

al majdal

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BADIL Resource Center for Palestinian Residency and Refugee Rights

ISRAEL AND THE CRIME OF APARTHEID

Towards a Comprehensive Analysis



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

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

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Cover photo: Workers pass through Qalqilya checkpoint, occupied West Bank, at 6am to get to work in Israel. 12 January 2011. (©EAPPI)

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Towards a comprehensive analysis of Israeli Apartheid



Protesting the Israeli Philharmonic Orchestra in London, 2011 (Source: 3arabawy.com)

On the morning of the 21st March 1960, thousands of black South African demonstrators converged on the police station in the township of Sharpeville as part of the anti-pass campaigns organized by the Pan-Africanist Congress (PAC). As the demonstrations ended, SA police opened fire on the gathering, killing sixty-nine demonstrators and injuring several dozen others. The incident marked what would later be considered a turning point in the anti-Apartheid struggle marked by demonstrations globally, and the adoption, for the first time by the Security Council, of a resolution condemning the apartheid system and its attendant violence.¹

Following the Soweto massacre in 1976, the United Nations departed from its practice, and by then growing legacy, of resolutions condemning Apartheid and brought into force the International Convention on the Suppression and Punishment of the Crime of Apartheid. While the Convention responded to the particularities of Apartheid in South Africa, it went further and established Apartheid as a crime against humanity irrespective of geographic and national constraints and applicable to regimes other than the one that prevailed in South Africa at the time. This legal framework was later strengthened by the inclusion of a prohibition on the Crime of Apartheid in the Rome Statue, the document which founded the International Criminal Court (ICC).²

While political Apartheid in South Africa collapsed in the early nineties, the Palestinian people continue to endure conditions that scholars, advocates, and global leaders have described as constituting the crime of Apartheid. One of the first texts probing the application of the Apartheid framework to Israel's legal

regime was Uri Davis's booklet, *Israel: An Apartheid State*³, later developed into the more comprehensive manuscript, *Apartheid Israel: Possibilities for the Struggle Within*.⁴ The book detailed the discriminatory Israeli practices and policies that reified and reflected the legal distinction between Jews and non-Jews.

Other works soon followed including John Quigley's, *Apartheid Outside Africa: The Case of Israel*⁵ and, more recently, the thorough *Occupation, Colonialism, Apartheid?: A re-assessment of Israel's practices in the occupied Palestinian territories under international law*⁶, commissioned and coordinated by the Human Sciences Research Council of South Africa (HSRC). The HSRC Report provided a thorough analysis of Israeli apartheid practices in the OPT and concluded that its evidentiary findings demonstrated that Israel has, and continues, to violate the prohibition on apartheid. The HSRC Report was initiated as a result of the 2007 report to the Human Rights Council (HRC) drafted by then UN Special Rapporteur (SR) to the OPT, Professor John Dugard. In his report, Professor Dugard wrote that "Israel's policies resemble those of apartheid" and that "it is difficult to resist the conclusion that many of Israel's laws and practices violate the 1966 Convention on the Elimination of all forms of Racial Discrimination,"⁷ findings which have subsequently been reaffirmed by Professor Richard Falk, Professor Dugard's successor to the HRC.

Parallel to the development of legal analyses by the SRs, distinguished scholars and academic institutes, civil society has increasingly characterized Israel's practices and policies as amounting to Apartheid. In the face of the peace process's inability to realize Palestinian rights, civil society actors and activists sought an analysis that could encompass and describe the full range of Palestinian grievances and oppression. This effort crystallized, most notably, during the international civil society forum that met in Durban in 2001 in a conference running parallel to the official UN World Conference Against Racism. There, civil society actors identified the systematic practice of racial discrimination by the State of Israel as constituting the root cause of Palestinian displacement and endorsed a strategy of boycotts, divestments and sanctions (BDS) against Israel until it complied with international law and human rights norms. A few years later, in 2005, a broad coalition of Palestinian civil society launched the Palestinian BDS call which explicitly outlined the rights-based demands of the Palestinian people which lie at the center of the BDS campaign.

Ten years onward, Israel's Apartheid practices and policies have garnered greater prominence in international media and arguably in mainstream spaces. Its contours have been debated worldwide in an effort to treat seriously the paradigm's application. Initiatives like the student-organized Israeli Apartheid Week (IAW) that began in Toronto in 2005 is now taking place in over seventy cities around the world. Additionally, the discourse of the BDS movement, as well as the statements of prominent Israelis, South Africans and others have been paramount in bringing the question of Israeli Apartheid to a central place in international public consciousness. Further, through more recent events such as the Israel Review Conference in Geneva in 2009 and BADIL's forthcoming study on the apartheid in Israel, a more holistic understanding of Israeli Apartheid is beginning to be formed.

Despite these successes, however, a comprehensive and authoritative legal analysis of Israel and the crime of Apartheid, as it applies to all the Palestinian people (those in the OPT, inside Israel and to Palestinian refugees denied their right to return on racial grounds), has yet to be crystallized, adopted and, ultimately, addressed by the mechanisms of accountability in international law. To this productive end, the Third Session of the Russell Tribunal, to be held from 5-7 November in South Africa, will bring together legal experts, activists, academics and eye witnesses from Palestine and around the world to assist in examining the nature of Israel's regime over the Palestinian people and examining whether and how such practices breach the prohibition of Apartheid under international law.



This issue of al Majdal, and the one that will follow, will look at issues related to Israeli Apartheid from a number of vantage points. This first issue will include many of the testimonies to be presented at the Russell Tribunal in early November, with the later issue looking at the vision of the anti-apartheid movement.

In this issue, BADIL's staff set out the legal context of the denial of the Palestinian self-determination and Max du Plessis provides background to the prohibition of Apartheid in international law. Professor John Dugard outlines his experiences under South African Apartheid and in Israel and the OPT. David Keane provides a background to the definition of racial groups in international law and Ingrid Jaradat analyzes this in relation to Palestinians as a racial group.

Emily Schaeffer looks at the separate legal systems that exist for non-Jews and Jews in the OPT and Sahar Francis expands on this to outline the modalities of legal discrimination throughout the entirety of Israel and the OPT. Both Al Haq and Jeff Halper examine the methods through which Israel has sought to achieve and entrench the division of the Palestinian people into ghettos, policies outlined in detail in the personal testimony of Jazzi Abu Kaf from the Naqab.

The testimonies and articles included provide the basis for a comprehensive understanding of Israeli Apartheid and point the way to the strategies required to bring it to an end. In the final section of this issue of al Majdal, we again draw attention to the mounting successes of the BDS movement by including a summary the main victories achieved over the past three months.

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

Further readings on Apartheid

Much has been written on the issue of Apartheid. Some of the most useful articles, books and reports include:

- Apartheid and Beyond, issue 253 of the Middle East Report, Middle East Research and Information Project
- Apartheid in the Holy Land, Desmond Tutu, The Guardian, April 29th 2002.
- Apartheid Israel: Possibilities for the Struggle Within, Uri Davis, Zed Books, London
- Apartheid Outside Africa: The Case of Israel, John Quigley, 2 Ind. International and Comparative Law Review. 221, 1991-1992
- International Convention on the Suppression and Punishment of the Crime of Apartheid: <http://untreaty.un.org/cod/avl/ha/cspca/cspca.html>
- Israeli Apartheid: A Beginner's Guide, Ben White, Pluto Books, London, 2009.
- Not an Analogy: Israel and the Crime of Apartheid, Hazem Jamjoum, Electronic Intifada, 3 April 2009.
- Occupation, colonialism, apartheid?: a re-assessment of Israel's practices in the occupied Palestinian territories under international law. Commissioned and coordinated by the Middle East Project (MEP) of the Democracy and Governance Programme, a research programme of the Human Sciences Research Council of South Africa, May 2009. Tilley, V. (ed).
- Reports of the UN Special Rapporteur for Human Rights to the OPT, can be viewed online here: <http://www.ohchr.org/en/countries/menaregion/pages/psindex.aspx>
- The Applicability of the Crime of Apartheid to Israel, Karine Mac Allister, al Majdal, Summer 2008.
- United Against Apartheid, Colonialism and Occupation: Dignity and Justice for the Palestinian People, Palestinian Civil Society Strategic Paper, Durban Review Conference, 20-24 April 2009.

Setting the Legal Context: The Palestinian Right to Self-Determination

by *BADIL Staff*



Women's Day
Demonstration - Qalandia
Checkpoint, 2011 (©EB)

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

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

Since the failure of the UN Partition Plan and as a result of the ensuing wars, hostilities, and events of forced displacement, the Palestinian people have defined themselves as the indigenous people of Mandate

Palestine comprised of three main sectors: those living under occupation since 1967; those displaced during war in 1948 and 1967 who now constitute 6.5 million refugees, and Palestinian citizens of Israel.¹ These people, the Palestinian people in their entirety, are entitled to self-determination.

Today, the Palestinian right to self-determination is unequivocal as noted by the International Court of Justice, the world's highest judicial authority, in its 2004 Advisory Opinion on the legal consequences of Israel's wall in the Occupied Palestinian Territory (OPT). The Court also found that "Israel is bound to comply with its obligation to respect the right of the Palestinian people to self-determination and its obligations under international humanitarian law and international human rights law."²

The United Nations has affirmed this right since at least 1974. When the UN recognized the Palestine Liberation Organization (PLO) as the representative of the Palestinian people and granted it observer status, it explicitly recognized that Palestinians constitute a people entitled to self-determination. Numerous General Assembly Resolutions have affirmed this right as particularly applicable to the Palestinian people, including Resolutions 2535 (10 Dec. 1969);³ 2649 (30 Nov 1970);⁴ 3236 (22 Nov 1974); 43/177 (15 Dec. 1988); and 48/94 (20 Dec. 1993). Of particular note is Resolution 3236, which reaffirms and specifies the inalienable rights of Palestinian people in Palestine as including: a) the right to self-determination without external interference; b) the right to national independence and sovereignty; and, the c) "inalienable right of the Palestinians to return to their homes and property from which they have been displaced and uprooted." The Resolution emphasizes that "full respect for and the realization of these inalienable rights of the Palestinian people are indispensable for the solution of the question of Palestine."

Israel's policies not only violate the right of Palestinian self-determination but they also run counter to the UN's stipulation for establishing a Jewish homeland in the 1947 Partition Plan (General Assembly Resolution 181), in which the UN both acknowledged the right of the indigenous Arab and non-Jewish Palestinian population to the land as well as conditioned Israel's establishment on its non-discriminatory character. International legal scholar, Antonio Cassese considers self-determination to be an anti-racist postulate and comments that "'[i]nternal' self-determination amounts to the right of an ethnic, racial, or religious segment of the population in a sovereign country not to be oppressed by a discriminatory government."⁵ That Palestinian citizens of Israel are not recognized as a national minority and are relegated to second-class status by law and decree amounts to apartheid within Israel and fundamentally undermines the right of Palestinian citizens of Israel to self-determination.

Similarly, Israel's construction of legal barriers to prevent Palestinian refugees—the largest segment of the Palestinian people—to return to their homes and its failure to extend nationality to them, is also an ongoing affront to Palestinian self-determination.

Within the OPT, Israel's policy of population transfer, colonialism, and apartheid jeopardizes the territorial integrity of the land intended to constitute the state of the Palestinian people.

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

Palestinian right to self-determination, including the right of return of Palestinian refugees, the individual and collective rights of its Palestinian citizens, and Palestinian national independence and sovereignty in the OPT, including East Jerusalem.

In the second instance, the UN has failed to uphold a framework of Israeli-Palestinian peace that would ensure respect of the full scope of the inalienable rights of the Palestinian people, as defined by the Palestinian people and the United Nations in General Assembly Resolution 3236. Since the Madrid-Oslo peace process, the UN assumed that the Palestinian people could exercise their inalienable rights by means of (sovereign or non-sovereign) statehood in the OPT, including East Jerusalem, alone.⁶ This assumption has given rise to an apparent contradiction between the right of self-determination of the Palestinian collective in the OPT and the individual and collective rights of the Palestinian refugees and citizens of Israel.

The PLO, as the representative of the Palestinian people, had accepted a territorial compromise for the exercise of national independence and sovereignty in the OPT, including East Jerusalem, based on the assumption that the UN and its member states would take measures that ensure Israel's acceptance of the inalienable rights of the Palestinian people to self-determination and the return of Palestinian refugees to

their homes and properties. Instead, Palestinian independence and sovereignty in the OPT is seriously jeopardized, the Palestinian refugees are destitute, and the Palestinian citizens of Israel have their individual rights violated and have no access to collective rights.

The key to realizing the Palestinian right to self-determination is political will. Exercise of all possible forms of Palestinian self-determination depend upon the political will of the UN and its members to bring Israel into compliance with international law and end its policies of population transfer and its regime of occupation, apartheid, and colonialism which oppresses the Palestinian people. As under apartheid in South Africa, no progress can be achieved towards Palestinian self-determination as long as Israel's discriminatory regime is permitted to prevail.

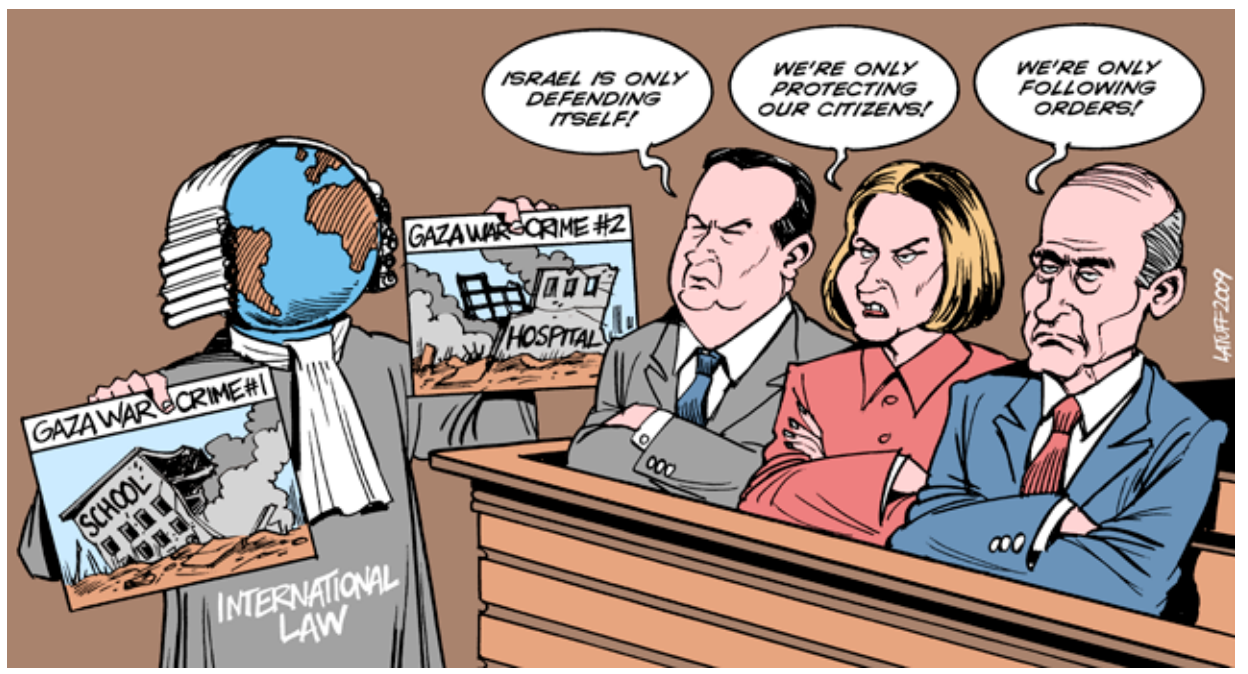
Endnotes: See online version at: <http://www.badil.org/al-majdal/>



On the way to Palestine. Protestors near the Lebanese border village of Maron ar-Ras. May 2011 (© Constanza Araya)

The Prohibition of Apartheid in International Law

by Professor Max du Plessis



The first international instrument expressly to prohibit apartheid was the International Convention for the Elimination of All Forms of Racial Discrimination (ICERD), adopted in 1965.¹ ICERD is a multilateral human rights treaty that seeks to eliminate all forms and manifestations of racial discrimination and, as its chapeau states, ‘build an international community free from all forms of racial segregation and racial discrimination’.

Its preamble affirms that parties to the Convention are ‘[a]larmed by manifestations of racial discrimination still in evidence in some areas of the world and by governmental policies based on racial superiority or hatred, such as policies of apartheid, segregation or separation’.² Article 3 then specifies the obligation of States parties to the Convention to oppose apartheid:

States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction.

Including a prohibition of apartheid in ICERD was an exception to the practice of the drafters not to refer to specific forms of discrimination in the treaty. This was done because apartheid differed from other forms of racial discrimination ‘in that it was the official policy of a State Member of the United Nations’.³

The International Convention on the Suppression and Punishment of the Crime of Apartheid (Apartheid Convention) was adopted shortly after ICERD to provide a universal instrument that would make ‘it possible to take more effective measures at the international and national levels with a view to the suppression and punishment of the crime of apartheid’.⁴ The Apartheid Convention is thus intended to complement

the requirements of Article 3 of ICERD, as its chapeau suggests in referring to Article 3. The Apartheid Convention further declares that apartheid is a crime against humanity and provides a definition of that crime in Article 2. It consequently imposes obligations on States parties to adopt legislative measures to suppress, discourage and punish the crime of apartheid and makes the offence an international crime which is subject to universal jurisdiction.⁵

Thus the Apartheid Convention supplements the general prohibition of apartheid in ICERD by providing a detailed definition of the crime and by giving several examples of practices amounting to apartheid when committed ‘for the purpose of establishing and maintaining domination by one racial group of persons over any other racial group of persons and systematically oppressing them’.⁶ Subsequent instruments elaborate the meaning of apartheid and define what constitute the crime of apartheid.

The formulation used in the Apartheid Convention is very similar to that of the Rome Statute of the International Criminal Court, adopted in 1998. The Convention defines the crime of apartheid in Article 2 as ‘inhuman acts committed for the purpose of establishing and maintaining domination by one racial group of persons over any other racial group of persons and systematically oppressing them’, while the Rome Statute codifies apartheid crimes as certain inhumane acts ‘committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group and committed with the intention of maintaining that regime’ (Article 7(2)(h)). Both instruments emphasise the systematic, institutionalized, and oppressive character of the discrimination involved in apartheid, reflecting the original reasoning for including it in ICERD as a distinct form of racial discrimination.

The customary status of the prohibition of apartheid is indicated by its configuration within general United Nations efforts aimed at the eradication of racial discrimination more generally. The practice of apartheid has been condemned in numerous United Nations resolutions and other international treaties, and reaffirmed as constituting a crime against humanity in the Rome Statute of the International Criminal Court (1998). As a particularly pernicious manifestation of racial discrimination, the practice of apartheid is contrary to fundamental guiding principles of international law including the protection of human rights and the self-determination of all peoples. Article 55 of the United Nations Charter lays the foundation, when it requires Member States to promote ‘universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion’.⁷

Equally important is Article 2 of the Universal Declaration of Human Rights (1948) which states that ‘Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status’.⁸ The subsequent adoption of ICERD was the more concerted effort under international law to address racial discrimination, including the particular practice of apartheid.

State parties to the Convention on the Elimination of Discrimination Against Women emphasise that ‘the eradication of apartheid, all forms of racism, racial discrimination, colonialism, neo-colonialism, aggression, foreign occupation and domination and interference in the internal affairs of States is essential to the full enjoyment of the rights of men and women’.⁹ At the time of writing, there are 173 States parties to ICERD¹⁰ and 185 States parties to the Convention on the Elimination of Discrimination Against Women,¹¹ demonstrating near-universal support and legal commitment to the elimination of racial discrimination and the prohibition of apartheid.

Although the Russell Tribunal is not concerned with the question of individual criminal responsibility for the crime of apartheid, establishing that apartheid is considered an international offence affirms the

seriousness with which it is viewed under international law and affirms the international community's commitment to its eradication. The United Nations General Assembly first referred to apartheid as a crime against humanity in Resolution 2202 (1966),¹² a statement that was reiterated by the 1968 Proclamation of Tehran by the International Conference on Human Rights.¹³ The enunciation of apartheid as a crime against humanity in the Apartheid Convention supplemented the general prohibition in ICERD and was followed by inclusion of the crime of apartheid in Additional Protocol I to the 1949 Geneva Conventions (1977)¹⁴ and the Rome Statute of the International Criminal Court (1998).¹⁵

Although the majority of States accept the prohibition in ICERD, fewer have ratified the Apartheid Convention, given the heightened political disagreement at the time it was created and due to concerns that the convention was seen as seeking to 'extend international criminal jurisdiction in a broad and ill-defined manner'.¹⁶ Currently, 107 States are parties to the Apartheid Convention.¹⁷ A majority of States (168) have ratified Additional Protocol I to the Geneva Conventions of 1949,¹⁸ and an ever-increasing number of States, currently standing at 117, have become parties to the Rome Statute of the International Criminal Court, which gives the Court jurisdiction over the crime of apartheid.¹⁹ There is no demonstrable hostility to the apartheid provisions by non-States parties to the treaties, and several non-parties to the Apartheid Convention have ratified the latter instruments (for example, the United Kingdom and South Africa). The movement of the international crime of apartheid towards customary international law²⁰ reinforces the fact that the prohibition itself is clearly a rule of customary law.

The prohibition of apartheid can also be considered a norm of *jus cogens* which creates obligations *erga omnes*.²¹ The International Law Commission has viewed the prohibition of apartheid as a peremptory norm of general international law and contended that the practice of apartheid would amount to 'a serious breach on a widespread scale of an international obligation of essential importance for safeguarding the human being'.²² The Commission noted that a general agreement is shared by States as to the peremptory character of the prohibition on apartheid and other norms at the Vienna Conference on the Law of Treaties and how apartheid has been prohibited by a treaty admitting of no exception.²³ With regard to the concept of *erga omnes* obligations, the International Court of Justice identified these in the *Barcelona Traction* case:

*'...an essential distinction should be drawn between the obligations of a State towards the international community as a whole, and those arising vis-à-vis another State in the field of diplomatic protection. By their very nature the former are the concern of all States. In view of the importance of the rights concerned, all States can be held to have a legal interest in their protection; they are obligations erga omnes.'*²⁴

The Court has stated that such an obligation would arise, for example, 'from the principles and rules concerning the basic rights of the human person, including protection from slavery and from racial discrimination'.²⁵ If the prohibition of racial discrimination is to be considered a rule of *jus cogens*,²⁶ then it follows that the prohibition of apartheid, which addresses a particularly severe form of racial discrimination, is even more so a rule of *jus cogens* entailing obligations *erga omnes*— that is, obligations owed to the international community as a whole.

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

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The Law and Practice of Apartheid in South Africa and Palestine

by John Dugard

Protesters from the
Coalition against Israeli
Apartheid, Canada 2008
(© Kareem Dabbagh)



I spent most of my adult life in South Africa opposing apartheid, as an advocate, legal academic and, from 1978-1990, director of the Centre for Applied Legal Studies (a research institute engaged in human rights advocacy and litigation). In my work I compared and contrasted apartheid with international human rights standards and advocated a Constitution with a Bill of Rights in a democratic South Africa. Unlike many other South Africans, I was never imprisoned but I was prosecuted, arrested and threatened by the security police. My major book, *Human Rights and the South African Legal Order* (1978), the most comprehensive account of the law and practice of apartheid, was initially banned.

I had wide experience and knowledge of the three pillars of the apartheid state – racial discrimination, repression and territorial fragmentation. I led lawyers campaigns against the eviction of black persons from neighborhoods set aside for exclusive white occupation by the Group Areas Act, and against the notorious “pass laws”, which made it an offense for blacks to be in so-called “white areas” without the correct documentation. These campaigns took the form of free legal defense to all those arrested which made the systems unmanageable. Through the Centre for Applied Legal Studies I engaged in legal challenges to the implementation of the security laws and emergency laws, which allowed detention without trial and house arrest – and, in practice, torture. I also challenged the establishment of Bantustans in the courts.

After South Africa became a democracy, I was appointed to a small committee of experts charged with the task of drafting a Bill of Rights for the 1996 South African Constitution.

I visited Israel and the OPT in 1982, 1984, 1988 and 1998 to participate in conferences on issues affecting the region. In 2001 I was appointed as Chair of a Commission of Enquiry established by the Commission on

Human Rights to investigate human rights violations during the Second Intifada. In 2001 I was appointed as Special Rapporteur to the Commission on Human Rights (later Human Rights Council) on the human rights situation in the OPT. In this capacity I visited the OPT twice a year and reported to the Commission and the Third Committee of the General Assembly. My mandate expired in 2008. In February 2009 I lead a Fact-Finding Mission established by the League of Arab States to investigate and report on violations of human rights and humanitarian law in the course of Operation Cast Lead.

From my first visit to Israel/OPT I was struck by the similarities between apartheid in South Africa and the practices and policies of Israel in the OPT. These similarities became more obvious as I became better informed about the situation. As Special Rapporteur I deliberately refrained from making such comparisons until 2005 as I feared that such comparisons would prevent many governments in the West from taking my reports seriously. However, after 2005 I decided that I could not in good conscience refrain from making such comparisons.

Of course the two regimes are very different. Apartheid South Africa was a state that practiced discrimination and repression against its own people. Israel is an occupying power that controls a foreign territory and its people under a regime recognized by international humanitarian law. But in practice there is little difference. Both regimes were/are characterized by discrimination, repression and territorial fragmentation. The main difference is that the apartheid regime was more honest. The law of apartheid was openly legislated in Parliament and was clear for all to see, whereas the law governing Palestinians in the OPT is largely contained in obscure military decrees and inherited emergency regulations that are virtually inaccessible.

In my work as Commissioner and Special Rapporteur I saw every aspect of the occupation of the OPT. I witnessed the humiliating check points, which reminded me of the implementation of the pass laws (but worse), separate roads (unknown in apartheid South Africa) and the administrative demolition of houses, which reminded me of the demolition of houses in “black areas” set aside for exclusive white occupation. I visited Jenin in 2003 shortly after it had been devastated by the IDF. I spoke to families whose houses had been raided, and vandalized by the IDF; I spoke to young and old who had been tortured by the IDF; and I visited hospitals to see those who had been wounded by the IDF. I saw and, on occasion, visited settlements; I saw most of the Wall and spoke to farmers whose lands had been seized for the construction of the Wall; and I traveled through the Jordan Valley viewing destroyed Bedouin camps and check points designed to serve the interests of the settlers.

A final comment based on my personal experience. There was an altruistic element to the apartheid regime, albeit motivated by the ideology of separate development, which aimed to make the Bantustans viable states. Although not in law obliged to do so, it built schools, hospitals and roads for black South Africans. It established industries in the Bantustans to provide employment for blacks. Israel even fails to do this for Palestinians. Although in law it is obliged to cater for the material needs of the occupied people, it leaves this all to foreign donors and international agencies. Israel practices the worst kind of colonialism in the OPT. Land and water are exploited by an aggressive settler community that has no interest in the welfare of the Palestinian people - with the blessing of the state of Israel.

John Dugard is a South African international lawyer who headed the Centre for Applied Legal Studies in Johannesburg during the Apartheid era. In 1995 he assisted in the drafting of the Bill of Rights in the South African Constitution. For seven years he was Special Rapporteur on the human rights situation in the Occupied Palestinian Territory to the UN Human Rights Council and Commission on Human Rights.

Elements of the Definition of Apartheid: Racial Groups under International Law

by Dr David Keane



Arab Jahalin Bedouin,
originally 1948 refugees from
Naqab, currently living near
Jerusalem and facing imminent
displacement. June 2006 (©
Anne Paq / BADIL)

The movement toward international legislation against racial discrimination began as a response to a growing number of anti-Semitic incidents that took place in the winter of 1959-1960, known as the ‘swastika epidemic’. The incident, a spontaneous outbreak of graffiti and desecration of Jewish cemeteries that erupted in states as diverse as Costa Rica, Sweden and New Zealand, prompted a series of UN resolutions which culminated in the International Convention on the Elimination of All Forms of Racial Discrimination 1965 (ICERD). The pragmatic understanding of racial groups found in the Convention, the very first human rights treaty, reflects the fact that its origins are as much expressions of religious intolerance as racial discrimination.

The international approach has not always been clear-sighted. Following on from anthropologist Ashley Montagu’s proclamation in the opening line of *Man’s Most Dangerous Myth: The Fallacy of Race* (1942) that “The idea of ‘race’ represents one of the greatest errors, if not the greatest errors, of our time”, UNESCO sought to sponsor a series of studies on the meaning of race. Thus UNESCO’s *Four Statements on the Race Question* sought the views of sociologists, physical anthropologists, geneticists and biologists, who inevitably came up with a series of confused documents. The first *Statement on Race 1950* denied there was any such concept as ‘race’ in a biological sense; the second reversed this position. By the time the third and fourth *Statement* emerged in the 1960s, it became clear that the UN should avoid making scientific proclamations on race altogether.

Hence ICERD calls for the elimination of racial discrimination without making any pronouncement on the meaning of race itself. The Preamble reads that “any doctrine of superiority based on racial differentiation is scientifically false”; an earlier draft had condemned “any doctrine of racial differentiation or superiority”, but this reading was rejected on the basis that the Convention should not re-state the idea that race as a biological concept doesn’t exist. The UNESCO lesson had been learned. By contrast there is a definition of the legal concept of racial discrimination in Article 1(1): “any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin (...)” This has been labelled a ‘composite concept’ with the five grounds serving to distinguish ‘race’ from the broader concept of ‘racial discrimination’. Patrick Thornberry, a member of the Committee on the Elimination of Racial Discrimination which monitors the Convention, writes:

The umbrella term for the Convention is ‘racial discrimination’, not race. Thus, racial discrimination is given a stipulative meaning by the Convention: as precisely the five terms set out in Article 1, which mentions ‘race’ but four other terms as well. It is thus clear that the scope of the Convention is broader than . . . notions of race, which in any case may express many usages.

ICERD is widely ratified and the history of state engagement with the Committee reveals the expansive interpretative approach to the concept of racial discrimination. A review of the first 45 state reports has shown that more than half the states emphatically denied that any form of racial discrimination existed on their territories. Many states viewed ICERD as an instrument designed solely to combat racial discrimination by ‘whites’ against ‘blacks’. The Committee has unequivocally rejected this position.

In general the meaning of a racial group for the purposes of ICERD is a broad and practical one. If a group identifies itself as such, and is identified as such by others, for example through discriminatory practices, then it comes under the protection of the Convention. The Committee has included groups which are not considered to be ‘races’ by any stretch of the word, such as caste groups from South Asia; non-citizens such as migrant workers; and nomadic peoples. These have been said to experience a form of racial discrimination which fits within the Convention definition. The approach is not without controversy, and India for example has strongly contested the inclusion of caste groups. Ultimately who is or is not a racial group under international law is not a scientific question, but a practical one.

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Applying the crime of Apartheid to Israel's regime over the Palestinian people: Are Palestinians a distinct 'racial group'?

by *Ingrid Jaradat Gassner*



Al-'Araqib Palestinian village in the Naqab, destroyed more than 30 times since June 2010. (Source: Akhbarna.com)

Apartheid is a severe form of racial discrimination. Several international law instruments define apartheid in similar terms as inhumane acts committed in the context of an institutionalized regime of systematic oppression by one racial group over another racial group for the purpose/intent of maintaining domination. As the Russell Tribunal on Palestine will examine, in its third session in Capetown, South Africa, whether and how Israel's regime over the Palestinian people constitutes apartheid, it is necessary, among others, to determine who are the 'racial groups', and if Palestinians constitute a distinct 'racial group' for the purpose of the definition of apartheid.

This document is a short version of the testimony regarding "Palestinian identity and Palestinians as a distinct racial group", which will be submitted to the renowned legal experts and 'judges' of the Russell Tribunal in order to facilitate a fair and scholarly determination of whether the elements of the crime of apartheid are found in this particular context. The Russell

Tribunal will not do so for the first time; it can build on similar, earlier efforts undertaken by others, including Palestinian and anti-Zionist Israeli scholars and activists, UN experts on human rights in the Occupied Palestinian Territory John Dugard and Richard Falk, and the South African Social Science Research Council.¹

In this spirit of continuity and collective effort, this particular testimony is submitted on behalf of the Palestinian Boycott, Divestment and Sanctions National Committee (BNC). The BNC studied the applicability of the crime of apartheid to Israel's oppressive regime over the Palestinian people in 2008 and published its analysis and recommendations in the Strategic Position Paper "United against Apartheid, Colonialism and Occupation – Dignity and Justice for the Palestinian People."² The BNC document was widely discussed and adopted by the solidarity movement; it was presented to the UN Durban Review Conference in 2009, and it continues to guide the activities of the BNC-led global campaign of boycotts, divestment and sanctions (BDS) against Israel until it complies with international law and respects the human rights of the Palestinian people. The BNC is the currently largest coalition of Palestinian civil society inside and outside occupied Palestine. It is composed of unions, movements, campaigns, associations, NGOs and their networks among all sectors of the Palestinian people: those under Israeli occupation since 1967, the refugees in exile, and those living in their homeland under Israeli rule since 1948. The view of Palestinian identity and Palestinians as a distinct racial group for the purpose of the definition of apartheid presented in this testimony is the view of the BNC. It is anchored in the direct experience and analysis of Israeli oppression by a large sector of the Palestinian people.

Palestinians do not usually identify themselves as a race or a racial or ethnic group, and most would even

object to such labels, which are understood to be the tools and core elements of the ideology and practice of the oppressor, who has divided Palestinians into numerous 'ethnic' or 'religious' sub-groups for the purpose of oppression and domination. All Palestinians, however, agree that they are victims of racism or racial discrimination as a group, because of their identity as Palestinians. Most Palestinians also agree that the group of the oppressor is mainly composed of persons who are Israeli Jews *and* endorse the racist colonial ideology and practice of political Zionism.³

It is the position of the BNC that Palestinians meet the broad definition of race or racial group adopted by modern human rights law, in particular ICERD, and that the entire Palestinian people constitutes one 'racial group' for the purpose of the definition of apartheid: Palestinians identify themselves as a group of people who share a common origin, history and culture, as well as social and political structures and networks, that have ensured connectedness and solidarity despite decades of oppression and forced displacement. The entire Palestinian people is the oppressed 'racial group', and its members are the victims of apartheid, regardless of their current geographic location or legal status.

In more specific terms, the following core-elements of Palestinian identity justify the characterization of the Palestinian people as a racial group for the purpose of the definition of apartheid:

First, all Palestinians, the refugees in exile, those under occupation in the OPT (West Bank, including Jerusalem, and the Gaza Strip), those who have remained in the part of the homeland that is now Israel –and irrespective of social class or religion - identify themselves as *the indigenous people of Palestine*, their country, where they lived and held citizenship until the end of the British Mandate in 1948.

Second, Palestinians define themselves as *victims of the Zionist movement (pre-1948) and Zionist Israel (since 1948)*, which – claiming an exclusive right of the 'Jewish people' to 'Eretz Israel' (i.e., the area of Israel and the OPT) - have destroyed their country, Palestine, and expelled its indigenous people, in order to establish and develop the exclusive Jewish state: from the initial *Nakba* (catastrophe) in 1947-1948, when approximately 80% of the Palestinian population was forcibly removed to make place for the state of Israel, and until today, when Israel's combined system of racial discrimination and military rule has expanded into the OPT, and facilitates further expropriation and colonization of Palestinian land in the entire area of former Palestine.

Finally, all Palestinians, the refugees in exile, those under occupation in the OPT, those who have remained in the part of the homeland that is now Israel –and irrespective of social class or religion - identify themselves as part of *one Palestinian people entitled to freedom and self-determination*. Palestinians have done so before 1948, when they formed a national resistance movement to fight oppression of their political freedoms by the British Mandate and colonization by the Zionist movement, and they have done so since the *Nakba* of 1948, and despite their dispersal, through the Palestine Liberation Movement (PLO). The PLO was formed as the sole legitimate representative of the Palestinian people by Palestinians outside and inside the homeland, in order to protect Palestinian unity and national identity, and to advance the collective and individual rights of the people. Since 1974, the United Nations has recognized that Palestinians are a people, that their rights to self-determination, national independence and sovereignty, and the right of the refugees to return to their homes and properties, are "inalienable", and that the PLO is the representative of the Palestinian people.

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

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Separate Legal Systems for Jewish-Israeli Settlers and Palestinians in the Occupied Territories

by Attorney Emily Schaeffer



Palestinians are routinely harassed and attacked by settlers with little recourse to justice.
(Source: Getty Images)

Under international humanitarian law (specifically, Article 66, et. al. of the Fourth Geneva Convention), an occupying power has the authority to establish “properly constituted, non-political military courts” to try residents of the occupied territory for offenses harming security and public order.

During the first days of Israel’s occupation of the West Bank and Gaza in June 1967, Israeli military commanders established military courts in both territories with jurisdiction to try any person in those territories accused of committing an offense against Israeli Security (military) Legislation, some of which had already been used in trying Palestinian citizens of Israel since 1948.

Under Israeli military orders, Israeli military courts have extra-territorial jurisdiction over any person, resident or non-resident of the occupied territories, and for any offense; however, these courts prosecute,

virtually without exception, only Palestinians. Since their establishment, tens of thousands of Palestinians have been prosecuted in these courts each year.

According to regularly renewed Israeli military legislation, law enforcement of Israeli civilians in the occupied territories is delegated to the Israeli police, the office of the Attorney General, and the Israeli civilian courts. As such, Israeli citizens and residents (and foreign citizens with Israeli tourist visas) arrested for crimes committed in the same territory are arrested, processed and tried by Israel's civilian legal system, which has significantly different facilities, procedures, laws, and penalties, and fares far better against the set of due process rights required under international law.

According to Israeli NGO *Yesh Din's* December 2007 report, the Israeli military courts fail to meet the standards of due process as set out in international human rights law and humanitarian law – including basic rights such as the presumption of innocence, the right to counsel and the right to the effective assistance of counsel, the right to be notified of and understand the charges, the right to be tried promptly and without undue delay, and the right to a public trial. Additionally, unlike the civilian courts in which Israeli settlers are tried, the military courts operate without significant internal supervision, and are almost completely sheltered from public scrutiny.

For instance, whereas an Israeli settler arrested (by the Israel police) and accused of a crime must be brought before a judge within 24 hours, a Palestinian accused of the same crime may be held and interrogated for up to 8 days before being brought before a judge. The Israeli civilian court judge may extend the former's detention by up to 15 days at a time for a total not to exceed 30 days, whereas the military court judge may extend the latter's detention by up to 30 days at a time for a total of up to 90 days. Attorney-client meetings in the Israeli civilian legal system must be granted without delay, barring only a handful of strict exceptions. In the military courts, the accused may be denied a meeting with a lawyer for up to 90 days in some cases, and where lawyers are Palestinian residents of the West Bank additional restrictions may come into play.

The proceedings in each of these respective systems will be conducted differently; the laws applying to the same acts committed will differ, as will the sentences should the defendants be convicted; and, naturally, in only one system will the accused be tried by their peers. It is worth noting here as well that the Israeli civilian law enforcement system has come under harsh criticism by human rights groups over the years for its overall failure to adequately bring to justice Israelis who commit "ideological" crimes in the occupied territories (generally speaking, settlers who commit crimes against Palestinians). The military courts boast over a 99% conviction rate of all or some of the charges in all indictments that lead to a final judgment.

It is clear that this arrangement creates a dual legal system, which prosecutes neighbors who have committed identical crimes under drastically different systems, based solely on national identity.

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Denial of the right to life and liberty of person as an act of apartheid

by *Attorney Sahar Francis*

Palestinian workers waiting in line at Bethlehem-Jerusalem checkpoint. (© Anne Paq / Activestyles)



This article provides a brief overview of the testimony that will be delivered by Addameer Prisoner Support and Human Rights Association at the Russell Tribunal on 5 November 2011 on the topic of denial of the right to life and liberty as an act of apartheid.

Under the International Convention on the Suppression and Punishment of the Crime of *Apartheid*, “denial to a member or members of a racial group ... of the right to life and liberty of person,” if committed for the purpose of establishing and maintaining domination by one racial group over another racial group and systematically oppressing the latter, constitutes the crime of apartheid. Denial of the right to life and liberty of person is defined as “murder of members of a racial group”; “infliction upon the members of a racial group ... of serious bodily or mental harm ... by subjecting them to torture or to cruel, inhuman or degrading treatment or punishment”; and “arbitrary arrest and illegal imprisonment of the members of a racial group”. Since Addameer focuses on arbitrary arrest, detention and torture, this summary will be limited to these issues.

Israel’s policies of large-scale and arbitrary arrest and detention of Palestinians are made possible by a discriminatory regime of law and institutions working in three main concurrent ways to maintain domination over Palestinians: first by applying a more advantageous legal regime to Jewish Israelis, whether residing in the oPt or in Israel; second by effectively criminalizing any opposition to the occupation; and finally by applying differing legal systems to different parts of the occupied Palestinian territory (oPt), thereby fragmenting and segregating the Palestinian territory and people.

In the West Bank, Israeli authorities carry out arrests and detentions of Palestinians by virtue of a system of military regulations in place since the beginning of the occupation. According to international

humanitarian law, any new legislation enacted by the Occupying Power should be limited to regulations protecting the rights of protected persons or the security of the Occupying Power. The military orders issued by Israel, however, extend much beyond these limits and further criminalize any form of opposition to the occupation, legally cementing the oppression of the Palestinian people. Despite living in the same territory, Jewish settlers residing in the West Bank are not subjected to this legislation, but rather to Israeli civil law, applied extra-territorially. Under this separate and unequal legal regime, Palestinians are subjected to more severe detention and sentencing provisions than Jewish settlers, with little or no effective judicial oversight, most notably with regard to administrative detention. In addition, the military courts, through which these military orders are enforced, do not conform to international fair trial and due process standards, further contributing to the arbitrary nature of this regime.

Before Israel's unilateral "withdrawal" from Gaza in 2005, a similar system of military orders governed the arrest of Palestinians in the Strip. Since then, however, Gazans have been subjected to a different legal regime than Palestinians in the West Bank and are instead mainly arrested on the basis of Israeli criminal law, under which they are automatically classified as "security" prisoners and suffer from harsher standards of detention and sentencing than their "criminal" counterparts.

In East Jerusalem, although Israel imposed Israeli civil law upon its illegal annexation of the city in 1967, Palestinian residents continue to be subjected to a dual system of law: Israeli civil law and Israeli military regulations. In that framework, Israeli authorities often detain and interrogate Palestinians from East Jerusalem under military orders, a system that permits longer periods of detention, before transferring them to the Israeli civil system for trial, where prosecutors can seek higher sentences based on the principle that security offenses are less common than in the military system in the oPt. The arrest and detention of Jewish settlers residing in East Jerusalem, however, is governed solely by Israeli civil law, which affords them greater protection and due process rights.

Finally, within the domestic criminal justice system itself, Israeli authorities discriminate between incarcerated Jewish and Palestinian citizens by defining them either as "security" or as criminal prisoners, with the overwhelming majority of the former being Palestinians. Classification as a security prisoner carries with it fewer legal guarantees and rights, with privileges such as receiving family visits without a glass divider, access to books or other items, and occasional visits outside the prison available only to criminal prisoners.

Furthermore, security prisoners are interrogated by the Israeli Security Agency, which often uses methods that amount to ill-treatment and torture. Criminal prisoners, on the other hand, are interrogated by the Israeli police, whose methods of operation are governed by a different set of rules. This has created two distinct regimes of interrogation, with the one affording less protection and rife with abuse used almost exclusively against Palestinians, whether from the oPt or Israel.

It therefore appears that Israel's arrest and detention of Palestinians in the oPt and within Israel proper is governed by a regime of laws and institutions almost completely separate from the one administering the arrest of Jewish Israelis. Because this system enables the large-scale arbitrary arrest of Palestinians while generally affording them lower protections and guarantees than Jewish Israelis, it should be understood as a discriminatory institutional tool of domination and oppression against them.

Sahar Francis is the General Director of the Ramallah-based Addameer Prisoner Support and Human Rights Association, a Palestinian NGO providing legal and advocacy support to Palestinian political prisoners in Israeli and Palestinian prisons.

House Demolitions and Israel's Policy of Hafrada

by *Jeff Halper*



House demolition in Jerusalem,
2010 (© ICHAD)

As the Director of the Israel Committee Against House Demolitions (ICAHAD) for the past 14 years, I am intimately familiar with both Israel's stated policies regarding the Occupied Palestinian Territory and its population, and its actual practices "on the ground." Since my expertise lies primarily in the area of house demolitions, I would like to focus in particular on two articles of the Apartheid Convention: Article II(c) concerning measures calculated to prevent a racial group or groups 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 or groups, in particular by denying to members of a racial group or groups basic human rights and freedoms, including...the right to freedom of movement and residence; and Article II(d) regarding measures designed to divide the population of Israel/Palestine along racial lines.

Israel's Policy of Demolishing Palestinian Homes

The long-standing Israeli policy of demolishing Palestinian homes on both side of the "Green Line" represents a central element in the conflict between the Israeli Jewish and Palestinian peoples. It is motivated by purely political considerations, although it employs an elaborate system of planning, laws and administrative procedures to lend it a proper facade. The goal is to confine the 4.5 million Palestinians of the Occupied Territories, together with the million Palestinian citizens of Israel, to small enclaves on only about 8% of the country – rising to 15% if a truncated Palestinian mini-state is established. Ultimately it is to make conditions so miserable for middle-class Palestinians that they leave the country, leaving the masses poor, leaderless and malleable. In this way, Israel can effectively control the entire country, Palestinian state or not.

The house demolition policy did not originate with the Occupation in 1967. The British Mandate authorities demolished Palestinian homes before 1948 as forms of “deterrence” against attacks, appreciative of the fact that this was the most painful punishment for Arabs (and, probably, for anyone).

It was Israel, however, that applied the house demolition policy widely and systematically. From 1947-1967, the Israeli authorities systematically demolished some 536 entire Palestinian villages, fully half the villages of Palestine, plus towns like Tiberias and eleven major urban neighborhoods. Many of these demolitions took place outside the boundaries of the land allocated to the Jews by the UN; all, however, were within what ultimately became Israel. Since 1967, the Israeli government has demolished 26,000 Palestinian homes in the Occupied Territories, but has also continued the policy of demolition within Israeli itself and against its own Arab citizens. ^(see annex)

What is the Process of Demolition?

When homes are demolished in military actions or as acts of deterrence and collective punishment, there is no process. No formal demolition orders, no warning, no time to remove furniture or personal belongings, often barely time to escape the home falling down around your ears.

Demolitions are also carried out for “administrative” reasons (lack of a permit) by the Civil Administration in the West Bank and Gaza, by either the Ministry of Interior or the Jerusalem municipality in East Jerusalem. Here, the process is embedded in planning and zoning – seemingly “proper administration.” Master plans and zoning regulations have been carefully prepared so as to limit Palestinian building, all carefully based on legal requirements. The entire West Bank has been designated “agricultural land,” while most of the unbuilt-upon land owned by Palestinians in East Jerusalem has been zoned as “open green space.”

Since Palestinians do not enjoy home mail delivery (including in East Jerusalem), demolition orders are distributed in a very haphazard manner. Occasionally a building inspector may knock on the door and hand the order to anyone who answers, including small children. More frequently the order is stuck into the doorframe or even left under a stone near the house. On many occasions Palestinians have complained that they never received the order before the bulldozers arrived, and thus were denied recourse to the courts. In Jerusalem a favored practice is to “deliver” an order at night by placing it somewhere near the targeted home, then arriving early in the morning to demolish.

If they do manage to reach the court in time, Palestinians may occasionally delay the order’s execution (at considerable expense). We are not aware, however, of any order that has actually ever been overturned. Once it is affirmed, the bulldozers may arrive at any time – the same day, weeks or years later, or never. Palestinians, barred from any possibility of obtaining decent, affordable and legal housing, do a simple, cold arithmetic: thousands of demolition orders are outstanding, the various Israeli authorities destroy “only” 150-500 homes a year (military attacks and punitive demolitions aside), so if I build the chances are that I might buy a year or two or three before the bulldozers arrive. As in a perverse reverse lottery, I might even “win” and escape demolition altogether. This gamble comes at a high emotional cost as well as financial.

When the dreaded day finally arrives, it comes almost without warning. Though families know their homes are targeted, actual demolitions are carried out at random, without pattern, and can strike anywhere at any time. Randomization is part of the generalized fear that underlies the policy of “deterrence” The wrecking

crews, accompanied by tens of soldiers, police and Civil Administration officials, usually come in the early morning hours just after the men have left for work. The family is sometimes given a few minutes to remove their belongings before the bulldozers move in, but because family members and neighbors usually put up some kind of resistance – or at least protest – they are often removed forcibly from the house. Their possessions are then thrown out by the wrecking crews (often foreign guest workers).

In addition to the emotional suffering of seeing their most personal possessions broken, ruined and thrown out in the rain, sun and dirt, demolitions constitute a serious financial blow, especially to the poor families who make up the vast majority of demolition victims. About 70% of Palestinians living in both Jerusalem and the West Bank/Gaza live below the poverty line. Families whose monthly income is around \$500 are burdened by the Israeli courts with hefty fines in the range of \$10-20,000, to be paid in monthly installments whether the house is demolished or not. In Jerusalem families must also pay for the demolition of their own homes; at the end of the demolition they are presented with the wrecking company's bill, around \$1,500.

When the bulldozer finally begins its systematic work of demolition, the whole process takes between five minutes (for a small home of concrete blocks) to six hours (for a five story apartment building). At times demolition is resisted amidst violence; people are beaten, jailed, sometimes killed, always humiliated. At other times the family and their neighbors watch sullenly as their home is reduced to rubble. One can only imagine their feelings and thoughts.

What Does It Mean to a Palestinian Family to Have Its Home Demolished?

The human suffering entailed in the process of destroying a family's home is incalculable. A home is not only a physical structure; for all of us it is the center of our lives, the site of our most intimate personal life, an expression of our identity, tastes and social status. It is a refuge, a physical representation of the family, an extension of our very selves. It is home. For Palestinians, homes carry additional meanings. Upon marriage, sons construct their homes close to that of their parents, thus maintaining not only a physical closeness but continuity on one's ancestral land. The latter aspect is especially important in the world of farmers, and even more so as Palestinians have faced massive displacement in the past half century. Land expropriation is another facet of home demolition, an attack on one's very being and identity.

Demolition is an experience different for men, women and children. Men are probably the most humiliated, since demolition means you can neither protect your family nor provide for their basic shelter and needs. It also means losing a living connection to your family land, your personal patrimony and that of your people. Men often cry at demolitions (and long after), but they are also angered, swear revenge and intend to build again (although some men withdraw emasculated from active family life). Since men usually have jobs and access to the world outside the home, they also have a certain outlet for their frustrations.

Demolitions alter, even destroy, a woman's entire persona and role in the family. Palestinian women generally do not have careers outside the home. Their identity and status as wives, mothers and, indeed, persons is wrapped up in their domestic life. When their homes are demolished, women often become disoriented, unable to function without that organizing domestic sphere. Some sink into a kind of mourning, although in some cases, especially if the husband has withdrawn, they take on more assertive roles in the family.

Demolition represents a double tragedy for women. Not only do they lose their own domestic space, but



House demolition in Hebron,
Nov. 2004 (© Naef Has)

they are forced to move into the homes of other women, their mothers- or sisters-in-law. The overcrowding and tension this generates is exacerbated by the fact that the “guest” woman has little control over the domestic sphere, over the care of her own husband and children, further diminishing her role and status. In many cases this results in severe tensions within the families, including domestic violence spawned by the wife’s demands (even unspoken) for a home of her own, and the husband’s inability to provide it. Eventually families may move into their own rented quarters – another expense – or even rebuild their home, having no choice but to risk another demolition.

For children, the act of demolition – and the months and years leading up to it – is a time of trauma. To witness the fear and powerlessness of your parents, to feel constantly afraid and insecure, to see loved ones (relatives and neighbors) being beaten and losing their homes, to experience the harassment of Civil Administration field supervisors speeding around your village in their white Toyota jeeps—and then to endure the noise, violence, displacement and destruction of your home, your world, your toys—these mark children for life. Psychological services are largely absent in the Palestinian community and there are many signs of trauma and stress among children: bed-wetting, nightmares, fear to leave home lest one “abandon” parents and siblings to the army, dramatic drops in grades and school-leaving, as well the effects of exposure to domestic violence that occasionally follows impoverishment, displacement and humiliation.

The Legal Implications

While every country requires planning regulations, zoning and enforcement mechanisms, Israel is the only ‘Western’ country that systematically denies permits and demolishes houses of a particular national group. The goal is clear: to create an exclusively “Jewish” space on 85% of historic Palestine while



House demolition in Lydd, the homes of some 20,000-40,000 Palestinian citizens of Israel are slated for demolition. 2010 (Source: Arab48.com)

confining the Palestinians to truncated enclaves on the remaining 15%. The policy is also explicit. The official name for Israel's policy vis-a-vis the Palestinians is hafrada, "separation" or apartheid in Hebrew; the name of the 750 kilometer barrier dividing Jews from Palestinians and locking the latter into enclaves is called the "Separation Barrier."

The house demolition policy, when combined with the designation of 85% of Palestinian and Bedouin-owned land (throughout Israel and the OPT) as Israeli "state land," (and therefore largely inaccessible to Palestinians) the massive and ongoing expropriations that flow from

that and the consequent creation of separate reserves and ghettos in which the Palestinian population is confined, violates numerous articles of other international covenants, as mentioned above.

In particular, it violates Article 2(c) of the International Convention on the Suppression and Punishment of the Crime of Apartheid, constituting as it does measures calculated to prevent a racial group or groups 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 or groups, in particular by denying to members of a racial group or groups basic human rights and freedoms, including...the right to freedom of movement and residence. It also stands in violation of Article 2(d): measures designed to divide the population of Israel/Palestine along racial lines.

Apartheid

As a political organization, ICAHD is dedicated to ending Israel's occupation totally and achieving a just peace between Palestinians and Israeli Jews. We pursue a legal strategy when we think that is effective, but it is only part of our strategy, which includes resistance, advocacy and mobilizing civil society as well.

Thus we use the term "apartheid" to describe the regime Israel has constructed. In this sense it resembles apartheid in South Africa. Both systems were based on the same two principles: (1) one ethnic, religious or national group separates itself from the others and then (2) imposes a permanent, institutionalized regime of domination. By focusing on these twin elements of apartheid as a political system, separation and domination, we are able to "name" the regime that encompasses both Israel "proper" and the Occupied Territories. This lends focus and specificity to our analysis, helps people grasp the nature of the problem beyond such obfuscating terms as "terrorism," "occupation" and "both sides," and provides a measure by which proposed solutions can be evaluated. This political definition of apartheid complements the legal, yet must also be stated and made part of the equation.

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Annex

Although exact figures are impossible to arrive at, the stages in Israel's demolition campaign are as follows:

Stage 1: Inside Israel (1948-1960s)

- Between 1948 and into the 1960s Israel systematically demolished 518 Palestinian villages inside of what became the State of Israel, two-thirds of the villages of Palestine. This was not done in the heat of battle, but well after the residents fled or were driven out, so that the refugees could not return and their lands could be turned over to the Jewish population.

Stage 2: In the Occupied Territories (1967-present)

At the very start of the Occupation in 1967 the policy of demolition was carried across the "Green Line" into the West Bank, East Jerusalem and Gaza. As of 2005 approximately 12,000 Palestinian homes have been destroyed – homes, we must add, of people who had already lost their homes inside Israel in 1948 and after.

- At least 2,000 houses were demolished immediately following the 1967 war. Four entire villages were razed in the Latrun area (now known as "Canada Park"), while dozens of ancient homes were destroyed in the Mughrabi Quarter of Jerusalem's Old City to create a plaza for the Wailing Wall.
- In 1971, Ariel Sharon, then Commander of the Southern Command, cleared 2,000 houses in the Gaza refugee camps to facilitate military control. (Since he was elected Prime Minister in early 2001 he has overseen the demolition of another 1500 homes in Gaza.)
- At least 2,000 houses in the Occupied Territories were destroyed in the course of quelling the first Intifada in the late 1980s and early '90s.
- Almost 1,700 Palestinian homes in the Occupied Territories were demolished by the Civil Administration during the course of the Oslo peace process (1993-2000)
- During the second Intifada (2000-2004) between 4000-5000 Palestinian homes were destroyed in military operations, including hundreds in Jenin, Nablus, Ramallah, Bethlehem, Hebron and other cities of the West Bank, more than 2500 in Gaza alone. Tens of thousands of other homes were left uninhabitable. Altogether around 50,000 people have been left homeless. Hundreds of shops, workshops, factories and public buildings, including all the Palestinian Authority ministry offices in all the West Bank cities, have also been destroyed or damaged beyond repair. According to Amnesty International more as than 3000 hectares of cultivated land – 10% of the agricultural land of Gaza – have been cleared during this time. Wells, water storage pools and water pumps which provided water for drinking, irrigation and other needs for thousands of people, have also been destroyed, along with tens of kilometers of irrigation networks.
- Between 2000-2011 about 2000 Palestinian homes were demolished by the Civil Administration for lack of proper permits.
- More than 628 Palestinian homes were demolished during the second Intifada as collective punishment and "deterrence" affecting families of people known or suspected of involvement in attacks on Israeli civilians. On average 12 innocent people lose their home for every person "punished" for a security offense – and in half of the cases the occupants had nothing whatsoever to do with the acts in question. To add to the Kafkaesque nature of this policy, the Israeli government insists it is pursued to "deter" potential terrorists although, according to B'tselem, 79% of the suspected offenders were either dead or in detention at the time of the demolition.
- In sum, during the second Intifada, according to B'tselem, 60% of the Palestinian homes demolished in the Occupied Territories were done so as part of military "clearing operations;" 25% were demolished as being "illegal," not having permits; and 15% for collective punishment.
- About 8000 homes were demolished in the assault on Gaza during the three weeks of late-December 2008-mid January 2009. They were almost all "collateral damage" and not specifically targeted.

Stage 3: Back Inside Israel (1990s-present)

- Throughout Israel proper, in the "unrecognized" Palestinian and Bedouin villages, as well as in the Palestinian neighborhoods of Ramle, Lod and other Palestinian towns, houses continue to be demolished at an ever accelerating rate. Some 100,000 "internal refugees" from 1948 and their families still live in more than 100 "unrecognized villages" located in the vicinity of their now-destroyed villages, where they suffer from inadequate living conditions and constant threats of demolition. Entire Bedouin villages in the Negev, numbering some 60,000-70,000 residents, are threatened with demolition. Indeed, whereas Arabs comprise almost 20% of the population of Israel, they are confined by law and zoning policies to a mere 3.5% of the land. In mid-2004 the Israeli government announced the formation of a "Demolition Administration" in the Ministry of Interior to oversee the demolition of these homes of Israeli Arab citizens – between 20,000-40,000 in number.

Persecution in International Law

by *Raji Sourani*



London session of the Russell Tribunal on Palestine. "Corporate Complicity in Israel's violations in international human rights law and international humanitarian law". (©Kristian Buus/Russell Tribunal)

Persecution is one of the crimes against humanity under international criminal law. As defined by the Statute of the International Criminal Court, it is "the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity" (Art. 7(2)(g) Statute). As with every crime against humanity, persecution is committed in the context of an attack on a civilian population, and must have widespread or systematic character. In other words, there must be a policy element behind the group's deprivation of fundamental rights.

There can be no doubt that Israel's discriminatory regime against the Palestinian people - since the Nakba - is in pursuance of official governmental policy, and is anchored in Israeli domestic law. Israel, through the military occupation of the Palestinian territory, established an institutionalized regime of systematic oppression, domination, and discrimination, which has been 'legitimised' by an allegedly independent and impartial judiciary.

Such an official Israel policy violated the most fundamental human rights of the Palestinians, as internationally recognised: the right to life; the right to physical and mental inviolability; the right to personal freedom; the right to a fair trial (and the right to justice); the right not to be subject to arbitrary arrest, detention or exile; the right to education; the right to health; the right to freedom of movement; the property rights. The jurisprudence of International Tribunals (specifically of the ICTY), consistently found that the systematic violation of these rights integrates the crime of persecution.

Notwithstanding Israel's denial of its human rights obligations towards the Palestinians, Israel has human rights obligations towards all persons under its control, including the Palestinians in the occupied territory, as it was recognised by the International Court of Justice and other international bodies.

Israel's prolonged policy of discrimination has been so grave that it has been condemned as apartheid by many sources. This discriminatory policy affects both the Palestinian population living in Israel (i.e. Palestinian citizens of Israel), and the Palestinian population in the occupied territory; the discrimination takes different forms: (a) inside Israel, (b) in the West Bank (including East Jerusalem); (c) and in Gaza.

(a) Many studies and reports have highlighted how the Israeli government's official policy has resulted in a huge disparity of treatment between Jewish and Palestinian citizens of Israel. This inequality affects

all areas of life – including access to employment, housing, education, health and social welfare – fundamentally undermining the overall human rights situation. The Palestinian population of Israel is largely segregated and in many ways barred from any real possibility of growth or development. The policy impacts all areas of life, from funding for social projects, to access to public services, education, health (Palestinian infant mortality rates are much higher, while life expectancy is much lower), and a lack of protection for cultural and religious heritage.

(b) The discrimination is most blatant with respect to the Palestinians living under Israeli occupation in the oPt. As a recent study concluded, the occupation by Israel of the Palestinian territory “has become a colonial enterprise which implements a system of apartheid” (see the Study of the Human Sciences Research Centre of South Africa). While Jewish settlers living illegally in the oPt come under Israeli domestic jurisdiction, since 1967 the Palestinian population has been subject to the rule of the Military Commander, in the form of thousands of military orders. These thousands of orders regulate each and every aspect of Palestinian’ economic, social and private life.

The discriminatory practices of the occupation prevent natural growth and the enjoyment of basic human rights. For instance, almost all housing permits are arbitrarily denied, and as a result thousands of Palestinian homes are demolished, affecting the life of countless families. At the same time Palestinians’ natural resources are expropriated by the State of Israel; water and land are confiscated and used exclusively for the illegal settlements. Official occupation policy – sanctioned by the Israeli Supreme Court – has made Palestinians in the oPt dependent on Israel for the supply of basic needs such as electricity and water.

The violation of Palestinians’ freedom of movement is another illustrative example of the discriminatory regime. The illegal construction of the ‘annexation wall’, the system of restricted roads (exclusively for the benefit of settlers), the hundreds of checkpoints and barriers, the seam zones and closed military areas, all contribute to a pervasive system of fragmentation, which is depriving the Palestinian population of their basic rights: to access their agricultural lands, to reach their work, schools or even to receive medical treatment or to give birth in hospital.

(c) In Gaza, the regime of discrimination and denial of fundamental human rights has taken the features of an illegal closure, which was progressively imposed on the territory. The closure has been tightened after the Hamas take-over and since June 2007 Israel has virtually isolated the Gaza Strip and its inhabitants from the outside world. Despite its legal obligations under international law, Israel continues to collectively punish the 1,7 million citizens of Gaza, regarded as ‘enemy aliens’. This illegal closure, and the effects of Israel’s offensive on the Gaza Strip of 27 December 2008 – 18 January 2009, has resulted in unprecedented devastation. An entire population has been reduced to dependency on international aid. The humanitarian crisis now affecting the Gaza Strip is deliberate, man-made, and wholly preventable. It is the result of a policy put in place and enforced by the Israeli government with the silent complicit approval of the international community.

The crime of persecution is a crime under international law that gives rise to individual criminal responsibility. It is also included in the Statute of the International Criminal Court as a crime against humanity. Moreover, as a crime with customary international law status, persecution can be investigated and prosecuted by any State under the principle of universal jurisdiction.

Unfortunately there have been two consistent features of Israel’s occupation: violation of international law, and impunity for these actions. As noted by the UN Fact Finding Mission on the Gaza Conflict, the “prolonged situation of impunity has created a justice crisis in the OPT that warrants action”. International

bodies and individual States have the duty not to collaborate with an unlawful, discriminatory, apartheid regime, and to stop their economic support and cut their commercial relations with it. Israel shall not continue to be rewarded by the international community by means of advantageous economic agreements.

It is our hope that the Russell Tribunal will contribute to raise awareness on Israel's discriminatory policy against the Palestinian people and will help the international community to take the needed step forward in the direction of justice. It is time for the international community to comply with its legal obligations: those responsible for the systematic human rights' violation and disregard of international law must be brought to justice.

Raji Sourani is the director of the Palestinian Centre for Human Rights, which he founded in 1995 with a group of fellow lawyers and human rights activists in the Gaza Strip.

**Legal and Administrative Measures Impacting Residency Rights and Freedom of Movement
Fragmentation of the Palestinian Population to Prevent Their Development**

Abstract of al-Haq's submission to the Russell Tribunal on Palestine

The lack of territorial contiguity between the West Bank, including East Jerusalem, and the Gaza Strip, together with the building of the Annexation Wall, of Jewish-only settlements and of the segregated road system in the West Bank has physically fragmented the Occupied Palestinian Territory (OPT). The growing physical fragmentation of the OPT into enclaves is enforced through obstacles to freedom of movement implemented by Israel – such as checkpoints, roadblocks, trenches, road gates and other physical barriers, further controlling and disrupting Palestinian movement within the West Bank.

While these physical restrictions are the visible expression of Israel's policy of control and oppression against Palestinians, the Occupying Power has also adopted legislative and administrative measures, which deny the Palestinian population the right to freedom of movement and freedom of residence, isolating communities from their land, source of income, and from each other while securing the settlement enterprise and the complete segregation between the two groups.

In the West Bank, a stark example of segregation is represented by the condition of Palestinians living in the Jordan Valley, where access to land and natural resources, primarily water, is severely restricted by a draconian matrix of military and administrative measures. The economic and social development of the Palestinian communities in the Jordan Valley is inhibited, while Israeli settlements flourish and expand using Palestinian natural resources and benefitting from privileged legal protection.

Since the 1990s, Palestinian entry into Israel, to settlement areas in the OPT, to East Jerusalem from other parts of the OPT and Palestinian movement between the West Bank and the Gaza Strip is subject to a pervasive permit system –permits virtually impossible to obtain- that severely curtails Palestinian freedom of movement and the right to choose their residency.

The population in the Gaza Strip also face severe restrictions on movement in and out of the territory. Despite the Israeli unilateral withdrawal of settlers and military permanent posts in 2005, Israel still controls the Gaza Strip's air space, territorial sea and land borders and it has imposed a near blanket closure on the territory's borders, preventing thousands of Palestinians from leaving the Gaza Strip, including patients with life-threatening conditions and students with scholarships to study abroad.

Palestinians' right to choose their own residency is particularly infringed upon in East Jerusalem, where Israel has introduced a strict Jerusalem residency permit regime based on the "centre of life" requirement which has resulted in the revocation of residency status of hundreds of Jerusalemites. Israel has also passed discriminatory legislation preventing Palestinians holding West Bank or Gaza IDs from living together with their Jerusalemite spouses in East Jerusalem. The Palestinians' right to choose their residence is further curtailed by the implementation of a restrictive planning and zoning regime in East Jerusalem. Israel's systematic denial of required permits to build, repair or maintain their houses forces Palestinians to move out occupied East Jerusalem with the subsequent risk of losing their residency status.

These institutionalised discriminatory policies have resulted in the overarching fragmentation of the Palestinian population into sub-groups – West Bank, East Jerusalem and the Gaza Strip- further preventing the Palestinians from participating in the political, social, economic and cultural life of the OPT and impede their full development as a group.

The world is silent while the State of Israel continues its racist policy and criminal activity against the Arab minority in the Naqab

A testimony from the Naqab desert

Jazzi Abu Kaf

The Regional Council for the Unrecognized Villages



(Source: arabs48.com)

Most of the information about Israel's racist policies and actions concerns the situation in the Occupied Palestinian Territories, but in Israel proper, and in the Naqab desert in the southern part of the country in particular; such policies and actions have not stopped since 1948. In the last few years, due to lack of international interest and interference there has been an increase in human rights violations.

I live in the Naqab, the back yard of the "only democracy in the Middle East", I am a citizen of a country that declared equality for all its citizens, a country that has villages which are off the map, unrecognized by the authorities. The State refuses to acknowledge the right of our villages to exist and develop, despite these villages having existed since before 1948 (some historians claim there is evidence of the Bedouin existence in the Naqab as early as the 7 century AD). My family's village is Um Batin, one of the historical villages, described on the government website as 'very ancient with wells and structures that are hundreds of years old'.

This same government refuses to recognize our land ownership claims. In Israel there are about 90,000 citizens that are not allowed to connect to the water or the electricity grids. These villages do not have

access to medical or educational services in their localities, although each of these localities has a population of 700-6000 people; far more than many of the Jewish localities which receive all services. The only reason for this is that the residents do not want to give up their ancestors' lands. What these villages have in common is that they are Arab villages.

In Israel the State can demolish our homes and even whole communities, because we are Arab. Despite recognition of the Bedouin as indigenous people by the UN Human Rights Council in 2011,¹ we are not protected, not as citizens, not as a minority group and not as the native people of the land. In Israel children travel to school in the morning only to come home to a pile of rubble which was their home. The State has a policy of oppression and racist discrimination towards its Arab minority in the Naqab.

Since 1948 and until today, the Israeli government, regardless of the political party in power, has had a policy of minimizing Arab existence in the Naqab, dispossessing us from our land, demolishing our villages and concentrating us in seven townships. The aim of the special government authority that was created in the Naqab was to safeguard State land not for Israel's citizens, but for the Jewish people alone.²

When the Naqab was conquered in 1948 the State of Israel deported 90% of its Arab population to Jordan and the Sinai. Half of my family members are refugees in Jordan. About 11,000 people remained in the Naqab and were transferred and concentrated in the Siyag area, east of Beer Sheba. The Siyag (which means border or fence in Arabic and in Hebrew) was put under military rule and curfew. In 1966 the military rule was lifted and the State began yet another act of concentration, this time into the townships. The goal was to take over Arab land and redistribute it to Jews. Indeed, Shmuel Toledano, the advisor to the prime minister on Arab affairs at the time, went so far as to openly explicate that the aim of the plan is to have a maximum number of Arabs on a minimum area of land.

The Arabs in the Naqab resisted the confiscation of our land and our forced urbanization; a resistance which the State responded to with cruel and harsh measures to force us to give up our land and move to the pre-planned townships. The state used a number of coercive measures that are prohibited under international law, including: preventing the delivery of basic rights and services such as water, electricity and access to education and health; making it illegal to construct roads, private homes and public structures; and issuing demolition orders on homes, schools and other structures. All of the houses in my village have demolition orders on them. We all became criminals overnight.

When the State realized that this pressure was not successful, it established a special authority named "The Bedouin Authority", to which they hired veterans of the police and of the secret police for the ostensible purpose of "taking care of the Bedouin". The Bedouin Authority cooperated with the ministry of agriculture and with the Israel Land Authority (ILA), and in 1977, with the approval of the prime minister; they established a special police and inspection force called the "Green Patrol". Amnon Nachmias the spokesperson for the Israel Nature and Parks Authority at the time said that the aim of the Green Patrol is to protect national land from trespassers and would act as the State's main apparatus to stop illegal usage of 'State land'.

In their official website they state that the Green Patrol regulates grazing grounds for the Bedouin and evacuates State land that was taken illegally. In practice the Green Patrol aimed to destroy the main livelihood of the Arabs in the Naqab. We mainly lived off the land, raised sheep and goats and planted different cereals. When the Green Patrol came, it was violent and barbaric toward the Arabs from whom they confiscated and destroyed herds, closed grazing grounds and harassed growers. Our fields were plowed over after we planted, and in the 90's they were sprayed with the toxic chemicals such as "round-

up”. Only after a court appeal, the high courts ordered spraying illegal because some people were hurt. Plowing-over is still a part of the routine. There are no known cases that such measures were used toward Jewish farmers.

The State, together with the World Zionist Organization (WZO), has taken over 93% of Arab land in the Naqab. Some of this land belongs to people who are refugees and some belongs to internally displaced persons. The policy has not changed over the years, only the means. Today there is pressure on claim-holders to give up their claims and pass ownership to the ILA or in other words to the Jewish People. Since the pressure was only partly successful, in the last ten years the State started a process of counter-claims. The process forces land owners to come before the courts and prove land ownership while at the same time it approves laws that are aimed at negating our rights on the land. It is evidently clear that it is the Zionist project, and not our supposed “nomadic” lifestyle that has made us abandon our homes.

There is a parallel process going on. While we are being pressured to give up our land, the State is busy encouraging and supporting Jewish people, and only Jewish people, to come and live in the Naqab and refers to them in the laundered term: “strong populations” or “quality groups”. These citizens get tax benefits, their localities are developed and much investment is put into their settlements. Recently, a new form of settlement was introduced in the Naqab: 100 Jewish families were encouraged to establish individual ranches on vast areas of land in order to prevent us from using our land. In 1997, when he was the minister of infrastructure, Ariel Sharon declared that the main aim of the individual ranches is to safeguard State land. In 2006 the High Court rejected an appeal that these ranches discriminate against Arabs.

The international community does not intervene in “inner Israeli matters” and there is definitely no desire in the West to pressure Israel to stop violations of the rights of the Arab minority group. This silence helps Israel conduct itself in a criminal and cruel manner when it comes to the Arab population in the Naqab. Today, as we speak, the government has approved a plan that will allow the destruction of unrecognized villages, the transfer of about 30,000 people and further confiscation of land. Because we are disempowered and poor, we do not have the resources to fight against this policy. Our main strategy of resistance is “sumud,” or steadfast perseverance. They demolish and we rebuild. We will not cooperate with the plan. We insist upon our rights. We will not give in to this discriminatory racist policy.

In 1997 we united and formed the Regional Council for the Unrecognized Villages. This democratic and authentic representative body advocates for recognition. Our answer to the government plans is an alternative master- plan that we created together with the community and leaves all of the villages were they are.

It is quite likely that the State will succeed. If we want to stop the madness and brutality we need international intervention from governments and international organizations. As long as the world ignores the crime against us, Israel will continue to violate our rights as an Arab minority.

I thank the Russell Tribunal for including our story in the tribunal and for not complying with Israel’s policy of dividing the Palestinian people.

Jazi Abu Kaf,
September 2011

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

BADIL Statement

BADIL demands maintenance of PLO status in the UN

9th September 2011 – BADIL Resource - Over the past few weeks and months, Palestinian civil society has attempted to raise a number of questions to the leadership of the Palestinian Liberation Organization (PLO) regarding the proposed September initiative. Of serious concern is the possibility that the representative of the Palestinian people in the United Nations (UN) will be changed from the PLO, representing the Palestinian people in their entirety, to the State of Palestine, representing only Palestinians residing in the Occupied Palestinian Territory (OPT).

Given the detrimental impact such a move would have on the ability of the Palestinian people as a whole to claim their rights, civil society has demanded the issuance of public assurances from the leadership that the PLO will retain its position as the representative of the entire Palestinian people in their seat at the UN. As of yet, no clarity has been forthcoming from the leadership of the PLO on this critical issue.

The status and legitimacy of the PLO is derived from the popular sovereignty it claims as a representative of the entire Palestinian people, including the majority not residing in the OPT. Replacement of the PLO would serve to disenfranchise this majority of Palestinians by removing their unifying representative structure. It is on this point that the legitimacy of the September initiative hinges. The lack of a substantial response from the leadership and their unwillingness to clarify how the PLO will maintain its status as the UN representative has led to the emergence of skepticism regarding the initiative from across Palestinian society.

In June, the Occupied Palestine and Golan Heights Advocacy Initiative (OPGAI) coalition issued a statement raising preliminary questions related to the September initiative. This was followed by a memo to PLO Chairman Mahmoud Abbas from BADIL at the end of June and a statement by the Global Right of Return Coalition, both of which focused on the importance of retaining the PLO as the representative in the UN. On August the 8th, the Boycott National Committee (BNC), the broadest coalition of Palestinian civil society, issued a statement which emphasized the crucial role of the PLO as a body representing all Palestinians. A few days later, a number of other Palestinian civil society organizations and networks issued a statement raising similar issues related to representation.

At the end of August, a legal opinion by internationally-renowned legal expert, Guy Goodwin-Gill, was obtained by the news website Ma'an, in which the legal consequences of the September initiative were discussed. Soon after, a public legal discussion ensued in which a number of scholars offered their opinions regarding the danger posed to Palestinian rights by Goodwin-Gill's opinion. Although the opinion created important public debate and popular discussion, the essential questions raised by BADIL, and others, remained unanswered and were reiterated again in an article by Dr Abdel Razzaq Takriti. In early September, Goodwin-Gill issued a second legal opinion highlighting the connection between self-determination, the need for democratic representation for all Palestinians and the necessary popular will for a change of any institutional arrangements related to representation.

In the past two weeks, the mounting calls for transparency from Palestinians have accelerated, with Palestinian groups from around the world adding to the above interventions in expressing concern regarding the initiative. Thus far open letters and statements have also been issued from:

1. A number of prominent Palestinian intellectuals and activists
2. Palestinian human rights organization Addameer
3. The US Palestine Community Network (USPCN)
4. Palestine Center for Human Rights (PCHR)
5. The Grassroots Anti-Apartheid Wall Campaign
6. A variety of organizations in Nablus issuing a joint statement, including:
 - The Palestinian National Liberation Movement (Fateh) - Nablus district
 - PLO Department of Refugee Affairs - Popular Service Committees
 - Balata Camp, Nablus.
 - Committee for the Defense of Palestinian Refugee Rights.

- Yafa Cultural Center, Balata Camp, Nablus.
- Yazour Charitable Society
- Nablus Local committee for the rehabilitation of disabled persons - Balata Camp, Nablus.

In all the statements made by these various organizations and coalitions, representing a significant proportion of the Palestinian people, what has been sought is a reaffirmation of the basic principles of the Palestinian struggle and the retention of all Palestinians under one representative umbrella as a vehicle through which the struggle for Palestinian rights can progress.

The concern among Palestinians around the world at the erosion of our public institutions, ability to represent ourselves as a people and to claim our rights must be addressed by a clear, public reassurance that the PLO will retain the seat representing Palestinians people in the UN. This must be backed up by a transparent explanation of the steps the leadership will be taking to ensure the maintenance of the PLO's position.

In the current political circumstances, priority must be given to avoiding fragmentation of the Palestinian people and work must be done towards the democratization and rebuilding of Palestinian national institutions. Such steps, including direct elections to the Palestinian National Council, are the basis for ensuring representation for all Palestinians and the first step towards guaranteeing the inalienable rights of the Palestinian people to self-determination, national independence, sovereignty and return to their homes of origin.

BADIL Statement

UK Government takes a step away from accountability

16th September 2011 – BADIL Resource Center - On Wednesday, the Queen of England signed an amendment to the Police and Social Responsibility Act which changes the laws on Universal Jurisdiction enshrined in the Geneva Conventions of 1949. The move overturns legislation, in place for over 50 years, designed to ensure accountability for war crimes victims and represents a major step back in the struggle for justice and the application of the rule of law around the globe.

The Geneva Conventions Act of 1957 previously allowed the UK to prosecute war criminals in its own courts, even when the war crimes were committed in other countries by non-UK residents. When a suspected war criminal entered the UK, a private individual or organization could approach a magistrate for the issuance of an arrest warrant as long as they provided sufficient evidence to proceed. The current amendment changes the law to require the consent of the Director of Public Prosecutions prior to issuing an arrest warrant for a war crimes suspect. This change removes the ability of victims to act quickly to prevent the escape of suspects, encourages political intervention in the judiciary and is contrary to the rule of law.

The law on universal jurisdiction has come under scrutiny in recent years following its successful use in issuing arrest warrants against a number of Israeli war crimes suspects, most notably Doron Almog in 2005. Since then, other Israeli leaders including Avi Dichter, Moshe Ya'alon and Aviv Kochavi have been intimidated by the potential use of this law and canceled their visits to the UK. Israeli Defense Minister, Ehud Barak, while in the UK in 2009, only escaped the issuing of an arrest warrant because of immunity laws protecting a serving minister. In December 2009, Tzipi Livni, Foreign Minister during the 2008-2009 Israeli military assault on Gaza, planned to visit the UK but cancelled her trip when a magistrate issued a warrant for her arrest. Following this incident David Milliband and Gordon Brown promised to change the law to accommodate Israeli demands for continued criminal impunity.

Following legal actions against Israeli officials in Spain and Belgium, these countries, under considerable political pressure, have already similarly changed their universal jurisdiction laws to make it easier for war crimes suspects to enter their countries unrestricted. As stated in BADIL's forthcoming paper on International Criminal Law:

the changes in the universal jurisdiction laws of several countries illustrates the political pressure exerted by powerful states, when their senior officials are under threat, on countries attempting to fulfill their obligations to prosecute international crimes and abide by the rule of law.

Ironically, it was Israel who first used the legal principle of Universal Jurisdiction, in modern times, to prosecute the Nazi war criminal Adolph Eichmann in 1961. The change in the the rules of application of such a key principle of International Humanitarian Law, essential to the protection of victims of war crimes, is illustrative of the continuing ascendancy of geo-political considerations over the implementation of the rule of law. It exposes the hypocrisy of the governments of Western countries who flout the importance of human rights when it suits their agendas, yet deny protection and justice to the Palestinian victims of Israel's war crimes and crimes against humanity.

Joint Open Letter

Concerning the Increase in Settler Violence against Palestinians in the OPT

19 September 2011, Dear High Contracting Parties of the Four Geneva Conventions and EU High Representative for Foreign Affairs and Security Policy,

As organisations dedicated to the protection and promotion of human rights in the Occupied Palestinian Territory (OPT), the Palestinian Council of Human Rights Organisations (PCHRO) would like to raise concerns about the recent escalation in violent attacks by Israeli settlers against Palestinians in the West Bank, including East Jerusalem. Since 12 August 2011, field researchers from Al-Haq monitored and documented 24 incidents of settler attacks against Palestinians and their property, most of them in Nablus governorate. In the first week of September alone, 15 cases of settler violence were documented, many involving settlers throwing stones at Palestinian cars, causing injury and property damage.

The nature of the attacks vary, but consistently include incidents of stone-throwing at Palestinian cars, arson of mosques and vehicles, uprooting of olive trees and damage to Palestinian private property and agricultural lands. In addition, settler attacks have been increasingly accompanied by offensive graffiti warning of further violence. Some of these actions are organised by extremist settler groups and clearly bear the mark of the 'Price Tag policy', which advocates for violence against Palestinians in response to the limited actions the Israeli government implements to restrict settlement construction in the OPT.

From the beginning of 2011, incidents of settler violence have intensified in their nature and scope. This is evident by the increased gravity of the injuries suffered by Palestinian victims and the damage to property that has resulted from attacks documented this year. We are deeply concerned that incidents are likely to rise in the next month because of the commencement of the olive harvest season and the upcoming Palestinian initiative for membership at the United Nations (UN).

In this regard, recent news reports affirm that the Israeli authorities are finalising preparations for what they have termed 'Operation Summer Seeds'. The main purpose of this operation is to prepare the Israeli military for the possibility of confrontations with Palestinian protestors related to the UN membership initiative. It has been reported that the Israeli army has already conducted training sessions for the chief security officers of settlements and is expected to provide settlers with means for dispersing demonstrations, including tear gas canisters and stun grenades, as an integral part of Israel's defense operation. The Israeli military confirmed the existence of an ongoing dialogue with settlement leaders and security personnel in an attempt to prepare and instruct them on the modalities to adopt in case Palestinian protests reach the settlements.

Also of concern is the organisation of a solidarity mission to Israel by a Jewish right-wing extremist group in France, which is recruiting Jews with extensive military experience to assist in defending Jewish settlements in the West Bank. This group is reported to be the French branch of the Jewish Defense League, an extremist organisation that has been deemed a right-wing terrorist group by the United States' Federal Bureau of Investigation. Its sister movement - Kach - has been outlawed by the Israeli authorities since 1994, as it is considered to pose a threat to State security.

Ahead of possible demonstrations by Palestinians in support of the Palestinian initiatives at the UN, Israel is capitalising on perceived threats to the security of its settlers to legitimise excessive use of force and to arm private individuals. Israel's right to protect its own civilian population, whose presence in the OPT is illegal

under international humanitarian law, should be provided for by appropriate law enforcement agencies. As an Occupying Power, Israel's primary duty is to effectively protect the Palestinian population by adopting measures aimed at preventing settler attacks. Israel's international obligations include taking effective measures to enforce the law against settlers and to hold them legally accountable for acts of violence committed against Palestinians. Notwithstanding, Israel's persistent failure in this regard is manifest. Israel continues to grant impunity for settler violence, in blatant violation of its duty of due diligence to repress criminal acts carried out by private actors. By failing to apprehend settlers responsible for alleged crimes, to conduct proper investigations of the incidents and to take adequate measures to punish perpetrators, the Israeli authorities are condoning and encouraging widespread settler violence against Palestinians.

In light of the escalation in settler violence against Palestinian protected persons in the OPT, the undersigned organisations call upon the High Contracting Parties to the Geneva Conventions to uphold their obligation to ensure respect for the Conventions as established under Common Article 1, by taking concrete measures to pressure Israel to comply with its obligation as an Occupying Power to protect the Palestinian civilian population.

We further urge the EU High Representative for Foreign Affairs and Security Policy to use all diplomatic and legal tools at her disposal to pressure the Israeli government to adopt measures aiming at preventing further violence and use of weapons by settlers against the Palestinian civilian population in the West Bank.

Yours sincerely,

The Palestinian Council of Human Rights Organisations

Organisations endorsing the statement:

Sahar Francis
General Director
**Addameer
Prisoner Support
and Human Rights Association**

Khalil Abu Shammala
General Director
**Al-Dameer Association for
Human Rights**

Shawan Jabarin
General Director
Al-Haq

Issam Younis
General Director
**Al-Mezan Center
for Human Rights**

**BADIL
Resource Center for Palestinian
Residency and Refugee Rights**

Rifat Kassis
General Director
**Defence for Children International
- Palestine Section**

Shawqi Issa
General Director
**Ensan Center for Human Rights
and Democracy**

Issam Aruri
General Director
**Jerusalem Center for Legal Aid
and Human Rights**

Iyad Barghouti
General Director
**Ramallah Center for
Human Rights Studies**

Maha Abu Dayieh
General Director
**Women's Centre for
Legal Aid and Counselling**

Open Letter
**to EU High Representative and Foreign Affairs Ministers ahead of the
Foreign Affairs Council Regarding the Eviction of Naqab Bedouins**

5 October 2011

**Dear High Representative,
Your Excellencies,**

As human rights NGOs concerned with the promotion and protection of human rights of Palestinian people, we, the undersigned organizations, urge you to stop the eviction of 30,000 Palestinians citizens of Israel living in 14 localities north, east and south of the town of Beer Sheba (Beer Al-saba').

On 11 September 2011, the Israeli Government approved the Praver Plan¹, which recommends the destruction of fourteen (14) villages in the Beer Sheba (Beer Al-saba') district located in the Negev (Naqab), effectively displacing 30,000 Palestinians from their homes. These plans for displacement cumulatively constitute an Israeli policy of forced population transfer against the indigenous Bedouin Palestinians. We urge you to call upon Israel to comply with its international human rights obligations with regard to its indigenous population.

The Praver Plan, named for its Head of Committee, Ehud Praver, a member of Israel's National Security Council and the head of the Strategic Planning Division in the office of the Prime Minister, seeks to implement the recommendations of the Goldberg Committee. The Goldberg Committee issued its recommendations to the Israeli government on 11 November 2008 and proposed that indigenous Palestinian Bedouins remain in their homes and on their lands. The Praver Committee, which did not include, nor consult, any adversely affected stakeholders, rejected these recommendations and proposed that 30,000 indigenous Palestinian citizens of Israel be forcibly removed from their homes and transferred to several recognized settlements, referred to by the Israeli government as "concentration towns".

The Praver Plan, referred to as the "final solution" for Israel's Bedouin population is a continuation of Israel's ethnic cleansing policies pursued since its establishment. The 180,000 Bedouins in the Naqab today are pastoral nomads who are the descendants of 19 tribes whose population was reduced to 11,000 in the aftermath of Israel's establishment. In 1953, eleven (11) of the nineteen (19) tribes were forcibly removed from their homes and transferred to a reservation in the northeast of the Negev known as the "Enclosed Zone" or the Sayig. As a result of the Absentee Property Law, the pre-1948 Bedouins lost 90% of their lands and property.

Having confiscated the Bedouin's ancestral lands, the Israeli government then set about settling them sparsely throughout the Sayig in order to make room for Jewish settlements and army bases. The National Planning and Building Law (1965) excluded Bedouins from official recognition despite their existence prior to the establishment of Israel in 1948. In 1966 the State released a Master Plan that did not recognize dozens of the Bedouin villages rendering them invisible to the government and denying them basic services like electricity, water, sewage systems, and health care otherwise provided by the State. Further, the Master Plan sought to Judaize the (Naqab) and support the expansion of Jewish settlements, which enjoy substantial state funding allocated through building plans.

The State seeks to forcibly remove the population of 75-90,000 Bedouins living in 40 unrecognized villages from their ancestral homes and their agricultural livelihoods and into overcrowded townships characterized by urbanization. Its tactics have included denial of basic services to the Bedouins and in many cases it has involved the violent and repeated destruction of their homes, villages, and agricultural lands.

Israel views its indigenous population as trespassers. Consider the statement by Ortal Tzabar, the spokesperson for the Israeli Land Authority. In an interview with IRIN News Service regarding the repeated destruction of Al-Araqib, a Bedouin village in the Naqab, Tzabar comments, "This case is not about demolitions; these people are criminals. This land has been deserted since 1950, when it was taken by Israel."²

The forcible displacement of indigenous Palestinian Bedouins violates several human rights provisions, including the right to self determination (common art. 1 to ICCPR, CESC), the principle of non-discrimination (see art 2 of ICCPR and ICESCR and art. 1 CERD); the right to leave a country and to return to one's country (art. 12 ICCPR); the right to work (art. 6 CESC); to education (art. 13 CESC); and to adequate housing (art. 28 CESC). Finally, the Plan amounts to ethnic cleansing deemed a crime against humanity by the International Criminal Court and the International Criminal Tribunal on Yugoslavia.

We urge you to call upon Israel to refrain from its human rights violations, discrimination and plans to transfer the Palestinian Bedouin population of the Naqab. We also urge you to call upon members of the international community to pressure Israel to disavow its recommendations enumerated in the Praver Plan in accordance with human rights norms and obligations.

Organizations endorsing the statement:

- BADIL Resource Center for Palestinian Residency and Refugee Rights
- Arab Association for Human Rights (HRA)
- The Occupied Palestine and Syrian Golan Heights Advocacy Initiative (OPGAI) consisting of:
 - YWCA-YMCA Joint Advocacy Initiative (JAI)
 - Alternative Information Center (AIC)
 - Alternative Tourism Group (ATG)
 - Defense for Children-Palestine Section (DCI)
 - Environmental Education Center (EEC)
 - Golan for Development (GvD)
 - Land Research Center-Jerusalem (LRC)
 - Arab Center for Human Rights in the Golan Heights Al-MARSAD
 - Union of Health Work Committees
 - Methaq for Development
 - Jerusalem Centre for Women (JCW)
 - The East Jerusalem YMCA- Beit Sahour Branch
 - Phoenix Center
 - Cooperating Body of Palestinian Associations Operating in Lebanon/ Lebanon
 - Popular Aid for Relief and Development/Lebanon
 - Palestinian Refugee Executive Office
 - The Association for the Development of Palestinian Camps (INAASH)
 - The Movement Against Racism and for Friendship between Peoples (MRAP)
 - The Palestinian community in Switzerland
 - The Palestinian cultural association in Switzerland
 - The right of return association –Geneva
 - The Association for the Development of Palestinian Camps (INAASH)

Notes:

1. The main recommendations of the Praver Plan are that over half a million dunums of Palestinian Bedouin land be confiscated through a variety of methods and that special legal, policing and administrative mechanisms be established to facilitate and accelerate this process.
2. Israel: Opportunity Gulf between Bedouin in the Negev, IRIN (14 August 2011) available at <http://www.irinnews.org/report.aspx?reportid=93389>.

BDS Campaign Update

(July - September 2011)



BDS Campaign Activities in Belgium. 2010 (source: bdsmovement.net)

IGLYO moves out of Israel!

29th July 2011 - Palestinian queer groups welcome the decision by the board of IGLYO to withdraw their annual General Assembly conference from Tel Aviv, Israel. Since June 1st, a campaign to get 'IGLYO Out of Israel' was launched by Palestinian Queer Groups to protest the organization's decision to hold its General Assembly in Tel Aviv, and accept funding from the Israeli government, followed by a call to boycott the conference after IGLYO declined to change its location.

Indian artists boycott show at Tel Aviv art museum

1st August 2011 - Indian artists, invited by the curators of the Tel Aviv Museum of Art to participate in an exhibition of work from India next Spring, have signed a public statement refusing the invitation in solidarity with the Palestinian-led call for BDS. In a statement published on the website for PACBI, the Palestinian Campaign for the Academic and Cultural Boycott of Israel, the artists said they "refuse to legitimize the illegal racist and apartheid policies of the Israeli Government against the people of Palestine and to become a part of 'Brand Israel'.

Students outraged by Israel mission

12th August 2011 - South African students have spoken out against what they call "Israeli apartheid agents" who plan to visit South African universities in an effort to improve the country's image. The delegation of 22 Israeli twenty-somethings from a group called What Is Rael will arrive in South Africa next week. The group will visit universities in Johannesburg, Durban and Cape Town, with a focus on the University of Johannesburg, which earlier this year cut research ties with Ben Gurion University in the Naqab.

But South African student groups, including the South African Union of Students, the South African Student Congress and the Young Communist League of South Africa, are unhappy about their arrival, claiming that they are coming to “deceive” South African students about the situation in Israel.

“Don’t patronize us,” reads a statement issued by the groups. “We lived apartheid, we suffered apartheid, we know what apartheid is, we recognise apartheid when we see it. And when we see Israel, we see a regime that practices apartheid. Israel’s image needs no changing, its policies do. We urge Israeli students to instead join the growing and inspiring internal resistance to their regime, particularly the boycott-from-within movement, rather than waste time and money on these propaganda trips.”

Tuba Skinny cancels show at jazz festival in Israel

20th August 2011 - Tuba Skinny, a traditional jazz and blues band from New Orleans, planned to perform at the Red Sea Jazz Festival in Eilat, Israel on 21 August. The international campaign “Don’t Play Apartheid Israel,” and the Israeli group “Boycott From Within” approached Tuba Skinny with the request to honor PACBI’s call for a cultural boycott of Israel. One week before the show, Tuba Skinny received an open letter with information about the cultural boycott of Israel and decided to adhere to the boycott.

Community radio broadcasters pass BDS motion across Canada

24th August 2011 - Independent and community media makers in Canada have passed a groundbreaking national motion to join the Palestinian-led call for boycott, divestment and sanctions (BDS) against Israel. This past June, the National Campus and Community Radio Association of Canada (NCRA) - an umbrella organization representing more than 80 radio stations across Canada - adopted the motion at its annual meeting. “In doing so, the NCRA is proudly the first national media organization in Canada to join the global movement for BDS” stated a press release from the NCRA posted to the BDS movement website.

Swedish chain kicks out drink machines made in Israeli settlements

29th August 2011 - in Sweden, the Israeli maker of home carbonation devices, Sodastream, took a direct hit when the Coop supermarket chain announced on 19 July that it would stop all purchases of its products due to the company’s activity in illegal Israeli settlements. This marked another important victory for the BDS movement, as Sweden is Sodastream’s largest market, with an estimated one in five households owning a Sodastream product.

London Protesters Disrupt Israeli Orchestra’s Concert

2nd September 2011 – The Israel Philharmonic Orchestra, marking its 75th anniversary, was repeatedly disrupted during its concert at the Royal Albert Hall in London on Thursday night by pro-Palestinian demonstrators, to the point that the BBC cut off its live broadcast and played recordings of the evening’s program instead.

Palestinian civil society welcomes Turkey’s Decision to Suspend All Military Ties with Israel and Lower Diplomatic Relations

7th September 2011 - The Turkish foreign minister Ahmet Davutoglu announced that the Turkish government would downgrade its diplomatic relations and suspend all military relations with Israel. Davutoglu gave September 7th as the deadline for Israel to withdraw all diplomatic personnel above the second-secretary level. The move was welcomed by the BNC.

MRTI recommends PC(USA) divestment of three companies

12th September 2011 - After seven years of apparently futile corporate engagement with Caterpillar over its business practices in Israel/Palestine, the Mission Responsibility Through Investment committee is recommending that the Presbyterian Church (U.S.A.) add the company to its divestment list. MRTI is also recommending that the 220th General Assembly (2012) add Motorola Solutions and Hewlett-Packard to the list.

Palestinian civil society welcomes Agrexco liquidation, calls for celebration of this BDS victory

12th September 2011 - Campaigners for Palestinian rights are celebrating after the primary Israeli agricultural produce export company Agrexco, a key BDS target, has been ordered into liquidation after being unable to pay its creditors. Agrexco is a partially state-owned Israeli exporter responsible for the export of a large proportion of fresh Israeli produce, including 60-70% of the agricultural produce grown in Israel's illegal settlements in Occupied Palestinian Territories (OPT). The victory came after a coordinated transnational campaign from activists across Europe.

'Queer Lisboa' drops Israeli sponsorship following boycott campaign

12th September 2011 - Portugal - 'Queer Lisboa', Lisbon's gay and lesbian film festival, dropped its long-standing sponsorship from the Israeli Embassy following a sustained campaign by activists advocating for the boycott of Israel until it abides by its obligations under international law and respects Palestinian human rights. The Israeli embassy has sponsored the festival for the past many years as part of its "Brand Israel" campaign launched in 2005, which aims to divert attention from Israel's violations of international law and Palestinian rights to its artistic and scientific achievements.

The Trade Union Congress passes policy Renewing Commitment to Implement BDS Campaigns and Urging Unions to Review Relations with the Histadrut

15th September 2011 – The Palestinian Trade Union Coalition for BDS (PTUC-BDS), the broadest and most representative alliance of Palestinian trade and professional unions, salutes the Trades Union Congress (TUC), representing 6.5 million workers in the UK, for their most recent policy in support of Palestinian human rights. The TUC voted overwhelmingly to "work closely with the Palestine Solidarity Campaign to actively encourage affiliates, employers and pension funds to disinvest from, and boycott the goods of, companies who profit from illegal settlements, the Occupation and the construction of the Wall". Importantly, TUC also called on "all unions on the basis of this policy to review their bi-lateral relations with all Israeli organisations, including Histadrut".

French Court ruling affirms legality of BDS campaign

17th September 2011 - The tribunal of the 17th magistrate's court of the Paris law courts has given a most important and clear ruling on the right of citizens and consumers to call for a boycott of Israel and its products. The ruling concluded that the call for the boycott of the products of a State by a citizen is not forbidden under French law and that criticism of a State or its policies cannot be regarded, in principle, as infringing the rights or dignity of its nationals.

PACBI Salutes Iain EWOK Robinson's Principled Stance

17th September 2011 - The Palestinian Campaign for the Academic and Cultural Boycott of Israel (PACBI) salutes the South African hip hop performer Iain EWOK Robinson, for his recent decision to cancel his participation in the Hilton Arts Festival. In his letter to the festival organizers, Iain EWOK Robinson noted that "As a signatory of the South African Artists Against Apartheid declaration (www.southafricanartistsagainstapartheid.com), in support of the Palestinian call for Boycott, Divestment and Sanctions of the Apartheid Israeli Government, I cannot in good conscience willingly participate in any event that enjoys the support and patronage of the Israeli Government in any form. I believe that this is an endorsement of the criminal acts of oppression and human rights abuses consistently perpetrated by this entity against the Palestinian people."

Ahava finally closes its doors in London

27th September 2011 - Cosmetics company Ahava has finally closed its controversial Covent Garden store this week. Manager Odelia Haroush said that the company has no plans to move elsewhere in the city, at least for the foreseeable future. Demonstrations by pro-Palestinian activists have dogged the store for years. Protesters claim the products sold in the store are manufactured in a factory in Mitzpe Shalom, an Israeli settlement.

International star Natacha Atlas announces Israel boycott

29th September 2011 - International singer and songwriter Natacha Atlas has announced publicly that she is canceling a planned concert in Israel and will boycott the country "until this systemised apartheid is abolished once and for all."

Academics sign Call for a Swedish academic boycott of Israel

2nd October 2011 – 218 Swedish academics have signed a public letter calling on universities not to participate in research or any other type of cooperation with Israeli academic institutions. The Swedish government should act for the cessation of EU's research support to Israel, which will inevitably strengthen the continued occupation of Palestine. This is what 218 Swedish persons demand in a Call for academic boycott of Israel. Twelve of the signatories are professors, while 14 are associate professors, 23 senior lecturers or researchers and 70 are students.

infront of the Israeli councelate in LA, 2009 (source: bdsmovement.net)



BADIL Working Paper No.13
 Working Title: **Israeli Apartheid over Mandate Palestine**

This paper seeks to illustrate that the regime that has been established across all of historic Palestine is a necessary framework within which the Zionists can pursue their policy of population transfer – that is Palestinians out and Jewish settlers/immigrants in. The apartheid regime is used to maintain a Jewish majority inside Israel itself and to keep the minority Arab population at a distance. It is used to alter the demographic in the oPt by making it more difficult for Palestinians to stay, due to many methods leading to displacement, while building settlements and bringing in Jewish settlers.

Coming Soon!

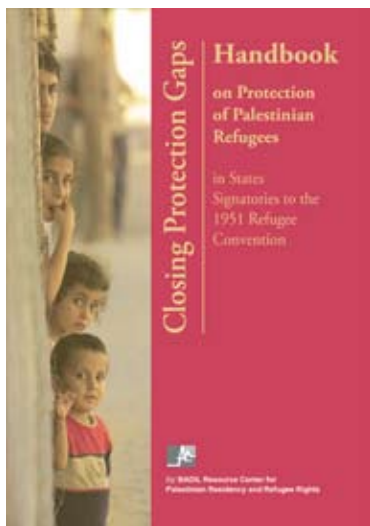


BADIL Releases Update of Protection Handbook (2011 - 2nd edition)

The Protection Handbook addresses problems and protection gaps facing Palestinian refugees who seek protection under the 1951 Refugee Convention and/or the 1954 Stateless Convention in third countries outside the Arab world. It aims to strengthen implementation of legal protection standards applicable to Palestinian refugees, in particular the rights embodied in Article 1D of the 1951 Refugee Convention.

The Update is only available online at:
<http://www.badil.org/en/lawyers-resources>

Handbook (2011) seeks to document developments of jurisprudence regarding Article 1D of the 1951 Convention relating to the Status of Refugees (1951 Refugee Convention) in the five year period between 2005 and 2010. The research covers 17 of the 23 non-Arab countries (all signatories to the 1951 Refugee Convention and/or the 1954 Convention relating to the Status of Stateless Persons) that were included in the Handbook: Australia, Belgium, Canada, Denmark, France, Hungary, Ireland, Italy, Netherlands, New Zealand, Norway, Poland, Spain, Sweden, Switzerland, United Kingdom and United States.



«None of the participants in the drafting sessions then taking place would likely have predicted that, over 50 years later, Palestinians would still be without a solution, or that their entitlement to protection would continue to be disputed, or that a Handbook such as this would need to be published... It will be an essential reading and resource for everyone engaged in the Palestinian refugee issue, whether on an individual case level, or in promoting the long wished-for political solution.»

- Prof. Guy S. Goodwin-Gill, University of Oxford

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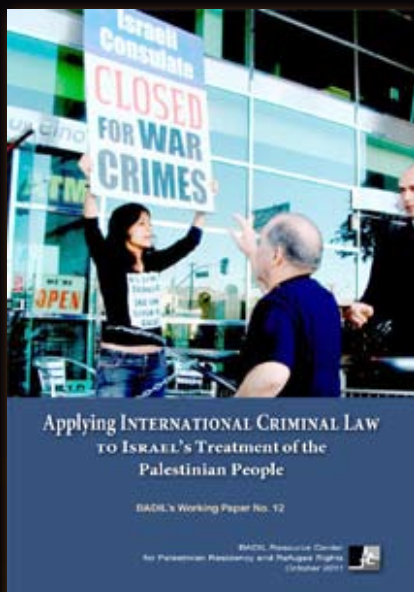
About the meaning of al-Majdal

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

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

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

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Applying INTERNATIONAL CRIMINAL LAW TO ISRAEL'S Treatment of the Palestinian People

BADIL's Working Paper No. 12

Over the past decades there has been an increasing amount of attention directed towards international criminal law (ICL) and how to ensure that perpetrators of international crimes will be held accountable and that victims will obtain justice. The purpose of this paper is to apply ICL to Israel's policies towards the Palestinian people. Rather than attempting to make a specific case against specific perpetrators, the aim of this paper is to set out the relevant legal framework for the application of international criminal law to some of Israel's policies

towards the Palestinian people. This paper will thereby supplement other papers published by BADIL in the field of criminal justice, legal accountability and remedies as well as work by lawyers and other organizations with a view to combating the ongoing impunity of Israel and its officials.

This BADIL working paper will constitute the first of a new BADIL series looking into the subject of International Criminal Law.

