BADIL publishes Occasional Bulletin No. 25:
Seam Zones

Available in English and Arabic, 10 pages.

Seam zones are sections of Palestinian land within the occupied Palestinian territory which have been isolated as a result of the erection of the illegal Israeli Apartheid Wall, with their location falling in-between that Wall and the 1949 Armistice Line (The Green Line). These pieces of land have been designated by Israel as closed military areas. As a result, Palestinian access to these isolated areas is severely restricted and subjected to an Israeli-controlled permit regime. Statistics suggest that approximately 50,000 Palestinians live in 57 communities within these so-called seam zones. These people are defined internationally as Internally Stuck Persons.


BADIL publishes Occasional Bulletin No. 26:
Israel’s Discriminatory Laws
(Summary Version)

Available in English and Arabic, 20 pages.

Israel identifies itself as a “Democratic and Jewish State” by decree. Publicly it touts itself as ‘the only democracy in the Middle East’. However, Israel’s democratic credentials are severely undermined by its discriminatory treatment of its indigenous non-Jewish Palestinian citizens who constitute roughly 20% of the population. While human rights treaty-making bodies have recognized that Israel’s treatment of Palestinians in the occupied Palestinian territory not only contravenes humanitarian law but also human rights law as well, recent developments have made the connection between the discrimination faced by Palestinian citizens of Israel (so called Israeli-Arabs) and their Palestinian counterparts in the oPt more apparent.


International Protection for Palestinian Refugees and IDPs
الحماية الدولية الواجبة للاجئين الفلسطينيين

Next year’s calendar is titled “International Protection for Palestinian Refugees and IDPs”.

Jan: Principle of Non-discrimination
Feb: Acquired Rights and Convention Rights
March: Right to Property
April: Access to courts
May: Right to Work
June: Rights to Rationing and Housing
July: Right to Public Education
August: Right to Public Relief
Sep: Freedom of Movement
Oct: Right to Identity Papers and travel Documents
Nov: Fiscal charges
Dec: Prohibition of expulsion or return (“refoulement”)
BADIL takes a rights-based approach to the Palestinian refugee issue through research, advocacy, and support of community participation in the search for durable solutions.

BADIL was established in 1995 to support the development of a popular refugee lobby for Palestinian refugees and internally displaced persons and is registered as a non-profit organization with the Palestinian Authority.

Learn more at www.badi.org

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 refugees issues.

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

PUBLISHED BY
BADIL Resource Center for Palestinian Residency & Refugee Rights
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ISSN 1726-7277

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Acknowledgment BADIL thanks Simon Randell for his help with this issue of al-Majdal.

Production and Printing: al-Hqaym

BADIL welcomes comments, criticisms, and suggestions for al-Majdal. Please send all correspondence to the editor al-majdal@badi.org

The views expressed by independent writers in this publication do not necessarily reflect the views of BADIL Resource Center.
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We are happy to present to you this Special 50th Issue of Al-Majdal. This is an opportunity for us to stop, look back and assess our progress since the launch of this magazine in 1999. It’s amazing how time passes. It’s even more amazing how things have not changed. The first editorial of Al-Majdal set the course for BADIL’s rights-based approach, in light of the ‘peace process’ at the time. BADIL Staff, the authors of most of our editorials, felt it was important to clarify that:

“...Political negotiations and agreements between Israel, the PLO/PA (and the USA), do not invalidate international law and UN resolutions. The Oslo negotiations represent an effort to obtain – based on the unfavorable balance of power – a de facto solution of the refugee question outside the framework of international law and UN resolutions. An explicit renunciation of the right of return by the PLO/PA in a future political agreement with Israel cannot delegitimize the refugee claim, because – according to standards of international law - existing international law and UN Resolutions can be replaced only by a political agreement whose provisions grant rights equal to or beyond those defined by international law. Furthermore, given the strong Palestinian public demand for the right of return, its explicit renouncement by the PLO/PA would delegitimize the Palestinian leadership.”

A lot of water has run in the Jordan River since that first issue, making the reading of the above...
excerpt, almost 14 years after it was written, an eye opening experience. The ‘political negotiations and agreements’ have not fulfilled what they promised to achieve – a resolution to the conflict between Israel and the Palestinians (limited to the mandate of Palestinian National Authority, PNA). The Oslo process intentionally did not seek to provide a solution to the refugee problem, something that BADIL sought to highlight in its publications. BADIL was, and still is, a leading organization with its rights-based approach to solutions for the Palestinian question, regardless of the political orientations prevalent among many, both locally and internationally. Moreover, in that original editorial, BADIL Staff go on to stress that “Return is a necessity for social justice and political stability in the Middle East” and that “Return is practically possible”, two principles that we still firmly hold, 49 issues later.

For 50 issues, Al-Majdal has been consistent with the motto coined in its first issue (March 1999), aiming “to raise public awareness and support for a just solution to Palestinian residency and refugee issues”. This Special 50th Issue consists of a hand-picked selection of articles, some from earlier issues, while some are more recent. We thought to present our readers with a ‘guidebook’ on the ongoing Palestinian displacement, its historical, ideological, and political causes since the Nakba, as well as the rights-based approach to the right to return as supported by international law. We also include a brief insight into BADIL’s involvement in the current political-activist landscape, through its partnership in the Boycott, Divestment and Sanctions (BDS) campaign. Every article in this selection is followed by recommendations for further reading from previous Al-Majdal publications. The articles recommended as part of this further reading offer in-depth analysis of study cases which elaborate upon the general topics presented in the Special 50th Issue.

We chose to do it this way for a number of reasons: firstly, our aim is to offer a small selection of articles that represent our analysis to the Palestinian refugee problem. The second reason for keeping the selection small relates to the fact that we want Al-Majdal to maintain its form as a magazine that is accessible to all, rather than becoming a bulky anthology. A third, more practical reason relates to the fact that all Al-Majdal issues are freely available online via our website. Our readers are warmly encouraged to visit and download the issues according to their area of interest.

Finally, we hope you find this Special 50th Issue of Al-Majdal insightful, and look forward to continue to provide pioneering, up-to-date analysis of the Palestinian refugee problem. Above all, we look forward to the day when we do not need to publish Al-Majdal magazine in its current format and theme, i.e. when the right to return is secured for the inhabitants of the town of Al-Majdal, along with the rest of the Palestinian refugees worldwide.
Different UN agencies have now adopted a human rights-based approach to their development cooperation, known as “The Human Rights Based Approach to Development Cooperation Towards a Common Understanding Among UN Agencies”, and the resulting experience, literature and debate prompted by this move has served to greatly enrich the concept both in theory and practice. Nonetheless, there is still no single agreed rights-based approach dealing with all aspects of peoples, groups and individual concerns; there is no workable approach which caters for different situations and issues worldwide. There is, however, a general consensus as to the basic constituent elements of such an approach, which in turn would enable concerned actors to design unique rights based systems and processes which fit particular situations, issues or causes. This commentary does not aim to explore the term, but instead seeks to present in general terms BADIL’s human rights based approach which in turn aims to uproot the conflict between Israel and Palestinian and to lay the foundations for a sustainable, just peace.

Human rights, humanitarian assistance approach and Just Peace:

A human rights-based approach (HRBA) encompasses the norms, principles, standards and goals of the international human rights and best practices of states, with its organs and processes seeking to ensure human dignity and justice. It is characterized by mechanisms, methods, tools and activities which are designed to complement the notion of humanity’s struggle for freedom, equality, justice and development for all. Irrespective of the debate regarding the level of overlap between human rights, peacemaking and peace building, it is agreed that both peace and human rights deal with very similar issues. By its narrow or strict definition (stability, safety, and security), peace cannot be recognized when fundamental human rights and freedoms are violated. The interwoven concepts of human rights, human development and democracy are afforded much greater respect during peacetime, and would be put into practice when peacemaking and peace building measures were undertaken.
No one denies the necessity of - and the need for - peace in the Middle East, particularly in Palestine. However, the prolonged conflict between Arab states and Palestinians on one hand, and Israel and its powerful colonial allies on the other, indicates that there exists fundamental disagreement on what should be the components of this desired peace, regardless of other disagreements such as how these should be put into practice. It seems that both this “fundamental disagreement” and the ever spiraling deterioration of the situation have been inter alia the main reasons behind the adoption of an humanitarian assistance approach in dealing with the plight of Palestinians. Although humanitarian assistance is required for alleviating the human cost and suffering, in particular in emergency situations, it cannot resolve the root causes of the conflict. Hence, it is true to conclude that the humanitarian approach is not, in itself, an appropriate response. Instead, a broader human rights focused approach is preferable, and will address humanitarian issues by default.

Root Causes, Obligations and Political Will

It is important to note that the failure to adopt and/or implement HRBA in the course of seeking a durable solution for the Palestinian – Israeli conflict is not, and should not, be attributed to the complexity of the conflict and relevant issues, or to an unidentified will. The ongoing conflict stems from two major interdependent factors: first, the failure of duty bearers to meet their respective obligations, and second, and the political interests of states taking precedence over human rights during the discourse of proposed solutions. As a result, root causes of the prolonged conflict have been neglected and the many proposed solutions have been designed to deal with the balance of power in the region, not with the injustices and inequalities inflicted upon the local populace. Consequently, many of the suggested solutions were rejected by states or were not accepted/supported by people or rights’ holders, and therefore could not be put into practice by governments. This has served not only to perpetuate the conflict, but also to increase the complexity of the relevant core issues.

Palestine Question and Proposed Solutions

Official efforts - in particular those taken by UN bodies and agencies - to find a solution to the Palestinian question have been politically driven and have placed greater emphasis on the national interests of states, the balance of power between them and the give-and-take of an open-ended bargaining process. There is no doubt that durable solutions to the conflict will be the result of a political negotiation process, but this does not constitute an excuse to avoid addressing the root causes (colonialism, institutionalized discrimination and occupation) and/or to sideline the fundamental rights and freedoms (rights to self determination, return and independence and development) of the Palestinian people; the manifestly weak party in terms of balance of power.

Ultimately, the right of return of forcibly displaced Palestinians is central to sustainable peace because it is a matter of direct, material and ethical concern to millions of Palestinians and other Arab people who need to see that the root causes of the protracted conflict, i.e. Zionist Israel’s racist policies and practices of colonialism and ethnic cleansing which began the Palestinian Nakba, will no longer be tolerated but instead be removed and corrected in the context of peacemaking. The lead role of Palestinian refugees in the establishment of the PLO in 1964 with the objective to achieve return, freedom and self-determination is an indicator of the human and political importance of this matter. This also explains why Palestinian refugees will not agree to rescind these fundamental individual and collective rights in exchange for some form of limited Palestinian sovereignty in all of, or parts of, the OPT. Irrespective of the political contours of any future solution, whether one state or two, Palestinians overwhelmingly view return, restitution and compensation of the refugees and IDPs as the litmus test of whether a solution is just and hence acceptable.
There is no acceptable (ethical or legal) justification to the non-participation of rights holders in the peace process. Although mechanisms for the implementation of rights would necessarily be subject to negotiation, rights by themselves are not. Accordingly, negotiations undertaken by parties (including international organizations and concerned states) should aim to establish, safeguard and implement the rights of all parties to the conflict, most especially civilian victims of the conflict. Priority should be given to the rights and participation of the victims of violations of human rights and humanitarian law, such as the right to remedy and reparation in the case of more than seven million Palestinian refugees and Internally Displaced Persons.

Rights Based Approach for Palestine Question:

The HRBA can lead to a sustainable and just peace for Palestine, and should be based upon international law and the key principles of justice and equity for all. Therefore it necessarily should include:

1- Recognition of rights, in particular the Palestinian people’s right to self determination, the right of refugees and IDPs to reparation (voluntary return, property restitution and/or compensations), the right of development (to freely dispose and enjoy of the natural wealth and resources and cultural heritage) and the right to peace.

2- Addressing the root causes of the conflict; namely colonialism, institutionalized discrimination and occupation. These are the driving factors underpinning a range of human rights violations, such as the denial of displaced people’s right to return, illegal land confiscation, settler implantation and settlements/colonies expansion, homes demolitions, ongoing forcible displacement, restrictions on freedoms of movement etc.

3- Ensuring rights for all parties and victims without discrimination and without causing injustice or mass displacement/elimination of the other during the course of enabling rights holders to exercise their legitimate and legal rights.

4- Setting the foundations of peaceful and cooperative relations between people, groups, individuals and states. This will be an intrinsic component of a just peace and is essential for reconciliation, which in turn will be achieved through implementing transitional justice (both judicial and non-judicial) mechanisms and tools, including criminal prosecution, reparations, institutional reform, and truth commissions.

Conclusion:

It is possible that powerful states would be able to enforce a solution, which could be described as pragmatic, realistic and possible, but such a solution would not be just and sustainable if it was not built upon a platform of respect and protection for universal human rights. Balance of power, or a politically driven approach may result in a “peaceful agreement” for a specific set of conditions or a particular moment, but such a peace would be only temporary. Groups and individuals will always seek their rights to ensure that their humanity and dignity is recognized and protected. Therefore, HRBA is the only viable framework in which to construct a long-hoped for durable solution for this protracted conflict.

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** Endnotes: See online version at: http://www.BADIL.org/al-majdal
The ongoing Nakba
The continuous forcible displacement of the Palestinian people

by Amjad Alqasis

Israeli practices and policies are a combination of apartheid, military occupation, and colonization as a means to ethnically cleanse the territory of historic Palestine from the indigenous Palestinian presence.

This Israeli regime is not limited to the Palestinians living in the occupied Palestinian territory (oPt), but it is also targeting Palestinians residing on the Israeli side of the “1948 Armistice Line” as well as those living in forced exile. Reflections on whether a one or two-state solution would be the appropriate means to end the injustice and suffering in historic Palestine overlook the fact that one legal entity has already been established within that specified territory: Indeed, Israel’s treatment of non-Jewish Palestinians throughout Israel and the oPt constitutes an overall discriminatory regime aiming to control the maximum amount of land with the minimum amount of indigenous Palestinians residing on it. The main components of that structure discriminate against Palestinians in areas such as nationality, citizenship, residency rights and land ownership. This system was originally applied in 1948 in order to dominate and dispossess all forcibly displaced Palestinians, including the 150,000 who were able to remain within the borders of the “1948 Armistice Line” and later became Palestinian citizens of Israel. After the occupation of the remaining part of historic Palestine by Israeli forces in 1967, this territory became subjected to the same Israeli regime. In essence, the intention to colonize historic Palestine on the expense of its indigenous Palestinian population goes back to the beginnings of the Zionist Movement, decades before the creation of the State of Israel.

Zionist Movement

The Zionist Movement was formed in the late Nineteenth century with the aim of creating a Jewish home through the formation of a ‘…national movement for the return of the Jewish people to their homeland
and the resumption of Jewish sovereignty in the Land of Israel.” As such, the Zionist enterprise combined the Jewish nationalism which it aimed to create and foster, with the colonialism of transplanting people, mostly from Europe, into Palestine with the support of European imperial powers. Jewish history was interpreted towards constructing a specific Jewish national identity in order to justify the colonization of Palestine. Basically, the movement had to define the “Jewish people”, therefore a national identity had to be created and this identity had to be linked to Jewish presence in Palestine during the first century CE. Here it is important to note that like any other national identity it cannot be traced back to a natural development and was instead constructed based on the concept and wishes of its creators. As a result, all Jewish people around the world were part of one and the same nation, who shared the same history; who admired the same national heroes; and who were united in the longing of returning to their place and home of origin. As Ilan Pappe rightly concludes, however, “Zionism was not… the only case in history in which a colonalist project was pursued in the name of national or otherwise non-colonialist ideals. Zionists relocated to Palestine at the end of a century in which Europeans controlled much of Africa, the Caribbean, and other places in the name of ‘progress’ or idealism...”2. What is unique to Israel, however, is the effect of Zionism on the people it has claimed to represent. By basing itself on the idea of Judaism as a national identity, adherents of the Jewish faith around the world would become, as per Israeli law, Jewish “nationals,” whether or not they accepted said classification. To date, Israel continues to define its citizenry extra-territorially.

The creation of a Jewish nation state in a land with a very small Jewish minority could only be conceivable through the forced displacement of the existing indigenous population alongside the implanting of the new Jewish settlers. For the indigenous Palestinians who managed to remain within the boundaries of what became Israel, their own national identity was relegated to inferior status. Article 2 of the State Education Law, for example, states that “The objective of State education is... to educate each child to love... his nation and his land,... [to] respect his... heritage, his cultural identity... to impart the history of the Land of Israel... [and] to teach... the history of the Jewish People, Jewish heritage and tradition...”3. Beyond being subject to institutionalized discrimination, these Palestinians who managed to remain within the part of historic Palestine usurped in 1948 — of whom today there are over 1.2 million — are forced to be citizens of a state in which they are ineligible for nationality.

As mentioned above, however, the main manifestation of Zionist apartheid has been forcible population transfer. The task of establishing and maintaining a Jewish state on a predominantly non-Jewish territory has been carried out by forcibly displacing the non-Jewish majority population. Today, nearly 70 percent of the Palestinian people worldwide are themselves, or the descendents of, Palestinians who have been forcibly displaced by the Israeli regime4. The idea of
“transfer” in Zionist thought has been rigorously traced by Nur Masalha in his seminal text *Expulsion of the Palestinians: The Concept of “Transfer” in Zionist Political Thought, 1882-1948*, and is encapsulated in the words of Israel Zangwill, one of the early Zionist thinkers who, in 1905, stated that “*If we wish to give a country to a people without a country, it is utter foolishness to allow it to be the country of two peoples.*” Yosef Weitz, former director of the Jewish National Fund’s Lands Department, was even more explicit when, in 1940, he wrote that:

“…it must be clear that there is no room in the country for both people (...) the only solution is a Land of Israel, at least a western Land of Israel without Arabs. There is no room here for compromise. (...) There is no way but to transfer the Arabs from here to the neighboring countries (...) Not one village must be left, not one (Bedouin) tribe.”

Rights and ethics were not to stand in the way, or as David Ben-Gurion argued in 1948, “*The war will give us the land. The concepts of ‘ours’ and ‘not ours’ are peace concepts, only, and in war they lose their meaning.*”

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

The Zionist Movement, when setting the scene to colonize Mandate Palestine in 1897 under the motto, “people without land will get a land without people”, faced three major obstacles:

- The indigenous Palestinian people who were living in that territory;
- Palestinian property and land rights within that territory;
- Lack of a sufficient number of Jewish people in that territory.

On overcoming these three obstacles, they needed to create a legal system in order to maintain the newly established status quo. The Zionist Movement, and later Israel, had no interest in simply creating a system of domination of one “racial” group over another. Israel’s aim was, and still is, not to exploit the indigenous workforce or simply to limit their political and social participation. Rather, the intention was to establish a homogeneous Zionist-Jewish state predominantly for Jewish people. This was apparent from the early years of the Zionist Movement, illustrated by the fact that Israel has hitherto no defined borders. As explained by Golda Meir, “*The borders are determined by where Jews live, not where there is a line on a map*”. This statement, in combination with Ben-Gurion’s famous writings in 1937, that “*the compulsory transfer of the Arabs from the valleys of the projected Jewish state could give us something which we never had… We have to stick to this conclusion the same way we grabbed the Balfour Declaration, more than that, the same way we grabbed at Zionism itself*”, offers endless possibilities for transferring Palestinians out and implanting Jewish settlers into the territory. As illustrated by Nur Masalha, between 1930 and 1948 the Zionist Movement planned for the forcible transfer of the indigenous Palestinian population in nine different strategies, starting with the 1930 Weizmann Transfer Scheme up to Plan Dalet carried out in 1948.

In order to deal with the three obstacles identified above, the Zionist Movement initiated a series of proactive and preventive measures in the form of laws, practices and policies. In the following the most central of these measures will be briefly elaborated:
Privileged Migration

To ensure a sufficient number of Jewish people in the colonized territory, the Israeli Law of Return 1950 was adopted. It provides that every Jewish person in the world is entitled to ‘Jewish nationality’ and can immigrate to Israel and acquire Israeli citizenship. Under the Law of Return, a Jewish national is “…born of a Jewish mother or has become converted to Judaism and who is not a member of another religion.” The Law of Return Article 4(a) provides “The rights of a Jew under this Law and the rights of an oleh under the Citizenship Law, as well as the rights of an oleh under any other enactment, are also vested in a child and a grandchild of a Jew, the spouse of a Jew, the spouse of a child of a Jew and the spouse of a grandchild of a Jew; except for a person who has been a Jew and has voluntarily changed his religion.” Thus Jewish nationals enjoy the right to enter Israel even if they were not born in Israel and have no connection whatsoever to Israel, on the one hand. On the other hand, Palestinians, the indigenous population of the territory, are excluded from the Law of Return on grounds that they are not of Jewish national origin, and as such do not enjoy the legal status of nationals under any other Israeli law; and have no automatic right to enter the country.

This law aims at simplifying and encouraging the immigration of Jewish persons to Israel in order to achieve the Jewish state envisioned by Zionism. Next to this, the World Zionist Organization plays an important role in organizing Jewish migration to Israel and the oPt. The goals of this organization were formulated prior to the creation of the state of Israel and were fortified in 1952 when the Israeli parliament passed the “Zionist Organization Status Law”, and the signing of a covenant between the government of Israel and the Zionist Executive, according to which the organization’s main areas of responsibility remained those related to immigration, absorption and settlement of Jewish people into the territory of historic Palestine.

Property Rights

Related to the second obstacle mentioned above, the Israeli Absentee Property Law 1950 was used to confiscate Palestinian property, legally owned by forcibly displaced Palestinian refugees and internally displaced persons. The term ‘absentee’ was defined so broadly as to include not only Palestinians who had fled the newly established State of Israel but also those who had fled their homes yet remained within its borders. In fact, the term even included many Jews. However, an ostensibly race-neutral provision exempted absentees who left their home because of, among other things, “fear of Israel’s enemies” - thereby effectively excluding the Jewish population from the application of the law. Once confiscated, this land became state property.

The Israeli Land Acquisition Law, 1953, was enacted in order to complete the transfer to the State of confiscated Palestinian land which had not been abandoned during the attacks of 1948. In the words of former Israeli Finance Minister Elilezer Kaplan, its purpose “...was to instill legality in some acts undertaken during and following the war.” An almost identical process took place in the oPt in the aftermath of the 1967 occupation. Like in Israel, “...the acquisition of Palestinian lands in the West Bank and Gaza Strip proceed[ed] along several lines simultaneously.”

As a result of overall Israeli land strategy, Palestinians today own only a few percent of the land which was Mandate or historic Palestine. The expansion of existing Palestinian localities in Israel and the oPt has been severely curtailed as a result of Israel’s highly discriminatory planning policy. Since the occupation of the West Bank and the Gaza Strip in 1967, Israel has not permitted the establishment of
any new Palestinian municipalities. Military Order 418 created a planning and building regime which gives full control to the Israeli State in all areas related to planning and development in the oPt. As a result, Palestinian communities often find themselves separated from their surrounding lands. In contrast, even the smallest Jewish localities have detailed building plans and regulations regarding land use. To summarize the situation: “Israeli space has been highly dynamic, but the changes have been mainly in one direction: Jews expand their territorial control by a variety of means including on-going settlement, while Palestinians have been contained within an unchanged geography.”

Forcible Population Transfer

The central obstacle to the Zionist Movement, the Palestinian people themselves, has been addressed by various means throughout the last six decades. More than seven million Palestinians have been forcibly displaced – including their descendants- from their homes and Israeli laws such as the 1954 Prevention of Infiltration Law and military orders 1649 and 1650 have prohibited Palestinians from legally returning to Israel or the oPt. This deliberate and planned forcible displacement amounts to a policy and practice of forcible transfer of the Palestinian population, or ethnic cleansing. This process started prior to 1948, and is still ongoing today.

Almost a half million Palestinians were displaced between December 1947 and May 1948. The greatest outflow of refugees took place in April and early May 1948 coinciding with the start of operations by Zionist paramilitary organizations. The Zionist movement declared the establishment of the state of Israel on 15 May 1948 by which approximately 750,000 Palestinians had become refugees. Most refugees were displaced by Israeli military forces (including pre-state Zionist militia groups) using tactics violating basic
principles of international humanitarian and human rights law: attacks on civilians, massacres and other atrocities; expulsion; and destruction and looting of property.” This period in recent Palestinian history is defined as the Nakba, the Palestinian catastrophe. The Nakba fundamentally altered Palestine. However, the idea of forcible displacement of the indigenous Palestinian people did not end with the establishment of Israel in 1948, it rather started that year. Since the Nakba almost every passing year has witnessed a wave of forcible displacement, whereby in some years the wave is higher than in others. So for instance during the year 1967, another 400,000 Palestinian became refugees.

The ongoing forcible displacement of the Palestinian people amounts to a policy and practice of forcible transfer of the Palestinian population. According to the Sub-Commission on Prevention of Discrimination and Protection of Minorities of the former Commission on Human Rights:

“Forced population transfer is illegal and has constituted an international crime since the Allied Resolution on German War Crimes, adopted in 1942. The strongest and most recent codification of the crime is found in the Rome Statute of the International Criminal Court, which clearly defines forcible transfer of population and implantation of settlers as war crimes.”

In order to achieve the forcible transfer of the indigenous Palestinian population beyond the boundaries of historic Palestine, many Israeli laws, policies and state practices, as well as specific actions of para-state and other private actors have been developed and applied. This ethnic cleansing is carried out today by Israel in the form of the overall policy of ‘silent’ transfer, and not by the mass deportations witnessed in 1948 or 1967. This displacement is silent in the sense that Israel carries it out while...
trying to avoid international attention, displacing small numbers of people on a weekly basis. It is to be distinguished from the more overt transfer achieved under the veneer of warfare in 1948. Here it is important to note that Israel’s transfer policy is neither limited by Israel’s geographical boundaries nor those of the oPt.

Today’s silent transfer policy

The Israeli policy of silent transfer is evident in the State’s laws, policies and practices. Israel uses its power to discriminate, expropriate and ultimately effect the forcible displacement of the indigenous non-Jewish population from the area of historic Palestine. For instance, the Israeli land-planning and zoning system has forced 93,000 Palestinians in East-Jerusalem to build without proper construction permits because 87 percent of that area is off-limits to Palestinian use, and most of the remaining 13 percent is already built up. Since the Palestinian population of Jerusalem is growing steadily, it has had to expand into areas not zoned for Palestinian residence by the State of Israel. All those homes are now under the constant threat of being demolished by the Israeli army or police, which will leave their inhabitants homeless and displaced.

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

The Israeli Supreme Court bolstered the Zionist objective of clearing Palestine of its indigenous population in its 2012 decision prohibiting family unification between Palestinians with Israeli citizenship and their counterparts across and beyond the 1948 Armistice Line. The effect of this ruling has been that Palestinians with different residency statuses - such as Israeli citizen, Jerusalem ID, West Bank ID or Gaza ID which all are issued by Israel - cannot legally live together on either side of the 1948 Armistice Line. They are thus faced with a choice of living abroad, living apart from one another, or taking the risk of living together illegally. Such a system is used as a further means of forcibly displacing Palestinians and thereby changing the demographic of Israel and the oPt in favor of a predominantly Jewish population. This demographic intention is reflected in the Court’s reasoning for its decision, where it stated that “…human rights are not a prescription for national suicide.” This reasoning was further emphasized by Knesset-member Otniel Schneller who stated that “The decision articulates the rationale of separation between the [two] peoples and the need to maintain a Jewish majority…and character…” This illustrates once more the Israeli state’s self-image as a Jewish State with a different set of rights for its Jewish and non-Jewish, mainly Palestinian, inhabitants.

Jewish Nationality

All the different means with which Israel triggers the displacement of Palestinians are linked to the central concept of Jewish nationality, as this is the legal mechanism which enables and guarantees the constant discrimination against the non-Jewish population. This same concept is the link between Zionism and the constructed ‘right’ of the Jewish nation to settle and occupy the territory of historic Palestine. In other words, the concept of Jewish nationality is the lynchpin of Israel’s regime of apartheid as it addresses both aims of Zionism: the creation and maintenance of a specific Jewish national identity, and the colonization of historic Palestine through the combination of Jewish settler implantation and the forcible transfer of all non-Jewish inhabitants.
The way this concept is embodied in law is through the separation of citizenship (‘Israeli’), from nationality (‘Jewish’). This separation was confirmed by the Israeli Supreme Court in 1972\(^{35}\). Such a distinction allows Israel to discriminate against its Palestinian citizens and, even more severely, against Palestinian refugees by ensuring that certain rights and privileges are conditional upon Jewish nationality. The main source of discrimination against Palestinian refugees originates from the Israeli Law of Return 1950 and the Israeli Citizenship Law 1952 which grants automatic citizenship to all Jewish nationals, wherever they reside, while simultaneously preventing Palestinian refugees from returning to, and legally residing in, that territory. The Israeli regime has essentially divided the Palestinian people into several distinct political-legal statuses as shown in the examples below. Despite their differing categorizations under Israeli law, Palestinians across the board maintain an inferior status to that of Jewish nationals living within the same territory or beyond.

**Further readings:**


Ongoing forcible displacement within and beyond the 1948 Armistice Line


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**“Category 1: privileged status:**

- Jewish National → Living abroad and in Israel → Full political, social and economic rights and full access to benefits

**Category 2: Inferior status:**

- Palestinian citizens of Israel → Living abroad and in Israel → Inferior rights and limited access to benefits

- Palestinians in the OPT → Living under occupation → Denied/ Restricted rights: no/severely limited right to enter Israel/move within the OPT, no/severely limited political, social and economic rights

- Palestinian refugees living abroad → Forcibly displaced, made stateless and no right to return to their homes”\(^{36}\)
The Way forward

Consequently, Israel does not simply seek domination over the indigenous Palestinians, but rather their forcible displacement. In this light, any discussion on the situation in Palestine has to consider that the essential issue circulates around the lives and rights of existing Palestinian refugees, as well as the prevention of future forcible displacement.

This is why it is hugely important to seek solutions rooted in a strict rights-based approach. A rights-based approach could be best described as normatively based on international rights standards and operationally directed to promoting and protecting those rights. "Under a rights-based approach, plans, policies and programs are anchored in a system of rights and corresponding obligations established by international law". Therefore, a rights-based approach should integrate norms, standards and principles of the international rights system into the plans, policies and processes which seek solutions to the specific conflict at hand. In the case of Palestine and Israel this approach would seek solutions based on international law rather than relying on negotiations to bring about a long lasting and just solution. In this light, it should be unacceptable to refer to illegal Israeli settlements in the oPt as “undermin[ing] efforts towards peace” while in reality they constitute a violation of numerous international standards and principles and represent a manifestation of Israel’s ongoing impunity. Therefore, the implementation of international law and standard should be a demand and not be asked for through negotiations. Simply speaking as in any other case of a law violation whether on the domestic or international level, the perpetrator should not receive a privileged position, through negotiations, to reframe the conflict and possible solutions to it. In the same way it would be left to national courts to decide on a burglary, international offenses should be dealt with by the relevant courts and (quasi-) judicial bodies and the punishment for such offences should carry appropriate gravitas. In other words, international law violations should meet the same standard as law infringements within national settings.

In fact, this ongoing absence of Israeli accountability in the Palestine-Israel situation undermines the legitimacy of international law, in particular human rights, humanitarian law and international criminal law. It is therefore time to ensure that international law is more than just utopian rhetoric, but instead a robust legal system which protects rights, establishes obligations and most importantly, creates realities which mirror its core values and principles.

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**Endnotes: See online version at: http://www.BADIL.org/al-majdal
In recent years it has become increasingly common to emphasize that any solution to the Palestinian refugee question must be agreed upon. The Arab peace initiative and the Road Map both call for an agreed upon solution. This appears to be a common sense approach to resolving what the Office of the UN High Commissioner for Refugees (UNHCR) describes as “[b]y far the most protracted and largest of all refugee problems in the world today.” Solutions that are agreed upon, in contrast to imposed ones, are widely seen to be more durable, not least of which is due to the broad ownership that such approaches tend to generate. The question is: agreed upon by whom? What role, if any, do refugees themselves have?

Participation is not only a right in itself, but also “a means towards the ends of protection and durable solutions.” Literature on political participation similarly describes participation as a pre-condition to the enjoyment of all other rights. Agency handbooks and guidelines underline the importance of refugee participation at all stages of a refugee crisis. The Global Consultations on International Protection, an international effort to improve refugee protection worldwide, explicitly recommend that UNHCR “[f]acilitate the participation of refugees, including women in peace negotiations.” Yet there are few apparent examples where refugees have actually participated in the negotiation of their own solutions, the most visible being the direct participation of the camp-based Permanent [refugee] Commissions in the Guatemalan peace process during the mid 1990s.

The absence of refugees from the negotiating table may be explained by a number of factors: insecurity related to the fact that one’s negotiating partners may be those responsible for policies and practices that led to displacement, lack of trust or cynicism about the political process, insufficient skills, knowledge...
and/or resources to participate, disagreements among refugees about who should represent them and/or the refusal of elites to open up the peacemaking process. In some cases, refugees may simply not wish to participate. Others may have a direct voice in determining their own futures, but their methods of participation may be overlooked or made “invisible” by western-oriented models of political participation. At the same time, refugees face a number of obstacles to participation in peace negotiations that are inherent in the international human rights and refugee regimes.

To begin, international law is not altogether clear on the extent to which the individual right to participate in the political affairs of one’s country applies to peace negotiations. Human rights instruments simply affirm that refugees have a right to participate in the “public affairs” of their country after they return. In other words, the individual right to participation “kicks in” presumably after a peace agreement has been struck. Repatriation operations, for example, often ensure that returning refugees are able to vote in post-agreement elections. Aside from provisions for electoral participation, the law itself is indeterminate on the mechanism through which individuals may participate in the public affairs of their country. The law on self-determination, meanwhile, would only appear to provide for participation in referendum and plebiscites in cases of decolonization.

International law thus appears to give state actors relatively “broad discretion” over the “modalities of [the individual right to] participation” in public affairs, including the participation of refugees in peace negotiations to craft durable solutions. While UNHCR policies and guidelines (i.e., “soft law”) refer extensively to refugee participation, the right itself is not enumerated in any of the refugee law instruments. At the same time, the state, which has the primary duty under international law to respect, protect and promote the right to participation, is often responsible for the displacement of its own population. In conflicts of an ethnic or national character, it is the very exclusion of individuals and communities from the political decision making process that often gives rise to forced displacement. Relying solely on the state then to include refugees in the political decision making of a peace process may be too much to expect.

Efforts by international institutions like UNHCR to facilitate refugee participation in negotiations are similarly constrained by the nation-state system. UNHCR may encourage states to involve refugees in peace talks, but it has no means to ensure their participation. The agency has discussed, but not adopted, the idea of including refugees in tripartite commissions (comprising UNHCR, the country of origin and host state) to facilitate repatriation. At the same time, some researchers question whether “it is even possible, given the dominant organizational culture of UNHCR, to establish conditions for meaningful refugee participation.” A 2004 UNHCR evaluation described “refugee participation itself [as having been] largely been marginalized or treated as a kind of occupational therapy to keep refugees busy while real decisions are taken elsewhere.”

What does all of this mean for an agreed upon solution to the Palestinian refugee question? The fact that the law is less than clear about the right of refugees to participate in peace negotiations means little in a situation where international law itself has been excluded from the peace making process. Neither Israel and the PLO nor the international community, generally, have actively encouraged the participation of refugees. As Haifa Jamal, a refugee from Shafa Amr in the Galilee, and the director of Association Najda in Lebanon, remarked to a British Commission of Enquiry on Palestinian refugees in 2001:

[E]very year we hear more stories and scenarios about what might be the solution for the refugees. We hear that no one considers solving it based on UN Resolution 194. They talk about this resolution, but in reality they don’t discuss it to solve our problem. Sometimes we hear that they will send us to Canada, Australia or to London. Really, we hear different things every day. But no one comes to ask us our opinion and point of view. […] Always we said: “We are human beings. You should ask us.”
While many Palestinian negotiators are themselves refugees, “the fact of being a refugee,” as one former negotiator has acknowledged, “does not necessarily mean that one represents refugees.”

Palestinian refugees outside the OPT were also prevented from voting in elections for the Office of the President of the Palestinian Authority and the Legislative Council that was setup in the occupied West Bank and Gaza Strip under the Oslo agreements. According to Israel’s senior legal advisor at the time, Israel was concerned that if it allowed 1967 refugees to participate in PA elections, they may demand to return to the OPT in order to cast their ballots. Nor have Palestinians been able to hold elections for the Palestine National Council (PNC), the parliament in exile representing all Palestinians, a measure which would allow refugees and non-refugees alike an opportunity to participate in determining their own future. Refugees outside the OPT protested this exclusion by holding symbolic elections for the PNC during the 2006 Palestinian Legislative Council elections.

Meanwhile, the fact that international agencies like UNHCR can do little more than encourage states to involve refugees in peace talks has little relevance in a situation where there is no agency with an explicit mandate to search for and implement durable solutions for Palestinian refugees. While some have suggested that this role devolved from the UNCCP to the UN Secretary-General, the Secretary-General in his role as a member of the Middle East Quartet has neither promoted refugee participation in negotiations, nor the “essential rights” commonly afforded to refugees elsewhere, namely, the right to voluntary return; the right to citizenship, identity and participation; the right to property; and, general human rights. Even in the area of elections, which has been central to UN missions elsewhere, the international organization in its role as a member of the Quartet has been silent on the exclusion of the majority of Palestinian refugees from the electoral process.

The political self-organization of Palestinian refugees in the OPT and in other communities of exile further afield beginning in the 1990s provides an important antidote to some of the problems in the international human rights and refugee law regimes that hinder refugees from participating in the negotiation of their own solutions, namely, the lacunae in international law, the predominant role of the state and the limited ability of the international refugee regime to facilitate such participation. Political self-organization and mobilization are not a means to “replace” the state or to “negate” the role of international actors like UNHCR, but rather, a mechanism to overcome the exclusion that the law, the state and the refugee regime often create. At the same time, it is a mechanism through which refugees contribute to the development of the law itself.

The example of the Permanent [refugee] Commissions in Guatemala illustrates how political self-organization and mobilization there enabled refugees to overcome the exclusionary politics of the Guatemalan state, participate in the determination of their own solutions and realize their basic human rights and fundamental freedoms. A tradition of collective organization, the maintenance of community structures in exile, the spatially-concentrated camp environment and physical and material security contributed to their ability to engage in the search for solutions while the support of UNHCR, NGOs and faith-based organizations enabled them to leverage the Guatemalan state’s need for international development assistance and the interests of neighboring states for a solution to the refugee crisis in Central America to “pry open” the peacemaking process. Post return disputes over land rights and the struggle of refugee women to maintain the freedoms they had won in exile provide some important lessons for refugees elsewhere.

Notwithstanding, the obvious differences between the two conflicts and the problems faced by Guatemalan refugees when they returned home, the Guatemalan experience reinforces the importance of self-organization and mobilization among Palestinian refugees. In fact, the assumption of a two-state solution
based on ethno-national separation, the limited role of the UN in the peacemaking process, the exclusion of international law, the political and legal deficiencies in the Arab world and the relative weakness of the PLO heighten the role of collective action by Palestinian refugees in securing their basic rights. Palestinian refugees share many of the conditions that enabled the self-organization and mobilization of Guatemalan refugees. The democratic structures proposed by Palestinian refugees for a popular refugee campaign, including an elected General Refugee Council, are not unlike those in Guatemala.

While it is ultimately up to refugees themselves to make these representative structures a reality, the UN, Arab states, the PLO and civil society actors can each play an important supporting role. A description of the role of each is beyond the scope of this short article, however, in comparison to the Guatemalan example, the role of the United Nations in promoting international law and that of the regional actors in creating the architecture for an agreed upon solution to the Palestinian refugee question is weak. While Israel is relatively strong, calls for boycotts, divestment and sanctions linked to its respect for refugee rights, is an important component in creating the kind of leverage that helped Guatemalan refugees to secure their rights. In the meantime, “forward-looking political acts” like demonstrations, petitions, commemorations (e.g., Nakba) and other types of demands for the rights of return and restitution have the effect of casting the “shade of the law” over the negotiation process. While its “shadow” may be short, in terms of the lack of formal enforcement mechanisms, it is broad in the sense that such demands are also expressions of popular sovereignty, that is to say, the will of the people, which is the essence of an agreed upon solution to the refugee issue.

Further readings


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** Endnotes: See online version at: http://www.BADIL.org/al-majdal
For many years, the term al Nakba, the catastrophe, seemed a satisfactory term for both the events of 1948 in Palestine and their impact on our lives today. I think, it is time to use a different term, ‘The Ethnic Cleansing of Palestine’.

The term Nakba does not directly imply any reference to who is behind the catastrophe – anything can cause the destruction of Palestine, even the Palestinians themselves.

Not so when the term ethnic cleansing is used. It implies an accusation and reference to the culprits of/for the events that took place not only in the past but happen also in the present. Far more importantly, it connects policies, such as ones used to destroy Palestine in 1948, to an ideology which continues to guide Israel’s policies towards the Palestinians: the Nakba continues, or more forcefully and accurately, the ethnic cleansing rages on. In this 58th commemoration of the Nakba, it is time to use openly and without hesitation the term ethnic cleansing as the best possible term for describing the expulsion of the Palestinians in 1948.

Ethnic Cleansing is a crime and those who perpetrate it are criminals. In 1948, the leadership of the Zionist movement, which became the government of Israel, committed a crime against the Palestinian people. The crime was Ethnic Cleansing. This is not a casual term but an indictment with far reaching political, legal and moral implications. The meaning of this term was clarified in the aftermath of the 1990s’ civil war in the Balkans. Any action by one ethnic group meant to drive out another ethnic group with the purpose of transforming a mixed ethnic region into a pure one is Ethnic Cleansing. An action can become Ethnic Cleansing regardless of the means employed. Every means, from persuasion and threats to expulsions and mass killings, justifies the attribution of the term to such policies. The act itself qualifies the
categorization of the act: therefore, certain policies are regarded as Ethnic Cleansing by the international community even when a master plan for their execution is not found or exposed. Consequently, the victims of Ethnic Cleansing are both people who left out of fear and those expelled forcefully as part on an ongoing operation. The above definitions and references can be found in the American State Department and United Nations websites. These are the principal definitions that guided the International Court in The Hague when it was setup to try those responsible for planning and executing the Ethnic Cleansing operations as people guilty of perpetrated crimes against humanity.

In Plan Dalet, adopted in March 1948 by the high command of the Hagana (the main Jewish underground in the pre-state days), the Israeli objective of 1948 is clear. The goal was to take over as much as possible of the territory of Mandatory Palestine and remove most of the Palestinian villages and urban neighborhoods from the coveted territory which would constitute the future Jewish State. The execution was even more systematic and comprehensive than the plan anticipated. In a matter of seven months, 531 villages were destroyed and 11 urban neighborhoods emptied. The mass expulsion was accompanied by massacres, rape and imprisonment of men (defined as males above the age often) in labor camps for periods over a year. All these characteristics in the year of 2006 can be only attributed to Ethnic Cleansing policy; namely a policy that, according to the UN definition, aims at transforming a mixed ethnic area into a pure ethnic space, where all means are justified. Such a policy is defined under international law as a crime against humanity which the US State Department believes can only be rectified by the repatriation of all the people who left or were expelled as a result of the ethnic cleansing operations.

The political implications of such a statement is that Israel is exclusively to blame for the making of the Palestinian refugee problem and bears legal, as well as moral responsibility for the problem. The legal implication is that even if there is obsolesce, after such a long period, for those who committed a deed which is described as a crime against humanity, the deed itself is still a crime for which nobody ever was brought to justice. The moral implication is that indeed the Jewish State, like many other states, was born out of sin, but the sin, or the crime, was never admitted. Worse, among certain circles in Israel it is acknowledged and in the same breath fully justified: justified in the past and in the future as a future policy against Palestinians wherever they are.

But all these implications were totally ignored by the Israeli political elite and instead a very different lesson was derived from the events of 1948. The lesson: you can, as a state, expel half of Palestine’s population, destroy half of its villages and get away with it without a scratch or criticism. The consequences of such a lesson were inevitable: the continuation of the Ethnic Cleansing policies by other means. There are well-known landmarks in this process, for instance, the expulsion of tens of villages between 1948 and 1956 from Israel proper, the forced transfer of 300,000 Palestinians from the West Bank and the Gaza Strip and a very measured, but constant, cleansing from the Greater Jerusalem area.

As long as the political lesson is not learned, there will be no solution for the Israeli-Palestinian conflict. The issue of the refugees will repeatedly fail any attempt, successful as it may be in any other parameters, to reconcile the two conflicting parties. This is why it is so important to recognize the 1948 events as an Ethnic Cleansing operation, so as to ensure that a political solution will not evade the root of the conflict, namely, the expulsion of the Palestinians. Such evasions in the past are the main reasons for the collapse of all the previous peace accords.

As long as the legal lesson is not learned – there will always remain retributive impulses and revengeful emotions on the Palestinian side. The legal recognition of the 1948 Nakba as an act of ethnic cleansing would enable a restitutive justice. This is the process that has taken place recently in South Africa. The
acknowledgement of past evils is not done in order to bring criminals to justice, but rather in order to bring the crime itself to public attention and trial. The final ruling there will not be retributive, there will be no punishment, but rather restitutive, the victims will be compensated. The most reasonable compensation for the particular case of the Palestinian refugees was stated clearly already in December 1948 by the UN General Assembly in its resolution 194: the unconditional return of the refugees and their families to their homeland (and homes where possible).

As long as the moral lesson is not learned the state of Israel will continue to exist as a hostile enclave in the heart of the Arab world. It will remain the last reminder of the colonialist past that complicates not only Israeli relationships with Palestinians, but with the Arab world as a whole. And, because the moral lesson is not fully comprehended, there exists in Israel justifications for Ethnic Cleansing both in 1948 and its current forms.

When and how can we hope for these lessons to be learned and influence the effort to bring peace and reconciliation in Palestine? First, of course, not much can be expected to happen as long as the present brutal phase of the occupation of the West Bank and the Gaza Strip continues. And the effort to locate the 1948 ethnic cleansing at the center of the world’s attention and consciousness must continue, alongside the struggle against the occupation, including tactic of BDS (Boycott, Divestment and Sanctions) being adopted as the main strategy by civil society in the Occupied Territories and by the international solidarity movement. This effort can not be limited to one place. The place where the Ethnic Cleansing of 1948 occurred, Israel of today, is totally excluded from this enterprise. The work to raise attention and consciousness inside the land of the Nakba should continue and be coordinated with Palestinians and those who support them. With the help of BADIL and other organizations, the Palestinian refugees in Israel, Internally Displaced Persons, and other leading Palestinian NGOs in Israel, cooperated with a group of Jewish activists to initiate a serious attempt to bring Ethnic Cleansing to the attention of the public and argue forcefully and without any hesitation for the implementation of the Palestinian right of return.

In two conferences supporting the right of return, Palestinian and Jewish researchers and activists publicly aired their findings about the ethnic cleansing from 1948 until today and presented their ideas on how best to move forward in educating public opinion about the disastrous implications – for Palestinians and Jews alike, indeed for the world at large – of the continued denial of the 1948 Ethnic Cleansing and the refusal to accept the internationally recognized Right of Return.

On the 64th anniversary we – Palestinians, Israelis and whoever cares for this land – should demand that the 1948 crime against humanity be included in everyone’s history books so as to stop the present crimes from continuing before it is too late.

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** Endnotes: See online version at: http://www.BADIL.org/al-majdal
By 1920, the League of Nations had affirmed the applicability of the right to self-determination to the people of Palestine and decided to establish a temporary Mandatory system to facilitate Palestine’s independence in accordance with Article 22 of its Covenant. Article 22 stated that “[c]ertain communities formerly belonging to the Turkish empire have reached a stage of development where their existence as independent nations can be provisionally recognized subject to the rendering of administrative advice and assistance by a Mandatory until such time as they are able to stand alone. The wishes of these communities must be a principal consideration in the selection of the Mandatory.”

In 1947, the United Nations reaffirmed this principle in General Assembly Resolution 181, or the Partition Plan for Palestine. Significantly, the Partition Plan referred to the self-determination of all people living in Mandatory Palestine, meaning Arabs and Jews living in both the “Jewish” and “Arab” states, respectively. Article B(10)(d) of the Resolution recognizes the national heterogeneity of each state and set out to guarantee “to all persons equal and non-discriminatory rights in civil, political, economic and religious matters and the enjoyment of human rights and fundamental freedoms, including freedom of religion, language, speech and publication, education, assembly and association.”

Since the failure of the UN Partition Plan and as a result of the ensuing wars, hostilities, and events of forced displacement, the Palestinian people have defined themselves as the indigenous people of Mandate Palestine comprised of three main sectors: those living under occupation since 1967; those displaced during war in 1948 and 1967 who now constitute 6.5 million refugees, and Palestinian citizens of Israel. These people, the Palestinian people in their entirety, are entitled to self-determination.
Today, the Palestinian right to self-determination is unequivocal as noted by the International Court of Justice, the world’s highest judicial authority, in its 2004 Advisory Opinion on the legal consequences of Israel’s wall in the Occupied Palestinian Territory (OPT). The Court also found that “Israel is bound to comply with its obligation to respect the right of the Palestinian people to self-determination and its obligations under international humanitarian law and international human rights law.

The United Nations has affirmed this right since at least 1974. When the UN recognized the Palestine Liberation Organization (PLO) as the representative of the Palestinian people and granted it observer status, it explicitly recognized that Palestinians constitute a people entitled to self-determination. Numerous General Assembly Resolutions have affirmed this right as particularly applicable to the Palestinian people, including Resolutions 2535 (10 Dec. 1969); 2649 (30 Nov 1970); 3236 (22 Nov 1974); 43/177 (15 Dec. 1988); and 48/94 (20 Dec. 1993). Of particular note is Resolution 3236, which reaffirms and specifies the inalienable rights of Palestinian people in Palestine as including: a) the right to self-determination without external interference; b) the right to national independence and sovereignty; and, the c) “inalienable right of the Palestinians to return to their homes and property from which they have been displaced and uprooted.” The Resolution emphasizes that “full respect for and the realization of these inalienable rights of the Palestinian people are indispensable for the solution of the question of Palestine.”

Israel’s policies not only violate the right of Palestinian self-determination but they also run counter to the UN’s stipulation for establishing a Jewish homeland in the 1947 Partition Plan (General Assembly Resolution 181), in which the UN both acknowledged the right of the indigenous Arab and non-Jewish Palestinian population to the land as well as conditioned Israel’s establishment on its non-discriminatory character. International legal scholar, Antonio Cassese considers self-determination to be an anti-racist postulate and comments that “[i]nternal’ self-determination amounts to the right of an ethnic, racial, or religious segment of the population in a sovereign country not to be oppressed by a discriminatory government.” That Palestinian citizens of Israel are not recognized as a national minority and are relegated to second-class status by law and decree amounts to apartheid within Israel and fundamentally undermines the right of Palestinian citizens of Israel to self-determination.

Similarly, Israel’s construction of legal barriers to prevent Palestinian refugees—the largest segment of the Palestinian people—to return to their homes and its failure to extend nationality to them, is also an ongoing affront to Palestinian self-determination. Within the OPT, Israel’s policy of population transfer, colonialism, and apartheid jeopardizes the territorial integrity of the land intended to constitute the state of the Palestinian people.

The primary hindrance to the realization of self-determination by the Palestinian people has been the UN’s failure to hold Israel accountable for its international obligations to respect the inalienable rights of the Palestinian people and to end its policy of population transfer, apartheid and colonialism. In the first instance, the UN admitted Israel into its multilateral fold based on General Assembly Resolution 273 (11 May 1949) which pronounced Israel to be a “peace-loving state which accepts the obligations contained in the Charter,” notwithstanding its violation of Resolutions 181 (1947). Since its admission to the UN, Israel has enjoyed all the benefits and privileges of membership while continuing to deny the Palestinian right to self-determination, including the right of return of Palestinian refugees, the individual and collective rights of its Palestinian citizens, and Palestinian national independence and sovereignty in the OPT, including East Jerusalem.

In the second instance, the UN has failed to uphold a framework of Israeli-Palestinian peace that would ensure respect of the full scope of the inalienable rights of the Palestinian people, as defined by the
Palestinian people and the United Nations in General Assembly Resolution 3236. Since the Madrid-Oslo peace process, the UN assumed that the Palestinian people could exercise their inalienable rights by means of (sovereign or non-sovereign) statehood in the OPT, including East Jerusalem, alone. This assumption has given rise to an apparent contradiction between the right of self-determination of the Palestinian collective in the OPT and the individual and collective rights of the Palestinian refugees and citizens of Israel.

The PLO, as the representative of the Palestinian people, had accepted a territorial compromise for the exercise of national independence and sovereignty in the OPT, including East Jerusalem, based on the assumption that the UN and its member states would take measures that ensure Israel’s acceptance of the inalienable rights of the Palestinian people to self-determination and the return of Palestinian refugees to their homes and properties. Instead, Palestinian independence and sovereignty in the OPT is seriously jeopardized, the Palestinian refugees are destitute, and the Palestinian citizens of Israel have their individual rights violated and have no access to collective rights. The key to realizing the Palestinian right to self-determination is political will. Exercise of all possible forms of Palestinian self-determination depend upon the political will of the UN and its members to bring Israel into compliance with international law and end its policies of population transfer and its regime of occupation, apartheid, and colonialism which oppresses the Palestinian people. As under apartheid in South Africa, no progress can be achieved towards Palestinian self-determination as long as Israel’s discriminatory regime is permitted to prevail.

Further readings


Noura Erakat and Rania Madi, “UN Committee Concludes Israeli System Tantamount to Apartheid in 2012 Session”, al-Majdal Forced Population Transfer in Palestine; Thinking Practically about Return (Spring-Summer 2012), available at: www.BADIL.org

BADIL, “Israel’s Serious Breaches of its Obligations under the International Convention for the Elimination of Racial Discrimination”, Submission to the CERD for the Convening of the Committee on its 80th Session from 13 February -9 March 2012, available at: www.BADIL.org

** Endnotes: See online version at: http://www.BADIL.org/al-majdal
Palestinian Refugees in Jordan and the Revocation of Citizenship¹

*Interview with Anis F. Kassim by Hazem Jamjoum*

HJ: What legal status was afforded Palestinians who came under Jordanian control after the 1948 Nakba?

AK: On 19 May 1948, the Jordanian army entered the area of central Palestine that the Zionist forces were unable to occupy, and began the process of legally incorporating central Palestine into the Jordanian Kingdom. As part of this process, on 20 December 1949, the Jordanian Council of Ministries amended the 1928 Citizenship Law such that all Palestinians who took refuge in Jordan or who remained in the western areas controlled by Jordan at the time of the law’s entry into force, became full Jordanian citizens for all legal purposes. The law did not discriminate between Palestinian refugees displaced from the areas that Israel occupied in 1948 and those of the area that the Jordanian authorities renamed the “West Bank” in 1950.

On one hand, this citizenship was forced upon the Palestinians who did not really have much of a say in the matter. On the other, this was a welcome move because it saved those Palestinians the hardship of living without citizenship.

HJ: How was the process for the revocation of citizenship complex?

AK: First of all, I should note that the law itself has not been officially amended, so what I am about to
describe is still what is officially in effect today. First of all, the Jordanian Constitution, adopted in 1952, states that citizenship is a matter to be regulated by a law, and the Jordanian Citizenship Law was indeed adopted in 1954 replacing that of 1928 and its amendment. According to this law, it is possible to revoke the citizenship of a Jordanian citizen who is in the civil service of a foreign authority or government. The citizen must be notified by the Jordanian government to leave that service and, if the citizen does not comply, the Council of Ministries is the body with the authority that is able to decide to revoke his citizenship. Even if the Council does decide to revoke the citizenship, this decision must then be ratified by the King, and even then, the citizen whose citizenship was revoked has the right to challenge the Council of Ministries’ decision in the Jordanian High Court, and it is this court’s decision that is binding and final. These procedures are being completely ignored when the citizenship of a Jordanian of Palestinian origin is revoked.

HJ: Did the status of Palestinians in Jordan change after the 1967 War with the Israeli occupation of the West Bank?

AK: No. their status remained as Jordanian citizens.

HJ: When did the differentiation between Palestinian citizens of Jordan begin?

AK: Today we can speak of five kinds of Palestinian citizens of Jordan. The first differentiation came in the early 1980s when the Jordanian government was concerned that Israeli policies and practices aimed to squeeze out the Palestinian inhabitants of the occupied West Bank; to empty out the Palestinian territories to replace them with Jewish settlers. The Jordanian government then created the first real differentiation between its Palestinian citizens by issuing differentiated cards.

Those who lived habitually in the West Bank were issued green cards, while those who habitually lived in Jordan but had material and/or family connections in the West Bank were issued yellow cards. The sole purpose of these cards at the time was so that the Jordanian authorities at the King Hussein (Allenby) Bridge—the only crossing point between Jordan and the occupied West Bank—could monitor the movement of these card holders, enabling the Jordanian authorities to know how many Palestinian West Bankers had crossed into Jordan, and to ensure that they returned, essentially a kind of statistical device. Indeed, this was a wise policy in terms of countering the Zionist plans to continue the ethnic cleansing of Palestine.

The major turning point came with the Jordanian disengagement (fik al-irtibat) from the West Bank on 31 July 1988.

HJ: What was the disengagement?

AK: Since 1948 when central Palestine came under Jordanian control, the Jordanian government has claimed the West Bank as part of the kingdom. By 1988, the Palestine Liberation Organization (PLO) had come to be recognized on an Arab and, to some extent, international level as the sole legitimate representative of the Palestinian people, but the Israelis and Americans were still refusing to recognize the PLO, let alone to officially communicate with it. Jordan’s King Hussein shrewdly took the decision to disengage from the West Bank as a message to the United States and Israel that if they were going to negotiate with anyone over the fate of Palestinians in the West Bank, it should be with the PLO. In the famous speech he delivered on 31 July 1988 in which he declared the disengagement—and we have to remember that this was during the most intense period of the first Intifada—King Hussein stated that the purpose of the disengagement was to support the Palestinians’ struggle for self determination by relinquishing his claim to that territory.
**HJ:** How was the disengagement a “turning point” for Palestinians’ status as Jordanian citizens?

**AK:** When the disengagement was declared, the color of the cards (yellow and green), that had been used as a statistical device, became the criteria for determining the citizenship status of a citizen. The government issued instructions to the effect that those who habitually lived in the West Bank, that is green card holders, on 31 July 1988 were “Palestinian citizens,” while those who were living in Jordan or abroad were Jordanian. Put another way, over one-and-a-half million Palestinians went to bed on 31 July 1988 as Jordanian citizens, and woke up on 1 August 1988 as stateless persons.

**HJ:** You previously mentioned that we can speak of five kinds of Palestinian citizens of Jordan. What are the different kinds of status among Palestinians citizen of Jordan currently?

**AK:** The first category we can call hyphenated Palestinian-Jordanians. These are Palestinians who were in Jordan on the date of the disengagement with no material connection to the West Bank or Gaza Strip, or who were Jordanian citizenship holders abroad. These are regarded as Jordanians for all legal purposes. The Palestinians in the second category are the green card holders whose citizenship was revoked by the government orders that I described earlier. The Palestinians in the third category are the yellow card holders, who kept their citizenship after the disengagement, but many of whom have more recently faced the revocation of their Jordanian citizenship rights. The fourth category is that of blue card holders. These are 1967 Palestinians refugees from the occupied Gaza Strip who are in Jordan and who were never given citizenship rights. They are in a very miserable position because, since they are not Jordanian, they cannot enjoy any of the benefits of citizenship in this country: they cannot access public schools or health services, they cannot get driving licenses, they cannot open bank accounts, or purchase land. They are mostly concentrated in the refugee camps in the Jerash area, specifically the one called “Gaza Refugee Camp” which is generally known as the worst of the refugee camps in Jordan in terms of living conditions. To build a tiny house in the camp, they need to get several permits from several government departments. While they receive some modest support from UNRWA, any support that comes from the rest of the society has to be approved by Jordanian security authorities. The fifth, and newest, of the categories is that of Jerusalem residents. These have always been a special case: the Israelis consider them permanent residents of Israel without any citizenship rights, while for Jordan they are citizens whose status was not affected by the disengagement. The problem now is that the Israelis, as part of their ongoing ethnic cleansing project, are revoking the residency rights of Palestinians in Jerusalem who cannot prove that their “center of life” is in that city, to use the terms of the Israeli High Court. The Jordanian government has yet to officially take a position on the Jordanian citizenship rights of these Jerusalemite Palestinian citizens of Jordan whose residency in Jerusalem has been revoked by Israel. This is now another emerging problem.

**HJ:** You mentioned that yellow card holders have been facing the revocation of their Jordanian citizenship in recent years. Can you expand on this?

**AK:** The main institution that handles this issue is the Follow-up and Inspection Department (al-mutaba’a wa al-taftish) of the Jordanian Ministry of Interior. To understand what’s happening you need to understand that the way Jordanian citizenship works since 1992 is that every citizen must have a “national number” (raqam watani). Anyone who does not have this number is not a citizen.
In recent years, the Follow-up and Inspection Department has been expanding on the scope of its authority in interpreting the 1988 government regulations dealing with the revocation of Palestinians’ Jordanian citizenship. We need to keep in mind also that these regulations were never made public, and that in fact no policy, let alone law, dealing with the revocation of Palestinians’ citizenship in Jordan has ever officially been made public. Originally, as I described, 31 July 1988 was treated as a cut-off date, if you were a green card holder in the West Bank, your citizenship was revoked, and otherwise you remained a citizen. The Department has since expanded to the revocation of citizenship from others under other pretexts. For instance, many Palestinian citizens of Jordan were able to acquire Israeli-issued West Bank residency permits through such procedures as family-reunification since 1967. Of course, part of Israel’s ethnic cleansing policies manifested as revocation of West Bank residency permits over the years under various pretexts. For example, at one point West Bank residency permit holders who were away from the West Bank for more than three years had their residency revoked by the Israelis. The Follow-up and Inspection Department of the Jordanian Interior Ministry has revoked national numbers (i.e. citizenship) from many Palestinians who had their West Bank residency permits revoked by the Israelis under the pretext that these people should have kept these residency permits, and that the Palestinian should go and get the Israelis to reissue them their West Bank residency permits.

Another example is that of PLO or Palestinian Authority (PA) employees. Even though a Jordanian citizen can work for any other government, many Palestinian citizens of Jordan who have taken jobs in PA institutions have been stripped of their national numbers. A more recent example is that of the Jordanian parliamentary elections [November 2010]. Many of the Palestinians who went to register as voters were sent to the Follow-up and Inspection Department where they had their national numbers revoked.

Ultimately, however, it is difficult to discern a particular logic to the post-1988 revocations. In some cases, one person or group within the family has their citizenship revoked, while others in the same family remain citizens. With regards to employment in the PLO or PA, there are PA parliamentarians and ministers with Jordanian national numbers, while some Palestinian citizens of Jordan, for example, have had their citizenship revoked for working for a PA-owned Company or civil institution. We can only say...
that so far it seems very arbitrary. I should also add that this wave of citizenship revocation means that yellow card holders live with the perpetual fear of any interaction with the government bureaucracy, since this could result in being sent to the Follow-up and Inspection Department and having their citizenship revoked.

HJ: Is there a way to know how many Palestinians have had their Jordanian citizenship revoked since 1988?

AK: No, these numbers are kept secret by the Jordanian Ministry of Interior and are not made public. There are various estimates, but these numbers vary. The most well-known of these is that of the Human Rights Watch report that stated that over 2700 Palestinians citizens of Jordan had their citizenship revoked between 2004 and 2008, but this number is based on a journalistic article in a Jordanian newspaper, and so, in addition to not giving information on the years before or after the period, are not to be taken as authoritative.

HJ: What is the effect of the revocation of citizenship on the people involved?

AK: They become like the blue-card holders from the Gaza Strip that I talked about before without the ability to access any government services, open bank accounts, etc. It should be mentioned though that there is a potentially very dangerous situation for Jordan; if this trend continues it will become a “ghetto state.” When you forfeit a Jordanian’s citizenship and keep him in Jordan because you don’t have the power to send him to Palestine—because the Israelis of course refuse—you will end up with over a million stateless Palestinians within your borders, and who have nowhere to go.

HJ: Earlier you described the Jordanian law of citizenship and the various levels of government and judiciary through which the revocation of citizenship must pass to become final. Can Palestinians who have had their Jordanian citizenship revoked make use of what you described as an advanced citizenship law to challenge the Follow-up and Inspection Department’s actions?

AK: As I described above, there is no question that the revocations of citizenship that the Jordanian authorities have carried out since 1988 contradict the written law and indeed the constitution. Under the law, the revocation of citizenship must follow the procedures I spoke about earlier, and are not the subject to such things as the color of your card or regulations. As it stands, however, a junior officer of the Follow-up and Inspection Department can decide the fate of a citizen’s citizenship rights. It is now a more simple matter to revoke a yellow card-carrying citizen from his citizenship than it is to revoke their driving license! With the revocation of a driving license, the citizen has the right to challenge the revocation in a court. The Inspection and Follow-up Department is indeed the only government department that is not subject to judicial review.

Further readings


The government justifies this by stating that the revocation of citizenship by this Department is an “act of state.” There is one judge, Justice Farouq Kilani, who was president of the Jordanian High Court of Justice who did challenge the government’s position, and stated that citizenship is a matter regulated by law and not regulations, and that therefore the actions of the Department are null and void. As a result of his ruling—this was in 1998—the Minister of Justice demanded his resignation, and Kilani resigned. He subsequently gave two public lectures on the topic, and wrote a book called Independence of the Judiciary, an excellent treatise in which he describes in detail both his landmark ruling and his encounter with the Justice Minister. His ruling was very correct, constitutionally sound and legally unchallenged. The Jordanian judiciary has a long tradition of reviewing administrative decisions, including decisions involving citizenship. As it stands now, the situation in Jordan is very suffocating on this issue of citizenship revocation because there is no right to appeal since the government treats these decisions as “acts of state,” and it is practically impossible to take these issues to an international court.

It is also important to mention that there is no refugee law in Jordan. As such, once the citizenship is revoked, the Palestinian refugee is left with no political, civil or economic rights.

**HJ:** Besides the position that citizenship revocation is an “act of state,” how does the Jordanian government justify stripping its Palestinian citizens of their citizenship rights and rendering them stateless?

**AK:** There have been several justifications or excuses given. Jordanian officials maintain, for example, that the revocations are designed to force Palestinians to stay in Palestine, to stop the Zionist leadership from implementing its ethnic cleansing project. This argument is usually framed within the paradigm of the “alternative homeland” project, the Israeli right-wing’s position that Palestinians have a homeland, and this homeland is Jordan. We do not debate the importance of these goals, and of full-fledged rejection of the “alternative homeland” project on all fronts. Mixing this in with the issue of Palestinian citizenship rights in Jordan is like mixing apples and pears. The “alternative homeland” is a national issue, and thus
should not be treated solely at the Jordanian level, but through Jordanian-Palestinian-Arab coordination as an Arab summit item. Such a political issue should not and cannot be mixed with a human rights issue such as the rights of Palestinian citizens of Jordan. Moreover, the people who are fighting the “alternative homeland” project are the Palestinians themselves who have fought it with their own bodies in these decades of spilled Palestinian blood. Actually, if Jordanian officials are sincere about their political position, they should take more credible action against the Israelis to force them to leave the Palestinians in peace and to allow the refugees to return, as is their internationally recognized right.

Furthermore, as a sovereign state, the Jordanian government could have taken steps during the negotiation of the Wadi Araba Israeli-Jordanian peace settlement to insist on such things as allowing Jordanian citizens to maintain their West Bank residency permits, and to restore those that had been stripped. As it stands now, the Jordanian government does not have the power to push for such a residency permit to be issued to an individual, and so by stripping them of their Jordanian citizenship, these individuals are left stranded with nowhere to go. But also as it stands, the Jordanian government can stop security coordination with Israel, and can stop the marketing of Israeli products in Jordan. Lately, the Jordanian Ministry of Industry has allowed the entry of 2500 types of Israeli products into the Jordanian market.

Another justification that Jordanian officials forward is that they are not revoking citizenship, rather they are “correcting the situation” of certain individuals who were wrongly classified, that all they are doing is simply dropping the national number. “Correcting the situation” is the new catch-phrase you see. They say this to avoid contradiction of the Follow-up and Inspection Department’s actions with the law and constitution, but the fact remains that simply dropping the national number is in effect the total revocation of citizenship.

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** Endnotes: See online version at: http://www.BADIL.org/al-majdal
The Zionist project has, from its inception, been a cross-continental enterprise. Early Zionist settlement and proto-state formation, the seizure of Palestine in 1948 by the force of arms, and the consolidation of this conquest were all carried out with the crucial participation of important sectors in Europe and North America.

His article reviews the historical development of two central Zionist para-state institutions – the Jewish Agency and, in accord with the focus of this volume, the Jewish National Fund (JNF) – within this broader context of metropolitan sponsorship of Zionist settler colonialism. It begins by outlining the emergence and initial development of these institutions during the periods of Ottoman and British Mandatory rule of Palestine. It then recalls their involvement in the violent transformation of Palestine during the late 1940s and the subsequent consolidation of Israeli statehood. Finally, it describes the evolving function of these para-state organizations into the era of Israeli statehood, particularly as regards the connection between Western constituencies and the Israeli state system.

From Ownership to Eviction

Both the JNF and the Jewish Agency emerged within the framework of the World Zionist Organization (WZO), established in 1897. The JNF, an early initiative of the WZO, was established in 1901 by decision of the fifth Zionist Congress. It was designed to operate as a landholding instrument geared towards the permanent acquisition of territory for Jewish use and settlement. It was among a number of WZO initiatives...
during this period oriented in significant part towards land acquisition in Palestine, others including the Jewish Colonial Trust, its subsidiary Anglo-Palestine Company (later to become Bank Leumi), and the Palestine Land Development Corporation.²

The JNF contributes to efforts to bring Jewish youth from North America and elsewhere to mobilize these communities behind the Zionist project. Palestine, under Ottoman jurisdiction until the First World War, had been marked since the mid-19th century by the gradual concentration of landholding (largely under the impact of the “modernizing” reforms implemented by cash-strapped Ottoman authorities). Under these circumstances, the landholding model pursued by the WZO, and by the JNF in particular, was immediately threatening. For the fellahin who comprised the bulk of the Palestinian population, the practical differences between status as peasant proprietors or as tenant farmers were often limited, and nominal changes in land ownership were in many cases accepted with relative indifference. But in contrast to most regional owners, the JNF sought not merely legal title of lands but the eviction of inhabitants to clear the way for Jewish settlement. This exclusionary approach exacted a significant toll well before 1948.³

Under Ottoman rule, neither the WZO nor the JNF had especially favored status. Their international fundraising efforts – carried out by Zionist federations in Europe and North America, through such JNF activities as “Blue Box” collections, by courting private investors, etc. – offered them some leverage, as did their relations with West European powers. But this leverage was relatively limited. As a result, it was not until after the first World War that the Zionist movement built appreciable strength in Palestine.

Britain’s “appropriate Jewish agency” and its American sponsors

Whatever the motivations of its planners, the British government’s decision to position itself as a key post-WWI sponsor of the Zionist movement owed little to the movement’s (quite meager) capacities. Yet it certainly had the effect of bolstering them. The Balfour declaration was issued in 1917 (British forces soon thereafter occupied Palestine), its terms were incorporated into the League of Nations Mandate (finalized in 1922), and a framework for British rule of Palestine was established that persisted until 1948. It was in this setting that the Jewish Agency emerged.

The WZO had been eager to leverage British imperial policy to strengthen its organizational system. In 1917, its leadership proposed that a British commitment to support “the establishment of a Jewish National Colonizing Corporation” be incorporated directly into foreign secretary Lord Balfour’s declaration on Palestine.⁴ Although no such phrase was included, the final text of the League of Nations Palestine Mandate included not only Balfour’s statement advocating “establishment in Palestine of a national home for the Jewish people,” but also recognition of a public instrument to carry out this task. Specifically, Article IV of the Mandate provided for the establishment of “[a]n appropriate Jewish agency,” and indicated that “[t]he Zionist organization, so long as its organization and constitution are in the opinion of the Mandatory
appropriate, shall be recognized as such agency." It was under this designation (as the Jewish Agency) that the WZO enjoyed formal juridical standing within the Mandatory regime. The JNF retained a distinct presence within the developing WZO/Jewish Agency structure.

As its new official status was setting in, the WZO restructured its fundraising institutions to capitalize on this induced momentum. A new organization was established, the Keren Hayesod (Foundation Fund), to function – in the words of one guiding resolution – “as the central fund of the Zionist Organization under the control of the Zionist Congress.” In the United States, where fundraising would prove most significant, the Keren Hayesod operated as the anchor of a United Palestine Appeal (UPA) campaign. UPA funds were then channeled to the Jewish Agency, or to particular projects determined by its leadership, via the Keren Hayesod. In an effort to consolidate fundraising efforts, the UPA would also ultimately encompass such smaller Zionist funding-drives as those conducted by the women’s Zionist organization Hadassah, the religious Zionist movement “Mizrahi,” and the Histadrut. As for the JNF, a ceiling was placed on its traditional fundraising activities; these limits were imposed with the understanding that a portion (initially 20 per cent) of UPA revenue would be allocated for JNF use.

Keren Hayesod loan agreements for settler enterprises included such specifications as “hire Jewish workmen only,” and the JNF – leasing land exclusively to Jews in accord with its Memorandum of Association – was likewise an automatic ally in the “conquest of labor” push which came to define Zionist politics in Palestine.

From Marj Ibn ‘Amir (the Jezreel Valley) in the early 1920s to Wadi al-Hawarith (Emek Hefer) a decade later, the JNF acquired land from absentee owners and then evicted its Palestinian cultivators. The JNF worked to generate not only financial support, but also organized international political association with this “land redemption” process.

Yet, although consequential in their own right, policies of purchase, enclosure and settlement were insufficient means for expansive colonization. The following statement by Menachem Ussishkin, head of the JNF directorate for most of the interwar period, expresses JNF policy towards purchased land: “If there are other inhabitants there, they must be transferred to some other place. We must take over the land. We have a greater and nobler ideal than preserving several hundred thousands of fellahin.” But it also spoke to broader Zionist strategy. By the end of the Mandate, less than 7 per cent of land in Palestine was under any form of Jewish ownership, less than 4 per cent by the JNF. If Palestinians were to be “transferred” in the hundreds of thousands, a more sweeping form of coercive land acquisition would be required. As Zionist policy shifted in this direction, cross-continental Zionist organizations continued to play a central role.

**Discarding “peace concepts”: from eviction to conquest**

In early 1948, David Ben-Gurion, longtime chair of the Jewish Agency executive and founding leader of the Israeli state, bluntly summarized the aggressive model for land acquisition which the Zionist movement would pursue under his leadership: “The war will give us the land. The concepts of 'ours' and 'not ours' are peace concepts only, and in war they lose their whole meaning.” This notion was the culmination of a decade of detailed Zionist discussions regarding the prospect of expelling Palestinians beyond the borders of the envisaged Jewish state (a process chronicled by Nur Masalha).

Masalha and Ilan Pappé have detailed the role of JNF officials (notably Yosef Weitz) in discussions and logistical preparations for the mass expropriation and ethnic cleansing of 1948, and JNF involvement in
the ensuing erasure of Palestinian villages was also significant. Suffice it here to recall that the Jewish Agency, the JNF and their close partners played a central role by helping to coordinate Western participation in this campaign of conquest and ethnic cleansing.

For U.S. Zionism (the financial mainstay of the drive towards Israeli statehood), legally “charitable” fundraising continued to center on the United Palestine Appeal (UPA) through the 1930s and 40s. In its pursuit of funds, the UPA was rivaled by the Joint Distribution Committee (JDC), focused on aiding Jews in Europe. The federations – the main fundraising system in the organized US Jewish community, then represented by the Council of Jewish Federations and Welfare Funds (CJFWF) – had limited patience for competing campaigns. The UPA and JDC were thus partnered within a United Jewish Appeal (UJA) campaign, with UJA revenue divided between these two constituents. The JNF and the Keren Hayesod remained the two principal UPA beneficiaries.

In the actual seizure of Palestine, the JNF provided not only planning support but also some resources for military use (e.g. in the Negev), while the Jewish Agency, through its paramilitary arm (the Hagana), carried out the systematic expulsion of Palestinians and expropriation of their lands. The JNF continued to draw resources from independent fundraising as well as the UPA. The Jewish Agency, unable to meet its military needs by legal means alone, also initiated a quasi-clandestine system in the West to fundraise for the Hagana, smuggle equipment, and recruit skilled combatants. This was managed by a variety of Jewish Agency, Hagana, UPA/UJA, and allied personnel.

In the aftermath of the devastating burst of coercive expropriations which they helped to organize, the JNF and Jewish Agency both joined emerging Israeli state agencies in consolidating the conquest. The JNF moved to “purchase” a range of expropriated Palestinian land from the state, thus ensuring the exclusion of former Palestinian residents (including those who were becoming internally displaced citizens of Israel). Even more importantly, the JNF effectively promoted its exclusivist landholding model – providing long-term leases to Jews only – as a policy for all “state lands.” The Jewish Agency, meanwhile, was restructured as an instrument of settlement and conduit of “charitable” Western funds. “When the full story of the Jewish Agency is told,” the leading Zionist thinker Daniel Elazar wrote in 1985, “the record of the Rural Settlement Department will reflect great achievement in settling the country. … when these settlements were established, they were part of an overall strategy to establish a Jewish presence throughout the territory of the state.” Elazar adds: “A fair amount of this kind of uneconomic but statistically [read: demographically] important settlement continues today.” The WZO/Jewish Agency Law of Status
And the JNF Law (1953) bestowed quasi-state standing upon these organizations without actually absorbing them into the Israeli state apparatus.17

In sum, the JNF and the Jewish Agency worked as active partners to impose the institutionalized guarantees for Jewish access to resources in Palestine (especially land) and coercive exclusion of Palestinians which together form the cornerstone of Zionist settler colonialism.18

Within much of the West – certainly in England and North America – the prospect of mass Jewish emigration to settle in Palestine, as advocated by conventional Zionist doctrine, has not been a realistic prospect. Though calls for such emigration have persisted, the Israeli leadership reconciled itself early on to approaching Jewish constituencies in the West not only as prospective settlers, but more plausibly as objects in its continued push for strategic alignment with Western power (and especially with the United States). In his study on the North American case (1990), the Canada-Israel Committee’s (CIC) David Goldberg argues that after 1948, Israel stably redefined its relationship with prominent Western Jewish organizations “to rest on two pillars”: fundraising and political advocacy19. As this relationship developed, the JNF and Jewish Agency remained important instruments of Zionist activity.

Several years into Ben-Gurion’s early campaign “to take control of American Jewry” (as he described his aim in 1938), the Jewish Agency executive described the strategic logic underlying its pursuit of organized Jewish support in the West: “The vehicles for Zionist public political education in the Anglo-Saxon countries are the Jewries of England, America, and the British Dominions.” Here fundraising and political action were understood to be intertwined.20 The JNF, for its part, operated according to the logic (identified early on by a sympathetic analyst) that “there should be no separation between ‘practical’ action and ‘propaganda.’ One depends upon the other.”21 Ben Gurion, writes Ariel Feldstein (2006), was similarly determined “to use UPA funds for Zionist propaganda.”22

Granted, publicity for especially contentious fundraising projects was avoided. In the late 1950s, for instance, elements of the North American system responsible for supporting Hagana conquests in the 1940s (notably the “Sonneborn Institute”) were quietly revived to provide financial and logistical support for Israel’s nuclear program.23 But the JNF and Jewish Agency remained public political entities. The JNF openly cultivated Western association with the exclusion of Palestinians through “tree-planting” campaigns and the establishment of parks dedicated to various fundraisers, helping to effect – and dignify – the erasure of Palestinian villages. Through the UPA (duly renamed the United Israel Appeal, UIA), the Jewish Agency retained a significant public presence while facilitating the influx of much-needed foreign currency.24 (Incidentally, soon after 1948, the JNF was downgraded within the restructured UIA/UJA, but continued to raise funds independently, under a set ceiling, through donations for trees, stamps, and flag days, as well as through Blue Box collections).25

In 1950, a “partnership and coordination” committee was established comprising four Israeli government ministers, four representatives from the Jewish Agency, and one representative from the JNF to help navigate Israel’s relationship with
supporters in the West. And, as mentioned above, legislation was soon after passed according special status to the Jewish Agency and the JNF, traditional pillars of international Zionist organization. At the same time, prime minister Ben-Gurion expended significant energy to shift the center of fundraising and advocacy away from the conventional Zionist leadership (affiliated, in the US, with the Israeli opposition) and towards larger and more influential Jewish organizations.

The success of this effort owed much to what Walid Khalidi has insightfully identified as “a triangular flow between the gentile great power sponsor, the Zionist metropolitan establishment and the metropolitan Jewish community.”\(^\text{27}\) In any event, organizationally, the barriers between Zionist and mainstream Jewish communal groupings in much of the West gradually eroded.

This development has been symbolized in the evolution of the Jewish Agency. In 1965, Detroit industrialist Max Fisher informed the annual meeting of the North American Council of Jewish Federations (CJF, successor of the CJFWF) in Montreal of ongoing negotiations with the Jewish Agency.\(^\text{28}\) In the next few years, a formula was established for the direct participation of the CJF (and their European Keren Hayesod counterparts) in the core governing bodies of the Jewish Agency. The upbeat 10-year review of this process, showcasing the broadened Western Zionist base, took place in the first area of Palestine subject to proactive ethnic cleansing in 1948: Caesarea.\(^\text{29}\) The progress review then bore this region’s name.

**Conclusion**

The JNF and the Jewish Agency were both central instruments of Zionist colonization and state formation in Palestine; in 1948, both were active participants in the mass expropriations and ethnic cleansing of Palestinians which characterized Israel’s establishment. Since, their role has declined in relation to the Israeli state. However, their quasi-state status persists, as do their activities linking Western constituencies to the colonization process (and its enforcement).

This function as interlocutor between the state and its supporters in the West is organizationally broadest in the case of the Jewish Agency. In 1998, the Council of Jewish Federations formally merged with the United Israel Appeal and United Jewish Appeal to form what is now known as the Jewish Federations of North America (JFNA; known from 1998-2009 as the United Jewish Communities, UJC). This federation system is at once a leading constituent of the Jewish Agency – a quasi-state body under Israeli law – and a core institution of North American Jewish communal affairs. Its orientation towards Israel is practically manifest in the interlinked realms of fundraising and advocacy. In 2006, for example, what is now the JFNA directed $320 million to Israel via the Jewish Agency to defray the costs of the invasion of Lebanon.\(^\text{30}\) During the more recent assault on Gaza, the body that coordinated Israeli wartime diplomacy, the National Information Directorate (NID), directly included the Jewish Agency, and thereby (at least in part) the JFNA.\(^\text{31}\) The JNF, though organizationally less prominent in Western Israel advocacy systems, retains the key function of fostering proud international association with the exclusion of Palestinians and the erasure of their villages.

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**Endnotes:** See online version at: http://www.BADIL.org/al-majdal
The Continuing Need for BDS

by BADIL Staff

The campaign for boycott, divestment and sanctions (BDS) against Israel was borne of the belief that human rights and international law – in conjunction with the United Nations Charter and General Assembly resolutions - provide the only viable road map for a comprehensive, just and lasting peace in the Middle East. In the 7 years that have since passed, the need for such an approach has only become more apparent, and this campaign should be maintained until such a time that the State of Israel complies in full with its obligations as laid out under international law.

BADIL's involvement

The Palestinian Boycotts Divestment and Sanctions Committee was formed in 2007 and grew out of the need to shape, maintain and steer the BDS campaign, which in turn was developed in response to Israel’s complete failure to comply with the 2005 ruling of the International Court of Justice calling for the demolition of the Separation Wall and its related regime. Representing the Global Palestine Right of Return Coalition within the Committee, BADIL has been fully committed to the BDS campaign from its very inception and will continue to strive for a durable solution to the Israel/Palestine situation. Such a solution must be the result of a rights-based approach, and until this is achieved, the BDS campaign must continue.

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 that construction of the Wall constituted breaches by Israel of various obligations imposed upon it under international humanitarian and human rights law. It said Israel should tear down the Wall, repeal and render ineffective related legislation, make reparations for damages, return land and immovable property, and where this 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 was nonetheless a declaratory statement of the law in force by the highest international court.

However, despite the ICJ’s ruling, Israel’s construction of the Wall has continued at pace, with over 60% of its planned 708km length now completed. Its path is not restricted to the 1967 Green Line (internationally recognized as the border between Israel and any future Palestinian state as part of a two-state solution) but instead strays deep into the West Bank, swallowing up Jewish settlements and encircling Palestinian towns. As such, upon its eventual completion, the Wall will have effectively annexed almost 10% of the West Bank.

Known as ‘seam zones’, these pieces of land have been designated by Israel as closed military areas, with Palestinian access severely restricted and subjected to an Israeli-controlled permit regime. Statistics
suggest that approximately 50,000 Palestinians live in 57 communities within these so-called seam zones,\(^1\) whilst those on the Palestinian side now find themselves living within a walled enclave and subjected to the virtually complete control of Israeli Authorities.

**States should do more to uphold the law**

Little, however, has been done in the intervening years 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 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. In the past 12 months, the Jewish settler population within the West Bank has grown by over 15,000, but despite words of criticism from foreign governments, there appears to be little concrete desire to demand 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; namely those of 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, whilst also ruling that Jewish colonies within the Palestinian Territories have been established in breach of international law. For violations of this nature, 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.

**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’.

This boycott, divestment and sanctions movement 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, including the dismantling of the Wall. In addition, BDS 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.
BDSmovement.net

In July 2008, the Palestinian BDS National Committee (BNC) launched a major new online resource in support of the campaign for boycott, divestment and sanctions against Israel in the form of BDSmovement.net. In the 4 years since its inception, this platform has gone from strength to strength, bringing together news, campaign materials and resources from Palestinian and global activists in a single site to support, coordinate, and provide information, updates and analysis about the international BDS movement. BDSmovement.net draws on a wide range of actions and initiatives, bringing together Palestinian and international actors striving to strengthen the movement. As a shared space for the exchange of ideas and experiences, it gives an overview of the Palestinian calls for BDS, the myriad of local initiatives and online resources, as well as background information and analyses.

At the center of the site is the Palestinian BDS Call, which has proven to be a watershed for the Palestine solidarity movement worldwide. This call has guided the movement by promoting effective, context-sensitive and proven pressure tactics that people around the world can adopt creatively to contribute to the cause of just peace in Palestine and the region. According to the Call, Israel is to be isolated until it 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.

Further readings:

Rifat Odeh Kassis, Kairos Palestine: The Struggle Against the Israeli Apartheid System - Al Majdal January 2012 at: www.BADIL.org

Majdal Editorial Team, Editorial: Knocking Down the Colonial Pillar of an Apartheid Regime – Al Majdal Winter/Spring 2010 at: www.BADIL.org

Mick Napier, Campaigns to Challenge the JNF, Al Majdal Winter/Spring 2010 at: www.BADIL.org

BADIL Staff, A Commentary on the Palestinian Coalition for the Right to Return – Al Majdal Winter 2004 at: www.BADIL.org

The BNC, which is drawn from the major Palestinian political and social forces, mass organizations and unions, was formed to serve as the Palestinian reference and coordination point for the BDS and anti-normalization movement. Its statements are published on the site, setting the agenda for the ongoing
campaign. In addition, the site reflects the global nature of the global BDS movement and promotes a range of diverse approaches which are applicable across international borders. As such, the BNC believes that this website will continue to help bridge gap in geographic and jurisdictional terms between BDS activists and find a common ground for global action. This unified approach to the movement forms the backbone of the site’s editorial policy.

We continue to work closely with other website initiatives for BDS around the world to ensure that the site brings the efforts together, instead of fragmenting the movement and its resources. The International Coordination Network on Palestine (ICNP) has endorsed the site as a tool to support efforts of networking and coordination. The website content will be developed by activists and organizations both within Palestine and around the world, whilst specific sections have been developed for trade unions and faith-based groups. The BNC urges activists globally to support the site by linking to it, publishing the RSS and sharing information about BDS actions and initiatives for publication on the site. There is already an extensive ‘activist material’ section to support global BDS initiatives.

BDSmovement.net needs to constantly grow and develop. Different language sections are currently under construction; sections detailing the corporations and companies that support the Israeli occupation are under development. We are hoping that the site will develop into a space where we can identify the targets for BDS on an ongoing basis. The BDS campaign is developing rapidly, and we need the input of Palestinian and global activists to ensure that the site is responsive to the needs of the initiatives developed on the ground.

Ultimately, BDS cannot afford to fail. The status quo is not an alternative, and it is the sincere belief of the BNC that non-violent, punitive measures like boycott, divestment, and sanctions are the most effective avenue for shortening the struggle, strengthening the push towards Palestinian self-determination, and reducing the human suffering of all involved.

**Endnotes: See online version at: http://www.BADIL.org/al-majdal**
The recognition of Arab- Jewish refugees must not undermine the rights of Palestinian Refugees

BADIL's Preliminary Position Paper on Arab- Jewish Refugees

Though BADIL Resource Center for Palestinian Residency & Refugee Rights welcomes – regardless of the respective geography – any campaign which seeks to raise awareness of the plight of refugees, and ultimately restore their internationally-recognized rights, BADIL notes with concern a number of aspects of the current Israeli campaign regarding past displacement of Arab - Jewish individuals from Arab states.

The Israeli National Security Council was instructed by the Israeli government to set up a task force comprised of officials from the Foreign, Justice, Finance and Pensioner Affairs Ministries, academics (legal experts, historians, economists) and representatives of Jewish- Zionist organizations such as the World Jewish Congress. The task force was asked to formulate an official Israeli position on the issue of Jewish refugees from Arab states. On May 24, 2011, this task force recommended that “the issue of compensating the Jewish refugees be raised in negotiations with the Palestinians as an inseparable part of discussions on the Palestinian refugees”. This artificial connection has been constructed to serve Israel interests. Specifically, it was reported that “such linkage would deter excessive claims on behalf of the Palestinian refugees, or at least moderate them”. Moreover, it stressed that “any agreement that doesn’t provide an answer to the Jewish refugees shouldn’t be seen by Israel’s leadership or people as ending the conflict”.¹

Timed to coincide with the September 28th 2012 meeting of the UN General Assembly, the Israeli Foreign Ministry and the World Jewish Congress sponsored a conference on the issue in New York and launched a campaign to enable Israel “to make its own demands”, not simply “respond to Palestinian demands”. BADIL views this Israeli campaign as cynical and politically-motivated, demonstrating a clear Israeli disregard for the rights of Palestinian refugees. BADIL presents its rights-based analysis as follows:

**Reparation for all**

The rights afforded to refugees are universal, with no particular group of refugees to be favored or discriminated against. All refugees are entitled to, amongst other things, voluntary repatriation, property restitution and financial compensation.

**Claims to be filed with the relevant states**

Claims made by, or on behalf of refugees should be filed with the state(s) whose actions are said to have created the individual’s refugee status. Regarding the case in point, those Arab Jews claiming refugee status by virtue of having fled their home states in the face of persecution in the 1940s and 1970s should direct their claims to those respective Arab states, and not seek to tie them to any final status negotiations between the Israeli and Palestinian Liberation Organization (PLO). If Arab countries are responsible for creating refugee populations, then each state in question must be held accountable for their respective actions - and these actions alone. Israel’s desire to draw Arab states into the Palestinian refugee crisis represents the use of refugees as a form of political capital in a deeply cynical attempt to achieve wider strategic aims. Such an approach is hugely harmful to both the individual refugees concerned, and the treatment of international refugee populations as a whole.

**The fate of different refugee groups must not be linked to one another**

The current Israeli campaign seeks to make the protection and fulfillment of Palestinian refugees’ rights dependent on the protection and fulfillment of those of Arab Jewish refugees. As mentioned, the rights of
different refugee groups are universal. Rights held by one group are identical to those held by another, and it is imperative that all such groups have their rights both upheld and enforced.

However, the rights held by each group exist independently of one another, i.e. it is not a condition of one group’s reparation that another, entirely separate group also receives reparation. As discussed above, each refugee group must pursue its respective claim against the state which has created their situation. No group of refugees should have their fate tied to that of a separate, unrelated group. Palestinian refugees are the longest-running case of refugees in the world today, and they should not have their already convoluted plight dragged out any further.

Recognition of all Refugee Rights

Though the fates of different refugee groups should not be inextricably linked to one another, all reputable refugee-centered campaigns should acknowledge that the rights of all refugees are enshrined in international law. As such, the State of Israel must, in initiating this new campaign, recognize not just the rights of Arab Jewish refugees, but also those of all other refugee groups, including Palestinians. Failure to do so would confirm that Israel seeks to afford Jewish refugees elevated stature above all other refugee groups. The principle of non-discrimination - which is applicable to all people including refugees - implies that there is no such concept as a superior or inferior refugee group; to the contrary, all are equal, in particular when law and rights are in question.

The importance of a rights-based approach

BADIL fervently believes that the only approach that can deliver just, equitable and durable solutions for refugee populations worldwide is one which centers around the rights of the refugees in question. Recognizing and implementing such an approach will ensure that political and economic interests do not serve to deprive individuals of their ability to live peaceful lives, free of fear and hardship.

Timed to coincide with the UN General Assembly and Palestinian efforts to achieve UN-recognized statehood, the current Israeli campaign does not adopt this rights-based approach, but is instead politically motivated; devised as a means of limiting the rights of Palestinian refugees and extricating the State of Israel from its obligations as laid out under international law.

Indeed, Israel’s own National Security Council has expressly stated that linking the separate refugee causes of Palestinians and Arab Jews “will serve Israel in the [final status] negotiations” and help to “moderate” the claims of Palestinians. This cold, calculated approach is in complete contrast to what is required in order to address the Palestinian refugee crisis, and furthermore, trivializes the plight of refugees worldwide.

Israel cannot extricate itself from its obligations

Regardless of whether Arab states have, through their past actions, created Arab Jewish refugee populations, the State of Israel has created - and continues to create - a Palestinian refugee and displaced population which now numbers in excess of 7.4 million individuals. All refugee/displaced populations should be granted full and just reparation, but Israel cannot use the wrongs of other states to negate those it has itself perpetrated. The obligations that Israel owes to those Palestinian refugees created by its actions are deeply entrenched within international law and cannot be jettisoned or diluted by any means.

** Endnotes: See online version at: http://www.BADIL.org/al-majdal
Israel defines itself as a Jewish state and conditions its existence upon the maintenance of a Jewish majority. Indeed, the Zionist movement that established Israel in 1948 combined Jewish nationalism with the colonial practice of transplanting people, mostly from Europe, into Palestine with the support of European colonial powers. For the past 64 years, Israel has continued its practice of settler implantation and the removal of indigenous Palestinians in a policy that amounts to forced population transfer.

Forced population transfer has been defined as the “systematic, coercive and deliberate…movement of population into or out of an area…with the effect or purpose of altering the demographic composition of a territory, particularly when that ideology or policy asserts the dominance of a certain group over another.” The widespread and systematic forcible internal displacement of Palestinians by the Israeli Occupying Power and the ongoing denial of Palestinian refugees right to repatriation for the purpose of acquiring land and altering the demographic composition of the territory amounts to a forcible transfer of population.

In his report to the 16th Session of the Human Rights Council, the Special Rapporteur to the OPT, Richard Falk underscores the application of the forced population transfer framework to Israel’s policies in East Jerusalem. He describes Israel’s policies in East Jerusalem as amounting to an effort to complete its de-facto illegal annexation by pursuing a “policy designed to achieve the ethnic cleansing of Palestinians.”

Forced population transfer is prohibited under international humanitarian law, a violation of customary international law, is a grave breach of the Fourth Geneva Convention, and may amount to a war crime pursuant to the Rome Statute.

Forced population transfer and settler implantation also violates human rights including the right to self-determination (common art. 1 to ICCPR, CESCPR), the principle of non-discrimination (see art 2 of ICCPR and ICESCR and art. 1 CERD), and the right to leave a country and to return to one’s country (art. 12 ICCPR).

**Forced Population Transfer in the OPT**

With the intention and result of de jure and de facto permanent requisition and annexation of occupied Palestinian land, all Israeli governments, in conjunction with the World Zionist Organization, have developed and implemented plans for the implantation of Jewish settlers and the integration of large sections of the OPT into Israeli state territory.

Israel pursues several processes in concert to increase the number of Jewish settlers while reducing the number of indigenous Palestinian civilians. These include home demolitions, deportation of civilians, land expropriation, evictions by settlers, in combination with several government incentives to encourage settler implantation in the OPT.

Home demolitions by military order have displaced more than 1,100 Palestinians in 2011, an 80 percent rise compared to 2010. These numbers are likely to increase in 2012 as nearly 600 Palestinians have
lost their homes thus far in 2012. The entire village of Jenba, a Palestinian village in Area C with a total population of 1,600, is threatened with demolition by military order.

In January 2012, Israel’s Civil Administration announced plans to forcibly relocate approximately 27,000 Palestinian Bedouins of the Al-Ahmar community living in Area C. This process will begin with the uprooting of 2,000 persons from the area surrounding Ma’ale Adumim, an illegal settlement in East Jerusalem, to a garbage dump in Abu Dis.9

In East Jerusalem, Israel has sanctioned settler violence targeting Palestinians with the aim of forcibly removing them from their homes. Ateret Cohanim, a right-wing Jewish Zionist movement, has sought to violently displace Palestinians living in Jerusalem’s Arab quarter in order to alter the demographic balance and prevent the establishment of East Jerusalem as a permanent capital of a potential Palestinian state. The organization’s stated goal is to enter and settle areas inhabited by Arabs only. Its most controversial project is a seven-story building in Silwan, which the Israeli Court condemned as illegitimate several years ago, but continues to be home to several Jewish families.10

In April 2012, with the help of Israeli police, Jewish settlers succeeded in taking over two Palestinian homes in Beit Hanina thereby evicting two Palestinian families. Police handcuffed Khaled Natsheh, owner of one of the homes, while they emptied his home of its furniture. Jewish settlers have been harassing the Natsheh families since 1980 and succeeded in obtaining a court-order to remove them on March 1 2012.11

In the Jordan Valley, Israel’s settlement policy has worked to reduce the Palestinian population from 320,000 in 1967 to 56,000 today. In its last session, the Human Rights Council recognized that Israel established 26 settlements and five Nahal brigade encampments in the 1970s in order to consolidate its control over this area. Since 1970, Israel has declared most of the Jordan Valley as state land and assigned it within the jurisdictional control of two regional councils that oversee settlement expansion and settler implantation.12

The Israeli Government offers several incentives in order to encourage settler implantation in the OPT. These include generous loans from the Ministry of Housing, lower prices to lease land from the Israeli Land Authority, incentives for teachers, grants from the Ministry of Industry & Trade, and tax breaks from the Ministry of Finance. The impact of these incentives is evidenced in the increasing number of Israeli Jewish settlers in the OPT. According to Israel’s Central Bureau of Statistics, the West Bank experiences the highest number of internal migration, or migration within Israel Proper and the OPT.13 Significantly, in its statistical representation of migration, Israel refers to the OPT as “Judea and Samaria” and regards settler implantation to these areas as internal migration in contravention of humanitarian law. Moreover, Government incentives also ensure that the annual population growth of Jewish persons in the OPT, at 4.9 percent, is higher than the growth rate of Jews in all other Israeli localities.14

Forced Population Transfer within Israel Proper

Israel also pursues a policy of forced population transfer of Palestinians even within its own borders. In September 2011, the Israeli Government approved the Prawer Plan,15 which recommends the destruction of 14 villages in the Beer Sheba (Beer Al-saba’) district located in the Negev (Naqab), effectively displacing 30,000 Palestinians from their homes. These plans, referred to as the “final solution” by the Israeli Government, cumulatively constitute an Israeli policy of forced population transfer against the indigenous Bedouin Palestinians.

Additionally, Israel institutionalizes the removal of indigenous Palestinians who have been, and continue
to be, forcibly transferred. Consider that Israel defines itself as a Jewish state necessitating a Jewish majority in order to maintain its Jewish character. With a 5.9 million person Jewish-Israeli population, Israel therefore considers the return of nearly seven million Palestinian refugees as a demographic threat to its character. As put by Professor Ruth Lapidoth and featured by the Israeli Ministry of Foreign Affairs, "[i]f Israel were to allow all [Palestinian refugees] to return to her territory, this would be an act of suicide on her part, and no state can be expected to destroy itself."

BADIL urges the Human Rights Council to:

1. Condemn Israel’s complicit and explicit support for right-wing settler movements aimed at evicting and forcibly displacing Palestinians from their homes.
2. Condemn Israel’s mass expulsion of Palestinian Bedouin communities surrounding East Jerusalem and urge Israel to restore their residency rights;
3. Reiterate the illegality of Israel’s unilateral annexation of East Jerusalem and affirm its occupied status in international law notwithstanding settler efforts to consolidate their control over it;
4. Urge High Contracting Parties of the Geneva Convention to sanction Israel’s settlement enterprise by refusing to engage in any commerce or trade that benefits the settlement economy or otherwise facilitates its expansion; and
5. Commission a study to examine whether Israel’s settlement expansion and settler implantation for the purpose of acquiring land and altering the demographic composition of the territory amounts to forcible transfer of population.

**Endnotes: See online version at: http://www.BADIL.org/al-majdal**
No more tax deductibles for funding settlements in occupied territory

September 21, 2012 — Following advocacy-work and pressure from Norwegian People’s Aid (NPA) and the Norwegian Union of Municipal and General Employees (NUMGE), the Norwegian Ministry of Finance announced their decision to exclude the Norwegian organization “Karmel-instituttet” from the list of organizations that the Norwegian public may get tax deductions for providing funds to. The reason behind the decision is that the organization provides financial support to Israeli settlements in the occupied Palestinian territories.

California’s Largest Student Union Votes to Condemn California Assembly Resolution HR 35, Tells the UC Regents to Stop Profiting from Israeli Human Rights Abuses

BERKELEY, CA, September 17, 2012 — The University of California Student Association, which represents hundreds of thousands of students at all 10 UC campuses, passed a resolution today condemning recent attempts to censure boycott and divestment efforts by Palestinian human rights activists on campus, and demanding that the UC stop profiting from Israel’s human rights violations. The motion passed without opposition by a vote of 12 to 0 (2 abstentions).

New report exposes South Korea’s complicity with Israeli apartheid

September 7, 2012 — Palestine Peace & Solidarity in South Korea (PPS), a Seoul-based group part of the global Boycott Divestment and Sanctions (BDS) movement, launched a report denouncing South Korea’s complicity with Israel’s regime of occupation, colonization and apartheid against the Palestinian people.
The report details Korea’s ties with Israel at the military, economic, academic and cultural levels. This relationship, the report contends, has contributed to Israel’s impunity and lack of accountability.

In Response to Student and Faculty Concerns, Earlham College’s Dining Services Decides to Stop Selling Sabra Products

Richmond, Indiana, USA, September 5, 2012 — On the 5th of September, Earlham College’s (Richmond, Indiana, USA) dining service agreed to have Sabra Hummus removed from the coffee shop after being informed of the involvement in Israeli human rights violations in Palestine by Strauss Group Ltd., of which Sabra Dipping Company, LLC is a subsidiary. The decision comes after a group of concerned students and faculty approached Earlham’s dining services requesting the removal of the product from the college’s facilities. Strauss Group Ltd. provides financial support and supplies to the Golani and Givati brigades of the Israeli army, which is responsible for enforcing Israel’s illegal, 45-year-old military occupation and colonization of Palestinian lands, and other grave and systematic human rights abuses.

University of the Witwatersrand student council passes boycott resolution

Johannesburg, South Africa, August 29, 2012 — On 27 July 2012, The University of the Witwatersrand (Wits) Student Representative Council (SRC) passed a resolution that called for a cultural and academic boycott of Israeli institutions. The resolution was brought forth to the SRC by the Wits Palestine Solidarity Committee (PSC) and was unanimously adopted by present SRC representatives. The resolution states that the University will “not participate in any form of cultural or academic collaboration or joint projects with Israeli institutions and will not provide support to Israeli cultural or academic institutions”.

Independent Jewish Voices commends United Church for finalizing stand against Israeli occupation

Canada, August 20, 2012 — “Independent Jewish Voices Canada (IJV) congratulates the United Church of Canada for finalizing its decision to boycott goods produced in illegal Israeli settlements in the West Bank and East Jerusalem,” says Sid Shniad, the group’s spokesperson.

“Facing charges of bias and anti-Semitism for even considering such action, Church members assembled at their triennial national conference went out of their way to make it clear that they were not acting against Israel or Jews, but rather taking a focused stand against Israel’s decades-old occupation of Palestinian territory,” Shniad continued.

“By taking this stand, the Church has joined a growing movement of faith-based organizations, trade unions, and other groups in Canada and around the world that are boycotting Israel’s illegal settlements. They are making it clear that it is not anti-Semitic to criticize Israel. In fact, levying such criticism and taking such action should be seen as a moral imperative. We look forward to working with Church members to move this important human rights work forward,” said Shniad.

IJV spokesperson Rabbi David Mivasair echoed Shniad’s remarks, explaining that “We are grateful to the United Church for taking this careful and principled stand. We endorse its thoughtful recommendations for ethical action to support justice for both Palestinians and Israelis.”
Largest Protestant church in Canada votes for Israeli settlements boycott

Canada, August 16, 2012 — Members of the United Church of Canada, the country’s largest Protestant denomination, voted Wednesday to affirm a controversial motion supporting a boycott of goods produced in Israeli settlements on the West Bank and in East Jerusalem.

Wednesday’s vote was preceded by nearly six hours of contentious debate, in which the church’s general council members nitpicked the proposal’s wording and heard drawn-out testimonies from representatives on both sides of the issue.

The motion was one of several recommended by a report released by a church working group last May. Along with calling on church hierarchy to accept a comprehensive boycott, the report named the Israeli occupation of Palestinian territory as a major challenge to a two-state solution in the Middle East.

Energy firm ditches occupation profiteer G4S

August 10, 2012 — British firm Good Energy has announced that it will end its business relationship with G4S, the private security giant with a track record of complicity in Israel’s human rights abuses.

Good Energy claims to be committed to high ethical standards but had contracted a G4S company to conduct door-to-door energy meter readings since 2008. G4S provides equipment and services to Israeli prisons and checkpoints in the occupied West Bank and has been involved in serious abuses in the UK deportation system and other privatized services that were previously in public ownership.

Amnesty International: EU fails to put human rights at the heart of its relations with Israel

Brussels, July 30, 2012 — This week the EU announced it would strengthen its bilateral relations with Israel by endorsing a package of 60 new areas of cooperation. Amnesty International regrets that this decision has been taken without giving due consideration to the need to seriously address ongoing violations of international human rights and humanitarian law in Israel and the occupied Palestinian territories. This move is at odds with both commitments made by the EU in its revised European Neighbourhood Policy and the recently approved Human Rights package.
BADIL is delighted to announce the launch of the new ‘Ongoing Nakba Education Center’ (ONEC) website:

www.ongoingnakba.org

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

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

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

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

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

al-Majdal is an Aramaic word meaning fort, fortress. The town was known as Majdal 350 during the Canaanite period and the god of luck. Located in the south of Palestine, al-Majdal was a thriving Palestinian city with some 11,496 residents on the eve of the 1948 Nakba. Majdalaw was producing 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 Yariv, also known as “10 Plan”) 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 the Palestinian refugee homes in the town. In late 1949 Israel began to drive out the remaining Palestinian population using a combination of military force and administrative measures. The process was completed by 1951. Israel continues to employ similar measures in the 1967 occupied West Bank, including eastern Jerusalem, and the Gaza Strip.

Palestinian refugees from al-Majdal now number over 71,000 persons, and Israel has legalized the name of their town as “Ashkelon.” Like millions of other Palestinian refugees, Majdalawins are not allowed to return to their areas 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.

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