 1.
- (4) *Ibid*.
- (5) ADRID trip to 1948 occupied Gaza District, 28 August 2004.

Haq al-Awda 10-11 (Nakba Special Issue)

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A Second Call for a 'Race Against Time'

Summary of a presentation given by Rosemary Sayigh at a conference at the Ibrahim Abu-Lughod Institute of International Studies, Birzeit University, 21-23 November 2003⁽¹⁾

In his 'Foreword' to one of the great works of oral history, *Blood of Spain, on the Spanish Civil War of 1936-39*, Roy Fraser wrote: "Major historical works...have charted most of the features of that conflict, and it would be vain to hope to add anything new to the overall map of the period. But within the general and even detailed knowledge, one area has remained unarticulated: the subjective, a spectrum of the lived experiences of people who participated in events."⁽²⁾



Many Palestinian refugees like this elderly woman from Deheishe refugee camp continue to hold keys to their homes and continue to hope and work for their right of return. © BADIL.

Historians still describe the events of 1947/1948 in Palestine in classic military history terms such as 'war', 'defeat', and 'rout'. This fundamentally misrepresents what happened in 1948, for which the Israeli historian Ilan Pappé has claimed the term 'ethnic cleansing', a usage justified by Nur Masalha's research on the idea of 'transfer' in Zionist archives.⁽³⁾ What is entirely missing so far is the experience of ordinary Palestinians of the expulsions of 1948. Displaced Palestinians are portrayed as simply statistics, not political actors, and not potential chroniclers of events. A gap yawns here between the meaning of 1948 for displaced Palestinians, and its representation by historians.

Today some Palestinian oral history work is being done by individual scholars and NGOs, so the canvas is not entirely empty. However this individual work needs to be connected to expand the picture, fill in gaps and to point to the important questions. It requires trans-diaspora cooperation between institutions, local groups and individual scholars. We need to think about the crucial questions which would serve future historians. Many aspects of the expulsions are still not clear, for example:

- The build-up to the expulsions, which began in late 1947; pre-1948 Zionist attack plans and preparations that ordinary people could observe, such as Zionist scouting expeditions to reconnoiter the countryside; weapons and methods in different phases of the year-long struggle (e.g. air strikes, when and how these were used); the use of psychological warfare, rumours, radio propaganda, spies; the use of Jewish mukhtars to convey messages.



- Did the Zionist/Israeli forces use a similar pattern of attack against villages, as a researcher in the Galilee area suggests?⁽⁴⁾ Was this pattern restricted to one area, or one stage of the expulsions?
- Variations in methods and degree of intensity of expulsions in different areas/ under different commanders/ stages; expulsions during truces.
- Massacres: According to the historian Michael Palumbo,⁽⁵⁾ Israeli brutality increased in last phase of war. There is a need for knowledge of massacres that are still not widely known even to Palestinians, for example Safsaf, 'Eilaboun, Tantura, Majdal Kroom, al-Jish, the 'Arab al-Sbeh (near Kfar Kana), al-Dawayima, Beersheba and other parts of the Naqab.⁽⁶⁾
- Rape: Palumbo cites a number of testimonials to the incidence of rape, though this is a topic that has hardly been dealt with up to now by Palestinian historians, except in relation to Deir Yassin. The recent revelation in *Ha'aretz* of the rape and murder of a young Bedouin woman in 1949 should alert us to the need for further research, also to the value of Israeli testimonies.
- Prevention of refugee return: Palestinian research has focused on the destruction of villages; but other methods were used as well, such as bombing areas of refugee concentration, and booby-trapping homes.
- Variations in Palestinian reaction: for example why did residents of the same area make different choices, some choosing to flee, others to stay? What were the trajectories of leaving Palestine? Where did people go and why?
- The early experiences of those who stayed in what became Israel. Some work has been done here, mostly by individual researchers.⁽⁷⁾
- Most work so far has been with people originally from villages, except for some individual research in Jerusalem, Jaffa, Haifa and Nablus. There is a need to fill gaps in knowledge through recording with a broader span of social sectors. We need to add to the record the recollections of: women - their memories of the *hijra* [migration/displacement] and the aftermath certainly differ from men's; city people of all classes; Bedouin from different areas; minorities of different kinds – e.g. Bahais, Armenians; prisoners of war and labour camp workers; the blind or otherwise handicapped;⁽⁸⁾ refugees who were children during the *hijra*.⁽⁹⁾

Research on the first years after 1948 also remains a black hole in Palestinian studies, even though somewhat covered by individual memoirs and special sector studies.⁽¹⁰⁾ Some of the questions to be explored are: a) Settlement patterns in exile: what forces and motivations were at work in refugee movement; what were host government policies and to what extent did they predominate over refugee 'clustering'? b) How were the refugees' social relations affected by exile and separation? How did scattered families and localities re-establish connection? c) Why was there a collective silence on the part of Palestinians about the massacres and, in some cases, rapes that accompanied the expulsions? Why was Deir Yassin remembered and the others 'forgotten'? e) How was connection with Palestine maintained in the early years? How did some people manage to return, some to stay, others to be expelled?

These and a host of other questions about the destruction of Palestinian society in Palestine and its reconstruction in exile, or under occupation, wait to be posed and to be answered.

The 'Race Against Time'

The dwindling number of Palestinians who can remember Mandate Palestine, or the expulsions of 1947/48, or the period immediately after the *Nakba*, gives an extra urgency to the question of recording with survivors. Saleh Abdel Jawad was right when he called such a recording project a 'Race Against Time'. A demographer's estimate of the total number of Palestinians aged over 70 in 2003 was around 2% of the whole population (there are slight differences between regions). This would make a 'pool' of around 205,000, counting only Jordan, Syria, Lebanon, the Occupied West Bank and Gaza Strip and Israel.⁽¹¹⁾ This number seems substantial until you remember that it is diminishing daily. There is no





Refugee children commemorating the Nakba in Deheishe refugee camp. © BADIL

question that we are now in the very last years when recording with older Palestinians is still possible. Now is the time to strengthen links not only between research organizations, but within the community, to demonstrate the importance of coordinated oral history work. In the urgency to pursue such a project, the political purpose must not be forgotten: the protection of refugee rights now and in the future.

Dr. Rosemary Sayigh is an anthropologist and oral historian living in Beirut, author of Palestinians: From Peasants to Revolutionaries (1979) and Too Many Enemies: The Palestinian Experience in Lebanon (1994).

Endnotes:

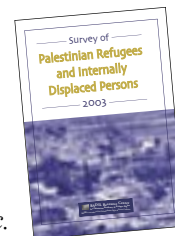
- (1) I should like to acknowledge that the phrase “Race Against Time” was first used in relation to Palestinian oral history by Saleh Abdel Jawad, a lecturer at Birzeit University, to entitle a project proposal aimed at recording with remaining survivors of the expulsions of 1948, a project which up to now has found no institutional support. Interview in, *al-Jana* (2002), Special Issue on Palestinian Oral History. Published by the Arab Resource Center for Popular Arts.
- (2) Ronald Fraser, *Blood of Spain: The Experience of Civil War 1936-1939*. London: Allen Lane, 1979, p. 29.
- (3) Nur Masalha, *Expulsion of the Palestinians*. Washington, DC: Institute for Palestine Studies, 1992.
- (4) Sahera Dirbas, *al-Jana*, *supra* note 1, p. 23.
- (5) Michael Palumbo, *The Palestinian Catastrophe: The 1948 Expulsion of a People from Their Homeland*. London: Faber, 1987.
- (6) Benny Morris mentions new documentation revealing atrocities in al-Husayniyya in the Galilee, and at Burayr, near Beersheba. Benny Morris, “Revisiting the Palestinian Exodus of 1948,” in Eugene Rogan and Avi Shlaim (eds.), *The War for Palestine*. Cambridge: Cambridge University Press, 2001, p. 49.
- (7) Sabri Jiryis was an early writer on the topic. For personal reminiscences see, Fawzi al-Asmar, *To Be an Arab in Israel*. London: Frances Pintner, 1975. For legal, military and institutional measures of the new Israeli state to control Palestinians see, Gaby Abed, Jamil Arafat, Sahera Dirbas, Sharif Kanaana, and Awatef Shiekh, “The Arabs of Israel 1948-1966,” in *al-Jana*, *supra* note 1.
- (8) See, Rawan and Dima Damen in *al-Jana*, *supra* note 1, pp. 17-18.
- (9) *Ibid.*
- (10) For example, oral histories of women activists, Faiha Abdulhadi (ed.), *al-mara’ al-Filastiniyya wa al-dhakra: Awraq warshat ‘amal hawl al-tarikh al-shafawy al-siyasi lil-mara’ al-Filastiniyya*. Ramallah: Directorate of Gender Planning, 1999. Autobiographies have helped fill this gap. See, e.g., Fawaz al-Turki, *The Disinherited: Journal of a Palestinian Exile*. New York: Monthly Review Press, 1972; Fawzi al-Asmar, *op. cit.*; Ghada Karmi, *In Search of Fatima*. London: Verso Press, 2002.
- (11) An estimate from 1995. Area breakdowns are: Jordan: 39,393; Syria: 6,297; Lebanon: 18,493; the Occupied West Bank and Gaza Strip: 79,479; Israel: 66,774. (The figure for Israel is for the whole population, not Palestinians alone.) Marwan Khawaja: personal communication.

Resources

New BADIL Publications

Survey of Palestinian Refugees and Internally Displaced Palestinians 2003

The *Survey* provides basic historic and current information on Palestinian refugees and internally displaced persons. The *Survey* includes 6 chapters covering the historical circumstances of Palestinian displacement, population, legal status, socio-economic profile, international protection and assistance, and durable solutions. *Available in English and Arabic. 200 pages. ISSN 1728-1679.*



***Palestinian Refugee Children, International Protection and Durable Solutions*, by Renata Capella. BADIL Information & Discussion Brief No. 10 (2004).**

The brief analyses the status of Palestinian refugee children concerning protection needs and in the context of the search for durable solutions based on international law and best practice. *Available in English. Arabic forthcoming.*

Information Packet on Palestinian Refugees

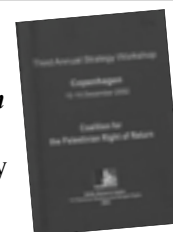
The packet includes a short summary of the popular campaign for Palestinian refugee rights and a brief history of the Palestinian refugee issue, a poster, and a set of postcards.



Selected BADIL Publications

Proceedings of the Fourth Annual Meeting of the Global Palestine Right of Return Coalition

Includes working papers submitted to the fourth annual meeting of the Global Palestine Right of Return Coalition held in London, November 2003. The publication also includes a summary of discussions and debate as well as the final statement issued by the Coalition. *Arabic with English summaries.*



BADIL Expert Forum Working Papers

Papers address the relationship between international law and peacemaking, housing and property restitution for refugees, international protection, and obstacles to implementation of durable solutions for Palestinian refugees.

The Right to Housing and Property Restitution in Bosnia and Herzegovina: A Case Study

Paul Prettitore, Legal Advisor, Organization for Security and Cooperation in Europe. *English and Arabic. 28 pages.*

Justice Against Perpetrators, the Role of Prosecution in Peacemaking and Reconciliation

Sandra Vicente, Assistant Legal Officer, International Tribunal for the Former Yugoslavia. *English and Arabic. 24 pages.*

The Role of International Law and Human Rights in Peacemaking and Crafting Durable Solutions for Refugees: Comparative Comment

Lynn Welchman Director, Center of Islamic and Middle Eastern Law, School of Oriental and African Studies. *English and Arabic. 20 pages.*

Popular Sovereignty, Collective Rights, Participation and Crafting Durable Solutions for Palestinian Refugees

Karma Nabulsi. *English and Arabic. 13 pages.*

Temporary Protection for Palestinian Refugees: A Proposal

Susan Akram, Boston University School of Law, and Terry Rempel, BADIL Research and Information. *English and Arabic. 44 pages.*

Land Restitution in South Africa, Overview and Lessons Learned

Jean du Plessis, Deputy Director, Center on Housing Rights and Evictions.

English and Arabic. 16 pages.

Israel's Land Laws as a Legal-Political Tool

Usama Halabi, advocate, LL.M.

English and Arabic. 12 pages.

Arab Protection for the Palestinian Refugees

Khaled Al-Az'ar.

English and Arabic. 30 pages.

UNRWA's Role in Protecting Palestinian Refugees

Harish Parvathaneni, Chief, Policy Analysis Unit, UNRWA.

English and Arabic. 24 pages.

"Experiencing the Right of Return, Palestinian Refugees Visit Bosnia"

This 20 video documents a study visit of a delegation of Palestinian refugees to Bosnia-Herzegovina in June 2002. The delegation, comprised of refugees from Palestine/Israel, Lebanon, Jordan, Syria, and Europe traveled to Bosnia in order to understand: What was done and how? What didn't work and why? What are the lessons for Palestinians and their struggle for the implementation of the right of return and real property restitution?

Available in English and Arabic.



Jerusalem 1948: The Arab Neighborhoods and their Fate in the War [Al-Quds 1948: al-ahya' al-'arabiyah wa-masiruha fi harb 1948]

Salim Tamari (ed.). Published by BADIL Resource Center and the Institute for Palestine Studies, 2002. ISBN 9953-9001-9-1.

To order contact IPS-Beirut, ipsbrt@cyberia.net.lb, or www.palestine-studies.org.



BADIL Hebrew Language Packet/The Right of Return

The Packet includes: Main Reader, 'Palestinian Refugees:' overview of the issue and demands of Palestinian refugees; law and principles guiding solutions to refugee problems; answers to frequently asked questions; obstacles to be tackled by a law- and rights-based solution (24 pages); Legal Brief, 'Palestinian Refugees and their Right of Return, an International Law Analysis' (16 pages); Executive Summary, 'The Right of Return.' Report of the Joint British Parliamentary Commission of Inquiry into Refugee Choice (28 pages; translation from the English original published in London, March 2002); Readers' feedback sheet and background information about BADIL Resource Center for Palestinian Residency and Refugee Rights.



The BADIL Hebrew-language Information Packet is available for NIS 30. For postal orders inside Israel, please send a check to Andalus Publishers, PO Box 53036, Tel Aviv 61530 (andalus@andalus.co.il).

Ruling Palestine: A History of the Legally Sanctioned Jewish-Israeli Seizure of Land and Housing in Palestine

Souad R. Dajani

To order in Europe contact: Centre on Housing Rights and Evictions (COHRE), Tel. 41-22-733-4641 or email, cohre@cohre.org



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1. No one is Exempt from International Law, Statement by the Palestine Right of Return Coalition on International Refugee Day, 20 June 2005
2. Palestinian Civil Society Call for Boycott, Divestment and Sanctions against Israel Until it Complies with International Law and Universal Principles of Human Rights, 9 July 2005
3. Letter from Israeli NGOs to the UN Secretary General Regarding the Implementation of the ICJ Advisory Opinion on the Wall, July 2005

1. No one is Exempt from International Law, Statement by the Palestine Right of Return Coalition on International Refugee Day, 20 June 2005

Peace and stability in the Middle East cannot be achieved without a just solution to the Palestinian refugee question based on their inalienable right to return home. All states are subject to international human rights and humanitarian law. Israel is no exception.

For more than 57 years, Israel has continually rejected Palestinian right of return and excluded the issues from peace negotiations. Although this right is enshrined in customary international law and numerous UN resolutions, in particular UN General Assembly resolution 194 and UN Security Council resolution 237, Palestinian refugees remain prohibited from returning to their homes and properties in Israel and the occupied West Bank and Gaza Strip. Moreover, no enforcement mechanisms exist to prevent ongoing Israeli colonization and de facto annexation of more Palestinian land by means of Israel's illegal Wall, expansion of Jewish colonies, and a regime of land laws that acquires Palestinian land for the exclusive benefit of Jewish Israeli. Israel's illegal forced displacement and transfer of population through coercive acts without grounds permitted in international law amount to crimes against humanity and war crimes.

All refugees are entitled to protection, but most Palestinian refugees have remained without effective protection, including in Western countries signatory to the 1951 Convention relating to the status of Refugees. Urgent measures must be implemented in order to guarantee the physical safety and fundamental human rights of exiled Palestinians, particularly in Iraq and Lebanon. However, international efforts at forced resettlement in Arab host states provide neither protection nor a durable solution for Palestinian refugees. Such efforts are illegal and strongly rejected by the people and states in our region.

In light of Israel's blatant disregard for international law, UN resolutions and the ICJ Wall advisory opinion, we call upon concerned members of the international community to boycott and divest from Israel. The international community must pressure states, regional organizations and private companies to impose sanctions on Israel until it dismantles the illegal Wall, ends its prolonged belligerent occupation and colonial enterprise, and implements the fundamental rights of Palestinian refugees to return, restitution and compensation.

The plight and protracted forced exile of Palestinian refugees remains one of the longest-standing unresolved refugee questions in the world. Palestinian refugees compose an estimated 7 million of a total refugee population of 17 million. An important number of the Palestinian population, around 5.3 million, is also without a nationality, and therefore stateless. Refugees are entitled to choose one of three durable solutions - return to their homes and properties, or integration in the host country and resettlement in a third country, of which only return is an inalienable right. The right of return is a fundamental, non-negotiable, individual and collective right.

The Palestine Right-of-Return Coalition:

ADRID – Association for the Defense of the Rights of the Internally Displaced

Aidun Lebanon

Aidun Syria



Al Awda - Palestine Right-to-Return Coalition, U.S.A
 Al-Awda Toronto
 BADIL Resource Center for Palestinian Residency and Refugee Rights, Bethlehem
 Committee for the Defense of Palestinian Refugee Rights, Nablus
 Forum of Palestinian NGOs in Lebanon
 High Committee for the Defense of the Right of Return, Jordan
 Palestine Right-of-Return Confederation-Europe (Austria, Denmark, France, Germany, Italy, Netherlands, Norway, Poland, Sweden)
 Popular Committees – West Bank and Gaza Strip Refugee Camps
 Union of Women's Activity Centers – West Bank Refugee Camps
 Union of Youth Activity Centers – Palestine Refugee Camps
 Yafa Cultural Center, Balata camp, Nablus

and:

Abna' al-Balad Society, Nablus
 Al-Ard Committees for the Defense of the Right of Return, Syria
 Al-Doha Children's Cultural Center, Bethlehem
 Alrowwad Cultural and Theatre Training Center, Aida refugee camp
 Arab Students' Collective, University of Toronto
 Committee for Definite Return, Syria
 FARAH – Palestinian Center for Children, Syria
 Ghassan Kanafani Forum, Syria
 Jafra Youth Center, Syria
 Jermana Youth Forum for the Defense of the Right of Return, Syria
 Laji Center, Aida camp, Bethlehem
 Local Committee for Social Development, Nablus
 Local Committee for Rehabilitation of the Disabled, Nablus
 Palestinian National Committee for the Defense of the Right of Return, Syria
 'Our Palestine' – Commission for the Defense of the Right of Return, Syria
 Palestinian Return Association, Syria
 Palestinian Return Forum, Syria
 Palestinian Youth Forum for the Right of Return, Syria
 RORC – International Right of Return Congress
 Sumoud-Political Prisoners Solidarity Group, Toronto
 Social Development Center, Nablus
 Yafa for Education and Culture, Nablus
 Yazour Charitable Society, Nablus

2. Palestinian Civil Society Call for Boycott, Divestment and Sanctions against Israel Until it Complies with International Law and Universal Principles of Human Rights, 9 July 2005

One year after the historic Advisory Opinion of the International Court of Justice (ICJ) which found Israel's Wall built on occupied Palestinian territory to be illegal, Israel continues its construction of the colonial Wall with total disregard to the Court's decision. Thirty eight years into Israel's occupation of the Palestinian West Bank (including East Jerusalem), Gaza Strip and the Syrian Golan Heights, Israel continues to expand Jewish colonies. It has unilaterally annexed occupied East Jerusalem and the Golan Heights and is now de facto annexing large parts of the West Bank by means of the Wall. Israel is also preparing - in the shadow of its planned redeployment from the Gaza Strip - to build and expand colonies in the West Bank. Fifty seven years after the state of Israel was built mainly on land ethnically cleansed of its Palestinian owners, a majority of Palestinians are refugees, most of whom are stateless. Moreover, Israel's entrenched system of racial discrimination against its own Arab-Palestinian citizens remains intact.

In light of Israel's persistent violations of international law, and

Given that, since 1948, hundreds of UN resolutions have condemned Israel's colonial and discriminatory policies as illegal and called for immediate, adequate and effective remedies, and





Given that all forms of international intervention and peace-making have until now failed to convince or force Israel to comply with humanitarian law, to respect fundamental human rights and to end its occupation and oppression of the people of Palestine, and

In view of the fact that people of conscience in the international community have historically shouldered the moral responsibility to fight injustice, as exemplified in the struggle to abolish Apartheid in South Africa through diverse forms of boycott, divestment and sanctions;

Inspired by the struggle of South Africans against Apartheid and in the spirit of international solidarity, moral consistency and resistance to injustice and oppression,

We, representatives of Palestinian civil society, call upon international civil society organizations and people of conscience all over the world to impose broad boycotts and implement divestment initiatives against Israel similar to those applied to South Africa in the Apartheid era. We appeal to you to pressure your respective states to impose embargoes and sanctions against Israel. We also invite conscientious Israelis to support this Call, for the sake of justice and genuine peace.

These non-violent punitive measures should be maintained until Israel meets its obligation to recognize the Palestinian people's inalienable right to self-determination and fully complies with the precepts of international law by:

1. Ending its occupation and colonization of all Arab lands and dismantling the Wall;
2. Recognizing the fundamental rights of the Arab-Palestinian citizens of Israel to full equality; and
3. Respecting, protecting and promoting the rights of Palestinian refugees to return to their homes and properties as stipulated in UN resolution 194.

Endorsed by: The Palestinian political parties, unions, associations, coalitions and organizations below represent the three integral parts of the people of Palestine: Palestinian refugees, Palestinians under occupation and Palestinian citizens of Israel.

Unions, Associations, Campaigns

Council of National and Islamic Forces in Palestine

(coordinating body for the major political parties in the Occupied Palestinian Territory)

Palestinian Independent Commission for Citizen's Rights (PICCR)

Union of Arab Community Based Associations (ITTIJAH), Haifa

Forum of Palestinian NGOs in Lebanon

Palestinian General Federation of Trade Unions (PGFTU)

General Union of Palestinian Women (GUPW)

General Union of Palestinian Teachers (GUPT)

Federation of Unions of Palestinian Universities' Professors and Employees

Consortium of Professional Associations

Union of Palestinian Medical Relief Committees (UPMRC)

Health Work Committees – West Bank

Union of Agricultural Work Committees (UAWC)

Union of Palestinian Agricultural Relief Committees (PARC)

Union of Health Work Committees – Gaza (UHCW)

Union of Palestinian Farmers

Occupied Palestine and Syrian Golan Heights Advocacy Initiative (OPGAI)

General Union of Disabled Palestinians

Palestinian Federation of Women's Action Committees (PFWAC)

Palestinian Campaign for the Academic and Cultural Boycott of Israel (PACBI)

Palestinian Grassroots Anti-Apartheid Wall Campaign

Union of Teachers of Private Schools

Union of Women's Work Committees, Tulkarem (UWWC)

Dentists' Association – Jerusalem Center

Palestinian Engineers Association



Lawyers' Association
Network for the Eradication of Illiteracy and Adult Education, Ramallah
Coordinating Committee of Rehabilitation Centers – West Bank
Coalition of Lebanese Civil Society Organizations (150 organizations)
Solidarity for Palestinian Human Rights (SPHR), Network of Student-based Canadian University Associations

Refugee Rights Associations/Organizations

Al-Ard Committees for the Defense of the Right of Return, Syria
Al-Awda Charitable Society, Beit Jala
Al Awda - Palestine Right-to-Return Coalition, U.S.A
Al-Awda Toronto
Aidun Group – Lebanon
Aidun Group – Syria
Alrowwad Cultural and Theatre Training Center, Aida refugee camp
Association for the Defense of the Rights of the Internally Displaced (ADRID), Nazareth
BADIL Resource Center for Palestinian Residency and Refugee Rights, Bethlehem
Committee for Definite Return, Syria
Committee for the Defense of Palestinian Refugee Rights, Nablus
Consortium of the Displaced Inhabitants of Destroyed Palestinian Villages and Towns
Filastinuna – Commission for the Defense of the Right of Return, Syria
Handala Center, 'Azza (Beit Jibreen) refugee camp, Bethlehem
High Committee for the Defense of the Right of Return, Jordan
(including personal endorsement of 71 members of parliament, political parties and unions in Jordan)
High National Committee for the Defense of the Right of Return, Ramallah
International Right of Return Congress (RORC)
Jermana Youth Forum for the Defense of the Right of Return, Syria
Laji Center, Aida camp, Bethlehem
Local Committee for Rehabilitation, Qalandia refugee camp, Jerusalem
Local Committee for Rehabilitation of the Disabled, Deheishe refugee camp, Bethlehem
Palestinian National Committee for the Defense of the Right of Return, Syria
Palestinian Return Association, Syria
Palestinian Return Forum, Syria
Palestine Right-of-Return Coalition (Palestine, Arab host countries, Europe, North America)
Palestine Right-of-Return Confederation-Europe (Austria, Denmark, France, Germany, Italy, Netherlands, Norway, Poland, Sweden)
Palestinian Youth Forum for the Right of Return, Syria
PLO Popular Committees – West Bank refugee camps
PLO Popular Committees – Gaza Strip refugee camps
Popular Committee – al-'Azza (Beit Jibreen) refugee camp, Bethlehem
Popular Committee – Deheishe refugee camp, Bethlehem
Shaml - Palestinian Diaspora and Refugee Center, Ramallah
Union of Women's Activity Centers – West Bank Refugee Camps
Union of Youth Activity Centers – Palestine Refugee Camps, West Bank and Gaza
Women's Activity Center – Deheishe refugee camp, Bethlehem
Yafa Cultural Center, Balata refugee camp, Nablus

Organizations

Abna' al-Balad Society, Nablus
Addameer Center for Human Rights, Gaza
Addameer Prisoners' Support and Human Rights Association, Ramallah
Alanqa' Cultural Association, Hebron
Al-Awda Palestinian Folklore Society, Hebron
Al-Doha Children's Cultural Center, Bethlehem

Al-Huda Islamic Center, Bethlehem
 Al-Jeel al-Jadid Society, Haifa
 Al-Karameh Cultural Society, Um al-Fahm
 Al-Maghazi Cultural Center, Gaza
 Al-Marsad Al-Arabi, occupied Syrian Golan Heights
 Al-Mezan Center for Human Rights, Gaza
 Al-Nahda Cultural Forum, Hebron
 Al-Taghrid Society for Culture and Arts, Gaza
 Alternative Tourism Group, Beit Sahour (ATG)
 Al-Wafa' Charitable Society, Gaza
 Applied Research Institute Jerusalem (ARIJ)
 Arab Association for Human Rights, Nazareth (HRA)
 Arab Center for Agricultural Development (ACAD)
 Arab Center for Agricultural Development-Gaza
 Arab Education Institute (AEI) – Pax Christie Bethlehem
 Arab Orthodox Charitable Society – Beit Sahour
 Arab Orthodox Charity – Beit Jala
 Arab Orthodox Club – Beit Jala
 Arab Orthodox Club – Beit Sahour
 Arab Students' Collective, University of Toronto
 Arab Thought Forum, Jerusalem (AFT)
 Association for Cultural Exchange Hebron - France
 Association Najdeh, Lebanon
 Authority for Environmental Quality, Jenin
 Bader Society for Development and Reconstruction, Gaza
 Canadian Palestine Foundation of Quebec, Montreal
 Center for the Defense of Freedoms, Ramallah
 Center for Science and Culture, Gaza
 Chamber of Commerce and Industry, Ramallah- Al-Bireh District
 Child Development and Entertainment Center, Tulkarem
 Committee for Popular Participation, Tulkarem
 Defense for Children International-Palestine Section, Ramallah (DCI/PS)
 El-Funoun Palestinian Popular Dance Troupe
 Ensan Center for Democracy and Human Rights, Bethlehem
 Environmental Education Center, Bethlehem
 FARAH – Palestinian Center for Children, Syria
 Ghassan Kanafani Society for Development, Gaza
 Ghassan Kanafani Forum, Syria
 Gaza Community Mental Health Program, Gaza (GCMHP)
 Golan for Development, occupied Syrian Golan Heights
 Halhoul Cultural Forum, Hebron
 Himayeh Society for Human Rights, Um al-Fahm
 Holy Land Trust – Bethlehem
 Home of Saint Nicholas for Old Ages – Beit Jala
 Human Rights Protection Center, Lebanon
 In'ash al-Usrah Society, Ramallah
 International Center of Bethlehem (Dar An-Nadweh)
 Islah Charitable Society-Bethlehem
 Jafra Youth Center, Syria
 Jander Center, al-Azza (Beit Jibreen) refugee camp, Bethlehem
 Jerusalem Center for Women, Jerusalem (JCW)
 Jerusalem Legal Aid and Human Rights Center (JLAC)
 Khalil Al Sakakini Cultural Center, Ramallah
 Land Research Center, Jerusalem (LRC)
 Liberated Prisoners' Society, Palestine
 Local Committee for Social Development, Nablus

Local Committee for the Rehabilitation of the Disabled, Nablus
 MA'AN TV Network, Bethlehem
 Medical Aid for Palestine, Canada
 MIFTAH-Palestinian Initiative for the Promotion of Global Dialogue and Democracy, Ramallah
 Muwatin-The Palestinian Institute for the Study of Democracy
 National Forum of Martyr's Families, Palestine
 Near East Council of Churches Committee for Refugee Work – Gaza Area
 Network of Christian Organizations – Bethlehem (NCOB)
 Palestinian Council for Justice and Peace, Jerusalem
 Palestinian Counseling Center, Jerusalem (PCC)
 Palestinian Democratic Youth Union, Lebanon
 Palestinian Farmers' Society, Gaza
 Palestinian Hydrology Group for Water and Environment Resources Development-Gaza
 Palestinian Prisoners' Society-West Bank
 Palestinian Society for Consumer Protection, Gaza
 Palestinian University Students' Forum for Peace and Democracy, Hebron
 Palestinian Women's Struggle Committees
 Palestinian Working Women Society for Development (PWWSD)
 Popular Art Centre, Al-Bireh
 Prisoner's Friends Association – Ansar Al-Sajeen, Majd al-Krum
 Public Aid Association, Gaza
 Ramallah Center for Human Rights Studies
 Saint Afram Association – Bethlehem
 Saint Vincent De Paule – Beit Jala
 Senior Citizen Society – Beit Jala
 Social Development Center, Nablus
 Society for Self-Development, Hebron
 Society for Social Work, Tulkarem
 Society for Voluntary Work and Culture, Um al-Fahm
 Society of Friends of Prisoners and Detainees, Um al-Fahm
 Sumoud-Political Prisoners Solidarity Group, Toronto
 Tamer Institute for Community Education, Ramallah
 TCC – Teacher's Creativity Center, Ramallah
 Wi'am Center, Bethlehem
 Women's Affairs Technical Committee, Ramallah and Gaza (WATC)
 Women's Studies Center, Jerusalem (WSC)
 Women's Center for Legal Aid and Counseling, Jerusalem (WCLAC)
 Yafa for Education and Culture, Nablus
 Yazour Charitable Society, Nablus
 YMCA-East Jerusalem
 Youth Cooperation Forum, Hebron
 YWCA-Palestine
 Zakat Committee-al-Khader, Bethlehem
 Zakat Committee-Deheishe camp, Bethlehem

3. Letter from Israeli NGOs to the UN Secretary General Regarding the Implementation of the ICJ Advisory Opinion on the Wall, July 2005

Your Excellency Kofi Annan, Secretary General of the United Nations:

A year has passed since the recommendations of the International Court of Justice in The Hague were made and a resolution was adopted by the General Assembly regarding the illegality of the Annexation Wall being erected by the Israeli government. This Wall is being built on a route the significance of which is not only the de facto annexation of large parcels of Palestinian territory, but also the disruption



of life and unimaginable suffering for hundreds of thousands of Palestinian people whose lands are being stolen.

We, the undersigned, Israeli organizations and movements acting for peace, justice and human rights, turn to you and ask that you implement the recommendations via a binding resolution by the Security Council to stop the continued construction of the Separation Wall, to take down the parts that have been built on Palestinian land and to compensate the landowners for the damage caused to their lands in the wake of the building of the Wall.

The Israeli Government is ignoring the recommendations of the Court and the Resolution of the General Assembly and continues to build the Wall at full speed in the Occupied Palestinian Territories, creating encircled enclaves cut off from one another throughout the West Bank. A special effort is being dedicated to the completion of a Wall surrounding Jerusalem, for the Judaization» of the eastern part of the city and the isolation of East Jerusalem, cutting it off from its natural hinterland in the West Bank.

The building of the Wall enables the Israeli Government to expand construction in the settlements and to prepare an infrastructure for new Israeli settlements and projects, especially in areas west of the Wall, up to the “Green Line.”

These lands are the primary source of sustenance and livelihood for tens of thousands of Palestinian residents of the region and are atrophying as a result of the tendentious obstacles the army places on farmers during passage to their lands on the other side of the Wall. This policy has already severely hurt the social and economic fabric of Palestinian society and the continuation of this policy is liable to endanger not only the welfare of Palestinian society but also the chance to establish peace between the Palestinians and us, and ensure the security of the entire region.

Israeli peace activists have participated in the civil protests of Palestinian residents of villages whose lands are being stolen because of the route of the Fence or Wall. During the course of these protests we have experienced the violent suppression by the army and police directed at unarmed protesters demanding their rights. The mechanisms of the Occupation exert pressure and issue sanctions against Palestinian activists leading non-violent civil protest. We warn that this violent behavior towards our Palestinian partners, which is attempting to choke the life out of the civil Palestinian movement, is likely to produce additional cycles of violence.

For the sake of peace between our Palestinian neighbors and us, for the security of the entire region, we call for the implementation without delay of the recommendations of the International Court of Justice and the Resolution of the General Assembly.

Signed by:

Adalah - The Legal Center for Arab Minority in Israel
Bat-Shalom (National Feminist Grassroots Peace Organisation)
Ha’Kampus Lo Shotek (The Campus is not Silent)
Israeli Committee Against House Demolitions
MachsomWatch (Women for Human Rights)
New Profile
Ta’ayush: Arab-Jewish Partnership
The Other Israel
Women’s Coalition for Peace
Zochrot





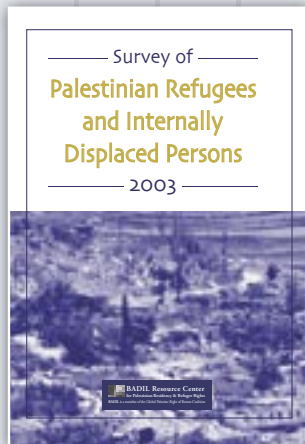
Al-Majdal before the Nakba
Source: www.palestineremembered.com

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 war. 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. 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.



Survey of
Palestinian Refugees and
Displaced Persons
2003

NOW AVAILABLE!

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.

