A Series of Working Papers

Forced Population Transfer: The Case of Palestine

Segregation, Fragmentation and Isolation

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To honor anonymity and protect the victims, in some cases their names have been omitted and information regarding their locations have been changed. Many thanks to all who have supported BADIL Resource Center throughout this research project and in particular to all interview partners who provided the foundation for this publication.

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BADIL Resource Center for Palestinian Residency and Refugee Rights is an independent, human rights, non-profit organization working to defend and promote the rights of Palestinian refugees and Internally Displaced Persons (IDPs). Our vision, mission, programs and relationships are defined by our Palestinian identity and the principles of international humanitarian and human rights law. We seek to advance the individual and collective rights of the Palestinian people on this basis.

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Introducing the Series

This series of working papers on "Forced Population Transfer: The Case of Palestine" constitutes an overview of the forced displacement of Palestinians as a historic and ongoing process which detrimentally affects the daily life of Palestinians and threatens their national existence.

Historical Context: The Case of Palestine

At the beginning of the 20th century, most Palestinians lived inside the borders of Mandatory Palestine, referring to "historic Palestine", consisting of Israel, the 1967 occupied West Bank, including East Jerusalem, and the Gaza Strip. The ongoing forcible displacement policies following the establishment of the British mandate of Palestine in the 1920s made Palestinians the largest and longest-standing unresolved refugee case in the world today. By the end of 2017, an estimated 8.07 million (66 percent) of the global Palestinian population of 12.1 million are forcibly displaced persons. The ultimate aim of BADIL's series is to distill the complex web of legislation and policies which comprise Israel's overall system of forced population transfer today. The series is not intended to produce a comprehensive indictment against the State of Israel, but to illustrate how each policy fulfills its goal in the overall objective of forcibly displacing the Palestinian people while implanting Jewish-Israeli settlers/colonizers throughout Mandatory Palestine.

Despite its urgency, the forced displacement of Palestinians rarely receives an appropriate response from the international community. This response should encompass condemnations and urgent interventions to provide relief or humanitarian assistance, while addressing the root causes of this forced population transfer. Given the protracted nature and gravity of the violations, a short-term response from the international community is insufficient to address this issue and, as such, long-term responses should be developed

to put an end to the ongoing displacement as well as to achieve a durable solution. While many individuals and organizations have discussed the triggers of forced population transfer, civil society lacks an overall analysis of the system of forced displacement that continues to oppress and disenfranchise Palestinians today. BADIL, therefore, spearheads targeted research on forced population transfer and produces critical advocacy and scholarly materials to help bridge this analytical gap.

Forced Population Transfer

The concept of forced population transfer – and recognition of the need to tackle its inherent injustice – is by no means a new phenomenon, nor is it unique to Mandatory Palestine. Concerted efforts to colonize foreign land have underpinned displacement for millennia, and the "unacceptability of the acquisition of territory by force and the often concomitant practice of population transfer" was identified by the Persian Emperor Cyrus the Great, and subsequently codified in the Cyrus Cylinder in 539 B.C.; the first known human rights charter. Almost two thousand years later, during the Christian epoch, European powers employed population transfer as a means of conquest, with pertinent examples including the Anglo-Saxon displacement of indigenous Celtic peoples, and the Spanish Inquisition forcing the transfer of religious minorities from their homes in the early 16th century.

Today, the forcible transfer of protected persons by physical force, threats or coercion constitutes a grave breach of the Fourth Geneva Convention and a war crime under the Rome Statute of the International Criminal Court. The forcible displacement of individuals without grounds permitted under international law is a very serious violation, and when those affected belong to a minority or ethnic group and the policies of forcible displacement are systematic or widespread, these practices could amount to crimes against humanity.

International law sets clear rules to prohibit forced population transfer, through the specific branches of international humanitarian law, international human rights law, international criminal law and international refugee law. Both internal (within an internationally recognized border) and external displacement are regulated.

BADIL presents this series of working papers in a concise and accessible manner to its designated audiences: from academics and policy makers, to activists and the general public. Generally, the series contributes to improving

the understanding of the ongoing 'Nakba' of the Palestinian people and the need for a rights-based approach to address it among local, regional and international actors. The term 'Nakba' (Arabic for 'catastrophe') designates the first round of massive population transfer undertaken by the Zionist movement and Israel in the period between November 1947 and the cease-fire agreements with Arab States in 1949. The ongoing 'Nakba' describes the ongoing Palestinian experience of forced displacement, as well as Israel's policies and practices that have given rise to one of the largest and longest-standing populations of refugees, internally displaced persons and stateless persons worldwide.

We hope that the series will inform stakeholders, and ultimately enable advocacy which will contribute to the dismantling of a framework that systematically violates Palestinian rights on a daily basis. The series is intended to encourage debate and critical comment. Since Israeli policies comprising forced population transfer are not static, but ever-changing in intensity, form and area of application, this series will require periodic updates.

The series of working papers will address nine main Israeli policies aiming at forced population transfer of Palestinians. They are:

1. **Denial of Residency**, published April 2014
2. **Discriminatory Zoning and Planning**, published December 2014
3. **Installment of a Permit Regime**, published December 2015
4. **Suppression of Resistance**, published December 2016
5. **Denial of Access to Natural Resources and Services**, published September 2017
6. **Land Confiscation and Denial of Use**, published October 2017
7. **Denial of Reparations to Refugees and IDPs,** published October 2018
8. **Segregation, Fragmentation and Isolation,** published March 2020
9. **Non-state Actions (with the implicit consent of the Israeli state)**

Methodology

All papers consist of both field and desk research. Field research consists of case studies drawn from individual and group interviews with Palestinians affected by forced population transfer, or professionals (such as lawyers or employees of organizations) working on the issue. The geographic focus of the series will include Israel, the occupied Palestinian territory and Palestinian

refugees living in forced exile. Most of the data used is qualitative in nature, although where quantitative data is available – or can be collected – it will be included in the research.

Desk-based research will contextualize policies of forced population transfer by factoring in historical, social, political and legal conditions in order to delineate the violations of the Palestinian people's rights. International human rights law and international humanitarian law will play pivotal roles, and analysis is supplemented with secondary sources such as scholarly articles and reports.

1. Political-Legal Framework on the Right to Self-Determination

> "[I]f there is no country called Palestine it is not because there are no Palestinians. […] This people […] identified itself with the land it tilled and lived on […], the more so after an almost wholly European decision was made to resettle, reconstitute and recapture the land for Jews who were to be brought there from elsewhere […] Such as it is, the Palestinian actuality is today, was yesterday, and most likely tomorrow will be built upon an act of resistance to this new foreign colonialism".
>
> ***Edward Said***[1]

This 8th installment of BADIL's series on Forcible Population Transfer: The Case of Palestine explores Israeli policies of segregation, fragmentation and isolation and the way in which these policies contribute to the forcible transfer of the Palestinian people. These policies constitute significant components within a broader Israeli apartheid regime, as they indeed reflect prohibited practices outlined in the Apartheid Convention. While having been significantly researched and slowly becoming an increasingly accepted reality in international discourse,[2] a focus only on apartheid would ignore the basic objective that underpins the entire Zionist enterprise: the establishment of a 'Jewish state' on the whole of Mandatory Palestine. In that regard, the use of these apartheid practices of segregation, fragmentation, and isolation is not an end in and of itself, but is rather a mechanism designed to eliminate the Palestinian people by undermining their collectivity. Through this, Israel seeks to make the

1 Edward Said, The Question of Palestine (London: Vintage, 1992), 5-8.

2 See withdrawn report issued by UN Economic and Social Commission for Western Asia [UNESCWA], Israeli Practices Towards the Palestinian People and the Question of Apartheid, E/ESCWA/ECRI/2017/1, 15 March 2017, available at: https://www.middleeastmonitor.com/wp-content/uploads/downloads/201703_UN_ESCWA-israeli-practices-palestinian-people-apartheid-occupation-english.pdf; See also Virginia Tilley (ed.), Occupation, Colonialism, Apartheid? A Re-Assessment of Israel's Practices in the Occupied Palestinian Territories under International Law (Cape Town: Human Sciences Research Council, 2009), available at: http://www.hsrc.ac.za/en/research-data/view/4634 [accessed 28 February 2020].

Palestinian right to self-determination an unrealizable, illusory right and to, simultaneously, contrive a purported Israeli-Jewish right to self-determination that is somehow exceptional, legitimate and applicable to the whole of Palestine.

Palestinian apprehension and vehement opposition to Zionism have always been grounded in a well-placed sense of the Zionist intent to permanently deprive Palestinians of their land. From the outset, Zionism was framed by its founder, Theodor Herzl, as a colonial project,[3] that eventually fixated on Palestine as the site "to establish a home for the Jewish people in Eretz-Israel secured under public law,"[4] or, in other words, to establish a Jewish state in the whole of Mandatory Palestine. If understood properly as a settler-colonial project, it can be more readily accepted that Zionism necessarily seeks the elimination of the native people, in this case the Palestinian people, in order for the foreign settler population to dominate and expropriate the land, and accumulate prosperity for that population, in this case, Jews from around the world.[5]

Virtually from the outset, the success of the Zionist enterprise in Mandatory Palestine was predicated on the need to cleanse the land of its native people, the Palestinians. At the turn of the twentieth century, Herzl's diaries already wrote of the need for discrete population transfer through land acquisition and employment enticements in other countries.[6] The forcefulness of the intended transfer intensified as the Zionist project advanced under the British Mandate. David Ben-Gurion, who later became the first Israeli Prime Minister, expressed the need to expel the Palestinian people,[7] and the Director of the Settlement Division of the Jewish National Fund, Yosef Weitz, wrote of the fact that "there is no way but to transfer the Arabs from here to the neighboring countries [and that] not one village must be left, not one [Bedouin] tribe."[8]

3 Herzl targeted Britain to support the establishment of a Jewish state, because it was "the first to recognize the need for colonial expansion." Additionally, Zionism was sold to the British on the basis of the capacity of Jews to "an outpost of civilization against barbarism." John Quigley, The Case for Palestine: An International Law Perspective (Durham & London: Duke University Press, 2005), 6-7.

4 Basel Program, cited in Gotthard Deutsch, "Basel Program," Jewish Encyclopaedia, webpage, available at: http://www.jewishencyclopedia.com/articles/2612-basel-program [accessed 28 February 2020].

5 See Andy Clarno, Neoliberal Apartheid: Palestine/Israel and South Africa after 1994 (Chicago: The University of Chicago Press, 2017).

6 Raphael Patai (ed.), The Complete Diaries of Theodor Herzl, Harry Zohn (trans.), vol.1 (New York & London: Herzl Press and Thomas Yoseloff, 1960), 88-89, available at: https://archive.org/details/TheCompleteDiariesOfTheodorHerzl_201606/page/n49/mode/2up [accessed 28 February 2020].

7 Quigley, supra 3, 25.

8 Ibid.

Execution of Plan Dalet, among other Zionist military plans, led to the successful cleansing of 85 percent of the Palestinian people from the land that became the state of Israel.[9]

Yet, the creation of Israel in 1948 was never understood to be the end goal. Together with the acceptance of the UN Partition Plan, the declaration of the State of Israel on part of the territory was merely a consolidating stepping stone to gaining full acquisition of Mandatory Palestine; a goal that would require ongoing erasure of the Palestinian people. To that end, the ensuing 71 years since the Nakba have seen Israel adopt evolving and varying means – including further armed conflict, military occupation, and policies of ongoing forcible transfer[10] – to achieve this same objective of transferring the Palestinian people out of Mandatory Palestine.

However, given that approximately 6.84 million Palestinians continue to reside in Mandatory Palestine today,[11] the establishment of Israeli-Jewish supremacy has necessitated policies beyond just forcible transfer and displacement. In this regard, the control, domination and fracturing of the Palestinian people has been critical to the Zionist enterprise, and Israel's emergence as an apartheid state has been the most significant manifestation of this. Yet, far from being the desired outcome of the Zionist regime, Israel deploys these apartheid practices – particularly segregation, fragmentation and isolation – in a way that aims to induce and maintain the gradual disconnection of the Palestinian people from their land. By utilizing these mechanisms to sever the attachment of Palestinians to their land and undermine their collective

9 The Plan Dalet was a general plan for military operations that would eventually lead to "the destruction of the Palestinian Arab community and the expulsion and pauperization of the bulk of the Palestine Arabs […]", in Walid Khalidi, "Plan Dalet: Master Plan for the Conquest of Palestine," Journal of Palestine Studies 18, no.1 (1988), 8. See also BADIL, Survey of Palestinian Refugees and Internally Displaced Persons 2016-2018, vol. 9 (Bethlehem: BADIL, 2019), 6, available at: https://www.badil.org/phocadownloadpap/badil-new/publications/survay/survey2016-2018-eng.pdf [hereinafter BADIL, Survey 2016-2018].

10 See BADIL's Forced Population Transfer series: BADIL, Forced Population Transfer: The Case of Palestine - Introduction, working paper no.15 (March 2014); BADIL, Denial of Residency, working paper no.16 (April 2014); BADIL, Discriminatory Zoning and Planning, working paper no. 17 (December 2014); BADIL, Installment of a Permit Regime, working paper no. 18 (December 2015); BADIL, Suppression of Resistance, working paper no. 19 (December 2016); BADIL, Denial of Access to Natural Resources and Services, working paper no. 20 (September 2017); BADIL, Land Confiscation and Denial of Use, working paper no. 21 (October 2017); BADIL, Denial of Reparations, working paper no.22 (October 2018). All papers available at: https://www.badil.org/en/publication/research/working-papers.html [accessed 28 February 2020].

11 This figure includes 2.99 million Palestinians residing in the West Bank, including East Jerusalem, 1.99 Palestinians in the Gaza Strip, and an estimated 1.84 million Palestinians who hold Israeli citizenship. Palestine Central Bureau of Statistics [PCBS], "On the occasion of the International Population Day 11/7/2019," press release, 11 July 2019, available at: http://www.pcbs.gov.ps/post.aspx?lang=en&ItemID=3503 [accessed 28 February 2020].

identity, as well as their strength and capacity to resist Israel's forcible claims to the territory, Israel aims to erode the strength of the legal and historical recognition of the right of the Palestinian people to self-determination. In doing so, Israel gradually erases the legitimate Palestinian rights to the territory and entrenches its presence and domination of Palestine. It should be noted that since its creation, Israel has been denying the Palestinian people their right to self-determination. Importantly, Israel's policies and practices have also had a significant impact on the international community's perception of this right.

1.1. The Right to Self-Determination

As a matter of international law, due attention should be given to the legal implications of the right to self-determination, given that it constitutes both the fundamental tenet of the Palestinian people's entitlement to their land, and the ultimate target of the policies of segregation, fragmentation and isolation.

Self-determination of peoples emerged as an ideological concept in the context of early twentieth century Europe. It first came to be recognized as a principle of international law in Article 1(2) and Article 55 of the UN Charter,[12] and as an erga omnes principle.[13] Importantly, self-determination evolved into a peremptory norm through the decolonization process of the 1960s, explicitly as a right owed to all peoples experiencing colonial subjugation.[14]

Under Common Article 1(1) of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR),[15] the right to self-determination was formulated

12 Charter of the United Nations [UN Charter], 1 UNTS XVI, 24 October 1945, art. 1(2) & art.55, available at: https://www.un.org/en/sections/un-charter/introductory-note/index.html [accessed 28 February 2020].

13 UN Charter, supra 12, art. 56; Case Concerning East Timor (Portugal v. Australia), Judgment, 1995 ICJ 84, 30 June 1995, §29, available at: https://www.icj-cij.org/en/case/84 [accessed 28 February 2020].

14 United Nations General Assembly [UNGA], Declaration on the Granting of Independence to Colonial Countries and Peoples, A/RES/1514(XV), 14 December 1960, §2, available at: https://www.un.org/ga/search/view_doc.asp?symbol=A/RES/1514(XV)[accessed 28 February 2020]; UNGA, Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the UNGA, A/RES/2625(XXV), 24 October 1970, available at: https://www.un.org/ga/search/view_doc.asp?symbol=A/RES/2625(XXV) [accessed 28 February 2020].

15 UNGA, International Covenant on Civil and Political Rights [ICCPR], 999 UNTS 171, 16 December 1966, art.1(1), available at: https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx [accessed 28 February 2020]; UNGA, International Covenant on Economic, Social and Cultural Rights [ICESCR], 993 UNTS 3, 16 December 1966, art.1(1), available at: https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx [accessed 28 February 2020].

as encompassing two essential pillars:

1. **The free choice of political status** – defined in terms of sovereign independence from, free association, or integration with an independent state.[16] It implies that a people has a right to choose their own political destiny,[17] through participation in the political decision-making process, directly or through a representative government; and

2. **The free pursuit of the people's economic, social and cultural development** – and the correlated free and unhindered disposal of its natural wealth and resources.[18] It is both the right to choose and to exercise decisions, as well as the right not to be deprived of the means of subsistence or suffer the destruction of culture.[19] International law additionally recognizes three basic conditions for self-determination: participation, access and contribution to economic, social and cultural life.[20]

Generally accepted as a jus cogens principle of international law[21] and the foundation for the realization of all other fundamental human rights,[22] the right to self-determination is understood to be a right from which no

16 UNGA, Principles Which Should Guide Members in Determining Whether or not an Obligation Exists to Transmit the Information called for under Article 73(e) of the Charter, A/RES/1541, 15 December 1960, Principle VI, available at: https://digitallibrary.un.org/record/206178?ln=en [28 February 2020].

17 Ben Saul et al., "Article 1: The Right of Peoples of Self-Determination, Article 25: The Right to Freely Utilize Natural Resources", in The International Covenant on Economic, Social and Cultural Rights (Oxford: Oxford University Press, 2014), 56.

18 ICCPR, supra 15, art.1(2); ICESCR, supra 15, art.1(2) & art.25; See also UNGA, Permanent Sovereignty over Natural Resources, A/RES/1803(XVII), 14 December 1962, art.1, available at: https://www.un.org/ga/search/view_doc.asp?symbol=A/RES/1803(XVII) [accessed 28 February 2020].

19 UNGA, United Nations Declaration on the Rights of Indigenous Peoples, A/RES/61/295, 2 October 2007, art. 8(1), available at: https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf.

20 United Nations Committee on Economic, Social and Cultural Rights, General Comment no. 21, Right of Everyone to Take Part in Cultural Life (art. 15, §1a of the Covenant on Economic, Social and Cultural Rights), E/C.12/GC/21, 21 December 2009, §15, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fGC%2f21&Lang=en [accessed 28 February 2020].

21 See Ralph Wilde, "Applicability of Human Rights Law to the Palestinian Territories with a Specific Focus on the Respective Responsibilities of Israel, as the Extraterritorial State, and Palestine, as the Territorial State," Diakonia International Humanitarian Law Resource Center, expert opinion (9 February 2018), available at: https://www.diakonia.se/globalassets/blocks-ihl-site/ihl-file-list/ihl--expert-opionions/the-applicability-of-human-rights-law-to-the-palestinian-territories-with-a-specific-focus-on [accessed 28 February 2020].

22 UNGA, The Right of Peoples and Nations to Self-Determination, A/RES/637(VII), 16 December 1952, available at: https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/079/80/IMG/NR007980.pdf?OpenElement [accessed 28 February 2020].

derogation is permitted. This is reinforced in treaty law, which provides for the realization of the pillars of self-determination without discrimination, and in particular nationality-based distinctions.[23]

1.1.1. Recognition of the Right of the Palestinian People to Self-Determination

Importantly, international law recognizes Palestinians as a "people", with an acknowledged right to self-determination and to an independent state.[24] The Palestinians have been the de facto people of Palestine well before the twentieth century and the rise of Zionism. The de jure recognition of Palestinian nationality and by extension the right to self-determination under international law, dates back to the Treaty of Lausanne signed in 1923.[25] This was reinforced with the recognition of the Palestine Liberation Organization (PLO) as the representative of the Palestinian people in United Nations General Assembly resolutions 3210 and 3237.[26] Accordingly, international law recognizes the Palestinian people as per the definition in the Palestinian National Charter, namely as, "Arab citizens who were living normally in Palestine up to 1947, whether they remained or were expelled, [including] anyone born, after that date, of a Palestinian father – whether inside Palestine or outside it […]," with Palestine defined as "with the boundaries it had during the British Mandate".[27]

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23 ICCPR, supra 15, art.2(1); ICESCR, supra 15, art.2(2).

24 The Palestinian people's right to self-determination can be inferred from numerous documents articulating the general right, as far back as Woodrow Wilson's ''Fourteen Points'' and the comments of the British High Commissioner Henry McMahon to Egypt, when he expressed willingness to recognize ''the independence of the Arab countries;'' specific recognition of the Palestinian right to self-determination can be found in numerous comments and documents prior to the establishment of the United Nations and since, including in Article 22 of the of the Covenant of the League of Nations. The UN has subsequently recognized the right of self-determination of the Palestinian people in numerous resolutions, including UNGA, United Nations Relief and Works Agency for Palestine Refugees in the Near East, A/RES/2672(XXV), 8 December 1970; UNGA, Question of Palestine, A/RES/3236(XXIX), 22 November 1974; UNGA, Right of the Palestinian People to Self-Determination, A/RES/66/146, 29 March 2012; UNGA, Right of the Palestinian people to self-determination, A/RES/67/158, 26 February 2013. See also Legal Consequences of Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, 2004 ICJ 131, 9 July 2004, §122, available at: https://www.icj-cij.org/files/case-related/131/131-20040709-ADV-01-00-EN.pdf.

25 BADIL, Survey 2016-2018, supra 9, 1-2.

26 UNGA, Invitation to the Palestine Liberation Organization, A/RES/3210(XXIX), 14 October 1974; UNGA, Observer Status for the Palestine Liberation Organization, A/RES/3237(XXIX), 22 November 1974.

27 Palestinian Liberation Organization [PLO], Palestine National Charter, 28 May 1964, art.2 & art.5, available at: https://web.archive.org/web/20101130144018/http:/www.un.int/wcm/content/site/palestine/pid/12363 [accessed 28 February 2020].

1.1.2. Denial of the Right to Self-Determination

Although the recognition of the right to self-determination is relatively straight-forward as a matter of law, its implementation has proven more complex due to its dual obligation nature. The principle of self-determination consists not only of the duty of states to recognize, respect and promote the right of a people to self-determination, but also the obligation to refrain from taking any forcible action that serves to deny people the capacity to enjoy this right.[28] As such, any action that undermines the capacity to enjoy the right and any denial of the substantive content of the right – free choice of political status and economic, social and cultural development – will amount to a violation under international law. To further clarify, since the exercise of the right to self-determination requires a people to claim it[29] and a territory within which to assert it,[30] any action that seeks to undermine either of these two elements will undermine self-determination and similarly constitute a violation of this right.

Colonization and colonial practices are well understood by international law to constitute practices that serve to deny the right to self-determination. This is evidenced in the concurrent acceleration of the decolonization process and the codification of self-determination as a fundamental legal norm.[31] The way in which colonial practices deny the right to self-determination has subsequently shaped its framing in the ICCPR and ICESCR. Namely, practices such as implantation of the settler-colonizer population, establishment of colonies, and extension of sovereignty into occupied territory clearly dilute the first pillar of the right to self-determination, while land confiscation and acquisition, integration of the economy, and denial of access to natural resources serve to deny the second pillar. The recognition and granting of self-determination to colonized people resulted in the emergence of more than 70 percent of present-day states.[32]

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28 Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States, supra 14.

29 Jean-Francois Gareau, ''Shouting at the Wall: Self-Determination and the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory,'' Leiden Journal of International Law 18, no.3 (2005), 491.

30 "To confer on a people a right of "free choice" in the absence of more substantive entitlements – to territory, natural resources, etc. – would simply be meaningless. Clearly, the right of self-determination cannot be exercised in a substantive vaccum." Catrionia Drew, ''The East Timor Story: International Law on Trial,'' European Journal of International Law 12, no.4 (2001), 663, available at: http://www.ejil.org/pdfs/12/4/1539.pdf.

31 See Andrew Pullar, ''Rethinking Self-Determination,'' Canterbury Law Review 20 (2014), available at: http://www.austlii.edu.au/au/journals/CanterLawRw/2014/5.pdf.

32 Id., 92.

However, the denial of self-determination has not been limited to the colonial context. In particular, considering the limited recognition under international law of what might constitute a colonial context, it excluded countries such as the United States, Canada, Australia and South Africa from the "non-self-governing territories" entitled to decolonization. Apartheid emerged as the clearest example of a practice that international law understood as constituting a denial of the right to self-determination. In the 1970s, the UN passed several resolutions condemning apartheid, namely the apartheid practice of Bantustans on the basis that it constituted a denial of the right to self-determination.[33] Apartheid is now considered a crime against humanity,[34] a grave breach of Protocol I to the Geneva Convention,[35] and its prohibition is a peremptory norm of customary law.[36] Apartheid consists in "similar policies and practices of racial segregation and discrimination as practiced in southern Africa," including acts that lead to isolation, fragmentation and segregation of a group.[37] Apartheid works to deprive the deemed inferior racial group of their substantive rights, as well as their cohesiveness, and in this way undermine any capacity for the group to enjoy their right to self-determination.

Other practices deployed to control and assimilate or erase a whole population in order to eliminate their right to self-determination include ethnic cleansing,[38]

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33 See UNGA, Resolution 2775E (XXVI) (1971) and UNGA Resolution 3411D (XXX) (1975), cited in Richardson, supra 21, 195-196.

34 UNGA, International Convention on the Suppression and Punishment of the Crime of Apartheid [Convention on Apartheid], 1015 UNTS 243, 30 November 1973, art.1, available at: https://treaties.un.org/doc/publication/unts/volume%201015/volume-1015-i-14861-english.pdf; UNGA, Rome Statute of the International Criminal Court, 2185 UNTS 3, 17 July 1998, art.7(j), available at: https://www.icc-cpi.int/resource-library/documents/rs-eng.pdf.

35 International Committee of the Red Cross, Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts, 1125 UNTS 3, 8 June 1977, art.85, available at: https://www.icrc.org/en/doc/assets/files/other/icrc_002_0321.pdf.

36 International Law Commission [ILC], Fourth Report on Peremptory Norms of General International Law (jus cogens) by Dire Tladi, Special Rapporteur, A/CN.4/727, 31 January 2019, §91-101, available at: http://legal.un.org/docs/?symbol=A/CN.4/727 [accessed 28 February 2020].

37 Convention on Apartheid, supra 34, art.2.

38 It has been argued that ethnic cleansing through forced population transfers has served policies of erasure to the right of self-determination in twentieth-century Europe, with the purpose of ensuring ethnic homogeneity, including the minority exchanges after the Balkan Wars in 1912-1923, especially by the Convention Concerning the Exchange of Greek and Turkish Populations of 30 January 1923, but also the forced transfer of 15 million people between 1945 and 1950 in Central and Eastern Europe, 200 000 Cypriots following the 1974 Turkish invasion, and the displacement of 2,8 million people during the wars in Bosnia-Herzegovina in the 1990s. Stefan Wolff, ''The Use of Ethnic Cleansing in the 'Resolution' of Self-Determination Conflicts: Learning the Lessons from Twentieth Century Europe?,'' Encyclopedia Princetoniensis, webpage, available at: https://pesd.princeton.edu/node/206 [accessed 28 February 2020].

political-economic domination,[39] policies aimed at the destruction of social cohesion,[40] and practices banning and criminalizing national and cultural identity.[41]

1.2. Policies of Segregation, Fragmentation and Isolation as Violations of International Law

With that in mind, policies of segregation, fragmentation and isolation are designed with the explicit intent of disrupting the integrity and continuity of Palestinians' collective identity, and with it, their capacity as a people to enjoy their right to self-determination.

1.2.1. Segregation

Segregation refers to a set of policies or practices, laws, regulations, and administrative decisions that generates an enforced systemic separation of one community from another, whether partial or total, in a manner that discriminates against the community that the oppressor has deemed inferior.[42] As a matter of international law, racial segregation is expressly prohibited

39 E.g., the economic-political domination of the indigenous people of Canada through their dispossession of their lands and self-determining authority, officially construed as a politics of recognition based on the accommodation of identity claims in consideration of negotiation of settlements on land, economic development and self-government. See Glen Coulthard, ''Subjects of Empire? Indigenous Peoples and the ''Politics of Recognition'' in Canada,'' (PhD Thesis, University of Victoria, 2003), available at: https://dspace.library.uvic.ca/bitstream/handle/1828/1913/Dissertation_Formated%5B1%5D.pdf?sequence=1&isAllowed=y [accessed 28 February 2020].

40 E.g.., the case of Aboriginal and Torres Strait Islander children of Australia removed from their communities by government authorities from the early twentieth century until the late 60s with the assumed objective of socializing them to Western-Australian society, known as the 'Stolen Generations.' See Barbara Hocking (ed.), Unfinished Constitutional Business?: Rethinking Indigenous Self-Determination (Canberra: Aboriginal Studies Press, 2005), 38. A similar process was directed towards Native American children attending 'Indian Residential Schools' until the mid-twentieth century for the purpose of assimilation to Euro-American culture. See Donna Deyhle and Karen Swisher, ''Chapter 3: Research in American Indian and Alaska Native Education: From Assimilation to Self-Determination,'' Review of Research in Education 22, no.1 (1997).

41 E.g., the alienating of traditional medicinal practices and the criminalization of traditional ceremonial practices in Canada led to the persecution of many political and spiritual leaders. See Reanne Li, "Indigenous Identity and Traditional Medicine: Pharmacy at the Crossroads," Canadian Pharmacists Journal 150, no. 5 (2017), available at: https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5582679/ [accessed 28 February 2020].

42 To understand the distinction between segregation and separation, given that both terms are generally used interchangeably within the human rights framework, See M.X.'s Address, ''The Race Problem,'' African Students Association and NAACP Campus Chapter, Michigan State University, Michigan, 23 January 1963, available at: http://ccnmtl.columbia.edu/projects/mmt/mxp/speeches/mxt14.html [accessed 28 February 2020].

under Article 3 of the CERD,[43] and is an apartheid practice prohibited under Article 2(d) of the Apartheid Convention, which refers to: "any measures including legislative measures, designed to divide the population along racial lines […].[44] It is well accepted that public authorities may neither initiate segregationist policies, nor participate in segregationist practices, and, even if not directly involved, the state must correct discriminatory segregationist practices driven by private individuals and societal groups.[45]

In the case of Israel's segregation policies, the separation of Israeli-Jewish populations from Palestinian communities manifests at a multitude of levels. It is created, supported and upheld by the Israeli regime, its agencies, parastatal entities (e.g. the Jewish National Fund (JNF) or the World Zionist Organization (WZO)) and the Israeli-Jewish population itself. Those levels include:

- **Legal and regulatory level** as a direct or indirect result of laws or regulations, or else as a result of the wide range of discretionary powers conferred on local and regional bodies and agencies. For example, domestic nationality laws entitle any Jewish person to emigrate to Israel and denies the right of return to all Palestinians,[46] while other laws establish two independent education systems for Israeli-Jews and Palestinians for the intended purpose of promoting Jewish culture.[47] Furthermore, discretionary powers conferred on the admission committees for Israeli-Jewish populations permit them to reject residency applications on the basis of "social suitability",[48] and Israeli local planning

43 UNGA, International Convention on the Elimination of All Forms of Racial Discrimination [ICERD], 660 UNTS 195, 21 December 1965, art.3, available at: https://www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx [accessed 28 February 2020].

44 "Racial lines" should not be understood narrowly as referring only to race. Rather, the definition found in Article 1 of the CERD, which defines the racial discrimination broadly as referring to any distinctions based on "race, colour, descent, national or ethnic origins", should be taken as applicable to considerations concerning the Apartheid Convention. See withdrawn report issued by UNESCWA, supra 2, 3.

45 United Nations Committee on the Elimination of Racial Discrimination, General Recommendation no.19 on Article 3 of the Convention, 1995, §3-4, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCERD%2fGEC%2f7491&Lang=en [accessed 28 February 2020].

46 Nationality Law, 5712-1952, 14 July 1953 (Isr.), English translation available at: https://www.adalah.org/uploads/oldfiles/Public/files/Discriminatory-Laws-Database/English/37-Citizenship-Law-1952.pdf

47 State Education Law, 5713-1953, 1953 (Isr.), English translation available at: https://www.adalah.org/uploads/oldfiles/Public/files/Discriminatory-Laws-Database/English/24-State-Education-Law-1953.pdf

48 Law to Amend the Cooperative Societies Ordinance, 5771-2011, LSI no.8, Sec.2, (as amended) 2011 (Isr.), English translation available at: https://www.adalah.org/uploads/oldfiles/Public/files/Discriminatory-Laws-Database/English/12-Admissions-Committees-Law-2011.pdf

committees in the West Bank allow full participation by colonizers and deny any participation from Palestinians in Area C.[49]

- **Physical level** such as roads, security and military zones, the style of architecture, the location and nature of the facilities, among others, are used to keep Palestinians physically separated from Israeli-Jews. For example, roads with their associated security zone areas are strategically located to ensure mandated but inconspicuous divides between communities.[50] Additionally, in 1948 Palestine,[51] primary schools are segregated by language which then feed into a segregated secondary and tertiary education system that is largely inaccessible to Palestinians as a result of underfunding, inadequate Hebrew-language teaching and geographic location.[52]

- **Socio-cultural level** which encompasses the racist-colonial ideology of Zionism underpinning the Israeli regime, that operates to exclude from and/or subjugate Palestinians in public, national, political and religious discourse.

- **Economic level** whereby Palestinians are used and discarded by the Israeli regime as its political, economic and developmental needs dictate, with Palestinians systematically prevented from reaching their full economic capacity and properly accessing their natural resources.[53]

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49 See Human Rights Watch [HRW], Separate and Unequal: Israel's Discriminatory Treatment of Palestinians in the Occupied Palestinian Territories (HRW, 2010), 41-42, available at: https://www.hrw.org/sites/default/files/reports/iopt1210webwcover_0.pdf. Other examples include the Custodian of Absentee Property that is vested with the power to manage absentees' properties – including by issuing dispossession certificates and stopping work and demolition orders – while the absentees are bestowed very restricted leeway, always requiring the Custodian's consent, See Absentee Property Law, 5710-1950, LSI no.37, 20 March 1950 (Isr.); religious councils in Jewish-Israeli towns assisting residents in religious matters, with no parallel for non-Jewish communities, See Jewish Religious Services Law, 5731-1971, LSI no.50 (Isr.), English translation available at: https://www.adalah.org/uploads/oldfiles/Public/files/Discriminatory-Laws-Database/English/29-Religious-Jewish-Services-Law-1971.pdf; District Committees for Planning and Construction not being required to comprise Arab-Palestinian representatives, See Planning and Building Law, 5725-1965, LSI no.79 (Isr.), English translation available at: https://www.adalah.org/uploads/oldfiles/Public/files/Discriminatory-Laws-Database/English/07-National-Planning-Building-Law-1965.pdf

50 See Abdul Arafat and Evana Wael, ''The Wall, Bypass Roads and the Dual Transportation System in Palestine,'' International Journal of Planning, Urban and Sustainable Development 6, no.2 (2019), available at: https://fada.birzeit.edu/bitstream/20.500.11889/5874/1/101_2.pdf

51 The term "1948 Palestine" as defined in BADIL's Survey of Palestinian Refugees and IDPs (9th Edition) 2015-2018 refers to the territory of Mandatory Palestine that was occupied by Zionist – Israeli forces in 1947-1949. Today, this territory is called Israel. Palestinians residing in this area generally hold Israeli citizenship. See BADIL, Survey 2016-2018, supra 9, vii.

52 See Ismael Abu-Saad, ''Palestinian Education in the Israeli Settler State: Divide, Rule, and Control," Settler Colonial Studies 9, no.1 (2019).

53 See Clarno, supra 5.

On the one hand, these lines of segregation aid in facilitating and maintaining particular privileges to the Israeli-Jewish population, especially the intentional and exclusive investment in economic and employment opportunities and infrastructure. This allows for and ensures Israeli-Jewish development and growth to achieve the desired demographic majority. On the other hand, this segregation and consequent privileging of the Israeli-Jewish population by Israel embeds an exceptionalism that coalesces with a fear of "the other" – a purposely unknown, misrepresented Palestinian community – and ultimately aids in the formation of a united Israeli-Jewish population. This segregation further enables a concurrent denial of Palestinian development and growth. It is the consequence of two distinct phenomena. First, the development of Israeli-Jewish communities systematically comes at the expense of the Palestinian economy and communities. Second, deliberate policies lead communities in 1948 Palestine, to be chronically underfunded and neglected, and communities in the occupied Palestinian territories, to have their economy and socio-cultural connections severed by strategic lines of Israeli-Jewish colonies and their associated infrastructure that dominate and divide the land.

The result is that Israel entrenches its political, demographic and economic superiority and domination in Mandatory Palestine. This is achieved at the expense of the Palestinian people and their right to self-determination, through de-development and dispossession. Ultimately, this leads to the degradation of the international perception and legitimacy of the Palestinian right to self-determination.

1.2.2. Fragmentation

Fragmentation corresponds to the full range of laws, regulations and administrative decisions, policies and practices designed to politically and territorially fracture the collective identity of a people. Fragmentation policies violate Article 2(b) of the Apartheid Convention which refers to "deliberate imposition on a racial group […] of living conditions calculated to cause its […] physical destruction in whole or in part".[54]

Against Palestinians, Israel deploys fragmentation policies at two levels:

- **Territorial fragmentation** through the disconnection of the people from its territory by the division of the territory into incongruous pockets of lands, subject to heavy restrictions on freedom of movement between

54 Convention on Apartheid, supra 34, art.2(b).

different areas and controlled under different legal regimes – military occupation, de facto and de jure annexation and colonization.

- **Socio-political fragmentation** through the disintegration of the national and collective identity of the people as a result of the reclassification and imposition of an artificial legal hierarchy based on place of residence. Consequently, Palestinians with Israeli citizenship are instead named Arab-Israelis, Bedouins and Druze; those residing in the occupied Palestinian territory are instead West Bankers, Jerusalemites and Gazans; and those in exile hold no status at all. Interactions and connections between Palestinians are heavily restricted; their experience of Israeli repression differ as a result of the distinct legal regimes of oppression; and their rights, access and identity are altered in order to undermine their collective unity and cohesiveness as a people.

Israel uses these fragmentation policies as a tool to assert domination and maintain control over the Palestinian people, dividing the collective and disconnecting it from its territory. Thereby, it erodes the two requisite elements - a people and a land - necessary to the actual exercise of the right to self-determination. In turn, this fragmentation weakens the Palestinian collective will, identity, and eventually the capacity to resist Israeli suppression.[55]

1.2.3. Isolation

Isolation relates to the whole range of laws, regulations and administrative decisions, policies and practices aimed at splitting an already fragmented people and their communities. Isolation mechanisms aim at confining, concentrating, separating and disconnecting communities of one particular area from another. As a subset of an apartheid system, isolation practices violate Article 2(c) of the Apartheid Convention, which refers to "any […] measures calculated to prevent a racial group […] from participation in the political, social, economic and cultural life of the country and the deliberate creation of conditions preventing the full development of such a group […]."[56]

Isolation, as pursued by Israel, constitutes a micro-fragmentation, that complements the broader fragmentation, and through which Israel fastens its security fist in order to undermines Palestinian political, cultural, social and economic cohesion and development. This can be seen in Israel's permit regime, which includes military gates and checkpoints between

55 See withdrawn report issued by UNESCWA, supra 2, 4.

56 Convention on Apartheid, supra 34, art.2(c).

virtually every town and village in the West Bank;[57] the rings of colonies placed around and between Palestinian cities in the West Bank severing villages from their cities and from each other; the absence of transport links between Palestinian communities in 1948 Palestine; and the total denial of infrastructure permissions to villages in Area C and Bedouin communities in the Naqab in order to de-develop and de-populate these areas.[58]

Isolation practices necessarily constitute a violation of the right to self-determination because they hinder and undermine the economic, social and cultural interconnection of a people and erode its collective identity.

1.3. Policies of Segregation, Fragmentation and Isolation Undermine the Right to Self-Determination

Segregation, fragmentation and isolation are prohibited mechanisms under the international legal framework on apartheid. Irrespective of these mechanisms' evident unlawfulness, the Israeli-Zionist regime continues to deploy them in a way that is designed to control, dominate and eliminate the Palestinian people. Self-determination is a process achieved through the realization of political rights, as well as economic, social and cultural rights. In this regard, policies and practices of segregation, fragmentation and isolation operate, separately and jointly, to directly or indirectly inhibit the performance of those substantive rights. Not only do these policies torpedo the realization of these rights, but they also render the essence of self-determination meaningless by destroying the social and territorial identity of its people. In this way, the Israeli-Zionist regime is employing segregation, fragmentation and isolation to undermine self-determination in both substance and essence. In doing so, Israel seeks to de-legitimize and dissolve the internationally recognized Palestinian right to self-determination, thus "eliminating" the Palestinian people.

Israel's policies of segregation, fragmentation and isolation are interwoven into the very fabric of Israel and the power structure at its core. In this way, delineation of clear and distinct illustrations of these policies at play can be

57 United Nations Office for Coordination of Humanitarian Affairs [OCHA], West Bank Access Restrictions, map of the West Bank and East-Jerusalem, July 2018, available at: https://www.ochaopt.org/sites/default/files/wb_closure_2_0.pdf

58 UN-Habitat (International Advisory Board), Spatial Planning in Area C of the Israeli Occupied West Bank of the Palestinian Territory UN-Habitat, 2015, available at: https://unispal.un.org/pdfs/UNHABSTUDY_MAY15.pdf

difficult, if not impossible, to identify and articulate. In this paper, BADIL utilizes the transportation system – meaning the public transportation systems, roads, and the associated planning regimes – as the tool for demonstrating the way in which these three policies are enforced against the Palestinian people. It should be noted from the outset that transportation infrastructure and access is used directly and indirectly to implement these three policies. Moreover, transportation is by no means the only way in which these policies are imposed on the Palestinian people. There is a myriad of ways in which Israel seeks to achieve the segregation, fragmentation and isolation of the Palestinian people, and transportation decisions are often inextricably linked to other decisions as they relate to education, economic domination and colony construction.

In order to understand the extent to which the Palestinian people have been impacted by these three policies, an examination of the historical context of the development of Palestinian cities and the transportation network in Palestine provides significant insights.

2. A Historical Context

2.1. Imperial Rule: Laying the Foundations for Israel's Segregation, Fragmentation and Isolation

Particularly illuminating is the way in which the foundations for segregation, fragmentation and isolation were laid under Ottoman and British rule, serving the basis for both the establishment of the Israeli-Jewish settler-colonial enterprise and the near decimation of Palestinian society. To understand the connection of the cities and the evolution of the Palestinian social structure, it is necessary to recognize the importance of the infrastructure networks. These networks play a crucial role in the construction of territory, as they create connections and disconnections among places and people, thus redefining spatial relations in physical, economic and political terms.[59] This is pervasive in European imperialism in Africa, Asia, North America, South America and Australia, where developments in modes of sea and land transport, particularly railways, triggered the industrial revolution in Europe.[60] Railways in particular, were instrumental in accelerating the process of colonization, creating strategic connections between Europe and cities and areas rich in natural resources and raw materials, which in turn facilitated the exploitation of colonized territory to the almost exclusive benefit of colonial powers.[61] Additionally, internal routes connected inland and coastal cities, creating commercial circulation and economies within the colonized territory. Effectively, the transportation infrastructure funded the colonial enterprise, as it underpinned the rapid growth and wealth accumulation of the European industrial economy.

59 See Omar Salamanca, "When Settler Colonialism Becomes 'Development': 'Fabric of Life' Roads and the Spatialities of Development in the Palestinian West Bank," Center for Development Studies at Birzeit University, available at: http://rosaluxemburg.ps/wp-content/uploads/2015/03/Omar-Jabary-Salamanca.pdf [accessed 28 February 2020].

60 Johnny Mansour, The Hijaz Railway: The History and Development of the Daraa-Haifa Train (Institute for Jerusalem Studies, 2008), 23-24.

61 Id., 19-20.

The Levant region was no different. Under Ottoman rule, specifically in the late nineteenth and early twentieth centuries, numerous railways were constructed,[62] starting with the Jaffa-Jerusalem Line in 1892. Subsequently, these railways connected the Palestinian cities of Acre, Haifa, Afule, Nablus, Tulkarm, Jaffa, Al-Lydd, Jerusalem, Samakh (Tiberias), Gaza and Rafah, by the time the Ottoman empire fell.[63] On the one hand, this development of rail infrastructure was driven by the demand to meet the commercial interests of European countries,[64] promoting European goods and products, as well as fulfilling European expansionist ambitions for Ottoman territory following the empire's division.[65] On the other hand, Ottoman motives for constructing this railway project, named Al-Hijazi, included their hopes to improve their status among Muslims, to transport pilgrims, reduce Ottoman dependency on British-controlled Suez Canal, and to transport soldiers. As historian George Antonious suggests, these projects were driven by political and military objectives rather than any other considerations.[66] Albeit, railways did have a minimal positive localized impact on the Palestinian communities, but this was a secondary, unintended benefit. These systems were not built for Palestinian development, especially considering that Palestinians were predominantly dependent on subsistence agriculture and not in need of railways. More importantly, these railway lines facilitated Zionist-Jewish travel and the initial waves of Zionist colonization Palestine.[67]

Towards the end of World War I (WWI), British forces seized control of virtually all railway networks in Palestine and implemented new decision-making processes that were purely driven by military factors, especially concerning control of Jerusalem. In 1918, the British built a railway line through the center of Jerusalem and north to Al Bireh (near Ramallah) and Nablus, in order to thwart Ottoman and German forces who had cut off all other supply routes to Jerusalem.[68] After the end of WWI, this route was slowly deconstructed and all other railway

62 Id., 49-52.

63 See Decolonizing Architecture Art Residency, "Ottoman Railway," webpage, available at: http://www.decolonizing.ps/site/return-to-the-sea/ [accessed 28 February 2020]; See also Mansour, Id.

64 According to Mansour, the commercially dominant states in the Ottoman Empire were France, Britain, and Germany. Mansour, supra 60, 62.

65 Id., 60-63.

66 Id., 85-87.

67 May Seikaly, Haifa: Transformation of a Palestinian Arab Society, 1918-1939 (Beirut: Institute for Palestine Studies, 1998), 15. See also Decolonizing Architecture Art Residency, "Jenin Camp Station," webpage, available at: http://www.decolonizing.ps/site/return-to-nature/ [accessed 28 February 2020].

68 Mansour, supra 60, 69.

lines resumed public services but under full British control rather than Ottoman.[69]

Following WWI, British priorities shifted, and economic factors became one of the central motives for developing the railway and transport infrastructure network. Through its newly established Public Works Department (PWD), the British built an extensive road network, which served export interests and facilitated the movement of British troops and police.[70] Haifa was at the center of these plans, with British authorities determined to transform it into an area of control for the benefit of colonial rule in the Arab Region, as well as to protect the Suez Canal and oil wells in the Gulf and India.[71] Al-Lydd was another strategic crossroad for major transport lines in Palestine.[72] Its central geographic location made it a hub with all main roads running to the north, south, east and west, crossing through it. Recognizing this, the British developed Al-Lydd into a strategic train junction with connections to Cairo, Egypt, Haifa, Lebanon and Syria.[73] Additionally, in 1937, an international airport was built just to its north, ensuring Al-Lydd's evolution into a city of major economic importance. [74]

2.1.1. Establishment of Zionist Political Power and Influence

Zionist leaders and major Zionist entities, the WZO and the JNF, clearly understood that building transportation infrastructure was a precondition for establishing their colonial enterprise.[75] In this regard, they worked to

69 Id., 68-69.

70 Omar Salamanca, "Road 443: Cementing Dispossession, Normalizing Segregation and Disrupting Everyday Life in Palestine," in Stephen Graham and Colin McFarlane (eds.), Infrastructural Lives: Urban Infrastructure in Context (London & New York: Routledge, 2015), 114-135.

71 Mansour, supra 60, 156.

72 Id., 123-144.

73 Isbir Munyer, Lydda During the Mandate and Occupation Periods (Beirut: Institute for Palestine Studies, 1997), 13-14.

74 Built in 1936 during the British Mandate, the airport was named Wilhelma Airport. It was used as a military airport during WWII, Israeli forces then seized control of it in 1948 and its name was changed to Al-Lydd Airport. Since then its use has been strictly confined to those with Israeli citizenship and later on Palestinians with Jerusalem residency. Today, it is known as 'Ben-Gurion Airport,' having been renamed in 1973, and is a key transportation link, connecting the Israeli-Jewish population to the world, and isolating the vast majority of the Palestinian community, who are largely forced into a long, stressful and inconvenient trip through Jordan should they wish to access the rest of the world. See "Ben Gurion Airport," Haaretz, webpage, available at: https://www.haaretz.com/misc/tags/TAG-ben-gurion-airport-1.5598912 [accessed 28 February 2020]. See also "70 years of the Fall of the Twins of Palestine, Al-Lydd and Ramla 1948" [Arabic], Arab 48, 19 January 2019, available at: https://bit.ly/2uNZFcE [accessed 28 February 2020].

75 Salamanca, supra 70, 114-135.

replicate the relationship between capital and investors that was reflected historically in the region and in colonial enterprises internationally.[76] These entities understood that transportation was a way to both transform the existing geography,[77] and a mechanism to render the Palestinian people non-existent and invisible. The words of Theodor Herzl, the founder of Zionism, are clear enough to demonstrate this intention:

> "The poorest will go first to cultivate the soil. In accordance with a preconceived plan, they will construct roads, bridges, railways and telegraph installations; regulate rivers; and build their own dwellings; their labor will create trade, trade will create markets and markets will attract new settlers."
>
> ***Theodore Herzl***[78]

Early on, Zionist leaders identified the existing railway lines of Haifa, Samakh and Damascus as critical to the development of Haifa and the Zionist-Jewish colonies around Marj Ibn Amer, an extended valley located in northern Palestine. These railways allowed ease of movement for young Zionist-Jewish colonizers, particularly along the Daraa-Haifa Railway, and most colonies were located strategically near railway stations.[79] The railway also facilitated the transport of Zionist products to Haifa's port and their subsequent shipping to Europe by powerful Zionist companies.[80] It further aided the transport of construction supplies to new colonies in order to expand infrastructure projects in these colonies, including a new road network. Thus, several colonies were established in the Marj Ibn Amer area during the 1920s and 1930s, as was facilitated by the railway line.[81] This existing infrastructure thereby allowed Zionist leaders to maximize the impact of increased Zionist-Jewish colonization and expand their

76 From 1918-29, 73 percent of the money invested for the creation of Israel was private, and from 1930-37, 84 percent. The private sector built most of the Israeli state. See Zev Golan, "The Economics of Zionism," Jerusalem Post, 7 May 2012, available at: https://www.jpost.com/Opinion/Op-Ed-Contributors/The-economics-of-Zionism [accessed 28 February 2020]. While the Mandate government had tax exemptions for Jewish immigrants to stimulate the Jewish industry, it imposed high taxes on Arab peasants. This culminated in a shift in the Palestinian economy where the predominantly-Arab agricultural sector was replaced with a Jewish industrial sector. See Ghassan Kanafani, The 1936-1939 Revolt in Palestine (London: Tricontinental Society, 1980), available at: http://media.virbcdn.com/files/5f/d06c929d62d90a04-3639RevoltinPalestine.pdf. See also Suhair al-Sharbeni, "Ghassan Kanafani Dating Great Palestinian Revolt 1936" [Arabic], Ida2at, 22 April 2017, available at: https://www.ida2at.com/ghassan-kanafani-dating-great-palestinian-revolt-1936/ [accessed 28 February 2020].

77 Salamanca, supra 70, 114-135.

78 Theodore Herzl, The Jewish State (New York: Dover, 1988), 26.

79 Mansour, supra 60, 163-172.

80 Id., 163-172.

81 Id., 169.

ownership of land that key British policies permitted later, facilitating the establishment of Israel.[82]

This initial foundation, and the influx of colonizers particularly, had a negative impact on Palestinian peasants, workers and small-medium enterprises. Alongside other policies of the British Mandate encouraging Zionist-Jewish enterprise and industry,[83] this led to the near total collapse of the Palestinian economy, and resulted in the replacement of the Palestinian agricultural sector with a Zionist-Jewish industrial sector.[84] Not only had Zionist companies been favored by British policies, key international players chose to back Zionist institutions for strategic reasons as well. Further, these same institutions adopted policies that directly aimed to exclude, impoverish and dispossess Palestinian farmers and Bedouins. The ensuing economic disparity ensured Zionist-Jewish influence with the British administration and compounded the de-development of Palestinian communities paired with a lack of basic infrastructure.[85]

This disparity was directly reflected in the decision-making processes around transportation infrastructure throughout this period. The Zionist movement and its institutions, such as the WZO and the JNF, supported road construction and viewed it as a way to facilitate and encourage the Zionist-Jewish colonial enterprise. As a result, in 1921 the Zionist movement set up their own "Construction and Public Works" entity called Solel Boneh (today a publicly listed construction company).[86] This company worked with the British Mandate to influence and implement

82 During that period, Jewish ownership of land increased in one year by about one million dunams [1000 km^2], representing one third of agricultural land. As for the Arab population of about five-hundred thousand peasants, they owned an area of about six million dunams [6000 km^2] —an equivalent to twelve dunams per person. See Kanafani, supra 76. See also al-Sharbeni, supra 76.

83 Policies of the British administration included: tax exemptions for Jewish immigrants to stimulate the Jewish industry, while imposing high taxes on Arab peasants. See al-Sharbeni, Ibid. And also assistance in the development of farms, commercial services, advanced agriculture, importing machinery, and Jewish factories, such as Tnuva, founded in 1926. See World Zionist Organization [WZO] – Central Zionist Archives, "In Those Days – Tnuva," available at: http://www.zionistarchives.org.il/en/tags/Pages/Tnuva.aspx [accessed 28 February 2020]. As well as pivotal academic institutions, such as the Hebrew University in 1918. See Uri Cohen, "University vs Society in a Period of Nation Building: The Hebrew University in Pre-State Israel," Historical Studies in Education (2007), available at: https://historicalstudiesineducation.ca/index.php/edu_hse-rhe/article/view/274/691 [accessed 28 February 2020].

84 See al-Sharbeni, supra 76.

85 In addition, Jewish groups followed policies that aimed to impoverish and dispossess Arab farmers and Bedouins. These groups even followed slogans, such as "Hebrew labour only" and "Hebrew production only" to prohibit Arab labour. See al-Sharbeni, supra 76.

86 "Solel Boneh," in Israel Ministry of Foreign Affairs, Lexicon of Zionism, webpage, 22 September 2003, available at: https://mfa.gov.il/MFA/AboutIsrael/History/Zionism/Pages/Lexicon%20of%20Zionism.aspx#S [accessed 28 February 2020].

numerous strategic infrastructure projects, such as the construction of roads connecting Safed to Samakh, Haifa to Jaffa, and Jaffa to Jerusalem. Zionist influence with the British administration was reflected in the location of new railway stations which mirrored the needs and demands of their colonies and took precedence over the needs of Palestinians and their Arab neighbors. In the case of the Daraa-Haifa Line, by 1945, fourteen of the seventeen stations serviced Zionist colonies, while just three (Shata, Bisan and Samakh) serviced Palestinian communities.[87] Zionist entities also pushed for the establishment of new lines to service their needs. The Ras Al-Ayn-Petah Tikva line came about as a result of communication between Petah Tikva Settlement Committee and the Bekaa Zionist Settlement Authority as well as the British authorities. The goal was to connect the Petah Tikva colony to other areas in the country and facilitate the transport of goods and products to and from the colony. [88] Stations were established close to Zionist colonies, even if such construction opposed the commercial benefit of the Palestine Railway Company.[89] Zionist leaders insisted on Hebrew names for all stations near their colonies, and succeeded in most cases, despite the language of the area being Arabic. Zionist business companies even changed the train's departure time, according to what was suitable with their needs of commercial products transport.[90]

This two-pronged approach directly reflected the connection between capital (railways and infrastructure) and investors (business interests). On the one hand, the Zionist colonial project benefited from existing infrastructure and policies, to build up its own influence, politically and economically, in order to then contribute to the ongoing decision making around infrastructure. In doing so, they created a mutually reinforcing system that allowed the expansion and consolidation of the colonial project.

2.1.2. The Role of Transportation Infrastructure Leading up to and During the *Nakba*

There was significant improvement in the economic situation during the 1930s, particularly evidenced by the establishment of oil refineries in Haifa,

87 Mansour, supra 60, 170.

88 Id., 123-144.

89 Id., 170.

90 They changed the departure time for the line from Samakh to Haifa according to what was suitable with the need to transport milk produced in Kibbutzim and Marj Ibn Amer colonies. In addition, the railway administration used a special train van called: "Van for Carriage Milk Traffic" to cool the milk carts in the hot summer in order to preserve the quality of milk and prevent its spoilage. Id., 171.

industrial zones belonging and adjacent to Haifa and the opening of the new Haifa Port in 1932.[91] However, this improvement was clearly biased towards Zionist interests; even the opening of the port itself stemmed purely from colonial grounds, without accounting for existing local interests in Palestine. This situation generated substantial outrage and escalation of the revolutionary cultural tide among Palestinian communities, which culminated in the Palestinian revolt of 1936-1939.

Known as the Great Arab Revolt of 1936-1939, it was a Palestinian-led nationalist uprising against the British administration of the Palestine Mandate and the encroaching Zionist colonial project in Palestine. The Palestinian people demanded independence from British rule, an end to British policies that facilitated open-ended Zionist-Jewish colonization, and a halt to Zionist land purchases with a stated goal of establishing a Jewish national home. As such, this revolution erupted in response to the protection and empowerment that British rule afforded Zionist-Jewish populations at the expense of Palestinian farmers, workers, and intellectuals.[92] However, the severe British response to quell the revolts, only further exacerbated tensions between Palestinians and Zionist-Jews. The Zionist-Jewish upper class were the first to take advantage of the Palestinian revolution, utilizing the increased British suppression of Palestinian communities to complete projects that would not have been accomplished under different circumstances. The Zionist leadership, for instance, reached an agreement with British leaders to recruit approximately 700 Zionist patrols for the "Palestine Police Railway Network" in order to protect and safeguard the railway lines as rails constituted a focal point for revolutionary activities.[93] Through this, Zionist leaders did not only become a direct force in quelling the Palestinian revolution, but they also fortified their military presence through strengthening their very own Zionist military organization, the Haganah, by training recruits. This then laid the foundations for the development of the Haganah in preparation for the Nakba. It is therefore not coincidental that one of the objectives that emerged in Plan Dalet was for the Haganah to help create geographical continuity between various new Zionist-Jewish colonies scattered throughout the Galilee, expel its native people, and

91 Id., 156.

92 Ghassan Kanafani, supra 76. See also al-Sharbeni, supra 76.

93 Mansour, supra 60, 163-176.

destroy its Palestinian towns.[94] Transportation networks would prove critical to this.[95]

2.2. Segregating, Fragmenting and Isolating Palestine in Order to Create Israel

With transportation infrastructure having played a critical role in laying the foundations for the creation of Israel, Zionist-Israeli leaders then deployed transportation networks to consolidate their new regime. At the same time, they used transportation to both physically and symbolically fragment and subjugate the Palestinian people. Israeli-Jewish transportation networks and roads were usually built and established on higher ground, while Palestinian roads and networks (if actually built or developed) were lower or underground (such as through tunnels). This created not only geographic superiority but also symbolic superiority; Israeli-Jewish roads and networks were superior physically, geographically and metaphorically. Eventually, the geographic fragmentation paved the way for geopolitical and legal fragmentation through the creation of distinct terminology based on a fragmented and separated geo-political reality (namely Arab-Israelis, West Bankers, Jerusalemites and Gazans), which impeded on the continuity of the Palestinian common identity. As stated by Salamanca, "[I]nfrastructures are a crucial material and symbolic means through which the settler community is territorialized while simultaneously indigenous outsiders are de-territorialized."[96] At a deeper level, Israeli policies differentiated Palestinians of differing geographical areas, with their own distinct legal regimes, creating distinct problems and obstacles, and in total isolation from other Palestinians and their respective experiences of Israeli oppression.

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94 Nabih Bashir, "The Judaization of the Galilee: A Long-Lasting Strategy Faced by a Bulwark of Palestinian Tenacity," Palestinian Journeys, webpage, available at: https://www.paljourneys.org/en/timeline/highlight/14507/judaization-galilee [accessed 28 February 2020].

95 In July 1937, the British Peel Commission, charged with investigating the events of the Palestinian revolt, proposed a plan to partition Palestine into two states—one Arab, the other Jewish—in addition to a region that would remain under the direct control of the Mandate. The plan placed most of the district of Galilee (with its five sub districts: Acre, Nazareth, Safad, Tiberias, and Baysan) within the Jewish state. Also, the Zionist leadership made the occupation of the entire Galilee one of the goals of "Plan Dalet" which it launched in April 1948. See Ibid. See also Plan D (3)(c) & (d), in "Plan Daleth (Plan D)," MidEast Web Historical Document, webpage, available at: http://www.mideastweb.org/pland.htm [accessed 28 February 2020].

96 Salamanca, supra 59.

2.2.1. Major Arterial Roads: A Tool of Segregation and Israeli-Jewish Investment

Israel has intentionally transformed transportation infrastructure into assets that create dual-spatial configurations through networks that run entirely along racial lines. This has meant the effective redesign of these networks politically and symbolically as tools of Israel's colonial project. Infrastructure has been used to rearticulate space in ways that serve as a source of connection for one group, but also as a means of disconnection, discrimination and domination of another group.[97]

1948 Palestine land: Renovation and construction of infrastructure

The implementation of a road infrastructure system was explicitly pursued and designed by Israel to reflect that of a settler-colonial state. [98] This in turn entrenched Israeli-Jewish presence in Mandatory Palestine and simultaneously divided Palestinian areas into discontinuous enclaves, ensuring and reinforcing the exclusion and segregation of the colonized people for the ultimate objective of erasing Palestinian existence in Palestine.

Historically, road construction focused on connecting JNF-built colonies to other key areas in order, to enable rapid and heavy investment in these areas and to establish the illusion of Jewish indigeneity to the land. For instance, by 1948, the JNF had appropriated 975,000 dunams (975 km^2) in the Naqab and established some 35 colonies concentrated particularly around Beersheba. It also erected colonies in the Galilee, around Jerusalem, and on the ruins of Umm Khalid village (now named Netanya).[99] These areas directly correlated to the areas where Israel's initial road projects were focused, namely construction of a Netanya-Tel Aviv Highway,[100] and a highway connecting Beersheba with Tel Aviv and Jerusalem.[101] Within six years of its creation,

97 Ibid.

98 Arieh Sharon, Architect Director, Planning Department, Government of Israel and author of the first National Outline Plan, Tama 1, writes and references several setter-colonial states, Australia and the Americas, when explaining his planning design. See Ariel Sharon, "Planning in Israel," The Town Planning Review 23, no.1 (1952).

99 "Jewish National Fund, "About KKL-JNF – Our History – Fifth Decade: 1941-1950,"" webpage, available at: https://www.kkl-jnf.org/about-kkl-jnf/our-history/fifth-decade-1941-1950/ [accessed 28 February 2020].

100 Tel Aviv was built in 1909 on a number of demolished Palestinian villages adjacent to Yaffa. See Walid Khalidi (ed.), All That Remains: The Palestinian Villages Occupied and Depopulated by Israel in 1948 (Beirut: Institute for Palestine Studies, 2006), 683-724.

101 International Reference Service, Economic Review of Israel 1949, vol. VII (October 1950), available at: https://bit.ly/3b3jIJS [accessed 28 February 2020].

Israel had built and renovated 543 km of highways and 303 km of feeder roads to agricultural colonies, and widened a further 931 km of roads. This facilitated the rapid construction of some 36,000 centers and 102 agricultural colonies from the Galilee to Jerusalem in under two years.[102] All of these measures combined consolidated Zionist colonization of the land.[103]

While Israeli-Jewish presence was solidified through road construction and connectivity, Palestinian cohesiveness was dissolving through the intentional exclusion of surviving Palestinian communities from the Israeli zoning and planning system. In 1949, Israel's restoration of the Jaffa-Jerusalem railway line included a diversion around the large Palestinian town of Tulkarm, and the creation of a new station on the northern outskirts of Tel Aviv, to service mostly Israeli-Jewish populations.[104]

More recently, the Trans-Israel Highway or Highway 6, whose construction began in 1999, has achieved the desired segregating and isolating effect. Misleadingly described by Israel as designed to allow for efficient transportation between the northern-most and southern-most parts of the country by effectively bypassing Tel Aviv's congestion,[105] it does more than just exclude Palestinian communities. Eighty-five percent of the land that has been confiscated or will be confiscated at a later stage of construction belongs to Palestinian landowners.[106] This constitutes both a substantial reduction in the land owned by Palestinians and a significant constraint on the natural growth of Palestinian communities and connections between them.

In fact, Highway 6 illuminates Israel's ultimate strategy to interconnect the whole of Mandatory Palestine. Aside from the obvious north-south connection that this highway creates, it also creates an east-west connection as it intersects with all Israeli roads running between the West Bank and what

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102 Israel Digest's report in 1954 reports that while "one fifth of all new immigrants now secure their livelihood from agriculture […] less than 1 percent of these immigrants were employed in agricultural pursuits before coming to Israel." Israel Digest, 24 May 1954, available at: https://bit.ly/3a5TrnP [accessed 28 February 2020].

103 Ibid.

104 International Reference Service, supra 102.

105 As of today, the highway's length is 170 kilometres, but it "will eventually extend to a length of 260 kilometres, from the Negev Junction [al-Naqab] area in the south to the area of Shlomi [which is an industrial zone built on the Palestinian demolished town of Al-Bassa] in the north." Ministry of Finance, "Highway 6 – Project Description," webpage, available at: https://mof.gov.il/en/InternationalAffairs/InfrastructuresAndProjects/Projects/Pages/Project_Highway6.aspx [accessed 28 February 2020].

106 Jeff Halper, cited in Alessandro Petti, "Asymmetries: The Road Network in Israel-Palestine," 25, available at: http://www.decolonizing.ps/site/wp-content/uploads/2010/03/petti-a-asymmetries.pdf [accessed 28 February 2020].

is now Israel.[107] Such an intricate road system is pivotal to Israel's goals of land control, as it establishes an efficient road system for Israeli-Jews through the entire area. Unsurprisingly, this road system simultaneously constructs a mechanism of inclusion and exclusion, connection and disconnection, whereby Israel can exclude Palestinians and disconnect Palestinian areas, while enabling Israeli-Jewish inclusion and cohesion.

West Bank roads: Israeli colonization and incorporation of the road network

Israel has pursued a number of different road plans in relation to the West Bank, but the strategy has nevertheless remained consistent - the ultimate goal of acquiring the maximum amount of land with the minimum number of Palestinians in Mandatory Palestine. The result is that these varying strategies have affected a gradual reorientation of the entire road system of the West Bank into one that now runs east-west rather than the historic north-south system, servicing the needs of the Israeli-Jewish colonizers, and connecting it almost seamlessly across the Green Line. This intricate network of bypass roads both facilitates the growth of the colonial enterprise in the West Bank and ensures the seamless integration of Israeli-Jewish colonies into 1948 Palestine.

The idea of the bypass-roads system, which enables access to and between colonies without having to pass through Palestinian villages, was first raised during the colonial push in the late 1970s.[108] As stated in the Settlement Master Plan for 1983-1986, "[t]he road is the factor that motivates settlement in areas where settlement is important, and its [road] advancement will lead to development and demand."[109] One of the primary objectives for determining the routes was that colonizers commuting across the Green Line were enabled to "bypass the Arab population centers."[110] The plan goes on to explicitly express that a primary consideration in determining the sites for colony construction was to limit construction in Palestinian villages (i.e. impeding their natural growth and confiscating their land). In other words, the Settlement Master Plan spelled out a strategy in which roads were strategically used by the Israeli regime to facilitate the encirclement of Palestinian villages with colonial

107 Ibid.

108 Ministry of Agriculture and Settlement Division of the World Zionist Organization [WZO], Master Plan For Settlement of Samaria and Judea, Plan for Development of the Area for 1983-1986 [Hebrew] (Jerusalem: Spring, 1983), 27, cited in: B'Tselem, "Forbidden Roads – Israel's Discriminatory Road Regime in the West Bank," Information Sheet (2004), 5-6, available at: https://www.btselem.org/download/200408_forbidden_roads_eng.pdf [accessed 28 February 2020].

109 Ibid.

110 Ibid.; See also Peace Now, "Confiscation Orders Issued for the Widening of Bethlehem Bypass Road for Settlers," webpage, 9 September 2019, available at: https://peacenow.org.il/en/confiscation-tunnels-road [accessed 28 February 2020].

blocs, fragmenting and isolating them through time-consuming detours and restricting their access to their own agricultural land. At the same time, roads were built to ensure colonizers could travel to and from their residences without going through Palestinian inhabited areas and communities.

> "When you search for an Arab village, you will find it within settler communities... a significant example of this is the town of Beit Safafa which is located in southwest Jerusalem as well as the town of Silwan where houses here and there continue to be confiscated. As a result, the town will essentially consist of a group of houses surrounded by settlements blocs."
>
> ***Khaleel Tafakji, Palestinian Land and Settlements Expert***[111]

Since publishing its Settlement Master Plan, Israel has developed numerous and evolving road plan strategies, all with the same intent.

- **Road Plan 50 (1984):** this plan captures Israel's intention to construct a purpose-built, fully integrated network of roads.[112] Although not fully implemented yet, this plan calls for the "development of high demand areas by creating accessibility to settlement areas," and places "special emphasis on paving convenient roads for new settlements located in the metropolitan areas of Jerusalem and Tel Aviv."[113] Road Plan 50 was the first plan that explicitly articulated Israel's intention to deliberately shift the road construction in Palestine from a north-south axis to an east-west axis.[114]
- **"Intifada bypass" road plan (1990):** this plan evolved with the emergence of the First Intifada (Arabic word for uprising) and focused on bypassing Palestinian areas under the guise of security and protection of colonizers. This accelerated the reorientation of the West Bank road system with around 100 km of bypass roads paved in 1990 alone.[115]
- **The Oslo Accords (1993 and 1995):** although not a specific road system

111 Muhammad Ali Fakih, "Palestinian Expert for Al-Mayadeen: 'Israel' Encourages the Spread of Drugs Among Palestinians in Jerusalem" [Arabic], al-Mayadeen, 30 March 2019, available at: https://bit.ly/2PSotsO [accessed 28 February 2020].

112 Geoffrey Aronson, "New Israeli Road Plan Paves Over Hopes for a Palestinian State," Middle East Institute, blogpost, 23 February 2017, available at: https://www.mei.edu/publications/new-israeli-road-plan-paves-over-hopes-palestinian-state [accessed 28 February 2020].

113 Meron Benvenisti and Shlomo Khayat, "The West Bank and Gaza Atlas," Jerusalem Post, 1988, 34, cited in Jad Issac et al., Assessing the Impacts of Israeli Movement Restrictions on the Mobility of People and Goods in the West Bank (Jerusalem: ARIJ, 2019), available at: http://www.arij.org/files/arijadmin/2019/mobility_2019.pdf.

114 Issac, supra 114.

115 Ibid.

plan, the signing of the Accords, formalized the territorial fragmentation of Palestinian lands,[116] and intensified the restriction of movement. With the Palestinian people in the West Bank concentrated in areas designated as A and B, and completely surrounded by lands designated Area C,[117] colonizers could navigate the West Bank largely on an Israeli-controlled road network without any impediments. In short, "[t]he Oslo Accords between Israel and the PLO facilitated the implementation of Israel's segregated road system."[118]

- **Roads and Tunnels Plan (2004):** by the start of the Second Intifada, Israel had restricted Palestinian use of over 730 km of roads in the West Bank,[119] with its extensive investment in the development of bypass roads. Also called the 'Continuous Movement Plan', this plan consolidated the separation between Palestinians and Israeli-Jews by means of bridges and interchanges, allowing the latter to travel on high speed roads and restricting Palestinians to slower travel on so-called "fabric of life" roads. "[…] By providing settlers and Palestinians with two separate [road] networks in the West Bank, segregation became the rationale of this new infrastructural arrangement."[120] This involved a systematic process of expropriation and re-articulation of the traditional Palestinian road network and the larger geography of the West Bank.[121] In turn, it allowed Israeli-Jewish colonies to establish geographic continuity, while Palestinian cities depended on connections through tunnels.[122]

Since 1967, Israel has built at least 800 km of bypass roads in the occupied West Bank, and until today, this construction is not abating.[123] In October

116 As Ahmad Jaber states it: "… during the Oslo Accords, the Palestinian negotiators themselves contributed to the segregation and fragmentation of Palestinian cities and villages. Due to their lack of knowledge and unfamiliarity with the cities, the areas, and their inner mechanisms, they did not help connect one city to another, but actually did the complete opposite. These negotiators were perhaps unaware of the Accords' consequences and how they would stimulate unprecedented fragmentation in the West Bank." Ahmad Jaber, Director on the General Union of Transport Workers in Palestine, Bethlehem-Dheisha Camp, interview conducted by BADIL, 28 November 2019.

117 Issac, supra 114.

118 Nadia Hijab and Jesse Rosenfeld, "Palestinian Roads: Cementing Statehood, or Israeli Annexation?," Nation, 30 April 2010, available at: https://www.thenation.com/article/archive/palestinian-roads-cementing-statehood-or-israeli-annexation/ [accessed 28 February 2020].

119 Issac, supra 114.

120 Salamanca, supra 59.

121 Salamanca, supra 59.

122 Hani Al Masri, "Jerusalem Is Lost and to Rescue It We Need More Than Words" [Arabic], Masarat, 9 May 2009 available at: https://bit.ly/33lzXcd [accessed 28 February 2020].

123 Who Profits The Israeli Occupation Industry, "Roads and Infrastructure Nabi Elyas Bypass Road (Highway 55)," webpage, January 2018, available at: https://whoprofits.org/updates/roads-and-infrastructure-nabi-elyas-bypass-road-highway-55/ [accessed 28 February 2020].

2017, Israel pledged 800 million New Israeli Shekels (NIS), approximately 228 million USD, for developing road infrastructure for colonies in the West Bank,[124] which was approved in October 2019.[125] Israel continues to pursue a policy of colony expansion that demands construction of bypass roads to (a) connect colonies to each other and (b) connect them to Jerusalem, regardless of how deep they are within the West Bank. These roads are built in such a way as to permanently exclude the Palestinian people from their use, with the majority of the roads running parallel to already existing Palestinian roads,[126] such as is the case of the Jerusalem-Hebron Road (now known as Route 60).

The result is a reality in which Israeli-Jewish bypass roads, roadblocks and checkpoints have fragmented and isolated the West Bank into enclaves. These Palestinian areas are thus geographically separated from each other by roads, colonies, military outposts, nature reserves, the Apartheid Wall or some other Israeli implemented obstacle, as will become evident in the case studies to follow. Concurrently, the road network functions to provide a passageway for Israeli-Jewish travel, while acting as a barrier for the movement of Palestinians. The road network is both a pretext and facilitator for Israeli colonial expansion.[127]

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124 See Ibid. The Israeli budget on infrastructure is around 1.8 percent. See also Ferry Biedermann, "Israel Considering Infrastructure Spending to Close Gap and Boost Productivity," CNBC, 21 July 2017, available at: https://www.cnbc.com/2017/07/21/israel-considering-infrastructure-spending-to-close-gap-and-boost-productivity.html [accessed 28 February 2020]; in 2012, the total governmental budget allocation for roads reportedly amounted to approximately 6.4 billion New Israeli Shekels (NIS) (about $US1.8 billion) and 7 billion NIS (about $US2 billion) in 2014. See Library of Congress, "National Funding of Road Infrastructure: Israel," webpage, 23 January 2015, available at: https://www.loc.gov/law/help/infrastructure-funding/israel.php [accessed 28 February 2020]. For more on the Israeli's infrastructure plans and development for the years 2018-2020, See Government of Israel, "Infrastructure for Growth 2019," available at: https://www.gov.il/BlobFolder/news/spoke_book030219/he/Spoke_growth140219.pdf

125 "Israel to Extent Sovereignty over Settlements Roads in the West Bank," Middle East Eye, 1 November 2019, available at: https://www.middleeasteye.net/news/israels-transport-minister-extend-sovereignty-over-settlement-roads-west-bank [accessed 28 February 2020].

126 Land and Water Establishment For Studies and Legal Services, By-Pass Road Construction in the West Bank – The End of the Dream of Palestinian Sovereignty (Jerusalem: The Establishment, 1996), 16. See also Issac, supra 114.

127 Every Israeli administration since 1967 has undertaken colony construction in the West Bank. Most of the colonies deeper into the central West Bank are located on hilltops affording them a commanding presence over surrounding Palestinian communities. See OCHA, The Humanitarian Impact on Palestinians of Israeli Settlements and Other Infrastructure in the West Bank (2007), available at: https://www.ochaopt.org/sites/default/files/ocharpt_update30july2007.pdf. Most recent figures put the size of the colonizer population in the West Bank, including East Jerusalem, at approximately 630,000 living in at least 143 colonies and 113 outposts. This represents a dramatic increase in the past 12 years, from the 450,000 colonizers who were living in the oPt in 2007. See also Office of the European Union Representative (West Bank and Gaza Strip, UNWRA), "Six-Month Report on Israeli Settlements in the Occupied West Bank, Including East Jerusalem (reporting period January-June 2019)" (30 September 2019), available at: https://eeas.europa.eu/sites/eeas/files/20190930_final_six-month_report_on_israeli_settlements_in_the_occupied_west_bank_including_east_jerusalem_reporting_period_january_to_june_2019_0.pdf [accessed 28 February 2020].

2.2.2. Public Transport Infrastructure: Fragmentation and Control

The public transport network servicing Palestinian communities throughout Mandatory Palestine is characterized by a total absence of continuity, which creates inaccessible and impractical public transport options. Central to this is the fracturing of public transportation into disparate territories – Gaza, West Bank, Jerusalem and 1948 Palestine – and Israel's refusal to allow continuity of service between them. Instead, transport is constrained to discrete networks within these divided areas, and Palestinians are required to undertake often indirect and inconvenient routes, thereby limiting and discouraging natural interconnections between Palestinian communities. Services within these areas are impinged by Israeli control and restrictions, that hamper efforts by the Palestinian Authority (PA) or local operators to provide adequate services. Israeli transportation networks, however, stand in stark contrast, with an array of options providing efficient connections throughout Mandatory Palestine, including connections to and between Israeli-Jewish colonies in the West Bank.

Decommissioning railway lines: Fragmenting Palestinian territory and communities

The railways lines in the West Bank and Gaza, once the core of the transport network, are in ruins and out of service today. The sites of the remains of this infrastructure tell the story of transformation emerging from the Nakba and ongoing occupation.[128] An illustrative example is the station of Massoudieh[129] in Jenin, which was located at the central intersection point of tracks leading to the three cities of Nablus, Jenin and Tulkarm. It was situated at the crossing point of several valleys where the site attracted both railways and roads. With the zoning of land enacted by the Oslo Accords, all major road infrastructures were designated as Area C - a zone under full Israeli control - allowing Israel to regulate movement within the occupied territory. The roads around Massoudieh have also been converted into corridors of Area C. Today the site is abandoned, save for the occasional visitors in the area on foot or by car.

128 See Decolonizing Architecture Art Residency, "Massoudieh Station," webpage, available at: http://www.decolonizing.ps/site/return-to-the-city/ [accessed 28 February 2020].

129 Ibid.

Public transport: Segregating the Israeli-Jewish populations from the Palestinian communities

Another example of restricted public transport is that of Jerusalem, where the Apartheid Wall,[130] checkpoint, other physical road obstacles and unfavorable traffic light flows[131] suppress and inhibit the freedom of movement for Palestinians. At the same time, a light rail system connecting east and west Jerusalem ensures that colonizers can move freely and efficiently on and across both sides of the Green Line.[132] Looking ahead, Israel and the Jerusalem municipality intend for this system to incorporate all the Jerusalem-area colonies in the West Bank.[133] In providing this infrastructure along with other economic incentives,[134] Israeli-Jews are encouraged to move to these colonies, dramatically increasing their population size and facilitating the almost complete isolation of Jerusalem from other Palestinian communities.

The high-speed rail link between Tel Aviv and Jerusalem provides another more recent example of segregation and isolation in the West Bank. Israel built a rail-link from Al-Lydd Airport (now known as Tel Aviv's Ben Gurion Airport) to Jerusalem that cuts through parts of the occupied West Bank.[135] The line runs through the Palestinian village of Beit Surik and in the Latrun Valley, leading to the confiscation of significant amounts of Palestinian

130 The Wall is rooted in an Israeli plan that was placed in 1967, and then further developed in 1970 with the goal of annexing part of the West Bank but not in the current route of the Wall. In 1983, the plan was suggested officially. See Khalil Tafkaji, "The Wall Aims to Take Control of the Land" [Arabic], Aljazeera, available at: https://www.aljazeera.net/specialfiles/pages/c0841f79-2505-460e-ac5b-cef28dd630bd [accessed 28 February 2020]. When the wall will be completed, approximately 10.2 percent of West Bank territory, including East Jerusalem, will be isolated by it and physically connected to Israel. OCHA, supra 128..

131 "Discrimination Against Palestinians in Jerusalem Extends to Traffic Lights" [Arabic], Paltoday, 25 May 2013, available at: https://paltoday.ps/ar/post/168856 [accessed 28 February 2020].

132 The Jerusalem light rail connects large Israeli colonial blocs in occupied East Jerusalem with the western part of the city, expropriating occupied Palestinian land and promoting increased territorial contiguity for colonies alongside growing territorial fragmentation for East Jerusalem's Palestinian neighborhoods. See Who Profits The Israeli Occupation Industry, "Tracking Annexation – The Jerusalem Light Rail and the Israeli Occupation" (July 2017), available at: https://whoprofits.org/wp-content/uploads/2018/06/old/tracking_annexation_-_the_jerusalem_light_rail_and_the_israeli_occupation.pdf

133 Ibid.

134 Florian Mebes, "Israel Lures Settlers with Financial Incentives," Made for Minds, 31 December 2012, available at: https://www.dw.com/en/israel-lures-settlers-with-financial-incentives/a-16487892 [accessed 28 February 2020].

135 "Israel Uses Occupied Palestinian Lands for High-Speed Rail Link," New Arab, 26 September 2018, available at: https://www.alaraby.co.uk/english/news/2018/9/26/israel-uses-occupied-palestinian-lands-for-high-speed-rail-link [accessed 28 February 2020].

land.[136] While Palestinians are not explicitly excluded from using the line, there are no train stations servicing Palestinian communities. Instead, it facilitates a connection that strictly serves Israeli-Jewish commuter needs. Moreover, Palestinians who live in the West Bank are not allowed to travel abroad via Al-Lydd Airport without a special permit, and so are generally prohibited from accessing it. Instead they must cross overland to Jordan and fly out of the airport in Amman.[137]

2.2.3. Thwarting Palestinian Attempts to Develop Transportation

Almost thirty years after the Oslo Accords entrenched the further fragmentation of an already fragmented Palestinian territory into Areas A, B and C, the creation of isolated Palestinian enclaves is now almost complete. In this context, the PA, with the support of the European Union (EU), has developed the Road and Transportation Master Plan 2016-2045. This plan purports to create flexible road, rail, air, maritime and public transport systems, as well as land Border Crossing Points (BCPs) in the West Bank and the Gaza Strip, based on models such as those proposed by the EU and the United Nations Economic Commission for Europe (UNECE) recommendations, methodologies and conventions.[138]

Regarding road transport, the plan proposes to upgrade road design and road construction in the West Bank and the Gaza Strip including Areas A, B, and C, nature reserves, and main, regional, local and proposed new road networks, including municipal to regional links and vice versa. The plan also suggests maritime and air transport with a range of alternatives. For rail transport, the plan considers that the objective need for a rail network stems from Palestine's need to link to a regionally-planned rail network, linking together the Arab countries of the Mashreq Region.[139] The rail is conceived with two types of connections. The first are international connections that link Rafah BCP, south of Gaza Strip, to Tell Al Bayada BCP, north-east of West Bank, hence linking Egypt to the Jordan BCP. The second type are national connections constructed as the central spine that runs along the north-south thoroughfare, connecting major cities such as

136 Ibid.

137 Supra 136.

138 Palestinian Ministry of Transportation, "Road and Transportation Master Plan West Bank and Gaza Strip 2016 – Annex 7 Security Issues," (30 September 2016), available at: http://www.mot.gov.ps/ntmp/wp-content/uploads/2018/08/NTMP_AX7_Security-Issues.pdf

139 Mashreq: the Arabic reference for countries east of the Arab world, is used to include Egypt, Iraq, Jordan, Lebanon, the Occupied Palestinian Territories and Syria.

Hebron, East Jerusalem, Bethlehem, Ramallah, Nablus and Jenin. This same line will be connected to the Israeli railway network through a connection to the historical line between Haifa and Irbid in Jordan.[140]

The Master Plan provides for an integrated freight system between the West Bank and the Gaza Strip, allowing the movement of Palestinian goods through export chains carrying them anywhere in the world and vice versa. However, most of the West Bank's foreign and domestic trade (both exports and imports) are controlled and logistically managed by Israel. The plan also proposes the West Bank-Gaza Strip Corridor, a multimodal transport corridor with roads and railways to move both people and goods. It also allows the export of Palestinian products abroad through seaports as well as the distribution of Gaza Strip products inside the West Bank, and from the West Bank, to Jordan and other countries.[141]

In an interview with the General Director (GD) of the Palestinian Ministry of Transportation, he stated that: "The Master Plan was created without coordination with Israel and through agreements with Jordan and Egypt but without identifying connection points. Connection points were identified only from the Palestinian side which is supposed to be under Palestinian sovereignty."[142] The GD also stated that "the ministry did not take into consideration the existence of settlements when it prepared the plan"[143] and the inclusion of Israeli-Jewish colonies in the West Bank "are only on the maps to manage them from an engineering perspective." [144] Further, it does not propose any suggestions to ensure connectivity between Palestinian cities and communities on both sides of the Green Line. The Ministry of Transportation admits that "the Palestinian government is currently creating strategic plans, but the implementation mechanism is linked to the political solutions."[145] This means that the implementation of such a plan is completely contingent on the political situation and ultimately, Israeli approval and cooperation.

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140 Palestinian Ministry of Transportation, supra 139.

141 "Palestinian Ministry of Transportation, "Road and Transportation Master Plan Palestine" (30 September 2016)," available at: http://www.mot.gov.ps/ntmp/wp-content/uploads/2018/08/NTMP_06_LogBCPsWB-GS-Corridor-1.pdf

142 General Director of Transportation, interview conducted by BADIL, Ramallah Ministry of Transportation, 4 November 2019.

143 Ibid.

144 Ibid.

145 Ibid.

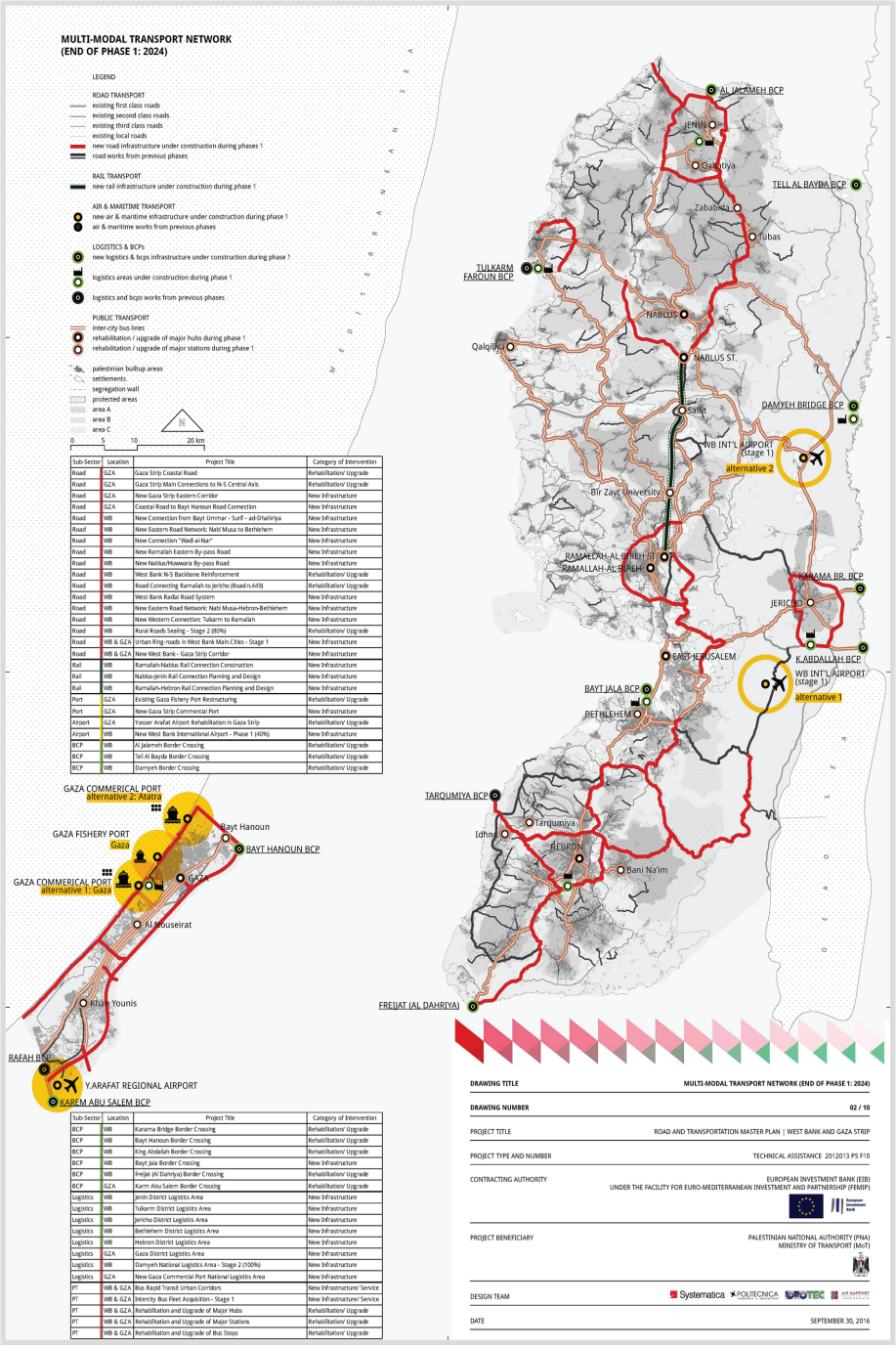
This Palestinian Master Plan is not very different to what is proposed in the 'Deal of the Century'.[146] However, the Ministry of Transportation denies any similarities between the two plans. According to the details of the Deal, it proposes a Palestinian state in the West Bank and the Gaza Strip with other additional minor territories, clearly not on the 1967 borders but along the route of the Apartheid Wall. This proposed state is fractured and lacks any continuity. While the PA continues to officially deny the legitimacy of the Israeli-Jewish colonies in the West Bank, it has considered them in the design and development of its transportation plan. "It is possible that the Master Plan is somewhat similar [to the Deal of the Century] regarding the possibility of linking the West Bank with the Gaza Strip, but this does not mean that the Palestinian government's plan aligns with the Deal of the Century."[147]

The dilemma here is that the PA acknowledges that some proposed infrastructure improvement is vital and necessary to facilitate economic growth (to an already struggling and dependent economy under colonization), and ease harsh living conditions for Palestinians in the West Bank and the Gaza Strip. However, due to the Oslo Accords, and other "peace" agreements, and subsequent development plans such as the aforementioned transportation plan, the potential to achieve connectedness through transportation infrastructure are circumscribed to the non-existent authority and control the PA has to implement and impose the construction that would actually restore Palestinian cohesion and connectivity.

146 Trump Administration, "From Peace to Prosperity: A Vision to Improve the Lives of the Palestinian and Israeli People" (January 2020), available at: https://www.whitehouse.gov/wp-content/uploads/2020/01/Peace-to-Prosperity-0120.pdf

147 General Director of Transportation, supra 143.

Palestinian Master Plan of Transportation 2016-2045

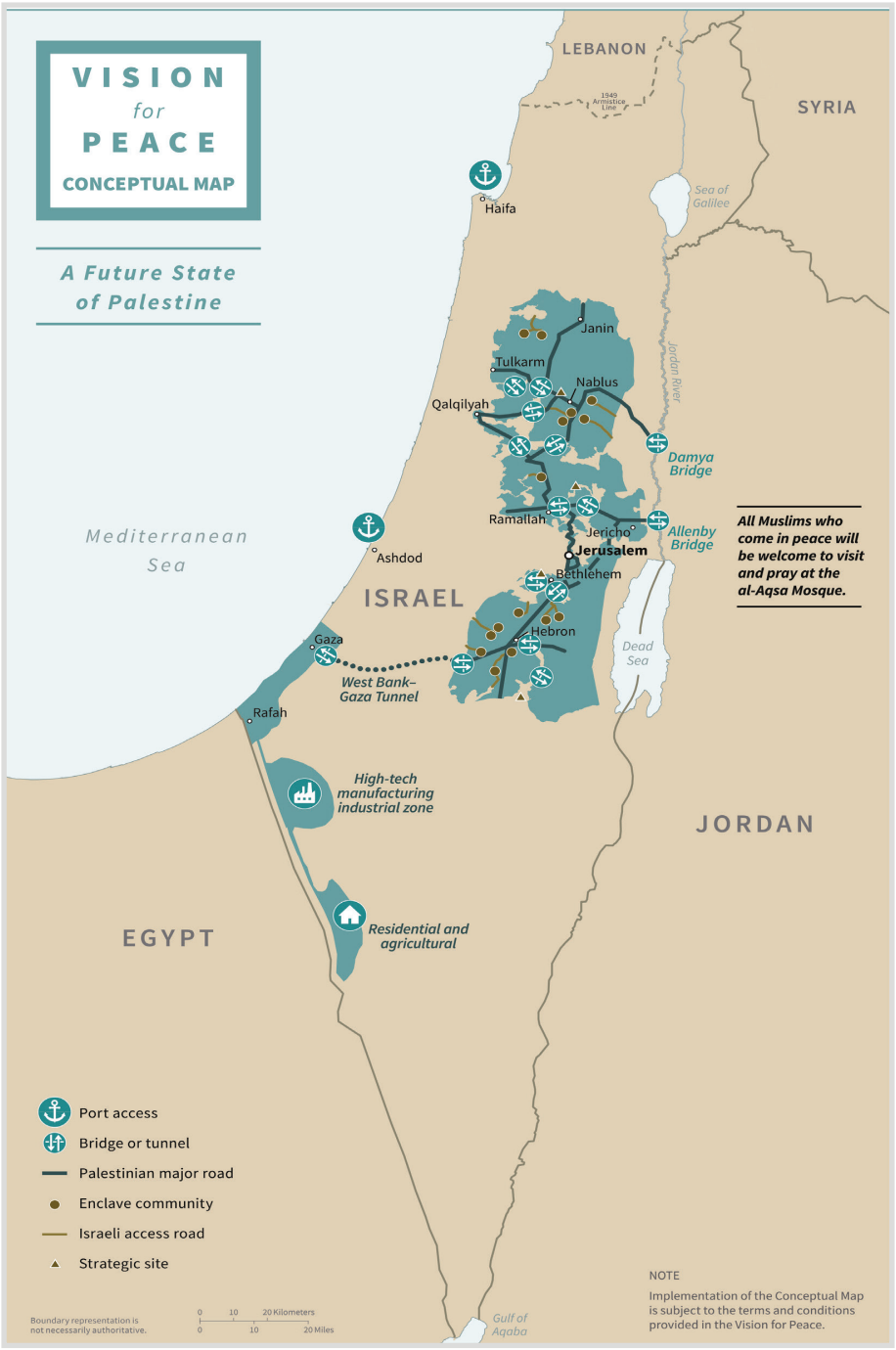


Sub-Sector	Location	Project Title	Category of Intervention
Road	GZA	Gaza Strip Coastal Road	Rehabilitation/ Upgrade
Road	GZA	Gaza Strip Main Connections to N-S Central Axis	Rehabilitation/ Upgrade
Road	GZA	New Gaza Strip Eastern Corridor	New Infrastructure
Road	GZA	Coastal Road to Bayt Hanoun Road Connection	New Infrastructure
Road	WB	New Connection from Bayt Ummar – Surif – ad-Dahiriyia	New Infrastructure
Road	WB	New Eastern Road Network: Nabi Musa to Bethlehem	New Infrastructure
Road	WB	New Connection "Wadi al-Nar"	New Infrastructure
Road	WB	New Ramallah Eastern By-pass Road	New Infrastructure
Road	WB	New Nablus/Huwwara By-pass Road	New Infrastructure
Road	WB	West Bank N-S Backbone Reinforcement	Rehabilitation/ Upgrade
Road	WB	Road Connecting Ramallah to Jericho (Road n.449)	Rehabilitation/ Upgrade
Road	WB	West Bank Radial Road System	New Infrastructure
Road	WB	New Eastern Road Network: Nabi Musa-Hebron-Bethlehem	New Infrastructure
Road	WB	New Western Connection: Tulkarm to Ramallah	New Infrastructure
Road	WB	Rural Roads Sealing - Stage 2 (80%)	Rehabilitation/ Upgrade
Road	WB & GZA	Urban Ring-roads in West Bank Main Cities - Stage 1	New Infrastructure
Road	WB & GZA	New West Bank - Gaza Strip Corridor	New Infrastructure
Rail	WB	Ramallah-Nablus Rail Connection Construction	New Infrastructure
Rail	WB	Nablus-Jenin Rail Connection Planning and Design	New Infrastructure
Rail	WB	Ramallah-Hebron Rail Connection Planning and Design	New Infrastructure
Port	GZA	Existing Gaza Fishery Port Restructuring	Rehabilitation/ Upgrade
Port	GZA	New Gaza Strip Commercial Port	New Infrastructure
Airport	GZA	Yasser Arafat Airport Rehabilitation in Gaza Strip	Rehabilitation/ Upgrade
Airport	WB	New West Bank International Airport - Phase 1 (40%)	New Infrastructure
BCP	WB	Al Jalameh Border Crossing	Rehabilitation/ Upgrade
BCP	WB	Tell Al Bayda Border Crossing	Rehabilitation/ Upgrade
BCP	WB	Damyeh Border Crossing	Rehabilitation/ Upgrade

Sub-Sector	Location	Project Title	Category of Intervention
BCP	WB	Karama Bridge Border Crossing	Rehabilitation/ Upgrade
BCP	WB	Bayt Hanoun Border Crossing	Rehabilitation/ Upgrade
BCP	WB	King Abdallah Border Crossing	Rehabilitation/ Upgrade
BCP	WB	Bayt Jala Border Crossing	New Infrastructure
BCP	WB	Freijat (Al Dahriya) Border Crossing	Rehabilitation/ Upgrade
BCP	GZA	Karm Abu Salem Border Crossing	Rehabilitation/ Upgrade
Logistics	WB	Jenin District Logistics Area	New Infrastructure
Logistics	WB	Tulkarm District Logistics Area	New Infrastructure
Logistics	WB	Jericho District Logistics Area	New Infrastructure
Logistics	WB	Bethlehem District Logistics Area	New Infrastructure
Logistics	WB	Hebron District Logistics Area	New Infrastructure
Logistics	GZA	Gaza District Logistics Area	New Infrastructure
Logistics	WB	Damyeh National Logistics Area - Stage 2 (100%)	New Infrastructure
Logistics	GZA	New Gaza Commercial Port National Logistics Area	New Infrastructure
PT	WB & GZA	Bus Rapid Transit Urban Corridors	New Infrastructure/ Service
PT	WB & GZA	Intercity Bus Fleet Acquisition - Stage 1	New Infrastructure/ Service
PT	WB & GZA	Rehabilitation and Upgrade of Major Hubs	Rehabilitation/ Upgrade
PT	WB & GZA	Rehabilitation and Upgrade of Major Stations	Rehabilitation/ Upgrade
PT	WB & GZA	Rehabilitation and Upgrade of Bus Stops	Rehabilitation/ Upgrade

DRAWING TITLE	MULTI-MODAL TRANSPORT NETWORK (END OF PHASE 1: 2024)
DRAWING NUMBER	02 / 10
PROJECT TITLE	ROAD AND TRANSPORTATION MASTER PLAN | WEST BANK AND GAZA STRIP
PROJECT TYPE AND NUMBER	TECHNICAL ASSISTANCE 20120113 PS F10
CONTRACTING AUTHORITY	EUROPEAN INVESTMENT BANK (EIB) UNDER THE FACILITY FOR EURO-MEDITERRANEAN INVESTMENT AND PARTNERSHIP (FEMIP)
PROJECT BENEFICIARY	PALESTINIAN NATIONAL AUTHORITY (PNA) MINISTRY OF TRANSPORT (MoT)
DESIGN TEAM	Systematica POLITECNICA PROTEC
DATE	SEPTEMBER 30, 2016

Deal of the Century



3. Understanding Segregation, Fragmentation and Isolation through Case Studies: Bethlehem and Umm Al-Fahm

From its conception, Israel has pursued policies that seek to segregate, fragment and isolate Palestinian communities and territory. Through this, Israel aims to disintegrate the Palestinian social structure and build up the Israeli-Jewish population. As segregation and fragmentation have become more complete, particularly with the advent of the Oslo Accords, Israel's policies have intensified around the isolation of Palestinian communities into smaller, disconnected enclaves. These policies concentrate the Palestinian people into isolated villages, towns and cities, and sever the connections between them in order to increase the Israeli control and diminish the Palestinian people's collective capacity to exercise and realize their right to self-determination. Key to this, although by no means exceptional, has been Israel's control, manipulation, re-orientation and dismantling of the transportation infrastructure. This process is evident throughout Mandatory Palestine, with no Palestinian city or community untouched by these isolationist policies, though their manifestation differs depending on the legal regime that is inflicted upon each particular community. This paper highlights two case studies – Bethlehem and Umm al-Fahm – in order to demonstrate the differing ways in which these policies operate and their similarities in effect.

3.1. Case Study of Bethlehem

Bethlehem is a city with a rich history, culture and economy, but one that is currently suffocated and isolated by Israel's colonization, apartheid and annexation of Palestinian territory. A vibrant Palestinian town once known for its ring of fertile agricultural villages, religious significance and deep connection to Jerusalem, Bethlehem has now been transformed into an isolated Palestinian enclave characterized by inequality, congestion and deep

oppression, simultaneously cloaked in a touristic veneer for the steady stream of pilgrims and tourists who visit the city each year. While Israel concentrates the Palestinians into this enclave, it continues to oppressively colonize the remainder of Bethlehem's land, isolating its population and fragmenting it from the rest of the West Bank, and Jerusalem.[148]

By the sixteenth century, Bethlehem had become one of the largest villages in the Jerusalem district,[149] and was economically entwined with Jerusalem due to its surrounding fertile agricultural land and natural resources. Known for its wheat, barley, almonds, grapes, bees, livestock, olive and olive oil production,[150] Bethlehem was also a source of oil, natural gas, and water. With a series of viaducts, it supplied water for much of central Palestine, and acted as Jerusalem's main water source from 200 BCE until 1967.[151] A town of 8,000 people at the start of the British Mandate, Bethlehem was heavily impacted by the associated colonial and pro-Zionist policies. Though it remained an almost exclusively Palestinian town, the catastrophic impact of Zionist-Jewish colonization in other areas and associated political violence caused a significant exodus of the local community, with the population almost halving from 1922 to 1948.[152]

In the aftermath of the Nakba there was a reversal of this population trend as thousands of Palestinians from Jerusalem and its surrounding areas sought refuge in one of the three refugee camps established in Bethlehem – Aida, Azza and Dheisha. While Bethlehem remained a key destination for Christian pilgrims under Jordanian rule, and the production of olive wood and mother of pearl factories expanded to support the economy of East Jerusalem,[153] the town remained economically depressed due to its close proximity to the Green Line. Looking at Bethlehem's current situation under Israeli military occupation, it is evident that rather than advancing and developing with time, Bethlehem instead suffers from deliberate de-development. This is evidenced by the fact that it has the highest unemployment rate in the West

148 Clarno, supra 5, 89.

149 Amy Singer, Palestinian Peasants and Ottoman Officials – Rural Administration Around Sixteenth Century Jerusalem (Cambridge: Cambridge University Press, 1994), 80.

150 Id., 80-82.

151 Simon Worrall, "The Little Town of Bethlehem Has a Surprising History," National Geographic, 23 December 2017, available at: https://www.nationalgeographic.com/news/2017/12/bethlehem-christ-birth-blincoe/ [accessed 28 February 2020].

152 For 1922 figures, See Justin McCarthy, The Population of Palestine: Population Statistics of the Late Ottoman Period (New York: Columbia University Press, 1990), 66; for 1948 figures, See Bethlehem Municipality, "History of Bethlehem," webpage, 11 November 2014, available at https://bit.ly/2RWy5Df [accessed 28 February 2020].

153 Rochelle Davis, "Ottoman Jerusalem," in Jerusalem 1948: The Arab Neighbourhoods and their Fate in the War, Salim Tamari (ed.) (Jerusalem: The Institute of Jerusalem Studies & BADIL, 1999), 43.

Bank.[154] Moreover, Bethlehem is not only becoming increasingly disconnected from the rest of the West Bank, but is also facing internal disconnection between different urban areas and villages within the governorate itself – a result that directly corresponds to the Israeli imposed system of bypass roads and a fractured public transport system. All of this is combined with large swathes of Palestinian land subjected to the Israeli process of de facto and de jure annexation.[155] This has transformed Bethlehem into an increasingly strangled, isolated enclave, besieged by Israeli colonies and surrounded by superior transportation infrastructure established exclusively for Israeli-Jewish colonizers.

3.1.1. Bethlehem and Jerusalem: The Fragmentation of Twin Cities

The territorial fragmentation that Israel has perpetrated throughout Palestine is particularly evident in the severing of the relationship between Jerusalem and Bethlehem. Long considered twin cities, Bethlehem had well-established and significant cultural, social and economic ties to Jerusalem. With Bethlehem, as the birthplace of Jesus Christ, and Jerusalem as the site of his crucifixion, the route between the two cities has formed an integral part of the historical religious Pilgrimage Route for hundreds of years.[156] Attracting thousands of pilgrims and tourists every year, this has developed into a substantial tourism sector, forming one of the most important industries for the Bethlehem governorate.

More significant from a Palestinian perspective was the social and economic relationship between the two cities. As Jerusalem grew throughout the Ottoman period, the demand for supplies increased, and Bethlehem, with its fertile agricultural lands and geographic proximity, continued to grow an interdependent relationship to Jerusalem. Traders from Bethlehem and its villages of Al Walajeh and Battir, among others, provided the Greek and German colonies in Jerusalem, as well as the Baq'a and Qatamon neighborhoods with

154 PCBS, "The Labour Force Survey Results 2019," webpage, 13 February 2020, available at: http://www.pcbs.gov.ps/post.aspx?lang=en&ItemID=3666# [accessed 28 February 2020].

155 BADIL, Israeli Annexation: The Case of Etzion Colonial Bloc (Bethlehem: BADIL, 2019), 6, available at: http://badil.org/phocadownloadpap/badil-new/publications/research/in-focus/EtzionBloc-IsraeliAnnexation.pdf

156 PLO - Negotiations Affairs Department, "Palestine's Heritage Under Occupation – In Focus: Bethlehem's Denied Potential," media brief, 4 December 2018, available at: https://www.nad.ps/en/media-room/media-briefs/palestines-heritage-under-occupation-focus-bethlehems-denied-potential [accessed 28 February 2020].

a large variety of fruits, vegetables, and the Palestinian drink arak.[157] The heavy dependence on agriculture and the importance of Jerusalem's markets to Bethlehem's economy is evident in the tax (cizye) records of the Ottoman authorities,[158] and the fact that more than half of the Bethlehem sub-district remained rural right up to the Nakba,[159] with large areas of productive land including 13,952 dunums planted with olives and cereal, 1,742 dunums that were irrigated, and a further 14,694 dunums registered as cultivable land.[160]

Israeli authorities have consistently pursued policies to incrementally sever the connections between major Palestinian centers. In the case of Jerusalem, this began immediately following the Israeli military occupation after the 1967 War and the complete annexation of Jerusalem.[161] The boundaries of Jerusalem expanded dramatically from 6.5 km^2 to 71 km^2, including land from some 28 villages of Bethlehem and Ramallah, with Israel then placing this land under Israeli civilian control, rather than military law.[162] The impact of this on Bethlehem was significant as 18,048 dunams (18 km^2) of land was annexed from Bethlehem, and from its associated cities of Beit Jala and Beit Sahour, along with lands from its neighboring villages.[163] This land was then appropriated for part of the colonial enterprise that now encircles Bethlehem, specifically Gilo, Har Homa and Giv'at HaTamos colonies, and used to redirect the road network to favor Israeli-Jewish colonizers and bypass Bethlehem. At the time, Israel pursued these policies to engineer an Israeli-Jewish demographic majority and contrive the Israeli claim to an indivisible Jerusalem as their capital city.[164]

The Israeli plan to cut off Jerusalem accelerated dramatically following the First Intifada in 1987 which revealed the ongoing resilience of Palestinian resistance and brought about negotiations between the Palestinian Liberation Organization (PLO) and Israel. As Jerusalem was a matter left for so-called

157 Davis, supra 154, 39.

158 Singer, supra 150, 82.

159 In 1922, the Bethlehem sub-district had a recorded population of 24,613 that included 14,854 living in rural areas. In 1931, 14,180 people were recorded living in rural areas of the sub-district, with a total diminished population of 23,725. McCarthy, supra 153, 155.

160 Palestine Remembered, "Bethlehem, District of Bethlehem," webpage, available at: https://www.palestineremembered.com/GeoPoints/Bethlehem_536/index.html [accessed 28 February 2020].

161 Applied Research Institute of Jerusalem [ARIJ], Geopolitical Status of Bethlehem Governorate (Bethlehem: ARIJ, 2007), 9, available at http://www.arij.org/files/admin/2007-2_Geopolitical_Status_of_Bethlehem_Governorate.pdf

162 Ibid.

163 Ibid.

164 BADIL, Jerusalem The Epitome of Israeli Annexation, Colonization and Forcible Transfer, Occasional Bulletin No.28 (June 2019) 3, available at: https://www.badil.org/phocadownloadpap/Badil_docs/bulletins-and-briefs/Bulletin-no28-JerusalemAnnexation.pdf

final status negotiations in the Oslo Accords of 1993, Israel was granted ample time and impetus to work towards consolidating its desire to annex and dominate Jerusalem.[165] Given the economic ties between Jerusalem and Bethlehem, undermining these cities' transportation links has been at the core of the Israeli strategy to disconnect them. Without ease of movement, Palestinian consumers and suppliers in Bethlehem are confronted with substantial impediments, rising costs and time constraints, which in effect deter and inhibit them from accessing certain markets and seizing economic opportunities in Jerusalem and beyond. Since the First Intifada and the signing of the Oslo Accords, Israel has targeted Palestinian transportation networks in Bethlehem in several ways.

- **Diversion of major thoroughfares:** In 1995, the Jerusalem-Hebron Road (now known as Route 60) was appropriated by Israel and diverted away from Bethlehem. Prior to this, this road had been a key Palestinian thoroughfare running from Nazareth in the north, to Beersheba in the south, and right through the West Bank, connecting Bethlehem directly to Jerusalem and Ramallah. After the restructure, including the construction of two major tunnels on the lands of Beit Jala (Gilo Tunnel, 270 m and Refaim Tunnel, 900 m), the section of the Jerusalem-Hebron Road that had run through Bethlehem became a road exclusively for Israeli-Jewish colonizer use, bypassing Bethlehem entirely. Consequently, Palestinians are no longer able to directly access Jerusalem. Simultaneously, this has dramatically increased the Israeli-Jewish colonizer population in the Etzion Colonial Bloc, which tripled in the first 10 years, due to having exclusive and faster access to Jerusalem.[166] In 2019, the Netanyahu administration began construction on an additional tunnel and bridge to expand the road,[167] confiscating more Palestinian land to further ease travel for Israeli-Jewish colonizers, increase their population, and further isolating Bethlehem from Jerusalem.
- **Permits and checkpoints:** In the 1990s, following the First Intifada, Israel imposed a permit regime requiring all Palestinians without Jerusalem residency and Israeli citizenship to obtain permits to enter Jerusalem, resulting in a substantial reduction in those able to travel into Jerusalem

165 Rashid Khalidi, The Iron Cage: The Story of the Palestinian Struggle for Statehood (Boston: Beacon Press, 2006), 200-201.

166 The population doubled in the first 6 years to 30,853 colonizers, and tripled to 45,870 within 10 years of the re-routing. The estimated population in 2018 of the Etzion Colonial Bloc colonies directly south of Jerusalem was 76,976. Peace Now, supra 111.

167 Decision on the Acquisition and Taking of the Right of Disposal, (Road No. 60, Beit Jala Checkpoint), H/10/19, [Arabic and Hebrew], 1 September 2019, available at: http://peacenow.org.il/wp-content/uploads/2019/09/Confiscation_Orders_Tunnels_Raod_010919.pdf

at all.[168] Israel then began enforcing this with rudimentary checkpoints that eventually became more comprehensive and extensive. In 2005, one of these transformed into the Checkpoint 300 terminal.[169] Located on the Jerusalem-Hebron Road, this is now the only entrance for most Palestinians seeking to access Jerusalem from the Bethlehem area and amounts to a total fragmentation between the two cities. Most Palestinians are required to walk through the checkpoint, which at peak times can take hours to cross, and is both humiliating and stressful; others are able to cross with specific permits for their Israeli-registered cars.[170] The other four Green Line checkpoints in the Bethlehem governorate providing access to Jerusalem are accessible only to colonizers, Palestinians holding Israeli citizenship, Palestinian residents of East Jerusalem and internationals.[171]

- **No commercial checkpoint in/near Bethlehem:** There are now only six intercity commercial checkpoints through which Palestinians can transport goods and produce into and out of the West Bank.[172] For Bethlehem, the closest is Tarqoumia in the Hebron governorate, approximately a 45-minute drive down south and away from Jerusalem.[173] It takes up to a whole day to transport one container from Bethlehem, to Hebron and then inside the Green Line, at an exceptionally high cost.[174] The additional time and costs involved in the transportation of goods to Jerusalem are considerable, and leaves Bethlehem largely unable to compete with many other towns and markets.

168 Until the end of the 1980's, only a very small percentage of the Palestinian population was restricted in travelling into 1948 lands, including Jerusalem, from the West Bank. There are indications that more than a hundred thousand Palestinians commuted to work in Israel daily, even in West Bank licensed cars. After the Oslo period and the First Intifada however, Israel began imposing their highly restrictive permit regime, severely impeding on Palestinians freedom of movement, both to Israel, and within the West Bank itself and Gaza. Khalidi, supra 166, 201-202.

169 Alexandra Rijke and Claudio Minca, "Checkpoint 300: Precarious Checkpoint Geographies and Rights/ Rites of Passage in the Occupied Palestinian Territories," Political Geographies, no. 65 (July 2018), 38.

170 Id., 35-45.

171 Maryam Griffin, ''West Bank Public Transportation: Movement as Politics'' (PhD Thesis, University of California, Santa Barbara, 2003), 123-124.

172 B'Tselem, "List of Military Checkpoints in the West Bank and Gaza Strip," webpage, 25 September 2019, available at: https://www.btselem.org/freedom_of_movement/checkpoints_and_forbidden_roads [accessed 28 February 2020].

173 The distance from Bethlehem to Jerusalem is only 7 km, so it would have taken on average 15-20 minutes at most in a vehicle and 30 minutes or so via public transport. The fragmentation of Jerusalem blocked the majority of commercial vehicles from travelling to Jerusalem (and 1948 Palestine) directly from Bethlehem, now forcing them to take the longer route from Bethlehem to Tarqoumia, back up to the Green Line. See Jaber, supra 117; See also Samir Hazboun, Board Chairman, Bethlehem Chamber of Commerce and Industry, interview conducted by BADIL, 28 November 2019.

174 Hazboun, Ibid.

- **Cutting public transport connections:** Where once Bethlehem had access to bus and train lines that connected it to the remainder of the West Bank via Jerusalem, many of these lines were shut down, while others were re-routed around Jerusalem. Transport routes from Hebron and al-Ubediyah now terminate in Bethlehem, and passengers are required to change to one of two remaining bus routes to Jerusalem, which are controlled by Israeli-run companies.[175] Palestinian public transport (the Fordaat, servees, private taxis and buses) to Ramallah and further north, must now take the considerably longer route via Wadi al-Nar (Valley of Fire), and is subjected to numerous checkpoints, arbitrary road impediments and increasing congestion, adding considerable costs, stress and travel delays to previously straightforward trips.[176] The train lines once accessible to Palestinians before 1948 now run through the Bethlehem governorate without any Palestinian stops or stations. These lines were decommissioned and now only reach Beyt Shemesh (an Israeli-Jewish colony and under an hour's journey away from Bethlehem) which then connect onto Jaffa and Tel Aviv and are inaccessible to Palestinians from the West Bank. Additionally, colonizer-only transport in the form of the Jerusalem Light Rail[177] and extensive Israeli-owned colonizer-only bus services[178] have been established to bolster access between the colonies in the Bethlehem governorate and Jerusalem.
- **Control of the commercial tourism routes:** Tourism in Bethlehem is also directly affected and controlled by Israel. Israel has full control over Palestinian tour guides as it restricts their ability to obtain permission to enter and work in 1948 Palestine.[179] Israel also has complete control over foreign visitors, including those wanting to enter Bethlehem through the Green Line checkpoints, made more difficult and intimidating by the several barriers fragmenting the two cities.[180] This allows Israeli tour companies and buses to virtually monopolize the tourism routes from Jerusalem, particularly the highly lucrative Christian pilgrimage

175 Visit Palestine, "Get into Bethlehem from Jerusalem," webpage, 29 November 2016, available at: http://visitpalestine.ps/get-bethlehem-jerusalem/ [accessed 28 February 2020].

176 Fordaat are the 7-seater vans that travel from governorate to governorate and servees are the public shared taxis usually for internal travel. Griffin, supra 172, 133.

177 POICA - Monitoring Israeli Colonization Activities in the Palestinian Territories, "'New 20 Km Length Path' Israeli Authorities Approves the New Route of the Jerusalem Light Rail," prepared by ARIJ, 1 February 2016, available at: http://poica.org/2016/02/new-20-km-length-pathisraeli-authorities-approves-the-new-route-of-the-jerusalem-light-rail/ [accessed 28 February 2020].

178 Jerusalem Bus Map, subsidiary of Oren's Transit Page, available at: https://www.orenstransitpage.com/jlembusmap/jlembusmap.htm [accessed 3 February 2020].

179 In violation of the Paris Protocol, only 46 individuals from Bethlehem hold specific permits that allow them to work in the tourism field inside the Green Line. Hazboun, supra 174.

180 Clarno, supra 5, 101.

market.[181] As such, although Bethlehem continues to receive millions of visitors, 85 percent of visitors spend no more than a few hours in the city; approximately two hours at the Church of Nativity, and one stop at a souvenir store.[182] Palestinian sites, if visited at all, end up being quick additions to Israeli tours that in some cases would include visits to Israeli-Jewish colonies. This allows Israel to control the political and cultural narrative of Bethlehem, and Palestine more generally, preventing Palestinians from sharing their identity, culture, perspective and exposing the reality of Israeli suppression and domination.[183]

Each of these mechanisms combined are part of a greater Israeli aim to fulfill its plans and vision for 'Metropolitan Jerusalem,'[184] extricating the city from Palestinians, and altering the demographic and geographic balance in strong favor of Israeli-Jewish colonizers, in order to construct an image of Jerusalem as the 'undivided' capital of Israel.[185] By sabotaging all forms of Palestinian transport, these measures work to disconnect Palestinians from their political, cultural, religious and economic capital, which in turn serve the greater objective of slowly eroding the collective identity of the Palestinian people and their ability to exercise their right to self-determination.

The isolation of Bethlehem: A Palestinian bantustan

As with all major Palestinian cities in the West Bank, the Oslo Accords represented a significant step in the fragmentation and ghettoization of Bethlehem.[186] With

181 Clarno, supra 5, 101-102.

182 This statistic was obtained from an interview with an official from the PA Ministry of Tourism in September 2012. See Clarno, supra 5, 101. See also PLO - Negotiations Affairs Department, supra 157.

183 PLO – Negotiations Affairs Department, Ibid.

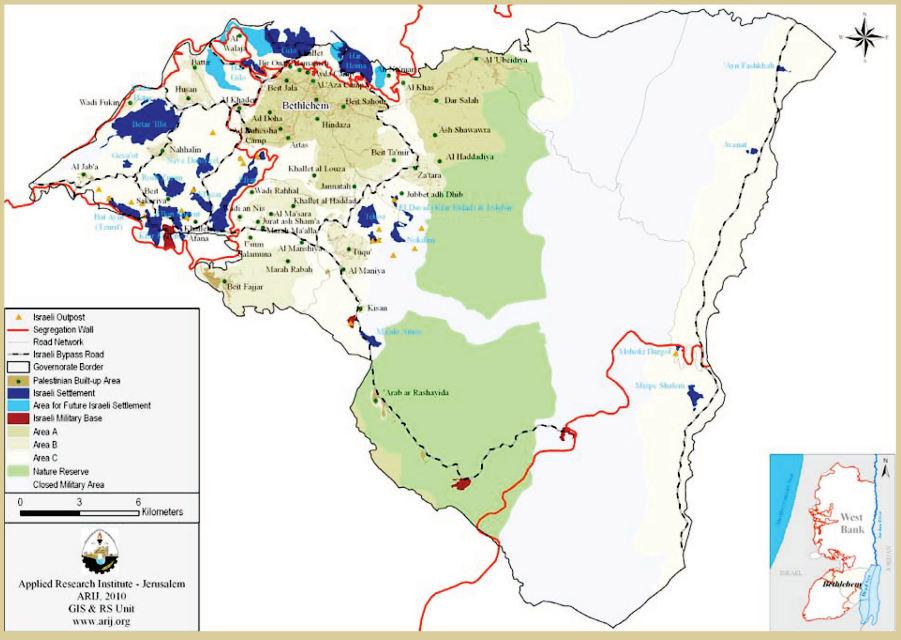
184 The Metropolitan Jerusalem plan's aim was to expand Jerusalem's municipal boundaries to a 100 km radius, incorporating the large Palestinian centers of Ramallah and Bethlehem into Jerusalem, thereby carving into a large portion of the central West Bank and jettisoning the possibility of a viable Palestinian state from the outset. See BADIL, supra 165, 5.

185 Ahmad el-Atrash, "A Trip through the Palestinian Road Network," This Week in Palestine, Issue no. 168 (April 2012), available at: http://www.twip-archive.com/archive/details.php?id=3673&ed=205&edid=205 [accessed 28 February 2020].

186 From when the Oslo Accords were signed in 1993 to the end of 1998, over 22,000 dunams [22 km^2] were confiscated from the Bethlehem governorate, with many of these dedicated to both the building of colonies and bypass roads. This loss of land further fragmented Palestinian towns and villages, inhibited organic Palestinian growth, and undermined Palestinian agricultural efforts. POICA - Monitoring Israeli Colonization Activities, "Israeli Settlements Encroachment in the Bethlehem District," prepared by ARIJ, 15 May 2001, available at: http://poica.org/2001/05/israeli-settlements-encroachment-in-the-bethlehem-district/ [accessed 28 February 2020]; Jeremy Pressman, "The Second Intifada: An Early Look at the Background and Causes of Israeli-Palestinian Conflict," Journal of Conflict Studies 22, no. 2 (2003), 114-141, available at: https://journals.lib.unb.ca/index.php/jcs/article/view/220/378 [accessed 28 February 2020].

just 7.8 percent[187] of the Bethlehem governorate classified as Area A, i.e. two disconnected urban areas of Bethlehem,[188] and some small isolated village enclaves in the surrounding areas classified as Area B (5.5 percent), Israel has retained full control over 87 percent of the governorate and all transportation thoroughfares between Bethlehem, its villages and other major Palestinian cities. These classifications of the land have allowed Israel the guise of legitimacy and the opportunity to utilize the transportation networks to enact some of its most stringent policies which isolate Bethlehem into an enclave of inequality, congestion and oppression.

Map of Bethlehem Governorate after Oslo (ARIJ)[189]



With Bethlehem severed entirely from Jerusalem, Israel has applied its isolationist policies to the remainder of Palestinian cities and villages, with hopes of isolating them from one another, and obstructing any continuity that remains between them. In the case of Bethlehem, this is done by isolating Bethlehem from Ramallah and other Palestinian cities in the north and from Hebron in the south. In doing this, Israel is able to easily control the movement of both people and goods coming in and out of Bethlehem,

187 In Bethlehem, 5.5 percent is classified as Area B and 7.8 percent is classified as Area A.

188 ARIJ, supra 162, 10.

189 Ibid.

to apply crippling impediments through the use of checkpoints and other barriers, and to impair the economy by undermining key industries and driving up the unemployment rate. Eventually, Palestinians become so entrenched in the dire economic situation and, the resulting coercive environment, that it culminates in their forcible transfer from their homes and villages in search of new opportunities either in the main urban centers, such as Bethlehem, or outside of Palestine. Importantly, control of the transportation routes are at the heart of Israel's strategy to cut these ties among the Palestinian people and to reduce economic potential.

Diversion through Wadi al-Nar: Controlling access to the north

The steep, winding road through Wadi al-Nar has become the sole route that connects the south and north of the West Bank and is currently still accessible to Palestinians without a permit. Prior to the First Intifada, this route was largely a series of dirt farm roads and footpaths cutting through the valley, which was once a British military supply route.[190] In the late 1980s, when Israel first began implementing movement restrictions on Palestinian access to Jerusalem, the Wadi al-Nar road abruptly became a critical passageway for passenger and commercial transport between the economic and tourist hubs of Hebron and Bethlehem, and the northern cities of Ramallah, Nablus and Jenin.[191] In 2005, all West Bank traffic was prohibited from accessing East Jerusalem through the traditional route of the Jerusalem-Hebron Road (also known as Route 60); this closure successively required all West Bank vehicles to travel via Wadi al-Nar.[192]

Thirty years later, this road continues to have a significant impact on the isolation of Bethlehem and the fracturing of the West Bank overall. Firstly, the road is exceptionally dangerous. The whole road stretches for about 3.5 km and has 13 dangerous sharp turns, which overlook the steep valley. As the only commercial thoroughfare, when used by freight vehicles it often becomes impassable, even with its recent upgrade and widening. Combined with more than 22,000 vehicles traversing this road every day,[193] significant

190 PLO, "Strangling Bethlehem, Obstructing Peace" [Arabic], Fact Sheet, 2005, available at: https://bit.ly/2ohingr [accessed 26 February 2020].

191 Hanna Maoh and Jad Isaac, "The Status of Transportation in the West Bank," World Transport Policy and Practice 5, no. 4 (September 2014), 18-29.

192 OCHA, "Restrictions on the Movement of People and Goods Within the West Bank," Technical Note (30 November 2005), available at: https://www.un.org/unispal/document/auto-insert-203620/ [accessed 28 February 2020].

193 Mohammed Marar, "The Valley of Fire Project is a Long-Awaited Dream," Raya Media Network, 30 June 2019, available at: https://www.raya.ps/news/1068016.html [accessed 27 September 2019].

traffic jams, brake failure, and fatal accidents are common occurrences. It is particularly dangerous in wintertime, when water or frost on the road make vehicles prone to skidding or slipping, increasing the potential for accidents.[194] Such conditions induce anxiety and stress, and frequently cause Palestinians to reconsider travel plans, exacerbating their feelings of isolation. It also causes considerable wear and tear on vehicles, which adds to the overall economic cost of transportation and local commerce in the West Bank. [195]

Second, the infamous 'Container' checkpoint, which sits at one end of Wadi al-Nar, enables Israel to shut down or delay travel between the north of the West Bank and the south at any desired time. This checkpoint was originally constructed due to its proximity to several colonies, namely Ma'ale Adumim and Kedar, before becoming a permanently fortified checkpoint in June 2004,[196] with restricted traffic lanes, controlled access roads, road spikes, traffic lights, road signs, and permanently staffed Israeli soldiers.[197] The checkpoint is only accessible to Palestinians and does nothing to govern Palestinian access to Israeli-controlled areas. Nevertheless, the Israeli military are in full control of who is and is not allowed to cross, and the fully armed soldiers subject Palestinians to humiliating circumstances, long delays and arbitrary closures. Based on this, the previous governor of Bethlehem, Jibril al-Bakri, expressed a widely held view that "the checkpoint exists solely for political reasons and has no grounding in security necessities."[198] When closed, it cuts one-third of the West Bank from the other, subjecting both parts of the West Bank to complete lockdown.[199]

Third, this route almost doubles the distance between Bethlehem and Ramallah (50.3 km) than the more direct Route 60 through Jerusalem (31.8 km). [200] The notable increase in travel time and distance between Bethlehem and Ramallah has an adverse effect on trade between these two key economic cities.[201] Travel expenses dramatically increase when the excessive fuel expenditures, combined with the increased distance, steep inclines, regular traffic congestion and arbitrary checkpoint closures are

194 Hanna Maoh and Jad Isaac, supra 192, 18-29.

195 Ibid.

196 Ibid.

197 B'Tselem, supra 173.

198 "Israel Sets Up Iron Gates at Container Checkpoint," Ma'an News Agency, 25 February 2015.

199 Jalal Abukhater, "Palestine's Other Open-Air Prison," Aljazeera, 13 February 2019, available at: https://www.aljazeera.com/indepth/opinion/palestine-open-air-prison-190118065003667.html [accessed 28 February 2020].

200 Hanna Maoh and Jad Isaac, supra 192, 18-29.

201 Ibid.

taken into account. In addition to time and distance, the economic toll for each journey in one private vehicle travel is estimated at between 42 and 47.6 NIS, which adds to a total additional annual burden on the Palestinian economy of 54.7 million USD per year.[202]

> "I know of Christian families in al-Zababda, a Greek Orthodox town near Jenin, who, for example, have struggled to reach Bethlehem, just 85 km away, for Christmas pilgrimage because of delays at the Za'tara and Container checkpoints. Meanwhile, foreign pilgrims can enter Bethlehem via eight different routes, including via Jerusalem, and on certain days can probably fly in from abroad and get there faster than Palestinian Christians."[203]

> "One day, the checkpoint was extremely crowded, with vehicles stretching along the road for hundreds of meters on both sides. The reason, as it turned out, was an Israeli soldier taking a selfie, who later commented that he was able to stop hundreds of Palestinians, alone, with just one signal."[204]

> "Another incident that was witnessed by a passenger, saw a male and female [Israeli] soldiers force one [Palestinian] occupant out of a carload of 4, take him to the side where there were no security cameras, and beat him for entertainment purposes."[205]

Annexation of the Jerusalem-Hebron Road (Route 60): Controlling access to the South of the West Bank

With Bethlehem and its Palestinian population fragmented from Jerusalem and isolated from Palestinian cities and communities in the north, Hebron is the last remaining major economic connection available to it. Although the

202 Jad Isaac et al., The Economic Cost of the Israeli Occupation of the Occupied Palestinian Territories (ARIJ, 2015), 26, available at: https://www.arij.org/files/arijadmin/2016/The_Economic_Cost_of_the_Israeli_occupation_Report_upd.pdf

203 Abukhater, supra 200.

204 Fadi al-Asa, "Wadi Nar and the Container - Stories from the Womb of Abuse of the Palestinians" [Arabic], Aljazeera, 4 December 2018, available at: https://bit.ly/31Lxly1 [accessed 27 September 2019].

205 Ibid.

disconnection from Hebron is the least advanced aspect of Israeli isolationist policies towards Bethlehem, the intention to ultimately sever and control this connection is evident in several actions, particularly as they relate to transportation, and have been reinforced in the so-called 'Deal of the Century' more recently.[206]

As with all other arterial connections, the Jerusalem-Hebron Road now renamed Route 60 is the primary and most direct route from Bethlehem to Hebron and is therefore the focus of Israel's isolation and domination policies. The first major indication of the long-term intent to requisition this route came from the placement of Efrat colony to the east of this road. This was a deliberate and strategic move planned from the mid-1970s to secure the southern access road to Jerusalem.[207] The significant investment in Efrat since then, which is now the sixth largest Israeli-Jewish colony in the West Bank, has entrenched Israeli control of Route 60 in the case of any formalized annexation moves in the near future.[208]

This intent has been reinforced over the past 20 years, with Israel asserting its control over this road regularly. Throughout the Second Intifada, Israel enforced a number of closures along Route 60, making it regularly impassable to Palestinians and inflicting an alternative route almost twice as long and which could sometimes take more than four hours to drive.[209] In 2010, Israeli plans were released showing an intent to re-route Palestinian traffic to poor, winding roads running through Bethlehem's southern village of Tuqu' and Hebron's northern village of Sa'ir.[210] Accordingly, some upgrade works were undertaken, but long stretches remain very narrow and poorly paved, taking considerably longer than the more direct main road. In 2019, Israel began long-planned work to bypass Route 60 away from major Palestinian towns of Halhul, Beit Ummar and Al Arroub refugee camp, with no plans for alternative road access for Palestinian traffic to these areas. [211]

Although Palestinians continue to have access to the southern stretch of Route 60 in 2020, it remains a dangerous and psychologically stressful route for Palestinians to use, with more than 15 people killed by the Israeli military

206 Trump Administration, supra 147.

207 BADIL, supra 156, 84.

208 Id., 40.

209 POICA - Monitoring Israeli Colonization Activities, "The Alternative Road from Bethlehem to Hebron: A Lingering Bereavement," prepared by ARIJ, 6 October 2001, available at: http://poica.org/2001/10/the-alternative-road-from-bethlehem-to-hebron-a-lingering-bereavement/ [accessed 28 February 2020].

210 OCHA, "West Bank Movement and Access Update" (June 2010), available at: https://www.un.org/unispal/document/auto-insert-195840/ [accessed 28 February 2020].

211 BADIL, supra 156, 55.

in the last 10 years.[212] Moreover, the well-understood long-term prognosis is that Israel intends to acquire permanent and exclusive control of the route, as reinforced by Israeli positions in previous land swap discussions, and reflected in the maps included in the Trump administration's recently released plan.[213]

Bethlehem's isolation from its neighboring villages

Israel's fragmentation policies that have led to the severing of the relationship between Jerusalem and Bethlehem and between Bethlehem and the remainder of the West Bank are not solely about claiming Jerusalem or annexing more West Bank land. They have had a corollary but intentional impact on Bethlehem itself and its previously organic interconnections between rural areas and urban life. Bethlehem's proximity to Jerusalem has also made it a key site for Israeli colonization, resulting in its suffocation by an almost complete ring of more than 45 colonies, including outposts.[214] Transportation infrastructure has also played a key role here in the fragmentation and isolation goals at the heart of Israel's strategy. A closer look at the colonizer road network and associated infrastructure reveals that it is not only critical to the recent consolidation and expansion of the Israeli colonial enterprise,[215] but is also essential to the policies designed to confine and isolate Palestinian communities. This is because isolation is necessary to establish and ensure Israeli territorial continuity, and to undermine Palestinian resilience and resistance to these policies.[216] We See this enacted against the Palestinian people in a number of ways.

- **Construction of colonizer bypass roads:** Israel has constructed several bypass roads in the Bethlehem governorate, the most obvious of which is the Route 60 re-routing to bypass Bethlehem itself. Another more recent example is Route 398, also known as the Lieberman Road,[217] which runs for nine kilometers, connecting Jerusalem through the colony of

212 B'Tselem, "Statistics: Palestinians Killed by Israeli Security Forces in the West Bank, Since Operation Cast Lead," webpage, available at: https://www.btselem.org/statistics/fatalities/after-cast-lead/by-date-of-death/westbank/palestinians-killed-by-israeli-security-forces [accessed 28 February 2020].

213 See maps in Appendix 1, which note that only the colonies of Ma'ale Amos, Asfar and Karmei Zur will be enclave communities. The implication is that Efrat, Tekoa, Nokdim, and their satellite outposts will be annexed as part of the contiguous Israeli state, as will Route 60. Trump Administration, supra 147.

214 BADIL, supra 156, 11.

215 Id., 52-57.

216 Id., 59-61.

217 Barbara Opall-Rome, "'Lieberman Road' Turns Settlements Into Suburbs", Defense News, 23 May 2016, available at: https://www.defensenews.com/home/2016/05/23/lieberman-road-turns-settlements-into-suburbs/ [accessed 28 February 2020].

Har Homa to the outlying colonies of Tekoa, Nokdim, Ma'ale Amos and Asfar in the south. Construction of the road resulted in the confiscation and appropriation of 19,000 dunams (19 km^2) of land in the Bethlehem governorate for the benefit of 2,000 Israeli-Jewish colonizers residing in this cluster at the time, significantly reducing their journey to Jerusalem from 40 minutes to around 10 minutes.[218]

Za'atara is one of the villages most dramatically affected by this bypass. Following Oslo, the primarily agricultural town suffered the loss of control of its land, with 99.1 percent of it categorized as Area B, C or as nature reserves and remains highly vulnerable to creeping de jure annexation.[219] With most of Za'atara's population having already experienced forcible displacement due to the construction of the Tekoa and Nokdim colonies,[220] these villagers have experienced additional loss of their land to Israeli colonial infrastructure projects.

Before the establishment of the [Route 398/Liebermann] bypass road, it took us around 2 minutes to walk to our land, and now it takes us around 15 minutes to get there.

> …The next generation will not be able to build in this area anymore - like with my children, the only place where they can live is in the same house with us. Hopefully the situation will change, and we are always seeking solutions ... No one knows where my son will live in the future, because we don't have any other place to go and our house is in Area C.
>
> …The cars drive on the street throughout the day and night it doesn't stop - we never feel comfortable. The children cannot go next to the road because it's very dangerous, and even if we want to go to our land, we go as a group, not alone.

Um Ali, housewife from Za'atara
Interview: Za'atara, 4 November 2017

218 Peace Now, "Developing Roads = Developing Settlements: Lieberman Road – Case Study" (2015), available at: http://peacenow.org.il/wp-content/uploads/2016/01/leiberman-road-report.pdf

219 ARIJ, "Za'atara Town Profile" (2010), available at: http://vprofile.arij.org/bethlehem/pdfs/VP/Za'tara_tp_en.pdf

220 Zaatara town was established in 1966 with the residents originating from At Ta'amreh, a region covering all of the eastern countryside of Bethlehem, that had been home to a Bedouin community whose lands were largely lost to the site colonized with the Nokdim and Tekoa colony cluster. See Mohammad Hamdan, "Palestine Blog: The town of Zaatara east of Bethlehem" [Arabic], blogpost, 3 January 2017, available at: https://bit.ly/2RxO8am [accessed 28 February 2020].

In addition to the impacts Um Ali describes above, the residents suffer from a constant threat of demolition due to their proximity to this road and the potential for future expansion. Additionally, as their land has been classified as Area C, and confiscated for military purposes, Um Ali's family remain in a permanent state of uncertainty, as they have faced demolition threats twice before from Israel, which were halted both times.[221]

- **Military gates and checkpoints at village entrances:** Bypass roads often provide a pretense for the establishment of additional security measures. Permanent Israeli military gates have recently began replacing arbitrary earth-mounds and other temporary closure mechanisms, at the entrances of villages lining these roads.[222] Along the bypass roads in the Bethlehem governorate alone, there were 48 closure mechanisms as of July 2018, including 7 permanent checkpoints, 2 Green Line checkpoints, 14 partial checkpoints, 4 earth mounds, 5 roadblocks, 6 closed road gates, 9 open road gates, 1,031 meters of earth walls and 2,422 meters of road barriers.[223] An increasing number are strategically placed to enable the shutdown of most villages that line these roads. While most are generally open, these barriers are regularly utilized by the Israeli military to close without notice the only access routes for many of Bethlehem's smaller villages that connect into the main part of Bethlehem.[224]

  Such measures are implemented regularly in the village of Marah Rabah, located 8.3 km south of Bethlehem.[225] The Oslo Accords classified all of Marah Rabah's lands as Areas B and C.[226] After several years of occasionally placing roadblocks on the main entrance of the village, in 2017, Israel installed an iron gate allowing the military to regularly shut down Marah Rabah's main entrance.[227] This situation is not unique to Marah Rabah. Significantly, not one village is accessible

221 Um Ali, housewife from Za'atara village, interview conducted by BADIL, Za'atara, 4 November 2017.

222 POICA, "The Israeli Occupation Forces Set Up Iron Gate on the Southern Entrance to the Village of Marah Rabah in Bethlehem Governorate," prepared by Land Research Center, (13 August 2017), available at: http://poica.org/2017/08/the-israeli-occupation-forces-set-up-iron-gate-on-the-southern-entrance-to-the-village-of-marah-rabah-in-bethlehem-governorate/ [accessed 28 February 2020].

223 OCHA, Bethlehem Access Restrictions, Map of Bethlehem, July 2018, available at: https://www.ochaopt.org/content/bethlehem-access-restrictions-july-2018 [accessed 9 Avril 2020].

224 See Mr Hussein Al-Sheikh, lawyer and resident of Marah Rabah, and head of the Village Council, in BADIL, supra 156, 111.

225 ARIJ, "Marah Rabah Village Profile" (2010), 4, available at: http://vprofile.arij.org/bethlehem/pdfs/VP/Marah%20Rabah_vp_en.pdf.

226 Ibid.

227 POICA, supra 223.

from Bethlehem city without passing through an Israeli-built/controlled road, checkpoint and/or barrier.[228]

> Although our village is a peaceful village, the Israeli occupying forces automatically close the village whenever a security issue arises (according to the Israelis) either in Bethlehem or Hebron. The Israelis installed a metal gate at the village's main entrance, so that they can separate us from the rest of the Palestinian areas [by closing the gate]. Unfortunately, this occurs more than once a week, which forces us to take rough roads to enter or exit our village. For example, [when the closure is implemented] it's about a 30 km trip to reach Bethlehem, compared to it being 15 km when its open.
>
> ***Mr. Hussein al-Sheikh, Lawyer and Head of the Village Council, Marah Rabah***
> ***Interview: Marah Rabah, 11 April 2020***

- **Impediments to public transport access:** Israeli colonies and associated road and security infrastructure severely impact on the access that villages have to public transport into Bethlehem. Drivers and passengers alike suffer from fear of travel in heavily colonized areas, as there is a high risk of interaction with aggressive colonizers and the Israeli military. This results in limited access and refusal of taxi drivers and others to travel through and into these areas, particularly at night and if there has been heightened tensions.[229] This has a consequential impact on availability of public transport generally, with all serveeses and buses stopping around 6-7 pm, making night time travel dependent on private car ownership or private taxis, which are prohibitively expensive to many Palestinians.[230] The impacts of these policies are felt particularly heavily in the villages themselves, with resilience and capacity to remain in these locations undermined. This in turn has the effect of concentrating these rural populations into Bethlehem's urban areas.

  An example of this is found in the village of Wadi Rahhal. Wadi Rahhal village and its hamlets of al-Beida, al-Thubra and an-Nahla are located 5.7 km south of Bethlehem. [231] Access to the area now runs past the Efrat colony (via Route 60), which lies along the western boundary of the village, with an invisible security apparatus separating the two from each other.

228 Jaber, supra 117.

229 Mohamad Atallah, Resident of Beit Sakarya and Member of the Village Council, interview conducted by BADIL, 11 October 2017.

230 Mariam Sa'ed, Resident of Beit Sakarya, interview conducted by BADIL, 8 November 2017; Yusra, Resident of Wadi Rahhal, interview conducted by BADIL, 9 November 2017.

231 ARIJ, "Wadi Rahhal Village Profile" (2010), 4, available at: http://vprofile.arij.org/bethlehem/pdfs/VP/Wadi%20Rahhal_vp_en.pdf

This makes access and transportation a particularly significant concern for villagers, because serveeses will not run due to the associated risks and costs which contributes to an escalating sense of isolation.[232]

> Sometimes the [Israeli] soldiers come to the town and prevent us from going in [to al-Thubra]. If the soldiers are in town, it would be almost impossible to access. The other day I walked next to the soldiers while they were standing on the road because the driver refused to give me a ride to al-Nahla, he told me he couldn't because there were soldiers there. I had to carry my son and my stuff and walk into al-Nahla. Despite the fact that the other passengers complained to the driver and asked him to give me a ride, he still refused to do so because of the soldiers. He left me on the street and I had to walk all the way to my home.
>
> ***Yusra Abu A'hour, housewife from al-Thubra (Wadi Rahhal)***
> ***Interview: al-Thubra, 11 October 2017***

> My sons walk a long distance [two kilometers] from al-Nahla. Sometimes I don't send Mohammad to school because of the problem in his muscles, he can't walk. […] I don't have money to pay for a car to drive my sons to school. So my sons have to walk: they walk in the winter and they also walk when it is really hot […] My son Mohammad once had a fever, his temperature was really high and there were no cars at all, no transportation. I had to wait until the next day to take him to the hospital. Now he has a hearing problem, he can only hear in one ear. This is because of the fever, and because there were no cars to take him to a doctor that day.
>
> ***Amena Fawaghra, mother from Wadi Rahhal***
> ***Interview: Wadi Rahhal, 9 November 2017***

- **Encirclement and confinement with colonizer roads:** Bethlehem is now ringed by an Israeli-controlled road network that serves as a barrier encircling the city. Routes 398 and 356 to the north and east, Route 3157 to the south, and Route 60 to the west provide an almost complete encirclement.[233] These roads provide a tangible physical barrier to Bethlehem's natural growth by securing its confinement to a limited space, particularly given the military regulations prohibiting Palestinian construction within 150 meters on each side of a colonizer

232 BADIL, supra 156, 104.

233 BADIL, supra 156, 11.

road.[234] This acts as a disguised, legitimized boundary of Israeli security control, which together with the military gates on all entrances to Bethlehem, enables Israel to shut down and place Bethlehem under siege at will. Additionally, these roads act as a connectivity obstacle due to the psychological and physical barrier created by the Israeli police and military control of these roads, the speed of travel implemented, and the security regime protecting their perimeters. This limits Palestinian movement across and between areas separated by these roads.

Beit Safafa is one example of the way in which connectivity is severed, and indicative of the risks confronting other villages on the wrong side of these disguised boundaries. Beit Safafa, located 4 km south-west of Jerusalem, was a key village connecting Bethlehem to Jerusalem. Historically, it was linked to the villages of Al Malha, Al Jura and Al Walajeh in Bethlehem by a system of local roads, as well as the Jerusalem-Jaffa railway, allowing products to be traded between villages.[235] Initially, the village was divided in half by the Green Line, losing its direct connection to Bethlehem's villages.[236] Following the fragmentation and isolation of Jerusalem, Palestinians from Bethlehem were prevented from accessing it without permits, and today the town is swamped by the large Israeli-Jewish colonies of Gilo, Giv'at HaTamos, and other Israeli colonies in west Jerusalem.

Due to Beit Safafa's vulnerability as a result of its isolation from other Palestinian areas, Beit Safafa and its satellite village of Sharafat have been powerless to prevent their division into four isolated parts by the six-lane Begin highway (also known as Route 4 or Highway 50), and the older Dov Yosef road which connects Gilo colony to Jerusalem.[237] This colonizer-specific infrastructure is indicative of

234 This creates a 300-meter buffer zone surrounding the highway which renders any house built in this periphery as illegal (regardless of the fact that it existed prior to the construction of the road) and also blocks residents from doing any further work or expanding their homes. Civil Coalition for Palestinian Rights in Jerusalem, "Stop Israeli Illegal Settlement Highway in Jerusalem," webpage, 6 April 2013, available at: https://stopthewall.org/2013/04/10/stop-israeli-illegal-settlement-highway-jerusalem [accessed 28 February 2020].

235 PLO Negotiations Affairs Department, "The Ghettoization of Beit Safafa," media briefs, 14 March 2013, available at: https://www.nad.ps/en/media-room/media-brief/ghettoization-beit-safafa [accessed 28 February 2020].

236 "3.5. Beit Safafa," in Bimkom, Survey of Palestinian Neighborhoods in East Jerusalem: Planning Problems and Opportunities (Jerusalem: Bimkom, 2014), available at: http://bimkom.org/eng/wp-content/uploads/3.5_beit-safaffa-w.pdf

237 Civic Coalition for Palestinian Rights in Jerusalem, supra 235.

Israel's segregation policy, which pursues projects designed exclusively to suit Israeli-Jewish priorities, with deliberate disregard for the impact on Palestinian communities. The Begin Highway is a key piece of transportation infrastructure providing efficient re-oriented access between the Etzion Colonial Bloc around Bethlehem, Jerusalem, Ma'ale Adumim colony and eventually Tel Aviv.[238] At the same time, large swathes of private land were expropriated from Palestinian residents of the town, resulting in several families being cut off from the center of the village, who are now required to take longer routes to access shops, schools and other daily vital services.[239]

> Prior to the construction of the Apartheid Wall and the Israeli military permit system, a direct line between Bethlehem and Beit Safafa transported Palestinians between Jerusalem and Bethlehem. This line, similar to other roads and lines, still exists, but Palestinians are not allowed to utilize it as accorded in the Paris Protocol. Israel also prohibits Palestinian bus companies from operating in Jerusalem. The Beit Jala, Beit Sahour, Bethlehem and the Ubeidiya bus companies have all suffered financially by these prohibitions on transportation, and Palestinians who once had easy access to Jerusalem via Beit Safafa through the means of public transportation, are now forced to travel to Jerusalem via Checkpoint 300.
>
> ***Dr. Samir Hazboun, Board Chairman,***
> ***Bethlehem Chamber of Commerce and Industry***
> ***Interview: Bethlehem, 28 November 2019***

3.1.2. De-development: Deteriorating Social, Economic and Political Environment

> "Growing class inequality combined with territorial divisions has intensified the fragmentation of Palestinian society."[240]

Israel's policies of fragmentation and isolation have substantially undermined Bethlehem's potential to grow residentially and industrially, especially considering the limited access that the governorate has to its natural resources.

238 Global Research – Centre for Research on Globalization, "Israel's 'Begin Highway' Serves the Expansion of Illegal Settlements in Occupied Palestine," webpage, 26 April 2013, available at: https://www.globalresearch.ca/israels-begin-highway-serves-the-expansion-of-illegal-settlements-in-occupied-palestine/5333100 [accessed 28 February 2019]

239 Bimkom, supra 237.

240 Clarno, supra 5, 99.

Bethlehem's traditional key industries have particularly been weakened and are continuously being subverted by encroaching Israeli control, while traditional markets for products and services have been interrupted or excised completely. Palestinians are increasingly finding themselves unemployed and/or unable to afford the high living costs in Bethlehem and are left with little to no choice than engaging in economic activities that culminate in coercion, depoliticization, and deepened economic inequality—ultimately translating in an overarching prioritization of desperate economic concerns over political concerns.

Israel's mechanism for undermining Bethlehem's key traditional industries, namely agriculture and stone quarrying, materializes in two complementary ways: loss of control over the physical space and obstructing industry operations. As Israel's policies of segregation, fragmentation and isolation become more pervasive, these industries become increasingly untenable for the majority of Palestinians. The increasing isolation that ensues, makes Palestinian industries in Bethlehem ever more beholden to Israeli control, allowing Israel to dictate which industries will survive and to what extent. In turn, this has a two-fold impact of coercing more Palestinians into insecure and unstable employment in tourism or the Israeli labor market, while at the same time, Israel privileges particular businesses and business owners for its own benefit, driving up income inequality.

Undermining traditional key industries and consequent dependence on Israeli markets

Israel's relentless colonization and annexation of land has decimated Bethlehem's agricultural sector. With more than 45 colonies and outposts, and 83.9 percent of the governorate's agricultural land zoned as Area C,[241] much of the land has been rendered inaccessible to Palestinian farmers. As a result, in 2018, the Bethlehem governorate reported the highest rate (26 percent) of households suffering movement restrictions in accessing and cultivating their land.[242] The subsequent escalation in Israel's policies of fragmentation and isolation, particularly as evident in its control and exploitation of the transportation infrastructure, has only compounded an already difficult situation. With the critical market of Jerusalem rendered inaccessible, and

241 See Figure 1, in ARIJ, A Review of the Palestinian Agricultural Sector, (Bethlehem: ARIJ, 2007), 14, available at: http://www.arij.org/files/admin/2007-2_Geopolitical_Status_of_Bethlehem_Governorate.pdf

242 PCBS, "Statistics Table 30: Percentage of Households that Faced Restrictions on the Movement of their Members by Region, Governorate and Area of Movement During the First Half of 2018," in "Survey of Social and Economic Conditions" [Arabic], 2019, 79, available at: www.pcbs.gov.ps/Downloads/book2431.pdf

hindered access to existing or alternative markets in Bethlehem, Hebron and Ramallah through increased congestion, travel times and overall expenses has made Palestinian agriculture virtually impossible.

According to a study by the Applied Research Institute-Jerusalem (ARIJ), Bethlehem's farmers predominantly sell their products in local Bethlehem markets rather than targeting other markets.[243] This is especially the case because Bethlehem's agricultural sector has lost its competitive advantage in comparison to subsidized Israeli products,[244] leaving Palestinian producers competitive only in markets in their immediate vicinity. The consequence is a severe decline in the agriculture industry, which had customarily constituted the basis of economic life in Bethlehem. In fact, in 2018, agricultural jobs accounted for just 3.5 percent of the employment sector in Bethlehem,[245] having dropped considerably from 11.6 percent in 2000.[246] This contraction is replicated all over the West Bank where the sector's share in GDP has steadily declined over the years: in only one year, between 2015 and 2016, it fell from 3.4 to 2.9 percent,[247] while agricultural jobs as a percentage of the employment sector across the West Bank fell from 12.5 percent in 2000 to just 6.3 percent in 2018.[248] Consequently, whether through directly limiting Bethlehem residents' physical access to their lands, isolating or preventing them from accessing markets in Jerusalem, or diminishing their efficiency through imposed checkpoints and congestion, the outcome is the same: a contraction of Bethlehem's agricultural sector and a transfer of human resources to other industries.

A similar trend is evident in the stone and marble quarrying industry, which makes up 25 percent of Palestinian industry revenue.[249] Notably, Palestine is

243 ARIJ, Palestinian Agricultural Production and Marketing between Reality and Challenges (Bethlehem: ARIJ, 2015), 34, available at: www.arij.org/files/arijadmin/IDRC/finalcermony/Palestinian_Agricultural_Production_and_Marketing_between_Reality_and_Challenges_2015.pdf

244 United Nations Conference on Trade and Development, Working Inside the Green Line (Geneva: United Nations Conference on Trade and Development, 2017), 4, available at: https://unctad.org/en/PublicationsLibrary/tdb64d4_embargoed_en.pdf

245 PCBS, "Statistics Table 30: Percentage Distribution of Employed Individuals Aged 15 Years and Above from the West Bank by Sex, Economic Activity and Governorate," in "Palestinian Labour Force Survey: Annual Report 2018" [Arabic], 2019, 93, available at: http://www.pcbs.gov.ps/Downloads/book2433.pdf

246 PCBS, "Statistics Table 27: Percentage Distribution of Employed Persons from the West Bank by Economic Activity, Sex and Governorate (Place of Residence)," in "Palestinian Labour Force Survey: Annual Report" [Arabic], 2000, 75, available at: http://www.pcbs.gov.ps/Downloads/book713.pdf

247 United Nations Conference on Trade and Development, supra 245, 4.

248 PCBS, supra 246, 93; PCBS, supra 247, 75.

249 International Trade Center, The State of Palestine National Export Strategy: Stones and Marble Sector Export Strategy 2014-2018, 6, available at: https://www.paltrade.org/upload/multimedia/admin/2015/04/553dcf8d2d3e8.pdf

the twelfth largest producer of stone and marble in the world,[250] and a third of all Palestinian factories are in and around Beit Fajjar. Located 10.3 km south of Bethlehem city, within the Bethlehem governorate, 80 percent of the population in Beit Fajjar are dependent on the stone industry.[251] Under the Oslo Accords, however, 85.7 percent of Beit Fajjar was designated as Area B and the remainder 14.3 percent was assigned as Area C.[252] Through this zoning, Israel has ensured it has sole authority over this very lucrative industry, its players, and potential competition. Compounded with the fact that 70 percent of the stone produced is exported to the Israeli market,[253] Israel is able to dictate which quarries will be given permits to operate, impose travel and export restrictions, confiscate machinery and equipment from quarries operating without permits, and assist Israeli companies in opening new quarries on Palestinian land.[254] As such, this economic coercion has restricted Palestinian autonomy as they are unable to build new quarries or to operate independently, thus undermining the industry as a whole, and preventing more people from seeking employment in this industry.

Dependence on alternative unstable industries

With Israeli policies stifling the viability, efficiency, and desire to engage in key industries, Bethlehem residents have been compelled to seek out alternative employment. The two fastest growing areas of employment have been Bethlehem's tourism industry and the Israeli labor market. However, neither of these options are particularly stable. Both tourism and the Israeli labor market are seasonal and operate on a non-contractual and casual basis. This instability leaves workers in a precarious situation as they are frequently left in-limbo, uncertain of when they will have an income, and enduring the likelihood of being left jobless throughout different times of the year, until another opportunity presents itself.

While the tourism industry's share in Bethlehem's GDP has noticeably

250 Ibid.

251 ARIJ, "Beit Fajjar Town Profile" (2010), 9, available at: http://vprofile.arij.org/bethlehem/pdfs/VP/Beit%20Fajjar_tp_en.pdf

252 Id., 17.

253 International Trade Center, supra 250, 6.

254 Many of the owners of Beit Fajjar's stone quarries have struggled for many years to obtain permits to legally run their quarries. These permits are applied for via Israel's Civil Administration – many times, the permits are outright rejected, or illogical reasons are given as to why the permit was not issued. See HRW, Occupation, Inc.- How Settlement Businesses Contribute to Israel's Violations of Palestinian Rights (19 January 2016), 41-42, available at: https://www.hrw.org/sites/default/files/reports/iopt1210webwcover_0.pdf. Clarno, supra 5, 103.

increased over the past decade,[255] this growth is not necessarily a healthy or productive one. The expansion in tourism is a direct result of increased visitors, with 1.8 million inbound visits made to the West Bank in the first half of 2019, and the largest share (38 percent) to Bethlehem.[256] In response, businesses in the form of hotels, restaurants, souvenir shops, and other tourist services, have opened to accommodate the influx. However, this industry is highly insecure, as it is "positively correlated with periods of varying regional political stability and global economic growth", whereas in "periods of turmoil and economic uncertainty, tourism and hospitality indicators dip."[257] For instance, following the Oslo Accords and prior to the Second Intifada, Bethlehem's tourism industry was expanding with Palestinians preparing for the Bethlehem 2000 vision.[258] As soon as the Second Intifada erupted in 2000, tourism plummeted; this has also occurred with each Israeli aggression on the Gaza Strip in 2008-2009, 2012, and 2014.[259] Furthermore, tourism in Bethlehem is mostly faith-based, and therefore seasonal, with pilgrimages fluctuating between the high seasons from March and April, and October through December.[260] At other times of the year, tourist businesses experience low traffic and thus lay off workers. As a result, high casualization and underemployment is a natural consequence of this type of industry.

As for the Israeli labor market, Palestinians are increasingly resorting to this market for employment, with the highest number of applications for

255 Tourism contributes approximately 14 percent to Palestine's economy, a notable increase of 5 percent since 2007. As 38 percent of tourists who visit Palestine come to Bethlehem, most of the national GDP increase is gained in Bethlehem. International Trade Center, The State of Palestine National Export Strategy: Tourism Sector Export Strategy 2014-2018, 1, available at: https://www.paltrade.org/upload/multimedia/admin/2014/10/5448e8c6d8011.pdf

256 PCBS, "The Palestinian Central Bureau of Statistics and the Ministry of Tourism Issue a Press Release on the Occasion of World Tourism Day," press release, 27 September 2019, available at: http://www.pcbs.gov.ps/site/512/default.aspx?lang=en&ItemID=3555 [accessed 28 February 2020].

257 Hussein Al-Rimmawi & Stephen Butcher, "Trends of Tourism in Bethlehem, Palestine: 1994-2015," 2015, 328, available at: https://core.ac.uk/download/pdf/86431075.pdf

258 Bethlehem 2000 vision was a plan launched in Rome in 1996 by the PA and the UNESCO. The main idea behind the plan was to capitalize on the city's symbolism and the significance of the year 2000 to develop the Bethlehem area and improve the living conditions of its inhabitants, notably through the modernization of infrastructure. The project also aimed at highlighting the region's historic and cultural heritage all while reinforcing the Palestinian identity and the nascent culture of peace in the region. See Mehdi Benchelah, "Bethlehem 2000: Preparing for a Rebirth," UNESCO Sources, no. 111 (April 1999), 14-15, available at: https://unesdoc.unesco.org/ark:/48223/pf0000115842 [accessed 28 February 2020].

259 Hussein Al-Rimmawi & Stephen Butcher, supra 258, 325.

260 Palestinian Market Development Programme, Rapid Market Study Analysis: Quality of Front-Line Workers in Tourism Elements going into TVET Activity (August 2015), 6-10, available at: https://www.bethlehem.edu/document.doc?id=3241 [accessed 28 February 2020].

an Israeli work permit coming from Bethlehem in 2016-2017 (108,066 applications).[261] This employment is at the behest of Israel as "its flexible permit regime allows the state to address the changing demands of Israeli employers as well as the shifting political context."[262] Through this, Israel has the full control to shutdown employment whenever it deems necessary, and ultimately leave a significant portion of the population with no income. In April 2002, for instance, Israel suspended work permits for all Palestinian workers.[263] Palestinian workers are also dealt with on a contractual basis which means that their employment depends on whether there are projects; a treatment amounting to that of a disposable workforce. Moreover, Israel's labor market is exploitative and unsafe. Palestinian workers are paid 39-44 percent of the pay received by an Israeli-Jewish worker performing a similar job [264] and 73 percent of employment is in construction and agriculture in Israeli colonies, without adequate health and safety provisions.[265] Work hours for can also extend to 16 hours a day; workers often must leave home at night to arrive at checkpoints where they are subjected to inhumane and humiliating security checks, harassment, and long delays.[266]

Deepening economic inequality and disparity

The consequence of Israel's policies of fragmentation and isolation and the subsequent distortion of Bethlehem's economy is a severe deepening of economic inequality and disparity throughout the governorate. The influx of tourists inevitably forces up the cost of living in Bethlehem. As Suhail Khalilieh puts it, "[The prices may be] good enough for tourists, but for the people of Bethlehem, it's really expensive considering the income. We are being suffocated in terms of where and how we live, so the thought of immigrating is not far off from the minds of many people."[267] Though the Bethlehem governorate may have the highest daily wages in Palestine - excluding

261 See statistics table of work permits for the years of 2016-2017, in Nasser Al-Qadi, The Israeli Permit Regime: Realities and Challenges (ARIJ, 2018), 9, available at: https://www.arij.org/files/arijadmin/2018/permits1.pdf

262 Clarno, supra 5, 104.

263 Ibid.

264 United Nations Conference on Trade and Development, supra 245, 16.

265 Macro Centre for Political Economics, "The Working Conditions of Palestinian Wage Earners in Israel" (Tel Aviv, February 2017), 6, available at: http://www.macro.org.il/images/upload/items/27348794024004.pdf

266 United Nations Conference on Trade and Development, supra 245, 16.

267 Dalia Hatuqa, "We are Living in a Touristic Prison: Palestinians on Life in the Holy City of Bethlehem," Vox, 23 December 2019, available at: https://www.vox.com/world/2019/12/23/21024634/bethlehem-tourism-christmas-west-bank-palestine-israel-settlements [accessed 26 December 2019].

Jerusalem - at 108.9 NIS/day, and above the daily average for Palestine in general at 94.7 NIS/day,[268] this difference does little to compensate for the costs of living and is likely a result of the upturns in the tourism market. At the same time, Bethlehem has the highest rate of underemployment in Palestine (6.6 percent), and the highest rate of unemployment in the West Bank (23 percent).[269] As a result, it is unsurprising that poverty is rampant throughout the governorate. In 2019, 22 percent of families in Bethlehem were living below the poverty line, surviving on less than two dollars a day,[270] and in 2018, Bethlehem had the fourth highest number of households in receipt of government assistance (12.5 percent),[271] and the highest percentage of households in "great need" of assistance (18.5 percent).[272]

Meanwhile, a small minority are growing wealthier, based on a shifting class structure, due to neoliberal policies, implemented mainly by the PA, along with Israel's control of the economy.[273] Israel's policies of fragmentation and isolation have spawned an unequal economy in which a select few businesses, largely in tourism and the stone and marble industry, are able to benefit from their concessions and favoritism. Consequently, Bethlehem also suffers from the greatest level of income inequality in Palestine: with the second highest number of "rich" people in Palestine (12.4 percent), and the highest percentage of "poor" people in the West Bank (16.5 percent).[274]

3.1.3. Depoliticization

This increasing isolation, poverty and economic inequality concurrently induce a phenomenon of depoliticization. On the one hand, this is due to the need to retain certain employment and economic opportunities, in order to afford basic necessities and to not default on debts (24.7 percent of households in Bethlehem have debts, the fourth highest governorate in the

268 PCBS, "Statistics Table 47: Average Daily Wage in NIS for Wage Employees Aged 15 Years and Above in Palestine by Region and Governorate, 2000-2018," in supra 246, 112.

269 PCBS, supra 155.

270 Hazboun, supra 174.

271 PCBS, "Statistics Table 1: Percentage of Households in Palestine that Received Assistance by Region and Governorate," in supra 245, 49.

272 PCBS, "Statistics Table 16: Percentage of Households in Palestine that Received Assistance by Region and Governorate," in Id., 64.

273 Clarno, supra 5, 96-97.

274 PCBS, "Statistics Table 19: Percentage of Households in Palestine that Received Assistance by Region and Governorate," in supra 245, 67.

West Bank).[275] On the other hand, it is driven by a powerlessness and apathy that results from growing disparity between rich and poor. This leads to a sense of pragmatism wherein individuals accept cooperation with Israelis as the only accessible and practical way to make a living, a reality reflected in stone quarrying, tourism, and employment in the Israeli labor market.

With 70 percent of the stone quarry industry dependent on the Israeli market, for businesses to remain profitable they must conform to the demands of Israel and necessarily limit their political expression and resistance. When asked where the stones go, the workers shrug a weary shoulder. "The business of stone cutting gives people here what they need to survive," says Mr. Takatka. This is the usual response given by these workers, who have no choice but to continue quarrying their own stones that go towards expanding and developing the very same occupation that forces them to work in such conditions in the first place.[276]

Likewise, in tourism, most businesses and individuals are dependent on Israel and Israeli companies for their access and income. This leads to and compounds the silencing of Palestinian voices and the erasure of the Palestinian narrative, with Israeli cooperation dependent on engagement in a particular discourse, and abstention from particular activities. As expressed by Saeed Al Taamari, a tour guide from Bethlehem, "Many tourists come here and they call it Israel. They think they are still in Israel. The Israeli tour guides are like the teachers who feed them information."[277] The depoliticization effect is even more directly observed in those engaging in the Israeli labor market. The strict requirements around security clearances for permits directly constrains and silences Palestinian political resilience. With 13 percent of Bethlehem work permits denied in 2016-17, and less than half granted,[278] employees do not risk their likelihood of obtaining a permit by engaging in any political and/or resistance efforts.

275 PCBS, "Statistics Table 26: Percentage of Households that Faced Restrictions on the Movement of their Members by Region, Governorate and Area of Movement During the First Half of 2018," in supra 245, 75.

276 Ilene Prusher, "Palestinians Stones Cut Both Ways," Christian Science Monitor, 4 January 2000, available at: https://www.csmonitor.com/2000/0104/p6s1.html [accessed 28 February 2020].

277 Orlando Crowcroft, "Bethlehem Left Out in the Cold as Tourists Refuse to Stay," National, 24 May 2014, available at: https://www.thenational.ae/business/bethlehem-left-out-in-the-cold-as-tourists-refuse-to-stay-1.248877 [accessed 28 February 2020].

278 See Nasser Al-Qadi, supra 262.

3.2. Case Study of Umm al-Fahm

> We are an oppressed people and have been subjected to numerous attempts of foreign colonization […] everything that is happening in Umm al-Fahm is either a direct or indirect consequence of foreign domination.
>
> ***Fahmawi Youth Movement***
> ***Interview: Umm al-Fahm, 7 November 2019***

Located on the cusp of the Green Line, bounded by the Apartheid Wall, Umm al-Fahm lies at the heart of the fragmented Palestinian territory, capable of constituting a bridge between Palestinians with Israeli citizenship and those in the West Bank. Yet, Israeli severing, appropriation and manipulation of the transportation sector in and around Umm al-Fahm serves to turn a tool for creating vibrant interconnected communities[279] into a rigorous mechanism for the segregation, fragmentation and isolation of this city. The case of Umm al-Fahm clearly demonstrates that Palestinian communities inside the Green Line are no less immune from Israel's policies that aim to erode social cohesion, debilitate Palestinian economy, and inhibit their political resilience, with the ultimate goal being to undermine the right to Palestinian self-determination.

3.2.1. From a Thriving Regional Hub to a Besieged City

Similar to much of Palestinian society prior to the Nakba, Umm al-Fahm was a small city, that functioned more like a village nestled in a vibrant agricultural area at the heart of Wadi 'Ara.[280] Historical sources date its existence to the eleventh century, and its name, which translates to "mother of charcoal", suggests that economic activity had always been the driving force of its development.[281] By the second half of the nineteenth century, it had grown into a prosperous town, well-known for cattle-breeding, fruit farming and olive picking.[282] With the population increasing rapidly from

279 General Director of Transportation, supra 143.

280 Wajdi Hassan Jabbarin, Researcher and Member of Umm al-Fahm's Municipality, interview conducted by BADIL, Umm al-Fahm, 6 November 2019.

281 Organization for Economic Co-Operation and Development [OECD], Spatial Planning and Policy in Israel: The Cases of Netanya and Umm al-Fahm (Paris: OECD Publishing, 2017), 130, available at: https://read.oecd-ilibrary.org/urban-rural-and-regional-development/spatial-planning-and-policy-in-israel_9789264277366-en#page3 [accessed 28 February 2020].

282 Umm al-Fahm Archive, "Olives" & "Agriculture" [Arabic], blog post, 3 August 2013, available at: http://ummelfahemarchive.com/portfolio_categories/%d8%a7%d9%84%d8%ad%d9%8a%d8%a7%d8%a9-%d8%a7%d9%84%d8%a7%d9%82%d8%aa%d8%b5%d8%a7%d8%af%d9%8a%d8%a9/?lang=en [accessed 28 February 2020].

2,191 inhabitants in 1922 to 5,490 inhabitants by 1945,[283] and with an area of 145,000 dunums,[284] Umm al-Fahm was the largest city in the Jenin District.[285]

Umm al-Fahm's development had been, to a significant extent, the result of its integration into the economic, social and cultural fabric of Palestine and its effective transport connections to its neighboring villages, the rest of Palestine, and the Arab world. Located along the Wadi 'Ara corridor, in "Palestine's center […] on the main road that connects the south and the north,"[286] Umm al-Fahm constituted a crossing point and a commercial artery to the Arab world. Just 7 kilometers north of Umm al-Fahm, the central bus station of Al-Lajjun village[287] operated on a trade route running from the Arabian Peninsula, Egypt and the Gaza Strip and connecting Jordan, Syria and Lebanon.[288] Within Palestine, the Shakhsheer Bus Company provided connectivity between the Galilee region and the Mediterranean coast,[289] running routes from Umm al-Fahm to Jenin, Haifa and Jaffa where its crops were in high demand.[290] More locally, Umm al-Fahm developed into a regional hub of the Little Triangle area (al-Muthalath in Arabic), as well as a central locality of the Jenin district.[291] It was evident that transport and road connectivity added to the growth of Umm al-Fahm both for its own subsistence as well as for its external trade.

Located along Wadi 'Ara that formed and continues to form a natural connection between the Zionist colonies from northern and coastal Palestine, Umm al-Fahm, along with adjacent communities, became a strategic location for the achievement of the Zionist colonial project. Wadi 'Ara provided a critical connection between the colonies established along the Mediterranean shore

283 Palestine Remembered, "Umm al-Fahm, District of Jenin," webpage, available at: https://www.palestineremembered.com/GeoPoints/Umm_al_Fahm_1665/index.html [accessed 28 February 2020].

284 Jabbarin, supra 281.

285 Jenin itself only counted 3,990 inhabitants in 1945. Palestine Remembered, "Jenin, District of Jenin," webpage, available at: https://www.palestineremembered.com/GeoPoints/Jinin_524/index.html [accessed 28 February 2020].

286 Jabbarin, supra 281.

287 Palestine Remembered, "Al-Lajjun, District of Jenin," webpage, available at: https://www.palestineremembered.com/Jinin/al-Lajjun/index.html [accessed 28 February 2020].

288 Jabbarin, supra 281.

289 Ibid.

290 Umm Al-Fahm Archive, "Agriculture" [Arabic], blog post, 3 August 2013, available at: http://ummelfahemarchive.com/portfolio/agriculture/ [accessed 28 February].

291 Claude Conder and Horatio Kitchener, The Survey of Western Palestine, Edward Palmer and Walter Besant (eds.) (London: The Committee of the Palestine Exploration Fund, 1882), 46, available at: https://archive.org/stream/surveyofwesternp02conduoft#page/45/mode/1up [accessed 28 February 2020].

and those in the Galilee,[292] while the major arterial road through the valley was considered tactically important for taking Jerusalem.[293] This can be seen in a number of Zionist plans, and as early as in the Peel Commission's plan in 1937.[294] Contrary to what was outlined in the UN Partition Plan of 1947,[295] Zionist leaders used negotiations for the 1949 Armistice Agreement to ensure Wadi 'Ara would fall into the Israeli-controlled side of the Green Line, despite having been controlled by Iraqi and subsequently Jordanian forces.[296]

The past 73 years of Israeli colonization have left Umm al-Fahm marginalized, not only for being an undesired "Arab locality," but also "a security and a demographic threat"[297] in and of itself. A plethora of political statements have consistently declared that "they are not wanted here, they are not part of us [Israeli-Jews],"[298] or that "there are Arab citizens in the State of Israel. This is our greatest sorrow."[299] As a result, present-day Umm

292 Zena Tahhan, "Israel's Settlements: 50 Years of Land Theft Explained," Aljazeera, 27 January 2020 (update), available at: https://interactive.aljazeera.com/aje/2017/50-years-illegal-settlements/index.html [accessed 28 February 2020].

293 In an Israeli staff session in 1948, David Ben Gurion affirmed: "military, the most effective way to liberate Jerusalem is by attacking the northern part of al-Muthalath, specifically Tubas from the East, Jenin and Umm al-Fahm from the north, and Tulkarm from the West." Umm al-Fahm and Aljoon – A Journey Through Time," in Wajdi Hassan Jabbarin, In "the State of Jews" 1949-2006 [Arabic] (Jerusalem: Al Resalh, 2017), 34.

294 Gideon Biger, The Boundaries of Modern Palestine, 1840-1947 (London & New York: Routledge Curzon, 2004), 203.

295 UNGA, Resolution 181 (II). Future Government of Palestine, A/RES/181(II), 29 November 1947, available at: https://unispal.un.org/DPA/DPR/unispal.nsf/0/7F0AF2BD897689B785256C330061D253 [accessed 28 February 2020]. See also UNGA, Palestine Plan of Partition With Economic Union, Annex A to Resolution 181 (II) of the General Assembly, A/RES/181(II), available at: https://unispal.un.org/DPA/DPR/unispal.nsf/5ba47a5c6cef541b802563e000493b8c/164333b501ca09e785256cc5005470c3?OpenDocument [accessed 28 February 2020].

296 Israel and Jordan, Hashemite Jordan Kingdom-Israel: General Armistice Agreement, 42 UNTS 303, 3 April 1949, Art.VI(3)(b), available at: https://peacemaker.un.org/sites/peacemaker.un.org/files/IL%20JO_490403_Hashemite%20Jordan%20Kingdom-Israel%20General%20Armistice%20Agreement.pdf See also, "The entire Wadi Ara road is also in our hands, and the border will pass to the south of Wadi Ara so that the journey to the Jezreel Valley and Afula will be shorter, as it was in times of peace," David Ben Gurion, cited in Jerusalem Center for Public Affairs, "The Constituent Assembly First Knesset 1949-1951: Armistice Agreements with Egypt, Lebanon, and Jordan", webpage, available at: https://www.jcpa.org/art/knesset2.htm [accessed 28 February 2020].

297 Finance Minister Benjamin Netanyahu, cited in Gideon Alon and Aluf Benn, "Netanyahu: Israel's Arabs Are the Real Demographic Threat," Haaretz, 18 December 2003, available at: https://www.haaretz.com/1.4802179 [accessed 28 February 2020]; Cheryl Rubenberg (ed.), Encyclopedia of the Israeli-Palestinian Conflict, (Colo: Lynne Rienner Publishers, 2012), 322.

298 Israeli Defense Minister Avidgor Lieberman, cited in Jack Khoury, "Following Riots, Israeli Defense Minister Calls for Boycott of Arab Citizens: 'They Don't Belong Here," Haaretz, 10 December 2017, available at: https://www.haaretz.com/israel-news/israeli-defense-minister-calls-for-arab-boycott-after-protests-1.5628215 [accessed 28 February 2020].

299 Public Security Minister Gideon Ezra, cited in Ben White, Palestinians in Israel: Segregation, Discrimination and Democracy (London: Pluto Press, 2012), 54.

al-Fahm displays a decidedly different reality from its thriving pre-Nakba days. "Umm al-Fahm had not developed organically like other cities in the world,"[300] but resembles a village that evenly grew as a result of socio-economic interference, "especially in terms of overcrowding, [and stifled by] customs and traditions."[301] Now constricted to 20 percent of its original lands,[302] with 10 times the population, it is the third largest Palestinian community inside the Green Line, after Nazareth and Rahat.[303] It has one of the youngest populations (47 percent under 20 years old),[304] one of the poorest (ranked 19 out of 255 localities in 1948 Palestine in the 2013 socio-economic index),[305] and one of the most overcrowded, with severe housing shortages leading to population transfer out of the city.[306]

3.2.2. Fragmentation to Stifle Political Unity and Resistance

> Umm al-Fahm is considered a city of national struggle and a significant center for Palestinian resistance […], its geographical proximity to the occupied West Bank, its position as a linkage point in the area of the Palestinian Galilee, and its dense Palestinian population are additional factors that contribute to Israel's targeted policies towards Umm al-Fahm.
>
> ***Fahmawi Youth Movement***
> ***Interview: Umm al-Fahm, 7 November 2019***

The process of Umm al-Fahm's fragmentation originates in Israel's manipulation of the armistice lines, which reshaped the boundaries of the city for the purpose of containing its residents and confiscating its lands. The fragmentation of Umm al-Fahm from villages and towns in the West Bank was instant. Al-Lajjun, where the Central Bus Station with routes running to Haifa and Jenin had been located, was depopulated almost immediately by the Israeli military, ceasing all services into the

300 Focus group – Fahmawi Youth Movement, interview conducted by BADIL, Umm al-Fahm, 7 November 2019.

301 Ibid.

302 The municipal area of Umm Al-Fahm encompasses 27 km^2, which increased by 1.6 km^2 for development purposes in 2016. OECD, supra 282, 122.

303 Israel Central Bureau of Statistics [ICBS], "Population in the Localities 2018," 25 August 2019, available at: "Population in the Localities 2018" [accessed 28 February 2020].

304 OECD, supra 282, 127.

305 Less than 50 percent of residents are income earners, compared to 63.84 percent nationwide. ICBS, "Local Authorities, in Alphabetical Order of Hebrew Names: Socio-Economic Index Value 2013, Rank and Cluster, and Variables used in the Computation of the Index," available at: https://old.cbs.gov.il/publications17/socio_eco13_1694/pdf/t01.pdf

306 Since 2005, outmigration has consistently exceeded inmigration. OECD, supra 282, 123.

West Bank. This was further compounded by the Israeli military rule then imposed on all Palestinians inside the Green Line, as per the 1949 Security Zones Ordinance and rapid land confiscation.[307]

> Umm al-Fahm's relationship with other cities and villages in the North, like al-Tayyiba, [prior to 1948] was not too strong unlike its relationship with other eastern and southern cities and villages [namely Jenin, Tulkarm, and Anin]. During the period of military rule between 1949 and 1966, the economic and political situation in Umm al-Fahm rapidly deteriorated. The people of the city could not move without obtaining work and movement permits from the respective [Israeli] military ruler. This policy culminated in disruption of social cohesion and interaction, separation from land, strangulation and severe movement restrictions. As such, Israel's military policy aimed to constrain the people of Umm al-Fahm. One of its relics is the remaining fragmentation of families. Some families lived in the West Bank while the rest of their relatives resided inside the Green Line. Following these policies, those in the West Bank were enclosed in that area, separated from their families, and displaced from their lands.
>
> ***Wajdi Hassan Jabbarin, Writer and Historian***
> ***Interview: Umm al-Fahm, 6 November 2019***

After seizing the Marj Ibn Amer area, Israel quickly confiscated large swathes of Umm al-Fahm's lands under the Absentee Property Law and state land declarations,[308] reducing the city's boundaries to 27,000 dunums. This then paved the way for colonial expansion around Wadi 'Ara. In 1964, Israel established the first colony in the area, Mei Ami, located on the immediate southern fringe of Umm al-Fahm.[309] As of today, an entire ring of colonies encircle the valley that includes a cluster of Israeli-Jewish colonies implanted to the east namely Tall Menashe, Hinnanit, Shaqed and Rehan around which the Apartheid Wall was constructed; Megido and Givat Oz colonies in the north; and clusters around Harish and Katzir further south.[310] In accordance with the Sharon Plan, these colonies intentionally and dramatically altered the demographic balance of Wadi 'Ara, impeded the natural growth of Palestinian communities in the area, and contributed to their geographic fragmentation. Unsurprisingly, the deliberate discontinuity and disruption

307 Shira Robinson, Citizen Strangers: Palestinians and the birth of Israel's Liberal Settler State (Stanford: Stanford University Press, 2013), 38.

308 Jabbarin, supra 294.

309 Muhammad Amara, Politics and Sociolinguistics Reflexes: Palestinian Border Villages (Amsterdam & Philadelphia: John Benjamins Publishing Company, 1999), 5.

310 Ibid. See also B'Tselem, From the Field, Interactive Map, available at: https://www.btselem.org/map [accessed 28 February 2020].

of connections between Umm al-Fahm and Jenin and Nablus [311] was, and remains, at the heart of Israeli political concerns.[312]

Significantly, the new geopolitical conditions brought about by the Israeli occupation of the West Bank in 1967, allowed for the restoration of social, economic and cultural bonds among Palestinians on both sides of the Green Line, notably as a result of the reinstatement of a transportation network between Umm al-Fahm, Jenin and Anin. Consequently, economic prospects were enhanced for the residents of Umm al-Fahm, a significant number of whom would eventually move to Jenin for employment and housing opportunities.[313] For a period, this restored connectivity, revitalized the Palestinian identity and fostered ethics of resistance all over Mandatory Palestine.

> Resistance among Palestinians intensified – those from camps, cities, villages, and the Diaspora all resisted – not only because the borders were open, but also due to the inception of a new generation that had a clear vision and felt undefeated. During this period, political forces that linked their projects to the Palestinian historical right [to resist] began to form […].
>
> ***Loai al-Khatib, member of Abnaa al-Balad***
> ***Interview: Umm al-Fahm, 7 November 2019***

The ensuing First and Second Intifadas demonstrated the potential strength of a united Palestinian people on both sides of the Green Line in the struggle against Israeli oppression. This propelled an increase in Israel's policies of segregation, fragmentation and isolation,[314] under which manipulation and appropriation of the transportation network played a key role. Some of the mechanisms that Israel utilized to re-fragment Umm al-Fahm and thereby disrupt Palestinian sociopolitical cohesion are outlined below.

- **Cessation of the bus network:** Having been reinstated after Israel occupied the West Bank, the Shakhsheer bus company was again forced

311 Yehezkel Lein, Land Grab: Israel's Settlement Policy in the West Bank (Jerusalem: B'Tselem, 2002), 14, available at: https://www.btselem.org/download/200205_land_grab_eng.pdf

312 "If we don't do something the partition plan of 1947 will materialize right in front of our eyes. It has in fact already begun. There is a connection from Lebanon through the Galilee to Jenin and the triangle," Brig. Gen. (res.) Eival Gilady, "The Galilee as a challenge and national priority", Herzliya Conference, 23 January 2006; "We want to Judaize the Wadi Ara area ... The state wants to put this place in order so that the Arabs won't rear their heads," Interior Ministry-appointed head of local council Nissim Dahan, in 2008, cited in White, supra 300, 55.

313 Jabbarin, supra 281.

314 Fahmawi Youth Movement, supra 301.

to cease running services from Jenin to Al-Lajjun and Haifa in 1987 due to increased Israeli restrictions.[315]

- **Appropriation and control of pre-existing road facilities:** The main road through Wadi 'Ara, Route 65, was used as a key route providing a connection between the Israeli-Jewish coastal city of Hadera and the Galilee.[316] As this strategic route was blocked by Palestinians several times, particularly during the Second Intifada, [317] Israel now asserts heavy control over this road.

- **Checkpoints** imposed during and after the Second Intifada have severely hampered travel between Palestinian towns and villages in the West Bank and Umm al-Fahm, particularly for those who possess West Bank IDs. While all Palestinians from inside the Green Line can travel into the West Bank from the two checkpoints immediately east of Umm al-Fahm (Barta'a and Tura), travel is prohibited in the other direction except for those with Israeli citizenship along with a limited number of local villagers. Anyone with a West Bank ID is required to travel through Jalama checkpoint, directly north of Jenin, adding significantly to travel time.

> Both psychological and mental efforts are needed to try to apply the law and to not violate it in any way. For example, I am Palestinian and my son is considered an Israeli because he holds an Israeli citizenship. If we want to travel to Ramallah, both of us can use the Barta'a checkpoint or Jalama checkpoint to enter. We cannot, however, return home together from either of these checkpoints because they are only for Israeli entry. We are instead required to go to Jabara checkpoint, just so we can be together.
>
> ***West Bank ID holder married to a Palestinian from Umm al-Fahm***
> ***Interview: Umm al-Fahm, 7 November 2019***

The above practices of fragmentation are evident in various systematic forms throughout Mandatory Palestine, and Umm al-Fahm constitutes a noticeable case in point. Importantly, Umm al-Fahm's geographical proximity, strong historical ties to the West Bank and persistent national consciousness have further prompted Israel to exert additional pressure on the city itself by not only imposing policies of fragmentation, but also those of isolation.

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315 Jabbarin, supra 281.

316 "A bypass road to Hadera opens to traffic" [Hebrew], Davar, 24 November 1970, available at: http://jpress.org.il/olive/apa/nli_heb/?href=DAV%2F1970%2F11%2F24&page=5&entityId=Ar00516 - panel=document [accessed 28 February 2020].

317 "The Or Inquiry – Summary of Events," Haaretz, 19 November 2001, available at: https://www.haaretz.com/1.5124218 [accessed 28 February 2020].

3.2.3. The Isolation of Umm al-Fahm

Isolation lies at the core of the Israeli strategy to confine, concentrate and disconnect Umm al-Fahm from its surroundings, completing the broader system of the city's fragmentation and segregation. Since Israel has a stranglehold on urban planning and transportation decision-making, its policies of isolation are enacted in a subtle and largely inconspicuous way, rather than through explicit targeting of Palestinian communities. "Cities' structural maps and the permission or prevention of building play a primary role in either creating successful cities or poor and marginalized ones,"[318] and Israel has cunningly shaped Umm al-Fahm's design through its centralized decision-making processes.

> Trade is what increases a city's value. Israel follows a strategic annexation policy in some cities as is most suitable for its purposes. For example, Israel connected the area of Wadi 'Ara with other Israeli-Jewish areas, while it separated and excluded the city of Umm Al-Fahm in order to keep it both isolated and industrially dependent.
>
> ***Engineer #1***
> ***Interview: Umm al-Fahm, 7 November 2019***

This control enables the manipulation of road planning and transportation decision-making for the purpose of de facto de-development. Structural maps are designed according to Israeli-Jewish priorities and are at odds with Palestinian needs.[319] Then, constrained by an ill-suited planning system that leaves them with no leeway to develop, Palestinian cities grow without proper and adapted planning, often in an uneven manner and inevitably manifesting social discord. This, in turn, conveys the unwarranted impression that Palestinian cities are unsuitable for proper planning and are responsible for their own problems. The resulting situation then justifies the further tightening of control over Palestinian communities through intensified policing and constant interference.

To achieve this, Israel utilizes a number of isolating practices. Among these are the absence of planning for social public spaces such as parks and recreational centers, residential areas according to housing needs,[320] as well as health facilities, particularly hospitals. While this is all intentional, it is legitimized under the guise of preserving an assumedly objective planning system.

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318 Traffic and Transportation Engineer, interview conducted by BADIL, Nazareth, 8 November 2019.

319 Jabbarin, supra 281.

320 Engineer, interview conducted by BADIL, Umm al-Fahm, 7 November 2019.

Congestion and overcrowding due to a lack of approved local plans

Although planning laws and policies are often understood as neutral and objective mechanisms designed to improve the quality of life of the people, Israeli planning laws, as with many settler-colonial regimes, are guided by a set of objectives, policies and cultural norms that actually disguise structural and overt discrimination against Palestinians.[321]

The highly centralized planning system developed by Israel and governed by the Planning and Building Law 1965[322] allows the state to manage the mass increase of Israeli-Jews and simultaneously restrict expansion and city planning in Palestinian communities. The progressive relaxation of the planning system to encourage local decision-making in Israeli-Jewish areas has not been applied to Palestinian communities and has enabled their ongoing tight regulatory control. This has resulted in a discriminatory and severely detrimental planning environment for Umm al-Fahm.

- **No approved local structural plan:** Attempts to develop a Local Master Plan have persistently failed from the 1970s onwards, until they were shelved in the 1990s. Since 2011, attempts to develop a Local Comprehensive Plan for Umm al-Fahm have met the same fate.[323] This is because approval for these plans by the Haifa District Planning Committee is required, on which no Palestinian sits, allowing for the opportune prioritization of Israeli-Jewish interests over Palestinian needs. Eventually, this leads to a deadlock where Palestinian planners are not able to fully yield to the Committee's conditions for approval because their requirements are wholly inadequate in meeting the needs of the Palestinian people.[324] In January 2020, the Fathmal Committees in Jerusalem emanating from the Council for Organization and Building approved the deposit of a detailed map for some areas in the city of Umm al-Fahm, mainly Ayn Jarrar, Abu Lahim and Al-Arayesh.[325] The map named Tamal 1077 approved construction of new houses on 2200 dunums, including the licensing of 3,000 housing units based on private

321 See "Introduction: Culture, Colonialism and Planning," in Libby Porter, Unlearning the Colonial Cultures of Planning (Burlington & Farnham: Ashgate, 2010), 1-19, available at: http://periferiesurbanes.org/wp-content/uploads/2013/12/Libby_Porter_Unlearning_the_Colonial_Cultures_ofBookFi.org_1.pdf

322 Planning and Building Law, supra 49.

323 OECD, supra 282, 131-132.

324 Engineer, supra 321.

325 See Umm al-Fahm, Municipality Website, available at: http://www.umelfahem.org/index.asp [accessed 28 February]; See also "Umm Al-Fahm: Approval of building 4122 housing units" [Arabic], Arab 48, 15 January 2020, available at: https://d2c6av74oz68c3.cloudfront.net/-محليات/أخبار-محلية/2020/01/15/أم-الفحم-المصادقة-على- [accessed 28 February 2020].

land, in addition to 1122 new housing units in the aforementioned neighborhoods.[326] The validation of Tamal map 1077 is subject to certain conditions. In the larger scheme of things, this approval of a detailed map in a select few areas of Umm al-Fahm does not make a substantial difference to the discriminatory planning policies that have prevailed over the past decades - even more so because the approved detailed map still stipulates the creation of a forest on Palestinian private lands.[327] Notably, Umm al-Fahm remains the only local authority in Wadi 'Ara area whose Local Master Plan was never comprehensively approved although it is the largest locality by a considerable margin. This is consistent with Israel's persistent delays and refusal to provide approvals to other large Palestinian communities.[328]

- **No appropriate Local Planning Committee:** Although a city of this size would normally warrant having a local planning committee of its own, Umm al-Fahm remains part of a local planning and building committee that encompasses a cluster of villages in Wadi 'Ara; namely Umm al-Fahm, Baqa al-Gharbiyye, Jat, Ma'ale Iron, Basma, Ara, Ar'ara and Kafr Qari'a.[329] Since cluster committees include government representatives with advisory functions and a right to appeal to the Appeals Committee at the district level,[330] the inclusion of Umm al-Fahm within the scope of a cluster planning committee allows Israel to retain greater control over both planning decision-making and the approval of local plans. This generates a discrepancy between approved plans and the residents' actual needs, and thus further hampers urban development.

- **Dependent on highly localized "Detailed Plans":** In a bid to rectify the issue of 'illegal' construction, the Umm al-Fahm Municipality which was formed in 1984, started obtaining approvals for more localized area specific 'Detailed Plans'. Since these are for confined areas, these plans largely reflect the status quo, do not factor in future development needs, and do nothing to address the broader public interest considerations for a large and expanding city.

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326 Ibid.

327 See "The Al-Fathmal Committee Approves the Deposit of the 1077 Structural Map," Umm el-Fahm Municipality website, available at: http://www.umelfahem.org/inner.asp?root=105&RecordID=4138 [accessed 28 February 2020].

328 Planners for Planning Rights and The Arab Center for Alternative Planning, "Outline Planning for Arab Localities in Israel: Summary," (BIMKOM and ACAP, 2012), available at: http://bimkom.org/eng/wp-content/uploads/Outline-Planning-for-Arab-Localities-in-Israel-English2.pdf

329 OECD, supra 282, 132.

330 Id. 28-29.

- **Subject to Regional Master Plan:** In 2011, in a purported attempt to resolve the issue of a lack of plans, the Israeli Ministry of Interior adopted a Regional Master Plan for Wadi 'Ara, which does not meet Umm al-Fahm's needs and demands.[331] In fact, it allows Israel to plan for broader Israeli-Jewish priorities in the area, as can be seen in the development of the Israeli-Jewish town Harish and the erasure of Palestinian communities like Dar el-Hanoun, an unrecognized Palestinian village,[332] and does nothing to address the increasingly urgent economic and development needs of Umm al-Fahm as a highly populous city and regional center.

In such an environment, the impact is two-fold. Most notably, Palestinians in Umm al-Fahm are forced to build without adequate planning or consideration of the broader public needs for a city of its size. This results in paralyzing congestion and overcrowding over a sustained period of time, which has significant social, cultural and economic impacts.

Less obvious is the significant legal and administrative impact. The ambiguity and the vacuum left behind by the absence of plans leaves Israel with full control to pursue planning decisions that meet Israeli-Jewish expansionist goals while colliding directly with Palestinian planning needs and disempowering local Palestinian authorities.[333] This is seen in the way Israel has rezoned areas around Umm al-Fahm to be recognized forest areas,[334] and providing a basis for the denial of repeated requests for an industrial zone near Wadi 'Ara Street (Route 65) for the benefit of the habitants of Wadi 'Ara, including Umm al Fahm.[335] It is also seen in the denial of permits for commercial, agricultural and industrial purposes. This is due to the absence of an approved industrial zone,[336] but also to the inability of Palestinian businesses and landowners to meet equity regulations, as a result of tight access routes and overcrowding.[337] Additionally, public facilities are situated at the periphery without considerations to road accessibility issues.[338]

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331 Engineer, supra 321.

332 Adalah, "2,300 New Homes for Ultra-Orthodox Jews in Arab Wadi'Ara," press release, 27 May 2013, available at: https://www.adalah.org/en/content/view/8123 [accessed 28 February 2020].

333 Planners for Planning Rights and The Arab Center for Alternative Planning, supra 329, 9-10.

334 Jabbarin, supra 281.

335 Engineer, supra 321.

336 In 2015, the district committee approved a surface of 200 dunams [0.2 km^2] although the Umm al-Fahm municipality demanded an expansion up to 1000 dunam [1 km^2]. It sharply contrasts with the approval of a 10,000-dunam industrial zone in the Israeli-Jewish colony of Kiryat Jat, 4,000 dunams [4 km^2] of whom being actually earmarked for housing. Engineer, supra 321. License Inspector, interview conducted by BADIL, Umm al-Fahm, 7 November 2019.

337 License Inspector, supra 337.

338 OECD, supra 282, 123-124.

All of this combined has a consequential impact on the economic capacity of the Umm al-Fahm municipality and local business owners. This is reflected in:

- An economy that is severely restricted by the absence of agricultural, commercial and industrial zones. Further, the ratio of commercial and industrial zones in Palestinian areas is significantly lower than in Israeli-Jewish areas. This has an adverse impact on the competitiveness of Umm al-Fahm and drives 55 percent of employed residents to seek employment outside the city.[339] "You could find an [Israeli-Jewish] colony with a population of 200 that has a better economy than a Palestinian city with a population of 80,000 people due to the absence of an industrial area or only having a small industrial zone."[340]

- Rates are significantly higher for commercial and industrial taxes than for residential taxes. As Umm al-Fahm is predominantly a residential area, the municipal taxes that are collected by the municipality are significantly lower compared with Israeli-Jewish areas that comprise more commercial and industrial areas.[341]

- The income derived from property tax rates levied is reduced, because the rates which are set by the Israeli government[342] are disproportionately high compared to the quantity and quality of services provided in Umm al-Fahm,[343] and many residents have their fees waived due to their low-income status.[344]

This then means that Umm al-Fahm's regular budget is heavily dependent on government funding,[345] translating into a lack of both political leverage in decision-making and an absence of financial means to engage in adequate infrastructure construction work.[346] This paves the way for housing crises, lack of public buildings for services and employment, and leads to the creeping de-development of the city, which is actually the result of systemic discrimination at each stage of the planning process and the discriminate allocation of public funds. In other words, this induces a structural disparity

339 OECD, supra 282, 125.

340 Traffic and Transportation Engineer, supra 319.

341 Traffic and Transportation Engineer, supra 319. Jabbarin, supra 281. OECD, supra 282, 124-125.

342 OECD, supra 282, 125.

343 Ibid.

344 Id., 126.

345 Id., 126.

346 Jabbarin, supra 281.

in public fund allocations and economic activity that feeds and nurtures the cycle of unequal treatment and discriminatory development to highly favor Israeli-Jewish populations and severely marginalize Palestinian communities.

Confinement of the city borders through the manipulation of the road network

Another commonly deployed Israeli mechanism is the seemingly innocuous arrangement of the road network, which it uses to constrict Umm al-Fahm's growth, to limit its connection to its surrounding villages and to promote expansion in Israeli-Jewish areas.

In line with the above, the setting of a city's and residential community's borders are steered by Israeli-Jewish committees,[347] once again according to Israeli-Jewish priorities, and with "a clear lack of understanding of the nature of Palestinian communities."[348] Any street or road construction requires prior approval by Israel because it would be undertaken in areas classified as state land – 93 percent of the lands in 1948 Palestine.[349]

- **Old local roads are left intentionally unmaintained and largely unpaved** as a result of Israeli planning which deliberately confines Palestinian communities, keeping people separate from each other and discouraging their ongoing connection.[350] From Umm al-Fahm, many villages remain inaccessible through main roads.[351] For instance, the Palestinian villages of 'Ar'ara and 'Ara are located southward and separated from Umm al-Fahm by the Mei Ami colony and Road 6535 that connects it to Highway 65. To access Ar'ara and 'Ara from Umm al-Fahm, Palestinians are obliged to use the colonizer Road 6535, or, as an alternative, other unpaved and dangerous roads.[352] The reliance on colonies' roads render Palestinian transportation fully dependent on the Israeli-Jewish road system.

> […] there is no paved road between 'Ara and Ar'ara and Umm al-Fahm even though 'Ara is considered a rural area on the outskirts of Umm al-

347 Traffic and Transportation Engineer, supra 319.

348 Ibid.

349 Israel Land Authority, "About Israel Land Authority," webpage, available at: https://land.gov.il/en/Pages/AboutUs.aspx [accessed 28 February 2020].

350 Traffic and Transportation Engineer, supra 319. Jabbarin, supra 281.

351 License Inspector, supra 337.

352 License Inspector, supra 337.

> Fahm—it is forbidden to have a road between 'Ara and Umm al-Fahm. […] For instance, there are only two buses that pass near 'Ara by stopping on Route 65—one bus comes from Ra'anana to Kiryat Shmona settlement in the north and another bus to Tel Aviv.
>
> ***Loai al-Khatib, member of Abnaa al-Balad***
> ***Interview: Umm al-Fahm, 7 November 2019***

- **The outright lack of road connections to adjacent Palestinian localities in the West Bank** leads to the difficult situation illustrated by the village of Umm al-Rihan located right on the West Bank side of the Green Line: "there is literally only one street between them and no barrier, yet residents of Umm al-Fahm are not allowed to enter Umm al-Rihan and vice-versa."[353]

- **There is one road in and out of Umm al-Fahm** despite repeated requests from the municipality to place another entrance on the eastern side of the town. There is only one highway exit that connects Road 65 to the city of Umm al-Fahm, creating a major congestion point. Additionally, the planning committee has constantly rejected all initiatives to connect Umm al-Fahm to other Palestinian cities through either constructing a road that connects Umm al-Fahm to Road 66 (Haifa-Jenin) or establishing an east-south gate with the West Bank.[354]

- **Roads are used to constrict Umm al-Fahm**, particularly Road 6535 built to the immediate south of Umm al-Fahm. This road is built to facilitate Israeli-Jewish access to the colony of Mei Ami and disguises the fact that it also restricts any further growth of Umm al-Fahm in the southern direction. The result is a higher population density in the Palestinian localities in this area.[355]

The encirclement of Umm al-Fahm by a system of colony roads and improperly maintained roads designed for Palestinian use has an indirect but significant effect on Palestinians' access to their lands. Private property is also distributed along family lines, and "[Palestinian] areas are [often] privately owned by a few families, which means that only owners can build on these lands."[356] The rigid confinement of Umm al-Fahm's borders not only concentrates residents in the city center, but limits building possibilities for families owning lands in

353 Ibid.

354 Engineer, supra 321.

355 Fahmawi Youth Movement, supra 301.

356 Traffic and Transportation Engineer, supra 319.

the outskirts. "This situation leads young people to migrate [displacing them] from their villages and towns to other areas in search of places to live and work."[357]

Lack of public transport connections

Israel retains tight control over the public transport system, which is predominately driven by Israeli-Jewish priorities. As a result, Israel is again able to enact isolation policies against Umm al-Fahm which deprive it of public transport options both within the city and local areas, and regionally to other Palestinian centers. This is reflected in a number of Israeli decisions and practices.

- **Only in 2014 did Umm al-Fahm get localized bus services:**[358] Until 2010, Israel had never provided any bus services to Palestinian localities,[359] and now, Umm al-Fahm has four services within the city that run regularly.[360] However, this city's bus service is still largely inadequate as it only runs one limited service to nearby Ar'ara and two slightly more frequent, though still irregular, services to Basma and Ma'ale Iron.[361] Notably, these buses do not operate on Fridays, Saturdays or on Jewish holidays. Moreover, street names, bus stations and announcements are solely in Hebrew,[362] creating a feeling of alienation for Palestinian users and amounting to a service poorly adapted to Palestinian customers' needs.

- **Absence of direct and regular connections between key Palestinian centers:** There are a number of highly irregular bus services running between Umm al-Fahm and a limited number of Palestinian centers, including Haifa, Nazareth, Jisr al-Zarqa, and Baqa al-Gharbiyye.[363] These services depart only from the main terminal at Umm al-Fahm, and thus require additional connections if the terminal is not within

357 Ibid.

358 Naomi Zeveloff, "After Terror Attack, Israel Funding for Arab Towns May Come With Strings Attached," Forward, 14 January 2016, available at: https://forward.com/news/329914/after-terror-attack-israel-funding-boost-for-arab-towns-comes-with-strings/ [28 February 2020].

359 Ron Friedman, "Arab villages get bus routes," Jerusalem Post, 12 July 2010, available at: https://www.jpost.com/Israel/Arab-villages-get-bus-routes [accessed 28 February 2020].

360 Lines 2, 3, 4 and 6 operated by Kavim, See Israel's Public Transportation Info Center, available at: https://bit.ly/31KUtDa [accessed 28 February 2020].

361 Lines 38, 39, 62. See Ibid.

362 Jabbarin, supra 281.

363 Timetables for 44 (Yanuh Jat), 241 (Gisr A Zarka), 296 and 248 (Haifa), 720 and 750 (Nazareth). See supra 361.

walking distance. Services that operate regularly only run every 90-120 minutes, amounting to a significant waiting time between services. Alternatively, other services that run at specific times of the day to enable school, university or work travel out of Umm al-Fahm rarely provide more than one or two departure times daily. There are no services available that provide regular connectivity in both directions between these Palestinian communities. Travel farther to Jerusalem demands multiple transfers, including in the wrong direction to Afula, before commuting to Tel Aviv and then connecting back to Jerusalem.[364] Traveling to the West Bank poses even more of a challenge. "[…] I can only travel to the West Bank through public transportation – which is not organized or punctual and ends up taking at least three hours to get [to Ramallah] because I have to go to Barta'a or Jalameh, then to Jenin and then to Ramallah compared to the direct route, which would only take an hour and forty minutes"[365]

- **Regular and targeted services to key Israeli-Jewish areas:** At least ten specific bus services are provided to transport residents of Umm al-Fahm to some Israeli-Jewish areas, including a select few industrial zones. In contrast to the services between the city and other Palestinian communities, some of these services have multiple stops within Umm al-Fahm, and the timetables are generally clearly designed to account for work schedules, with multiple services provided out of Umm al-Fahm in the morning and back into it in the evening. Twelve additional services run along Route 65, with a stop at Umm al-Fahm connecting Palestinians to major Israeli-Jewish cities, such as Tel Aviv, Afula, Natsrat Illit, the Jordan Valley and Beersheba.[366]

- **Plans to construct a train line through Wadi 'Ara that included a station at Umm al-Fahm were diverted** because of the undesired potential economic benefits to the area.[367] The amended plan perpetuates the segregation of Palestinian communities, while developing the connection between the coastal Israeli-Jewish populations and the Marj Ibn Amir Valley, which was planned way back during partition discussions in the 1940s.

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364 Jabbarin, supra 281.

365 West Bank Spouse of a Fahmawi Palestinian, interview conducted by BADIL, Umm al-Fahm Municipality, 7 November 2019.

366 See review of bus services, in supra 361.

367 Osnat Nir, "Wiped Off the Map: Railway Plan Skips Arab Towns, Leaves 180,000 Without Transport Solution," Haaretz, 8 February 2019, available at: https://www.haaretz.com/israel-news/.premium-new-train-lines-to-bypass-large-arab-area-as-ministry-changes-plans-1.6916538 [accessed 28 February 2020].

> The future train plans show that it would have helped Umm al-Fahm, Wadi 'Ara, 'Ar'ara, and Masmus, as it would have fostered economic growth. However, when the [Israeli] central planning committee found out about this, it diverted the route further west towards the sea [replacing the initial plan by an alternative Menashe train running up north]. [Israel] does not desire for commercial centers to exist in Arab [Palestinian] areas, as it is understood that the presence of a train station leads to the presence of a commercial center.
>
> ***Engineer #2***
> ***Interview: Nazareth, 8 November 2019***

The current public transportation network is entirely dedicated to the improvement of connectivity between and to Israeli-Jewish populations, while consolidating the segregation of Palestinian communities. "This is due to the state's desire to keep the Palestinians under [Israeli] rule."[368] The poorly inadequate public transportation contributes to the economic isolation of Umm al-Fahm, leaving residents wholly dependent on the Israeli-Jewish economy, subjecting its residents to long and tedious commutes to seek employment outside the city, or eventually impairing their ability to commute from one place to another.

> I have previously been offered multiple employment opportunities outside of Umm al-Fahm, but have not been able to accept these offers due to the distance. For example, if I were to work in Nazareth, how can I travel there on a daily basis when I am not allowed to drive a private car with a Palestinian ID? I cannot use public transportation either due to irregular and unorganized departure times.
>
> ***West Bank ID holder married to a Palestinian from Umm Al-Fahm***
> ***Interview: Umm al-Fahm, 7 November 2019***

3.2.4. De-Development: Deteriorating Social, Economic, and Political Environment

Taken together, policies of fragmentation, segregation and isolation are intended to impose the de-development of Umm al-Fahm through the deliberate and systemic disruption of its economic, social and cultural dynamic. Not only did Israel force de-development on Palestinians, but it also makes them accountable for it through a dual phenomenon of self-blame and self-isolationism. The underlying purpose being the destruction of Umm al-Fahm's Palestinian identity and its people's political consciousness.

368 Jabbarin, supra 281.

Undermining economic, social and cultural cohesion

By controlling decision-making on road planning and public transport systems, Israel reinforces its grip on Palestinians, while depriving them of any choice agency, "[…] virtually determin[ing] the type of work that residents are able to pursue, [as well as] people's job-making decisions."[369] The setting and routing of the Israeli public transportation system strictly defines the locations that Palestinians in Umm al-Fahm can access and consequently where they can work.

> Before 1948, most people were farmers and specialized in hay cultivation, thus smoke cultivation, but [Israeli domination] has killed this profession. As a result, most people began to work in construction, which is usually based on short-term contracts, so more people are virtually unemployed due to the impermanent nature of construction work. Other Fahmawi residents are employed by the Ministry of Education and it is where most educated fellows work, due to its simplicity in practice and administration.
>
> ***Wajdi Hassan Jabbarin, Writer, Historian***
> ***Interview: Umm al-Fahm, 6 November 2019***

> This situation has pushed most residents to work in colonies, rather than in Umm al-Fahm or other Palestinian areas; construction is the type of work that Israel permits us to have because commuting to work is only possible through a transportation system that is designed and approved by Israel.
>
> ***Fahmawi Youth Movement***
> ***Interview: Umm al-Fahm, 7 November 2019***

The reality is a situation in which Israel is able to both create and sustain a cycle in which Palestinians of Umm al-Fahm are faced with high levels of unemployment, who are then forced to seek employment outside Umm al-Fahm. Higher poverty rates come with low wages,[370] low education levels,[371] as well as low levels of infrastructure – notably in terms of public transportation and road maintenance.[372] In other words, the Israeli demarcation on Umm al-Fahm and its ensuing isolation from its

369 Fahmawi Youth Movement, supra 301.

370 Only 3.79 percent of income earners receive more than twice the average wage, and almost 55 percent receive below the minimum wage. See ICBS, supra 306.

371 In 2013, Umm Al-Fahm counted less than 12 percent of academic degree holders, compared to 28.50 percent nationwide, and the average years of schooling was – in average – 1.64 years below the national average. See ICBS, supra 306.

372 OECD, supra 282, 118.

surroundings have modified and dictated the socio-economic profile of the city.

- **Deprivation of traditional labor and the decrease in economic opportunities:** "Inner-city transportation in Umm al-Fahm is difficult and employment opportunities are lacking; […] wages are too low and […] [finding] a job inside the city or in surrounding Palestinian villages is near impossible."[373] The undermining of the economic development of Umm al-Fahm in conjunction with an ever-increasing dependency on the Israeli economy compounds the socio-economic deprivation of Umm al-Fahm, which cannot attain a higher standard of living or sustain associated higher living costs.[374]

- **Disintegration of social cohesion due to overcrowding and disconnection:** The aforementioned policies engender poverty, a lack of economic opportunities, intensified tensions, pressure, stress, and local violence. "[…] the [Israeli] occupation is directly associated with the increased level of violence in Umm al-Fahm by proliferating arms and condoning crimes. The political situation imposed on us is also an indirect contributor to the violence."[375] Israeli imposed isolation and self-blame create internal tensions. "The [Israeli] police's failure to prevent crime often leads to a state of continuous reprisals among families which perpetuates violence even more."[376]

- **Assertion of strict cultural and religious values due to coerced isolation, overcrowding, and insularity.** "Religious intolerance is an attempt to protect oneself and one's identity from Israeli colonialism; masculinity and religious conservatism are thus linked and reinforced by colonialism and religious conservatism. The [Israeli] geographic siege has produced social dissolution and cultural conservatism."[377]

In fact, what Israel has created, both directly and indirectly with its policies of segregation, fragmentation and isolation, is a situation that inevitably induces poverty, and ultimately increases violence and religious conservatism. Israel then utilizes this to justify further perpetuation of these oppressive policies. This is the very essence of a system of structural discrimination and oppression.

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373 Fahmawi Youth Movement, supra 301.

374 Ibid.

375 Ibid.

376 Ibid.

377 Ibid.

Self-blame and self-isolationism

This creation of dependency to the Israeli-Jewish system also prevents and stifles the opportunity to conceive a different future and coerces Palestinians into thinking of themselves as the problem and inherently incompetent. The oppressive Israeli system is subsequently legitimized as the only valid and possible option of redress, feeding and strengthening the cycle of dependency and control. Israel "considers that where we [Palestinians in Umm al-Fahm] are today represents our maximum development capacity – they even intervene in our educational and employment pursuits to keep us confined."[378]

The perceived objectivity of urban planning rules and procedures is just one factor that creates this illusion that Palestinian cities are solely responsible for their own urban problems. In actual fact, however, these prevailing circumstances are a result of discriminatory planning rules and procedures designed to favor Israeli-Jewish populations.

At the same time, Umm al-Fahm's isolation induces an inward-looking mentality and resembles a process of depoliticization. Palestinians there seek internal reasons and solutions to a socio-economic situation inherently due to external factors: "the society is reckless, and people's thoughts are limited… the people here gravitate towards violence and have difficulty in engaging in mature discussions."[379] The lack of economic opportunities in the job market and forcible displacement are interpreted through the lens of rational economic choice, instead of recognition of these issues as the results of Israel's deliberate attempts to thwart the economic development of Umm al-Fahm. "The youth do not work [in Umm al-Fahm]; they prefer working outside of Umm al-Fahm and amongst Israeli-Jews because Umm al-Fahm's business owners do not provide workers with standard payments and benefits."[380]

As a result, Palestinians "consider themselves as contributors to the existing problems in Umm al-Fahm"[381] and normalize their constructed position of inferiority. "Israel's policies of separation and restriction also […] aim to […] coerce us into believing that we ought to only think of meeting the minimum

378 Ibid.

379 Ibid., cited in Asrar Kayyal, Psychologist's analysis of the Focus Group Interview conducted by BADIL. "The [youth] group attributed most of the problems and obstacles faced by the Fahmawi community to internal reasons: […] the Fahmawi mentality, its demographic composition, and its societal approach." Asrar Kayyal, Psychologist's analysis of the Focus Group Interview conducted by BADIL.

380 Ibid.

381 Ibid.

standard of living."[382] Inward-looking tendencies and the focus on current realities affect the extent to which political remedies are addressed. In other words, another "characteristic that distinguishes oppressed people [is] a sense of drowning in the present, an inability to envision the future, and a capacity to only connect with the past and its amplified pain."[383]

> This failure to recognize the political and historical paths that have led to the current situation, a satisfaction with only concentrating on the existing reality, and resorting to self-blame, characterize how the Fahmawi society specifically, and the Palestinian society generally, deal with their current social issues — through depoliticization. Such patterns have consistently characterized people living under colonialism and religious persecution. This type of prolonged repression, juxtaposed with a failure to deter or counteract foreign control, eventually evolve into feelings of helplessness and a deep sense of guilt. Colonial regimes also attempt to perpetuate a mentality in the minds of those colonized that they are to blame for their current situation and that they need colonial rule to reform and be 'civilized'.
>
> ***Asrar Kayyal, Psychologist***
> ***Umm al-Fahm, 7 November 2019***

Altering the Political Identity of Umm al-Fahm

When the politics of geographical dislocation are considered, alongside the attempted alteration of the Palestinian identity of those who hold Israeli citizenship, (particularly Palestinians in Umm al-Fahm), the intent of the policy becomes clear. A commonly held belief is that the "geographical location is not a factor that determines who Palestinians are, [it is their] history and collective identity [that] determine [their] Palestinian-hood."[384] However, the absence of an organically and suitably connected road and transportation system undermines the potential for the formation and sustainment of the collective identity of the Palestinian people. Instead this causes the evolution of a separate inward-looking approach, alongside concurrent spatial restructuring, which gradually erases traces of past connections and interrelations. As such, the very purpose of Israeli policies on Umm al-Fahm

382 Fahmawi Youth Movement, supra 301.

383 Under the phenomenon of 'permanence disorder' characterized by Mustafa Hegazy in Social Retardation: An Introduction to the Psychology of the Defeated Man, Arab Cultural Center (Beirut, 1891), Asrar Kayyal adds that "National groups that suffer from permanence disorder can only be liberated from it when they become aware of the causes of their oppression and find ways to confront them instead of opposing one another and engaging in persecution violence. Asrar Kayyal, supra 380.

384 Loai al-Khatib, Member of the Political Office of Abnaa al-Balad, interview conducted by BADIL, 6 November 2019.

are to surreptitiously induce Palestinians to think in isolation, instead of as part of a Palestinian collective.[385]

At the same time, the deliberate deterioration of the socio-economic situation of the city through the lack of political will and action distracts from the structural oppression imposed on the Palestinian people as a whole. If "[…] weak connectedness and social cohesion affects [their] identity and [their] common destiny,"[386] political activism in Umm al-Fahm keeps the Palestinian struggle alive.

> […] This struggle is an identity struggle and [Israeli] political elites will not succeed at reconstructing it as a struggle over citizenship within the Zionist entity. […] we are the Palestinian people who have been expelled, enslaved, and colonized and we have the right to resist by all means, as guaranteed by the United Nations.
>
> ***Loai al-Khatib, member of Abnaa al-Balad***
> ***Interview: Umm al-Fahm, 7 November 2019***

385 Fahmawi Youth Movement, supra 301.

386 Ibid.

4. Conclusion:

Undermining the Right to Self-Determination to Erase the Palestinian People

Israel's policies of segregation, fragmentation and isolation are designed, deployed and operate for the direct purpose of undermining the Palestinian people's collective identity and the connection to their lands, which are essential underpinnings for the exercise of the right to self-determination, as internationally recognized under Article 1(2) and Article 55 of the UN Charter.[387] These policies fracture Palestine into a multitude of besieged communities, trapped between walls, surrounded by Israeli-Jewish colonies, confined by Israeli-controlled roads, and isolated by intentionally defective and ill-adapted transportation infrastructure. The purpose being to directly and indirectly prevent the Palestinian people from exercising their economic, social and cultural rights, and ultimately achieving the capacity and unity to self-determine their political status. In other words, policies of segregation, fragmentation and isolation operate in such a way as to annihilate the Palestinian people's right to self-determination, in both essence and substance.

4.1. Segregating, Fragmenting and Isolating the Palestinian People and their Lands

Transportation infrastructure plays a key role in the construction of a common national identity and the exercise of basic economic, social and cultural rights due to the way in which it can be utilized to connect and disconnect places and people. Being fully aware of this, Israel has utilized these networks as an approach to contrive, embed and expand Israeli-Jewish presence and domination, while concurrently obliterating Palestinian cohesiveness and sovereignty. This is done through the imposition of a policy and planning apparatus that systematically preferences the establishment of an Israeli-

387 UN Charter, supra 12, art. 1(2) & art.55.

Jewish settler-colonial regime. With its arsenal of discriminatory legislation, military orders and regulations designed to conceal its true intentions, Israel, to a great degree, has been able to achieve:

- The **control, manipulation and re-orientation of the road network** to ensure that Israeli-Jewish colonies throughout Mandatory Palestine grow and prosper, both enabling and reinforcing economic and political domination. This allows Israel to encircle and bypass Palestinian cities and communities, concentrate them into enclaves, prevent their natural expansion, and sever connections to land, markets and other Palestinian localities. Through this, Israel decimates Palestinian local economies and forcibly increases dependence on Israeli-Jewish colonies and markets, which in turn increases Israel's capacity to control and restrict political identity and activity.

- The **intentional obstruction of roads, renovation and infrastructure projects**, such as train lines, road upgrades, and the opening of additional traffic junctions, that would allow or improve connectivity between Palestinian communities. Instead, roads remain in poor condition, littered with checkpoints, entail long and inefficient diversions, and are subject to significant traffic and congestion, which disincentivizes travel, escalates the associated costs and constraints of the Palestinian economy and overall connectedness.

- The **denial of or restricted access to an inefficient public transportation system** with many pre-existing bus and train lines dismantled and decommissioned by Israel. Palestinians are left beholden to the alternative modes of public transport dictated by Israel for the benefit of the Israeli-Jewish population, or reliant on inefficient and indirect Palestinian transport options or private cars, which both have to grapple with crippling congestion, lengthy travel times, and prohibitive costs. Alternatively, Palestinians are confined to their immediate vicinity to avoid using a hostile, dangerous, and sometimes forbidden road system which has been efficiently designed to facilitate movement between Israeli-Jewish colonies, which ultimately coerces Palestinians into the Israeli-Jewish economy.

Notably, all these actions conspicuously fall under the scope of apartheid practices as listed under Article 2 of the Apartheid Convention,[388] and prohibited under Article 3 of the CERD.[389] More pertinently, they are

388 Convention on Apartheid, supra 34, art.2.

389 ICERD, supra 43, art.3.

designed to sever the attachment of Palestinians to their land and to each other, undermining the right to self-determination, a peremptory norm of international law. These policies reduce Palestinian communities to strangled and isolated Bantustans, surrounded by Israeli colonies, with no continuity and lacking the organic connections that once unified them. Moreover, they are enacted against the entire structure of Palestinian society, concentrating Palestinians into villages detached from their agricultural lands, then into towns, urban centers and across Palestine as a whole. This undermines the integrity of Mandatory Palestine and therefore the legitimacy of its indigenous people to lay claim to their territorial rights, and most critically their right to self-determination.

4.2. Undermining the Tenets of the Right to Self-Determination

Interconnected and coordinated practices and policies of segregation, fragmentation and isolation culminate in the rupturing of each tenet of self-determination as described under Common Article 1(1) of the ICCPR and of the ICESCR.

4.2.1. De-Development of the Economic, Social and Cultural Pillars of Palestinian Society

With regards to the first tenet of self-determination, Israel's policies are deployed to systematically inhibit the right of Palestinians to freely pursue their economic, social and cultural development, and their correlated free and unhindered disposal of Palestine's natural wealth and resources.

De-development and economic dependency

The Palestinian economy, once centered on an agrarian structure around which communities, land and societal connections were ordered and understood, has been deliberately dismantled and obliterated by Israel's policies of segregation, fragmentation and isolation. On the one hand, the oppressive control and domination of the transportation system has led to the collapse of traditional Palestinian economic industries that used to form the basis of their self-sufficiency. For example, such policies have deliberately obstructed access to Palestinian lands and economies which

have in return hampered the way the Palestinian agricultural industry operates. Disconnection of Palestinian cities that used to thrive through their trade exchange due to total or partial closure, dismantled transportation links, augmented travel times, uncertainty due to the complicated and sometimes dangerous passage through checkpoints and roads, has removed existing markets, diminished commercial competitiveness (when compared to Israeli-Jewish markets), and restricted Palestinians to highly localized and insufficient economies. This results in dim economic prospects, high unemployment and poverty rates, and tedious commutes to seek employment outside people's places of habitual residence. Moreover, the division of Palestinians, subjected to different levels of economic control or privileged and conditioned access to Israeli markets, paves the way for intensified socioeconomic inequalities.

On the other hand, these segregation, fragmentation and isolation policies also underpin the colonization of the land, which inhibits economic independence and sovereignty, and coerces Palestinian communities into low-paid and unstable jobs dependent on the Israeli sector. Roads and public transport are part of the structural system used to direct Palestinians out of their traditional markets and into Israeli-Jewish markets, such as manufacturing, construction and tourism, where they are tightly controlled through unequal wages, poor working conditions and strict security measures. This leads to de-industrialization, the neglect of Palestinian lands and dependence on Israeli economic structures – all converging into coerced de-development of the Palestinian economy and society.

Cultural deprivation

Palestinian society with its deeply embedded historical roots and indigeneity to the land has evolved into an organic, complex and intertwined cultural landscape, comprised of narratives of belonging, memory, identity and religion that are imperative to Palestinian identity.[390] Israel's systematic policies, embodied in part through their denial of direct and efficient connection between Palestinian cities, towns and villages, are calculated to obstruct, disentangle and erode these cultural and social ties that have existed for centuries throughout Palestine. Manifestations of cultural deprivation include inter alia the suppression of the Arabic language, severing farmers' association and relationship with the land, appropriation of Palestinian dress, traditions and norms, and the suppression of cultural, communal and

390 See Nasser Abufarha, "Lands of Symbols: Cactus, Poppies, Orange and Olive Trees in Palestine," Identities: Global Studies in Culture and Power, no.15 (2008).

community-based organizations' activities.[391] But more importantly, cultural deprivation becomes another layer in the process of erasing and suppressing the Palestinian national identity which is formulated, established and sustained by cultural identity.

Dismantling Palestinian social cohesion and establishing and maintaining Israeli control

The siege under which Palestinian cities are placed by Israel's policies of segregation, fragmentation and isolation, inevitably generates its share of urban problems, such as paralyzing congestion, dense and highly concentrated urban growth, and social discord. The psychological toll placed on Palestinians by the use of Israeli-controlled roads, the harsh and inhumane treatment at checkpoints and other instances of Israeli-Jewish interaction, the high-density living, the lack of privacy, and the economic pressure, frequently leads to an intensification of inter-personal violence and strained social and familial connections, which then seemingly justifies further oppression and control of the people.[392]

Through segregation, fragmentation and isolation, Israel has devised a self-sustained, brutal system of economic vulnerability and dependence, paired with cultural deprivation and social pressure that induces and enhances tensions within Palestinian society itself. The ultimate aim is to establish a coercive colonizing structure, which becomes so normalized and pervasive, that the problems it creates are no longer self-evidently understood to be a product of Israel's settler-colonialism, but rather obscured by a misleading perception and consequent narrative that these issues are inherent to Palestinian society.

4.2.2. The Dismantling of Collective Politicization, Disempowerment, and Targeting of Political Resistance

The second tenet of self-determination, the right to free choice of political status, is intrinsically combined with its economic, social and cultural aspects. Policies of segregation, fragmentation and isolation cripple the collective

391 For more information on the suppression of Palestinian culture See BADIL, Forced Population Transfer: The Case of Palestine - Suppression of Resistance, working paper no. 19 (December 2016), 79-99, available at: http://badil.org/phocadownloadpap/badil-new/publications/research/working-papers/wp19-Suppression-of-Resistance.pdf

392 See Magid Shihade, "Settler Colonialism and Conflict: The Israel State and its Palestinian Subjects," Settler Colonial Studies 2, no.1 (2012).

politicization of Palestinian society by undermining social, cultural and political cohesion. In turn, this allows Israel to exacerbate inequality, paralyze political resistance, hinder a comprehensive understanding of Israeli colonizing practices, obstruct the opportunity for political cohesion, and redirect focus on Palestinian individual socio-economic predicaments. Combined, they prohibit the free definition of political status, and the participation to the political decision-making process, as protected under Common Article 1(1) of the ICCPR and of the ICESCR.

Undermining the Palestinian collective identity

The intent of these Israeli policies is to shatter the collective identity of the Palestinian people into multiple dissociated groupings, creating the illusion of the non-existence of the 'people' that national self-determination requires. The ability to physically access and engage with other Palestinians becomes increasingly challenging. These policies splinter Palestinians, not only geographically, but also socio-economically, because of the distinct negative impacts they face. In the face of different oppressive realities, the intent is that Palestinians will identify and act less out of unity with a common Palestinian struggle, and more out of individualized need. This is illustrated by the adoption of Israeli fragmenting terminology that describes Palestinians by their geographical areas – e.g. Jerusalemites, Arab-Israelis, Arab-Bedouins, West Bankers, and Gazans - deliberately omitting the unifying identity of 'Palestinian'.[393] This is reinforced through the actual separation of one from the other through Israel's policies of segregation, fragmentation and isolation. This is highly detrimental, not only because it leads to the shattering of social cohesion and the denial of common identity, but also because it runs the risk of creating and internalizing stereotypes and competition among different groups.[394]

Concealing structural oppression

Israel's policies of segregation, fragmentation and isolation induce isolationism and impair the ability of Palestinians to perceive the challenges they face within their communities as part of a broader oppressive system. The intended result is that Palestinians and the international community seek narrow and self-reflective reasons and solutions to the adverse socio-economic and political situation, rather than recognizing that these problems are inherent to the external domination and oppression imposed on the

393 Kayyal, supra 380.

394 Ibid.

Palestinian people by Israel. For example, the lack of economic opportunities in the job market and forcible displacement are interpreted through the lens of rational economic choice instead of recognizing that they are the result of Israel's deliberate attempts to thwart Palestinian economic development.

The calculated consequence is that it works to bring Palestinians and the international community to consider Palestinians as complicit and responsible for their existing problems and normalize their position of inferiority. These self-blaming processes affect the extent to which political remedies are addressed and pursued.

> This pattern consisting of a failure to recognize the political and historical paths that have led to the current situation, a satisfaction with only concentrating on the existing reality, and resorting to self-blame, characterize how […] Palestinian society generally, deals with their current social issues—through depoliticization. Such patterns have consistently characterized people living under colonialism and religious persecution. This type of prolonged repression, juxtaposed with a failure to deter or counteract foreign control, eventually evolves into feelings of helplessness and a deep sense of guilt. Colonial regimes also attempt to perpetuate a mentality in the minds of those colonized, that they are to blame for their current situation and that they need colonial rule to reform and be 'civilized'.[395]
>
> ***Asrar Kayyal, Psychologist***
> ***Interview: Umm al-Fahm, 7 November 2019***

Crippling Palestinian resistance and determination

The oppressive Israeli regime can subsequently be perceived or even legitimized as the only valid and possible option of redress, feeding and strengthening the cycle of dependency and control, thereby crippling Palestinian resistance and political determination. "[Israel] considers that where we are today represents our maximum development capacity – they even intervene in our educational and employment pursuits to keep us confined."[396] The Palestinian economy becomes so intrinsically interwoven with the Israeli colonial fabric that Palestinians have no other choice than to abide by its oppressive rule to survive, de facto reinforcing the cycle of oppression. Palestinians are constrained by their need to obtain security clearances, permits and/or employment within the Israeli economy in order to sustain their livelihoods and families, which is contingent on

395 Supra 384.

396 Fahmawi Youth Movement, supra 301.

de-politicization. This is compounded by the sense of futility in political resistance due to the severe inequality and powerlessness engendered by the economic power disparity, both within Palestinian society and outside it, and the lack of collective unity as a Palestinian people. This paves the way for the gradual shattering of the Palestinian people, defined as the de facto people of Palestine, and de jure recognized as such under international law, in particular on the basis of the Palestinian National Charter, which forms the basis for the Palestinian right to self-determination.[397]

4.2.3. The Coercive Environment and Forcible Population Transfer

Israel's practices of segregation, fragmentation and isolation are more nuanced and subtle than more traditional policies and mechanisms of forcible transfer. This "transfer" takes a more subtle form as it does not imply a direct removal of people from their lands. In its tangible form, this is a policy that seeks the creation of a coercive environment that alienates the people from each other and their land, thereby compelling them to seek a better future elsewhere, and overshadowing the fact that their displacement is actually unintentional and compelled. Unable to sustain the increasing social and economic pressure that comes from the concentration and splintering of the social fabric, Palestinians move from villages into towns, especially from Area C and the Naqab, in pursuit of basic services and economic opportunities. They then from towns into cities, which are themselves severely restricted and marginalized in their opportunities and development; ultimately, Palestinians may seek to leave Mandatory Palestine altogether.

At the same time, Israel is seeking to achieve two interwoven objectives: the delegitimization of the Palestinian right to self-determination and the legitimization of Israeli-Jewish self-determination in all of Mandatory Palestine. In its more intangible form, this policy seeks to obliterate the very essence of the Palestinian people. Fragmented and isolated into individualized communities, Palestinians are slowly stripped of their collective unity, identity, narrative and society, and absorbed and controlled as a minority within the dominant Israeli regime.

"These Israeli policies lead to the domestication of Palestinians inside the Israeli society. By restricting the Palestinians and not providing suitable living and working environments, Palestinians are forced to live and work in major cities, thus resulting in their internal displacement (migration)

397 Palestine National Charter, supra 27, art.2 & art.5.

and their integration as a suitable workforce for the Israeli economy, rather than in the Palestinian society."[398] Although this fits the description of the experience of Palestinians who possess Israeli citizenship, this observation is no less applicable in its application to Palestinians in the occupied Palestinian territory. Not only does the Israeli colonial and apartheid regime by its very nature marginalize and alienate Palestinians by making them feel that they are inferior, but it also creates a feeling of alienation within Palestinian society overall. "Ultimately, we [Palestinian citizens of Israel] live in an Israeli system, much like the European system – one that is not similar to us at all".[399] In effect, the end goal is the complete erasure of the Palestinians, as a result of the structural oppression to which the Palestinian people are subjected to.

Israeli policies are designed to appropriate the 'self-determination' narrative in favor of the 'Jewish people'. The intended objective is the same on both sides of the Green Line: manufacturing a sense of Israeli-Jewish cohesiveness, indigeneity and sovereignty throughout Mandatory Palestine. This objective is accomplished through the appropriation of Palestinian lands and infrastructure for the purpose of embedding Israeli-Jewish colonies and reinforcing Israeli-Jewish domination on the land and the people. Consequently, the conditions under which Israeli-Jewish sovereignty and exclusive self-determination can potentially be claimed, are actually fabricated through these processes.

The gradual transfer of the Palestinian people, their containment in isolated and concentrated cities, together with the increasing demography of Israeli-Jews, contributes to altering the natural and historic demographic composition in Palestine. As such, segregation, fragmentation and isolation policies are colonial and apartheid practices that seek to contain and replace the indigenous people with the settler-colonial population, and which unambiguously undermine the two pillars of the right to self-determination.

The destruction of the foundations of the people's identity carries dramatic consequences, as a people divided into several subgroups promotes the illusion that there are not a people to begin with, and therefore, no right to collective self-determination. Sufficiently disintegrated, the usage and acceptance of Israeli imposed geopolitical subgroups serves to eventually discredit their existence as a national people.[400] Specifically, Israel is pursuing its policies of segregation, fragmentation and isolation in order to undermine

398 Traffic and Transportation Engineer, supra 319.

399 Fahmawi Youth Movement, supra 301.

400 ICCPR, supra 15, art.27; United Nations Human Rights Committee, General Comment no. 23: Article 27 (Rights of Minorities), CCPR/C/21/Rev.1/Add.5, 8 April 1994, art.2-3.1, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f21%2fRev.1%2fAdd.5&Lang=en [accessed 28 February 2020].

the very right of the Palestinian people to self-determination, while attempting to legitimize an Israeli claim to that very same right.[401]

It should be noted that since its creation, Israel has been denying the Palestinian people their right to self-determination. However, Israel's policies and practices have also had a significant impact on the international community's perception of this right. Ultimately, the international delegitimization of this right could potentially lead to the altering of relevant UN resolutions and the adoption of solutions that limit the content and scope of these rights with respect to Palestine and the Palestinian people.

Looking at the policies of segregation, fragmentation, and isolation through the lens of colonialism and apartheid, it is clear that they serve the purpose of entrenching an increasingly harsh coercive environment directly leading to and/or facilitating population transfer and ultimately denying and delegitimizing the Palestinian people's right to self-determination.

4.3. States' Duties and Recommendations

In consideration of the above, all these practices conspicuously fall under the scope of apartheid practices as listed under Article 2 of the Apartheid Convention,[402] and racial segregation prohibited under Article 3 of the CERD.[403] They constitute measures that, taken in conjunction with each other, are "designed to divide the population along racial lines,"[404] to "prevent a racial group […] from participation in the political, social, economic and cultural life of the country and […] preventing its full development,"[405] which end up imposing "living conditions calculated to cause its physical destruction in whole or in part."[406] As such, they constitute crimes against humanity.[407]

Because these apartheid practices undermine the Palestinian people's enjoyment of their substantial rights, as well as their collective cohesion,

401 Basic Law: Israel - the Nation State of the Jewish People, 5778-2018 (Isr.), unofficial translation by Dr. Susan Hattis Rolef, available at: https://knesset.gov.il/laws/special/eng/BasicLawNationState.pdf. See BADIL, The Nation State Law: The Culmination of 70 years of Israeli Apartheid and Colonization," (2018), available at: https://www.badil.org/phocadownloadpap/badil-new/publications/research/in-focus/NationStateLaw(PositionPaper-BADIL-Oct2018).pdf

402 Convention on Apartheid, supra 34, art.2.

403 ICERD, supra 43, art.3.

404 Convention on Apartheid, supra 34, art.2(d).

405 Id., art.2(c).

406 Id., art.2(b).

407 Id., art.1.

they gradually deprive them from their ability to enjoy their legitimate right to self-determination.

As peremptory norms of international law, the prohibition of apartheid and the right to self-determination[408] are "accepted and recognized by the international community of states as a whole as [norms] from which no derogation is permitted."[409]

Their observance and respect are incumbent upon all UN member states, which are bound by two types of obligations under Article 41 of the Draft Articles on Responsibility of States for Internationally Wrongful Acts.[410]

- **Non-assistance:** Third states shall "not render aid or assistance to the responsible state in maintaining the situation so created."

- **Non-recognition:** Third states shall not "recognize as lawful a situation created by a serious breach" of a peremptory norm.

With due regard to the above, third states are obligated to abstain from acknowledging and supporting situations of fragmentation, segregation and isolation created by Israel in order to acquire sovereignty over Palestine through the denial of the Palestinian people's right to self-determination.

The international community, states, UN agencies, and international civil society must take all measures available within international law to hold Israel accountable for its policies and practices rooted in fragmentation, segregation and isolation, resulting in the ongoing violation of the Palestinian people's right to self-determination. These steps include, inter alia:

- Applying appropriate legal terminology to the present-day reality in Palestine. Particularly, identifying that practices attributable to Israel – including fragmentation, segregation and isolation- not only violate the right to self-determination of the Palestinian people and contribute to their forcible transfer, but also constitute one of the pillars of Israel's apartheid regime over the whole of Palestine and its people.

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408 ILC, Draft Articles on Responsibility of States for Internationally Wrongful Acts, with commentaries, A/56/10, art.26, commentary 5, November 2001, available at: https://legal.un.org/ilc/texts/instruments/english/ commentaries/9_6_2001.pdf; Ibid., art.40, commentary 5; UN Charter, supra 12, art. 56; Case Concerning East Timor, supra 13, §29; Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States, supra 14.

409 United Nations Convention on the Law of Treaties, 1155 UNTS 331, 23 May 1969, art.53, available at: https://www.jus.uio.no/lm/un.law.of.treaties.convention.1969/53.html [accessed 28 February 2020].

410 ILC, supra 408, art.41(2).

- Confronting Israel's institutionalized discriminatory and apartheid policies and practices, in particular with regard to fragmentation, segregation and isolation, by challenging its legal system imposed on the Palestinian people, which contradicts their internationally recognized right to self-determination, and developing an effective international protection system for Palestinians.

- Refraining from formally recognizing Israel's practices of fragmentation, segregation and isolation, and situations arising out thereof; measures such as downgrading diplomatic relations with states abetting these apartheid practices, and upholding the Palestinian people's inalienable right to self-determination.

- Refraining from supporting and/or investing in infrastructure and services, particularly transportation, that reinforce the apartheid situation of fragmentation, segregation and isolation of the Palestinian people from and within their territory.

- Supporting and/or investing in infrastructure and services, particularly transportation, that restore and enhance connectivity within and between Palestinian communities, in order to improve their capacity and resilience to withstand and inhibit the advancement of the fragmentation, segregation and isolation of the Palestinian people. These infrastructure investments and projects funded by the international community should also be protected, and measures should be taken to hold Israel accountable for damaging or destroying such projects.

- Developing mechanisms and effective measures that would recognize policies of segregation, fragmentation and isolation as unlawful methods of apartheid, and the implementation of additional practical measures to bring Israel into compliance with international law.

This Series of Working Papers on forced population transfer constitutes a digestible overview of the forced displacement of Palestinians as a historic, yet ongoing process, which detrimentally affects the daily life of Palestinians and threatens their national existence. The Series utilizes an inclusive interpretation of the human rights-based approach, emphasizing that obligations under international law must supersede political considerations. Outlining the nuances and the broader implications of forced population transfer requires careful scrutiny of Israeli policies aimed at forcibly transferring Palestinians, and their role in the overall system of suppression in Palestine.