

RULING PALESTINE

A HISTORY OF THE LEGALLY SANCTIONED JEWISH-ISRAELI SEIZURE OF LAND AND HOUSING IN PALESTINE



Centre on Housing Rights and Evictions (COHRE)
BADIL Resource Center for Palestinian Residency & Refugee Rights

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Executive summary

The purpose of this study is to provide an overview of Jewish-Zionist and, later, Israeli actions to acquire lands and property in Israel/Palestine. The study documents laws and policies governing colonisation and land acquisition in both Israel and the Occupied Territories, which Israeli armed forces captured in 1967.

We begin by looking at the inception of the Zionist movement in the late 1800s, when the groundwork was laid for land acquisition and Jewish colonisation in Palestine. Then we examine the changes to Ottoman law that facilitated Jewish land acquisition during the period of the British Mandate in Palestine. Our next focus is the legal system created within the State of Israel since its establishment in 1948. After that, we move to the situation following Israel's 1967 capture of the West Bank – including the eastern part of Jerusalem ('East Jerusalem') – and the Gaza Strip.

In tracing more than a century of Jewish-Israeli land acquisitions, this study documents the methodical process underlying the Zionist conquest of Palestine and the dispossession and displacement of its indigenous Arab inhabitants. We examine this process with reference to relevant international treaties and agreements. We show that Israel's discriminatory policies towards Palestinians constituted violations of key United Nations resolutions adopted by the international community in the General Assembly and the Security Council over the past several decades.

It is neither simple nor straightforward to demonstrate that a system of law was devised to legalise the transfer of lands and property from one people to another. For some readers, it may be disturbing to realise that deliberate discrimination could be embedded in and masked by seemingly 'neutral' categories within a 'legal' system – which, by definition, ought to denote impartiality and equal protection.

The events and laws under review here are complicated by the fact that a succession of different governments once wielded authority over the areas that later became Israel and the Occupied Territories. From Ottoman, through British and Jordanian (the latter only in the West Bank), to Israeli law – each ruling power installed its own legal framework in pursuit of its own particular interests.

As we shall see in the course of this study, legally sanctioned discrimination against Palestinians – as citizens of the State of Israel and as residents of the Occupied Territories – is not immediately discernible in the language of the laws, but exists nevertheless. The state of affairs favouring Jewish-Zionist goals in Palestine took shape early on during the British Mandate period. The British authorities took great pains to amend Ottoman law in such a way as to facilitate the Jewish purchase and colonisation of lands. This evolving body of law was the precursor of the legal system that was adopted by Israel after the creation of the 'Jewish State' in 1948 and that was imposed in the Occupied Territories after their capture in 1967.

To appreciate how Israeli law operates in depriving Palestinians of their lands and property and transferring these to Jewish ownership and control, we need to expose the true nature of certain implicit understandings and definitions in that law. What on the surface appear to be 'neutral' legal terms and categories actually operate to the great disadvantage of the Palestinians. This is particularly so in the case of those Palestinians who have Israeli citizenship. Although there are parallels between their legal situation and that of their counterparts in the Occupied Territories, the discrimination against the latter is less concealed because it is incorporated in Israeli Military Law.

Examples of terms that mask the discriminatory application of law to the detriment of the Palestinians in Israel and the Occupied Territories are: 'national', 'nationality' and 'national institutions'. Wherever such terms are used in the law, they actually refer exclusively to Jews. Thus, a 'national' denotes a Jew, not a Palestinian; 'nationality' is by definition Jewish. Israel defines itself as the 'Jewish State', not as the state of all its citizens. Palestinians in Israel may hold 'citizenship' and therefore enjoy certain rights and responsibilities, but they can never acquire the special privileges conferred by 'nationality'. Similarly, 'national institutions' such as the Jewish Agency and the Jewish National Fund, which have played a central role in land acquisition and development, by definition serve Jewish interests only. Immigration laws, such as the *Law of Return*, limit eligibility to Jews.

In this respect, another pertinent legal category is the 'Custodian of Absentee Property' (or 'Custodian of Government and Abandoned Property'). This office, created once the State of Israel was established in 1948, has a counterpart office in the 1967 Occupied Territories. Without the dispossession of three quarters of the indigenous population of Palestine, the destruction of their homes, the razing of their villages and the seizing of their lands after 1948, it is highly unlikely that the

'Jewish State' of Israel could have continued to exist. Essentially, the 'Custodian' is responsible for overseeing the transfer to Jewish-Israeli control of vast areas of land and other property from which Palestinians earlier fled or were evicted. Complementing the work of this office, Israel enacted a body of laws designed to establish legal claim to the lands and property of 'absentees' – the Israeli legal euphemism for forcibly displaced Palestinian refugees.

Two other legal terms deserve mention in this context. The definitions of 'State land' and 'public purposes', as embodied in various land laws, are also interpreted in a way that solely advances Jewish interests. This is just as true in the Occupied Territories as it is within Israel.

In the West Bank and the Gaza Strip, yet another concept operates to mask discrimination in the law: the concept of 'security'. Almost invariably, laws enacted in the name of 'security' – for example, those that declare 'closed areas' – permit the confiscation of Palestinian lands and the transfer of those lands to Jewish control. Invoking 'security' obfuscates the discriminatory application of law in the Occupied Territories in favour of Jewish settlers and to the detriment of the indigenous Palestinian inhabitants. Such measures have placed the actions of Israel's Military Government beyond the consideration of Israel's Supreme Court, which prefers not to hear complaints about security-related measures. Israel's 'creeping annexation' of the Occupied Territories, which has been advancing inexorably since 1967, has, arguably, foreclosed the option of a viable two-state solution in the area. As we elaborate below, this situation existed well before the Israeli-Palestinian negotiations began in Oslo in 1993.

This study analyses and documents in detail the mechanisms employed by Israel to veil its discriminatory policies against Palestinians behind the so-called 'rule of law'. Israel has developed a very intricate body of laws that is designed to facilitate and legalise both acquisition and ownership of lands in Palestine in the name of the Jewish people. This applies equally to lands within the State of Israel (as delineated by its 1948 borders) and to lands in the Occupied Territories.

The Israeli legal system is remarkably complex. The full reach of land and property laws in Israel and the Occupied Territories can only be appreciated within the context of other laws, including those governing immigration, planning, and national services. Although, superficially, such laws may appear to be distinct and unrelated to land and property laws, in essence they complement them in their general, discriminatory thrust. Laws in areas other than land and property, however, are beyond the scope of this study and are referred to only when relevant to the topic under discussion. It should be noted that the complete body of Israeli law – an intricate and interwoven whole – has been fundamental to the seizure of land and property from the Palestinian people ever since the State of Israel was unilaterally declared in 1948.

SECTION 1

Introduction

This study of Jewish-Israeli laws and policies on land and colonisation fills a noticeable gap in the available literature on the subject. Although excellent and informative analyses of the issues examined here have been published elsewhere (many are cited in this study), few cover the range of issues discussed here within a single publication.

This study is intended as a resource for anyone interested in research, education, communication, advocacy or policy-making on the issues covered here. It can be used as a reference for United Nations agencies as well as legal experts and human rights advocates. Activists and community-based organisations (CBOs) can use it in their organising efforts; non-governmental organisations (NGOs) may find it useful in their lobbying efforts. This study can also be used as an advocacy and lobbying tool by Palestinians themselves or by others interested in launching public inquiries, legal actions or other initiatives to protest or redress Israel's violations of international humanitarian and human rights laws. Hopefully, in the not-too-distant future, this study may also prove to be valuable in resolving legal claims to land and property in the event of a final political settlement between Israel and the Palestinians.

Given the complexity and the highly charged nature of the subject matter considered in this study, as well as its broad historical timeframe, a few introductory remarks and disclaimers are in order:

- This study does not purport to make any a priori claims about the success of the Zionist movement. Even Britain's critical role, throughout the period of its Mandate, in facilitating the establishment of a 'Jewish homeland' in Palestine did not make the realisation of Zionist goals a foregone conclusion. Key events and processes are duly noted as appropriate to our main theme, but are not analysed in great detail.
- Neither does this study delve into the complex, over-lapping intra- and inter-relations within and between different Jewish and Arab communities in the struggle over land in Palestine. The general pattern of Arab reactions to Jewish immigration and land purchases was established at an early stage, shaping the conflict in subsequent decades. Scholars who have lent their expertise to these issues have written extensively about the competing organisations and the bitter intra- and inter-communal rivalries that emerged in the course of the conflict. Many scholars have noted the shifting relations between Jewish and Arab communities and the Ottomans, the British, other European powers and, later, the United States, and have described the role of the surrounding Arab states, the United Nations and other interested parties. While it is true to say that the outcome of the conflict as we now see it 'on the ground' was very much shaped by these varied interests and relations, it is beyond the scope of this study to examine how these influences actually played out.
- It is also beyond the scope of this study to examine specific sectors of society. Selected information on sectors including labour, water resources and political formations is provided only when relevant to the topic under discussion.
- The process of the Jewish-Zionist colonisation of Palestine clearly had an enormous impact not only on land tenure but also, inevitably, on the area's Arab inhabitants. A case in point is the question of the Palestinian refugees, especially because this is so inextricably linked to the issue of Jewish land acquisition, colonisation and expansion in Palestine. Although the refugees' situation is central to the conflict, this study only addresses the question insofar as it is directly related to land and colonisation issues.
- This study limits its geographic scope to the areas formerly under the British Mandate in Palestine; that is, the areas that now comprise Israel and the occupied West Bank, including East Jerusalem, and the Gaza Strip. It does not concern itself with other territories that were initially the focus of Jewish colonisation efforts, such as parts of Iraq, Jordan, Syria, Lebanon and Egypt. Nor does it examine three other areas occupied by Israeli armed forces over the past several decades:
 1. The Sinai Desert, which was captured from Egypt in the 1967 War but later returned pursuant to the 1979 peace treaty between the two countries;
 2. The Golan Heights, which were captured from Syria in 1967, annexed in 1981, and are still under Israeli occupation to this day;
 3. Parts of Southern Lebanon, which Israel occupied for over two decades but withdrew from in 2000, with the exception of a contested strip known as the Shebaa Farms.

- In examining land and colonisation issues in the Occupied Territories, we note major transformations in Israeli rule, especially during the years of the Oslo 'peace process'. Even though limited Palestinian self-rule was established in parts of the West Bank and Gaza Strip as a result of the Oslo Accords, Israeli Military Law remains the ultimate source of authority in these areas. This study therefore concentrates primarily on documenting Israeli laws and policies on land and colonisation, rather than focusing on the conduct of the Palestinian Authority in the areas under its jurisdiction.

Readers who wish to learn more about the topics covered in this study, or about issues not discussed here, are encouraged to consult works cited in our *Bibliography*.

Outline of this study

The main body of this study consists of Sections 2-8. Sections 2-7 cover the most significant land- and property-related developments in Israel/Palestine, each section dealing with a particular historical period and/or geographical area. In Section 8, we present a summary and our conclusions.

Section 2, *Jewish-Zionist colonisation and land acquisition in Palestine (pre-1923)*, traces the ideological and organisational framework underlying the Zionist movement's plans to colonise and acquire land in Palestine. We examine the significance of the Balfour Declaration (1917) and the British Mandate for Palestine after World War I, which set the stage for increased Jewish immigration to Palestine. We make reference to key Jewish institutions, including the World Zionist Organisation/Jewish Agency (WZO/JA) and the Jewish National Fund (JNF), both of which played crucial roles in Jewish immigration and land acquisition in Palestine.

Section 3, *Jewish-Zionist land acquisition and policies during the British Mandate in Palestine (1923-1948)*, examines the British role in facilitating Jewish immigration and land acquisition in Palestine. Perhaps most significant in this regard are the British amendments to earlier Ottoman law. We discuss how these legal changes not only facilitated land acquisition by Jews in Palestine during the Mandate years, but also paved the way for the later enactment of Israel's land laws. We make reference to the first Zionist committees set up to examine the feasibility of 'transfer' – the mass expulsion of Palestinians from their homeland as part of an effort to secure a predominantly 'Jewish State' in Palestine.

Section 4, *Land acquisition, land laws and colonisation policies within the State of Israel (1948-1967)*, analyses the body of law developed in Israel after 1948. Initially, laws were enacted to legalise the confiscation of Palestinian lands. Later laws legalised the registration of such lands in the name of the State and the Jewish people. We examine the significance of changes made to Ottoman law and look at how the new laws were implemented to 'legally' dispossess the Arabs of their lands. We examine, among other measures, laws concerning 'State lands', and laws relating to the disposition of properties 'abandoned' by Palestinian refugees. We trace the processes whereby the newly established 'Jewish State' dispossessed some three-quarters of Palestine's indigenous Arab population of their homeland and took control of their lands.

Section 5, *The occupied West Bank and Gaza Strip: land acquisition and settlement building (1967-1993)*, examines the legal system put in place under Israel's Military Government in the Occupied Territories. We refer to the body of Military Orders and Regulations that facilitated Jewish-Israeli land acquisition and colonisation in the Occupied Territories. We analyse parallels with Israeli law, especially as regards discriminatory Military Orders in favour of Jewish settlers in the area. We document plans – carefully conceived from the outset of the occupation – to take over vast areas of the West Bank, and to a lesser extent, the Gaza Strip.

Section 6, *Land, colonisation and housing policies in annexed East Jerusalem (1967-2003)*, analyses pertinent developments in the East Jerusalem area. Although we find many parallels with the legal situation in the rest of the Occupied Territories, we discuss laws concerning Palestinian land and property in East Jerusalem separately because of the city's unique status. Shortly after the 1967 War, Israel extended its law to an expanded East Jerusalem area – an action that many have defined as annexation of the city. This has had significant repercussions not only for the Palestinian residents of Jerusalem, but also for the entire West Bank.

Section 7, *Land, colonisation and housing during the 'Oslo era' (1993-2000)*, examines relevant developments during the years of the Oslo 'peace process'. It traces Israeli land acquisition and settlement building during that period, which not only continued but actually accelerated. Other developments examined include, most significantly, the division of the West Bank into Areas 'A', 'B' and 'C', as agreed upon in the Israeli-Palestinian Interim Agreements (1995), and the implications of such territorial divisions for land and property issues in those areas.

Section 8, *Summary and conclusion: the second Intifada and beyond*, concludes the main body of this study. It traces the most significant developments in relation to land and property rights since the collapse of the Oslo 'peace process' and the launching of the second *Intifada* in September 2000. We discuss Israel's incursions into Palestinian cities in the spring of 2002 and related developments over the past few years. We focus on the implications of Israel's construction of its 'Security Fence' in the West Bank, the expansion of Jewish settlements, the accelerated demolition of Palestinian homes, and the razing of vast areas of agricultural lands. We show that all these actions have advanced Israel's land acquisition in the West Bank and Gaza Strip. We again reflect on the issue of 'transfer' and on concerns for the future in light of the general thrust of Jewish-Israeli laws and policies since the inception of the Zionist movement over a century ago. Throughout, we make reference to applicable international law and Israel's continued violations of such law, especially in the Occupied Territories.

SECTION 2

**Jewish-Zionist colonisation and land acquisition
in Palestine (pre-1923)**

2.1 Early beginnings of Jewish immigration and land purchases in Palestine

The organised immigration of Jews from Europe with the aim of settling in Palestine began in earnest as early as in 1882. This took place against the background of Ottoman reform of land laws, taxation, and administration laws (known as the *Tanzimat*), as well as revisions to articles in the Civil Code (*Mejelle*) concerning land and property.

The *Ottoman Land Code* (OLC) of 1858 defined distinct categories of land holdings, provided procedures for acquiring and registering title to lands, and established new taxation procedures. These changes are crucial to understanding later amendments to Ottoman law under the British Mandate, as well as Israeli laws enacted after 1948. Briefly, the land tenure categories defined in the OLC were as follows:

- *Mulk*: Privately owned land over which the owner exercised full rights. This form of land tenure was not very common in Palestine and was limited mainly to the major towns.
- *Miri*: The most common type of land tenure. Individual landholders were given full possession- and user-rights over fields and agricultural lands, pastures, woodlands and other land surrounding villages, but ultimate ownership was retained by the State.
- *Mewat*: This category covered most 'dead' – that is, uncultivated and/or uninhabited – lands. These were lands not held by title deed, but farmers and cultivators could establish claims to such lands with State permission.
- *Matruka*: This category comprised communal lands that could be allocated by the State for communal or public purposes (for example, roads).
- *Waqf*: This category comprised the property holdings of the Islamic charitable endowment (the *Waqf*).

These categories were further subdivided, with specific regulations governing possession and use of land in each subcategory. Ottoman regulations required that tracts of land be duly registered, where appropriate.¹

Seeking to evade increased taxation and/or military conscription, Arabs in Palestine, whether they owned land privately or, more commonly, through collective village holdings, sought to register their property in the name of larger landowners. The latter were often 'absentee landlords' residing outside of Palestine. It was not long before prospective Jewish colonisers found it practicable to negotiate directly, or via land-brokers, with these 'absentee landowners' on the purchase of lands in Palestine.

The Jewish population of Palestine at the end of the nineteenth century was estimated to be 24 000, less than 5 percent of the total population. The majority of Jews lived in urban areas, including Jerusalem, Tiberias and Hebron. In 1892, Jewish land holdings in Palestine amounted to some 22 000 *dunum* (about 22 km²), approximately 0.08 percent of the land. Another 25 000 Jews were to enter Palestine in the first two decades of the twentieth century, settling on lands they had acquired from the Ottoman Government or the larger Arab landowners. For Jews, acquiring land was not simply a matter of settling in Palestine, but required a two-pronged plan to purchase lands and to empty them of their Arab tenant workers.

Funding for colonisation ventures initially came from Jewish philanthropists, among them Baron Edmund de Rothschild, and, after 1900, from the Jewish Colonisation Association (JCA). Much of the land purchased was turned into private, plantation-like land holdings. Even with some 22 agricultural settlements established in Palestine, nearly 90 percent of the Jews remained urban-based. By 1903, a combination of unfavourable factors, including shortages of Jewish agricultural workers, resulted in Jewish land purchases in Palestine coming to a virtual standstill.

2.2 The Basle Programme to the end of World War I (1897-1918)

It is commonly assumed that the Zionist colonisation of Palestine began with the Balfour Declaration of 1917, which pledged British support for the establishment of a 'Jewish homeland' in Palestine. However, a strategic plan for establishing such a 'homeland' (the 'Jewish State') can be traced back to the First Zionist Congress, which was held in Basle in 1897. The Basle Programme, adopted at that Congress, reads as follows:

¹ Only one-fifth of lands in Palestine had been registered at the start of the British Mandate in 1923. In 1928, the British enacted the *Land (Settlement of Title) Ordinance* to systematise and complete the process begun under the Ottomans. After the State of Israel was established, there were further modifications to land laws, including laws on settlement of title.

The Basle Programme
30 August 1897

Zionism strives for the establishment of a publicly and legally secured home in Palestine for the Jewish people. For the attainment of this aim the Congress considers the following means:

1. The appropriate promotion of colonisation with Jewish agriculturists, artisans and tradesmen.
2. The organisation and gathering of all Jews through suitable local and general institutions, according to the laws of the various countries.
3. The promotion of Jewish national feeling and consciousness.
4. Preparatory steps for the attainment of such Government consent as is necessary in order to achieve the aim of Zionism.²

The Basle Programme departed from earlier Jewish colonisation efforts in Palestine by specifying that land purchases would be held collectively "for the Jewish people". Jewish agricultural settlements were to be restricted to Jews and were to employ Jewish labour only. The first office of the Jewish National Fund (JNF) was set up in Vienna in 1902 and incorporated in England in 1907. As specified in its *Memorandum of Association*, the main purpose of the JNF was to acquire lands in Palestine (as well as in Syria and the surrounding areas) "for the purpose of settling Jews on such lands".³

Between 1897 and the end of World War I, the nascent Jewish-Zionist community in Palestine gradually began implementing decisions taken at the First Zionist Congress to establish the framework for a forthcoming 'Jewish State'. The World Zionist Organisation (WZO) was established as the body responsible for lobbying foreign governments to pursue the goals outlined in the Basle Programme. The Anglo-Palestine Bank was established in 1902 to serve the WZO's financial and banking needs.

Jewish colonisers in Palestine soon discovered that the lands they wished to colonise were neither vacant nor immediately available for purchase. Out of a total land area of about 26.3 million *dunum* (about 26 300 km²), less than one-third was deemed cultivable by the authorities. Most fertile agricultural lands had already been designated as pertaining to the appropriate Ottoman land tenure categories and were being cultivated by Arab agricultural workers.

In the first two decades of the twentieth century, with the help of newly established Jewish companies and organisations, Jewish land purchases increased rapidly, from a total of about 218 000 *dunum* (about 218 km²) in 1900 to some 557 000 *dunum* (about 557 km²) by 1922. On the eve of the British Mandate in 1923, Jews controlled 2.0-2.8 percent of the total land area of Palestine.⁴

"In order to establish Jewish autonomy - or to be more exact, a Jewish state in Palestine - it is first of all essential that all the land of Palestine, or at least most of it, be the property of the Jewish people. Without the right of land ownership, Palestine will never be Jewish regardless of the number of Jews in it, both in the city and country But how is land ownership customarily achieved? Only in one of the following three ways: by force - that is, through conquest in war (or, in other words, by stealing land from its owners); by compulsion - that is, through government expropriation of land; and by voluntary sale on the part of the owners. Which of these three ways is appropriate in our case? The first way is out of the question for we are too weak for this method. Thus, we can speak only of the second and third ways."⁵

2 Translated and reprinted in Walid Khalidi (ed.), *From Haven to Conquest* (Washington, D.C.: Institute for Palestine Studies, 1971), p. 89.

3 For sample articles of the Memorandum of Association, see Walter Lehn (in association with Uri Davis), *The Jewish National Fund* (London: Kegan Paul International, 1988), pp. 24, 30. The Hebrew name of the JNF, *Keren Kayemet Le-Israel*, translates as 'Perpetual Fund/Capital for Israel'. This is striking, as Jews did not obtain formal approval for their settlement ventures in Palestine until 1917.

4 In 1922, the British estimated that Jewish-controlled land in Palestine amounted to 741 833 *dunum* (about 741.8 km²); see Government of Palestine, *A Survey of Palestine, Prepared in December 1945 and January 1946 for the Information of the Anglo-American Committee of Inquiry*, Vol. 1 (Washington, D.C. Institute for Palestine Studies, 1991), p. 244.

5 Menachem Ussishkin, early Zionist leader, in 'Hovevi Zion' ('Lovers of Zion') (1904), quoted in Baruch Kimmerling, *Zionism and Territory: The Socio-Territorial Dimensions of Zionist Politics* (Berkeley, CA: UC Berkeley, Institute of International Studies, 1983), p. 14. A slightly different version appears in Gershon Shafir, *Land, Labour and the Origins of the Israeli-Palestinian Conflict, 1882-1914* (Berkeley, CA: University of California Press, 1996), p. 42.

2.2.1 Jewish land-purchasing and colonisation activity during World War I

Although land-purchasing activity diminished during the war years (1914-1918), this period remains significant for the degree to which Zionist Jews in Palestine and abroad garnered support and funding for their colonisation enterprise and laid the foundations for a self-sufficient national entity in Palestine. The institutional structures formed in this era established the Jewish community in Palestine as a veritable autonomous entity that carried it through the British Mandate period until 1948, when the modern State of Israel was formally established.

Much of the funding funnelled to the Jewish community during this period originated in the United States. Over US\$ 2.7 million was sent to Palestine's Jews between 1914 and 1918 alone, enabling them to survive the hardships of war, and significantly, to resume colonisation efforts even more vigorously after the war.⁶

2.3 The Balfour Declaration and the British Mandate (1917-1923)

The defeat and collapse of the Ottoman Empire left Britain in control of Palestine. The British military administration set up in 1918 was later replaced by a civilian administration, paving the way for the formal establishment of the British Mandate over Palestine in 1923.

By the time of the Balfour Declaration (1917), the Zionist movement had made significant strides in achieving the goals laid out in the Basle Programme. Through the work of the JNF and other organisations, Zionist establishments had significantly accelerated their land purchases in Palestine. Jewish labourers had been brought in from Europe, Yemen and elsewhere to work the lands and populate the settlements. More importantly, Zionist leaders had successfully lobbied the British Government to endorse their aims.

The language of the Balfour Declaration intimately reflected the preferences and wording of several prominent Zionist Jews who had been involved in various stages of the drafting process. Although Britain had not yet been given the Mandate for Palestine, the Balfour Declaration pledged British support for the creation of a "national home for the Jewish people" in Palestine (see Appendix 1-a).⁷

The Covenant of the League of Nations, signed at the same time as the Treaty of Versailles in June 1919, established the mandate system for the governance of the regions of the former Ottoman Empire. Article 22 (Para. 4) pledged:

Certain communities formerly belonging to the Turkish Empire have reached a stage of development where their existence as independent nations can be provisionally recognised 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 a Mandatory.⁸

In contravention of Article 22 of the Covenant of the League of Nations, the Mandate for Palestine embodied an explicit commitment to the Balfour Declaration and the establishment of a "Jewish national home" in Palestine (in Articles 2 and 4). The Zionist movement now had official authorisation to move ahead with its programme.

6 Much of the funding was collected by the American Jewish Committee (established circa 1905) and deposited in a branch of the Anglo-Palestine Bank in Palestine. Funds were distributed to Jews in Palestine based on earlier applications or according to need. See AJDC 1914-18, File #12, 'Appropriations Sent to Palestine', Schedule #15, reproduced in part in Table 1, 'The Yishuv's Early Capabilities: Organisation, Leadership and Policies', in Tobe Shanok, *Review Essays on Israel Studies, Books on Israel*, Vol. 5 (2000), p. 42; see also correspondence between Justice Brandeis and Chaim Weizmann, 11 Oct. 1914, in Melvin I. Urofsky and David W. Levy (eds.), *Letters of Louis D. Brandeis. Volume III (1913-1915): Progressive and Zionist* (New York: State University of New York Press, 1973), pp. 322-327.

7 W. T. Mallison, 'The Balfour Declaration: An Appraisal in International Law', in Ibrahim Abu-Lughod (ed.), *Transformation of Palestine* (Evanston, Illinois: Northwestern University Press, 1971), pp. 61-113; Frank E. Manuel, 'Judge Brandeis and the Framing of the Balfour Declaration', in Khalidi (n. 2 above), pp. 165-173; and J.M.N. Jeffries, 'Analysis of the Balfour Declaration', in *ibid.* pp. 173-189.

8 See Government of Palestine, *A Survey of Palestine*, Vol. 1 (n. 4 above), p. 2. Against the wishes of the Arab population, and with the aid of Jewish lobbying, the Mandate for Palestine (with a separate Mandate for Transjordan) was given to the British. The Council of the League of Nations adopted the terms for *The Palestine Mandate* in July 1922. It entered into force in September 1923.

In 1929, and pursuant to the terms of the British Mandate for Palestine, the Jewish Agency (JA) - formerly the executive branch of the WZO - was expanded to include non-Zionists (who later withdrew) and was henceforth to serve as the official entity for liaison between the WZO and Britain. Throughout the British Mandate period, the JA and its affiliated organisations in sectors including the purchasing, development and colonisation of land, as well as labour, finance and defence, assumed responsibility for implementing the WZO's programme in Palestine. Following independence, the Government of Israel entered into a formal relationship with the Jewish Agency/WZO in the Basic Law of 1952, which was designed to further the aims of Zionism abroad (see discussion in Subsection 4.4.1, *The Government of Israel and the 'National Institutions'*, below).

Complementing their plans to purchase lands, the early Zionists in Palestine also drew up detailed plans for the development and defence of those lands. The Jewish National Fund stipulated that all land purchases should be subject to the principle of 'Jewish labour only' and mandated the 'inalienability' of such lands. Once acquired, these lands became the permanent property of the 'Jewish people' and could be neither sold nor leased to non-Jews. By 1907, Zionist Jewish settlers had begun setting up 'guard units' to defend and protect their new settlements. In the 1920s, these guard units were transformed into the *Haganah*, Jewish military units that were to go on the offensive in the 1940s to secure additional landholdings for Jews in Palestine. After the State of Israel was unilaterally declared in 1948, the *Haganah* became the foundation of the Israeli Army. All this is noteworthy because it was this three-pronged strategy (land, labour and pro-active defence by offence) that underpinned the Zionist movement's acquisition and colonisation of land in early Palestine.

According to the 1922 census, Palestine's population at the beginning of the British Mandate was 757 182, including nomads. Arab Muslims and Christians together constituted 87.6 percent of the population, and Jews only 11 percent. (See, for further details, *Table 1* and accompanying notes, in Subsection 3.2 below). Seventy-six percent of the Muslim population (which formed the great majority in Palestine) was rurally based and concentrated mainly in the hundreds of villages dotting the fertile coastal region that was later to be incorporated into Israel. As in earlier years, the Jewish population remained largely urban-based.

SECTION 3

**Jewish-Zionist land acquisition and policies during
the British Mandate in Palestine (1923-1948)**

Jewish-Zionist strategy for land acquisition during the British Mandate period can be examined in terms of three essential interrelated aspects:

- Agencies and organisations established for the purpose of land acquisition, development and colonisation;
- Types, amounts and origins of land purchases;
- Intercessions with the British authorities in order to ensure that policies and regulations on land purchases, immigration and colonisation favoured Zionist goals.

During the Mandate period, various exigencies led to adjustments of the Jewish-Zionist strategies for transforming Palestine into the 'Jewish homeland'. At times, the Zionist movement was compelled to accelerate certain planned actions or develop alternative strategies. In the 1940s, it also shifted the focus of its lobbying efforts from Britain to the United States. Some of these points are elaborated in the following subsections.

3.1 Jewish agencies and organisations

The following paragraphs briefly outline the roles and functions of the most significant Jewish agencies and organisations that operated during the Mandate period.

The (World) Zionist Organisation (WZO)

The WZO was founded in Basle in 1897 (see Subsection 2.2 above) as the overarching organisation for lobbying foreign governments around the goals of the Basle Programme. Zionist Federations were set up in various countries (61 countries, by 1946). A number of ideologically based 'Separate Unions' (for socialist or orthodox Jews, etc.) were created and given international headquarters. The Congress, the WZO's legislative organ, met every two years to consider reports from the Zionist Executive and decide on the next course of action. These tasks included the election of a General Council (Actions Committee), which was largely a supervisory body.

The Jewish Agency (JA)

The JA was formed in 1929 in adherence to Article 4 of the Mandate for Palestine,

An appropriate Jewish Agency shall be recognised as a public body for advising and co-operating with the Administration of Palestine in such economic, social and other matters as may affect the establishment of the Jewish national home and the interests of the Jewish population in Palestine.⁹

The head office of the JA was initially located in Jerusalem; additional offices were set up in London, New York, Washington and Geneva. A number of existing or newly formed organisations and institutes, organised around key sectors such as finance, labour, and land purchase and development, became affiliated with the JA.

The Jewish National Fund (JNF)

The JNF was formally established by the WZO in 1902 and incorporated in England in 1907. Its main function was to work on behalf of the JA to acquire and develop lands in Palestine for the exclusive benefit of the Jewish people. Also known as *Keren Kayemet Le-Israel* (see n. 3 above), the JNF was organised into a large number of departments with budgetary, legal and general oversight over every district in Palestine, and serving every conceivable function associated with land acquisition. Such functions included mapping and surveying, equipment and planning, transportation, land purchase, fundraising in different parts of the world, assets and property of Jews abroad, to name but a few.¹⁰

Foreshadowing the Israeli colonisation strategies that were later adopted in the Occupied Territories, Abraham Granott (former Chairman of the Board of Directors of the JNF) outlines the organisation's early strategy:

9 Government of Palestine, *A Survey of Palestine*, Vol. 1 (n. 4 above), p. 5.

10 See chart, 'JNF Head Office: Organisational Structure', in Lehn (n. 3 above), pp. 280-281.

The Fund strove to avoid the isolation of villages, as this was liable to impair their secure and smooth progress. Hence, lots on which to establish additional points were bought in the vicinity of existing settlements; endeavours were made to create blocks of settlements, a sort of skeleton of Jewish Districts, and for this purpose settlement areas were widened, or separate or distant estates united to form larger blocks It is, indeed, of the nature of a rational land policy that it should be involved with a planned settlement policy, for ultimately the one serves to facilitate the other.¹¹

Between 1930 and 1948, contributions to the JNF from American Jewish sources alone totalled over US\$ 95.3 million. This was in addition to the more than US\$ 3 million that American Jews had collected for the JNF before 1930.¹²

Another entity that was set up to purchase and develop land in Palestine on behalf of the JNF was the Palestine Land Development Company (PLDC). The PLDC was established after 1907 as a profit-making stock company, buying and developing lands that could be resold to private Jewish buyers, as well as the JNF, and offering agricultural and technical assistance to small Jewish landowners.

The Histadrut

The *Histadrut*, the General Federation of Hebrew Workers in *Eretz Israel* ('the Land of Israel'), was formed as the main Jewish labour organisation affiliated with the JA. After World War I, it emerged as an umbrella organisation for the labour movement and was instrumental in the dual Jewish 'conquest' of Palestinian land and labour.

The Hashomer (later Haganah)

As noted in Subsection 2.3 above, guard units were first formed around 1907 to protect and defend the new Jewish settlements in Palestine. Known as the *Hashomer*, these units later evolved into 'conquest groups' that would capture and colonise new tracts of lands before transferring these to Jewish ownership. By 1920, members of the *Hashomer* were incorporated into the *Haganah*, the nucleus of the Jewish military forces that later became the Israeli army. The *Haganah* was instrumental in conquering lands and evicting Palestinian inhabitants from vast areas of Palestine beyond those allocated to the 'Jewish State' in the 1947 UN Partition Plan (see Subsection 3.5 below).

The Anglo-Palestine Bank (1903) and The Palestine Foundation Fund (*Keren Hayesod*, 1921)

These two entities, along with various subsidiaries and other financial institutions, formed the backbone of the land-acquisition effort. In 1944, the former held deposits equivalent to US\$ 181 million. Between 1921 and 1945, the latter spent close to the equivalent of US\$ 190 million on agricultural colonisation, urban development, education, public works and immigration.¹³

The total Jewish investment in Palestine between 1921 and 1939 was estimated at 79.55 million pounds sterling (British pounds), then equivalent to US\$ 397.75 million. Of this amount, the equivalent of US\$ 44.65 million went into land purchases, US\$ 93.2 million into agriculture, and US\$ 161.75 million into building and public works. The balance went into various industrial projects, transport and other activities.¹⁴

3.2 Types, amounts and origins of land purchases

With the appropriate organs for land purchase and development securely in place before the granting of the British Mandate, the Zionist movement was poised to take full advantage of the British commitment to establishing the 'Jewish national home' in Palestine.

11 A. Granott, 'The Strategy of Land Acquisition', reprinted in Khalidi (n. 2 above), pp. 389-399. Granott adds that in later years of the Mandate, a 'security' policy and a 'national' policy were developed to complement the settlement policy (for example, on the intentional settlement of Jews in the Negev region in the 1940s; see discussion in Subsections 3.4 and 4.5.1 below).

12 Compiled from various official sources in Samuel Halperin, *The Political World of American Zionism* (Detroit, Michigan: Wayne State University, 1961), App. IV, p. 325, and reprinted in App. V, 'American Jewish Financial Contributions to the Jews of Palestine', in Khalidi (n. 2 above), pp. 850-853. Contributions between 1930 and 1948 are listed annually. Contributions from a variety of other sources are also listed, significantly increasing these amounts.

13 Government of Palestine, *A Survey of Palestine. Prepared in December 1945 and January 1946 for the information of the Anglo-American Committee of Inquiry*, Vol. 2 (Washington, D.C.: Institute for Palestine Studies, 1991), p. 912.

14 Kimmerling (n. 5 above), p.12.

By 1923, about 55 Jewish settlements of various types had been established in Palestine. Jewish-owned lands were estimated at between 557 000 and 781 192 *dunum* (557-781.2 km²); that is, between 2.1 and 2.9 percent of Palestine's total land area (see: *Table 1*, below). Some 70 percent of Jewish-owned land came from Ottoman and other government sources. As noted earlier, 'absentee landlords' emerged as a major source of land sales to Jews. Local Palestinian landowners were responsible for less than 25 percent of sales, and *fellaheen* (peasants) for a little over 9 percent. This situation continued until the 1930s, when larger numbers of local Palestinian landowners began selling off their lands. (See: *Table 2*, below.)

Tables 1 and 2, below, summarise information on population distribution and colonisation in pre-Mandate Palestine, as well as Jewish land-acquisitions and colonisation over key periods of British rule. The British conducted official censuses in Palestine in 1922 and 1931. Data for 1944 and beyond are projections based on earlier data.

Table 1: Immigration, population and Jewish-owned land in selected years (population rounded to nearest 1000)

	pre-1919	1922	1931	1935	1939	1942	1944	1946
Jewish immigration (x 1000)	–	7.8	4.1	61.9	16.4	2.2	14.5	–
Jewish pop. (x 1000)	57.7 (9.7%)	83.8 (12.8%)	174.6 (18.0%)	355.2 (28.6%)	445.5 (31.0%)	484.4 (31.2%)	553.6 (32.6%)	608.2 (33.0%)
Arab pop.* (x 1000)	533.0 (90.3%)	565.3 (87.2%)	792.2 (82.0%)	886.4 (71.4%)	989.7 (69.0%)	1069.0 (68.8%)	1144.4 (67.4%)	1237.3 (67.0%)
Total pop.* (x 1000)	590.0	649.0	966.8	1241.6	1435.1	1553.5	1698.0	1845.6
Jewish land (km²)	650.0 (2.46%)	781.2 (2.96%)	1201.5 (4.56%)	1392.4 (5.29%)	1495.2 (5.68%)	1551.0 (5.89%)	1577.4 (5.99%)	1585.4 (6.02%)

* Figures for the Arab (and hence the total) population include Muslims, Christians and others, but exclude nomads. In 1922, the nomadic population was estimated at around 19 250. For each of the subsequent years included in this table, it was estimated at over 66 000.

Notes:

Pre-1919 figures and British estimates for 1922 from Walid Khalidi (ed.), *From Haven to Conquest* (Washington, D.C.: Institute for Palestine Studies, 1971), App. 1, pp. 841-844.

Figures for 1922-46 from Government of Palestine, *A Survey of Palestine. Prepared in December 1945 and January 1946 for the information of the Anglo-American Committee of Inquiry*, Vol. 1 (Washington, D.C.: Institute for Palestine Studies, 1991), pp. 141, 195; and id., *Supplement to Survey of Palestine. Notes compiled for the Information of the United Nations Special Committee on Palestine* (Washington, D.C.: Institute for Palestine Studies, 1991), p. 10.

Data on Jewish immigration vary; Zionist sources cite slightly higher figures for the years until 1925.

Ottoman sources estimated the Jewish population in 1914 at 84 660 (12 percent) of a total of 689 000. The numerical decline of Jews in Palestine between 1914 and 1919 was attributed to a variety of factors, including epidemics, deportation and emigration. Figures for 1919 must be considered estimates; the total number of Jews living in Palestine during the war years was probably underreported.

The growth of the Arab Muslim and Christian population was mainly due to natural increase, while increases in the number of Jewish inhabitants were mainly due to immigration. According to British data, between 1922 and 1944, 96 percent of the growth of the Muslim population was through natural increase, and only 4 percent through immigration. Comparable figures for the Jewish community show that 74 percent of its growth was attributable to immigration and 26 percent to natural increase. For Christians, the corresponding figures are 29 percent and 71 percent.

The British data show that by 1946 there were 608 225 Jews, 1 143 336 Muslims (including the more than 66 000 nomads), 145 063 Christians, and 15 488 others in Palestine (making a combined total of 1 912 112). By the end of the Mandate period in 1948, Jews constituted about 31.8 percent of this total population and owned just under 7 percent of the land. Roughly 53 percent of this was owned by the JNF.

Table 2, below, summarises data on Jewish land purchases and settlements in Palestine over selected years.

Table 2: Estimated Jewish land purchases and settlements in Palestine 1882-1947

	Total Jewish-owned (km ²)	Total purchased (km ²)	JNF-owned (km ²)	No. of JNF/other settlements (by year)
By 1882	22-25	22-25	–	–
1883-1900	218-221	196	–	–
1901-1919	418	200	25	7/29 (1919)
1920-1922	557-594	139	72	–
1923-1935	1232	675	371	94/64 (1934)
1936-1939	1358-1533	126	478-464	153/76 (1939)
1940-1945	1506-1731	75	813-758	193/79 (1944)
1946-1947	1734	226	933	–
Totals	1734-1731	1659-1557	933-758	272 (1944)

Notes:

Data from JNF and other sources in:

Baruch Kimmerling, *Zionism and Territory: The Socio-Territorial Dimensions of Zionist Politics* (Berkeley, California: UC Berkeley, Institute of International Studies, 1983), pp. 43, 45; and

Government of Palestine, *A Survey of Palestine. Prepared in December 1945 and January 1946 for the information of the Anglo-American Committee of Inquiry*, Vol. 1 (Washington, D.C.: Institute for Palestine Studies, 1991), pp. 243-246, 376-377, also the source of the second figures (wherever there are two figures in a cell).

All British data for 1940 and beyond are based on 1944 data.

Other sources put the total number of Jewish settlements by 1919 at closer to 55; see map 'Jewish Settlements in Palestine, 1878-1918', in Gershon Shafrir, *Land, Labour and the Origins of the Israeli-Palestinian Conflict, 1882-1914* (Berkeley, California: University of California Press, 1996), p. xxvi.

As Table 2 shows, by 1944 there were as many as 272 Jewish settlements. Their inhabitants totalled around 143 000; that is, about 26 percent of the entire Jewish population, which was then approximately 554 000. Jewish organisations other than the JNF, and individuals, owned additional lands. The British Mandate Government granted Jews concession rights over 174 600 *dunum* (about 174.6 km²) of land. This accounts for the discrepancy between the total of Jewish-owned land and the total of Jewish purchases.

Under the terms of the British Mandate, Jewish immigration into and colonisation of Palestine was to proceed in accordance with the "absorptive capacity" of the land. Zionist expectations of widely available State land for Jewish settlements did not materialise. Cultivable lands were already in use by Arabs under previous tenancy agreements or had already been leased to local Arabs and Jews. Some State lands had been designated for other uses, including public purposes (roads, railroads, etc.) and antiquities. Much of the remainder consisted of uncultivable rocky lands or marshlands.

Furthermore, to qualify for immigration, Jewish settlers had to satisfy a number of criteria imposed by the British authorities, including possession of useful skills and/or sufficient capital to invest in the country. The majority of Jewish immigrants, however, lacked experience in agricultural work and had insufficient funds. Therefore, major Jewish land-purchasing and development organisations connected with the WZO had to tackle such restrictions. The same organisations played a critical role in trying to diffuse the growing Arab objections to the Zionist enterprise in Palestine.

Zionist representatives found ways of circumventing the British restrictions to increase the numbers of Jews, and the amounts of land under their control, in Palestine. According to British reports, illegal Jewish immigration, exceeding official quotas, may have amounted to 60 000 Jews over the Mandate period.¹⁵

15 British sources described illegal Arab immigration to Palestine over the same period as "insignificant"; see Government of Palestine, *A Survey of Palestine*, Vol. 1 (n. 4 above), p. 212.

Tactics adopted by the Zionist movement to increase Jewish land-holdings included:

- Purchasing lands from Arab 'absentee landlords', mainly through land-brokers. This served a threefold purpose. Firstly, it enabled Zionists to side-step British restrictions as they began to amass lands under their control. Secondly, it prevented any negative political fall-out regarding land sales to Jews by Palestinian landlords. And thirdly, it ensured that the Arab landlords themselves would have to evict Palestinian cultivators before transferring these lands to Jewish ownership.
- Purchasing lands by the JNF and other Jewish organisations for subsequent leasing to Jews. This also served several purposes, such as bypassing the problem that individual Jews had insufficient funds, and immediately guaranteeing that these lands were the inalienable property of the Jewish people.
- Purchasing and developing lands in advance of Jewish colonisation. Investing huge sums of money into the clearing and preparing of lands for cultivation by Jewish immigrants made it possible for Jews with limited agricultural skills and experience to settle in Palestine.
- The 'conquest' of lands by advancing Jewish 'guard units', which would hold the newly purchased lands until Jewish immigrants could be brought in to colonise them. (Under British regulations, lands left uncultivated for three consecutive years could be confiscated.)
- Establishment of 'settlement-cooperative' units on lands purchased by Jews (the *kibbutzim* model being the best known of this type). A special fund was created and plans drawn up for the establishment of agricultural training farms and loans to cultivators. The goal was to make each cooperative self-sufficient in the shortest possible time. This model ensured that newly acquired lands would be continuously colonised and cultivated and would thus stay in the hands of the Jewish people. It also enabled Jewish immigrants with limited skills and/or funds to settle in Palestine, and made it unnecessary to employ Palestinian labour.

Due to factors including funding considerations and the British restrictions, Jewish-Zionist goals for land acquisition in the early Mandate years focused on consolidating land holdings and settlements in areas of the country that had been identified as strategically important. Hence the focus on what was referred to as the 'N-shaped' colonisation plan, which could be built upon in later stages.

As Arthur Ruppin (later, head of the Palestine Office of the WZO) observed in 1907:

I see it as absolutely necessary to limit, for the time being, the territorial aim of Zionism. We should strive to attain autonomy not in the whole of Eretz Israel, but only in certain districts. It is obvious [that] the two districts most fit are part of Judea [at the time, this designation applied to the southern part of the coastal zone, spread out around Jaffa] and the environs of Lake Tiberias It will be possible to join the two areas ... through the purchase of sufficient land from Jaffa via Petach Tikva, Hadera, Zikhron Yaacov, Shefia up to Mescha [Kfar Tavor], until the formation of a narrow strip, all of which is in Jewish hands, and on which a road, leading through Jewish land, may be constructed from Lake Tiberias to Judea.¹⁶

The 'N-shaped' plan continued to guide land acquisition until the late 1930s. In the final years of the Mandate, however, Zionist tactics shifted to the following:

- Lobbying hard with the British to blunt the impact of new restrictive immigration and land-transfer regulations;
- Directing efforts to gaining US support for Zionist goals, especially after 1942;
- Accelerating land purchases from Palestinian landowners and *fellaheen* (peasants);
- Designing and implementing military plans to conquer strategic lands, evict Palestinian cultivators and inhabitants, and extend the boundaries of the proposed 'Jewish State' as outlined in successive partition plans.

Inevitably, inter-communal tensions rose in Palestine, prompting the British Government to send a series of commissions of inquiry to investigate. On the strength of their findings, the British made several amendments to their immigration and land-purchase regulations. They ultimately realised that they could not strike a balance between their inherently irreconcilable commitments to facilitating the establishment of a 'Jewish national home' and preparing the inhabitants of Palestine for self-determination. The question was eventually handed over to the United Nations. In November 1947, the UN General Assembly voted on partition. Six months later, on 14 May 1948, the State of Israel was unilaterally declared as an independent nation.

¹⁶ Quoted in Shafir, (n. 5 above), p. 43 and map, p. xvi. Almost all of the settlements named here were established before 1900. Zionists initially tried to deflect attention away from land acquisition and focus instead on immigration. However, it was not long before increased Jewish immigration and land settlement in Palestine led to resistance among the Arab population.

3.3 Intercessions with the British to further Zionist goals

During their Mandate in Palestine, the British enacted at least 27 ordinances related to land. Most of these were amendments to earlier Ottoman law. Several are significant in view of Israel's post-independence incorporation of such laws into its own legal system and in terms of its unique reinterpretation of such laws (see Appendices 1-b and 2).

In 1918, during their period of military administration in Palestine, the British authorities closed the land registry formerly used by the Ottomans. When the registry reopened two years later under the provisions of the new *Land Transfer Ordinance (1 October 1920)*, Zionist leaders had already ensured that the new regulations would be sympathetic to their cause; for example, clauses curbing speculation were inserted so as to control prices of land. Furthermore, Jews were later permitted to register individual land transactions that had been conducted while the land registry was suspended.

An amended *Land Transfer Ordinance*, issued on 15 December 1921, removed protections for large sectors of (Arab) agricultural workers who were not direct tenant-occupiers; these amendments were clauses that Zionist representatives had unsuccessfully attempted to insert in an earlier bill. Henceforth, the law simply required that an alternative "viable lot" be made available for a "tenant in occupation". These Zionists placed the onus on the Arab landlords to ensure that tenant-occupiers were compensated and removed, so that the land was vacant before being taken over by Jews.

The British enacted laws such as the *Land (Acquisition for Public Purposes) Ordinance (1943)*, which was later incorporated into Israeli law and used extensively to justify the confiscation of (Arab) lands for 'public purposes'. In order to survey lands throughout Palestine and complete the land registration process begun under the Ottomans, the British also enacted the *Land (Settlement of Title) Ordinance (1928)*. By the close of the Mandate period, title to about 20 percent of the lands (close to five million *dunum*, or about 5 000 km²) had been settled in this manner. However, title to considerable tracts of land, especially in the Negev and parts of the Galilee, remained unsettled.

Attempting to balance their pledge to facilitate the establishment of a 'Jewish national home' in Palestine with their obligations toward the Palestinian Arabs they ruled, the British interpreted certain land claims according to precedents established by the Ottomans. For example, Arab tenants and landholders, provided they submitted the requisite proof and subject to certain exceptions, were given rights to tenure and use of *Miri* lands (State lands that may be granted to private individuals and passed on to their familial heirs).

Registration of these *Miri* lands proceeded on the basis of provisions of the *Land (Settlement of Title) Ordinance (1928)*. *Mewat* (lit. 'dead'; that is, waste) lands were similarly covered in this and other legislation enacted by the British, including the *Mewat Land Ordinance (1921)*. "The British adopted a stricter approach to *Mewat* lands, however, facilitating the accumulation of fairly large areas into the hands of the State (areas that, along with other vast areas, were later claimed by Israel as 'State' lands). Cultivators of *Mewat* lands were required to obtain State permission to till such lands or to present requisite proof of cultivation and to legally register these lands. The Mandate ended before the British had completed settlement (of title) of *Miri* and *Mewat* properties. This had important consequences for Arabs - including Bedouins - who remained in the State of Israel after 1948. As discussed in Subsections 4.3 and 4.5.1 below, Israel interpreted Ottoman and British law as allowing it to exercise State claims over vast tracts of lands (particularly in the Negev and the Galilee) where title had not been settled.

In 1929, the British passed the *Protection of Cultivators Ordinance*, which was to undergo several amendments over the ensuing years. The new law permitted landowners to compensate tenant-farmers monetarily without having to provide them with a viable "maintenance" area. However, a 1933 amendment to this law reinstated the original requirement that land be offered in compensation to tenants. Zionist organisations were able to take advantage of various laws and their amendments in strategically planning the next phases of land acquisition. For example, they began purchasing lands across the River Jordan - in the area of Transjordan (now the Kingdom of Jordan) - with the idea of resettling Arabs there, and thus ensuring that the lands they coveted for the 'Jewish State' in Palestine itself would be emptied of Arabs.¹⁷

3.3.1 Findings of commissions of inquiry to Palestine regarding land and Jewish immigration

A succession of British commissions of inquiry visited Palestine in the 1930s. Their reports invariably recommended restricting Jewish immigration and land purchases. Through intensive lobbying, however, Zionist representatives succeeded in circumventing or reversing outcomes they regarded as inimical to their goals.¹⁸

17 Kenneth W. Stein, *The Land Question in Palestine 1917-1939* (Chapel Hill, North Carolina: University of North Carolina Press, 1984), pp. 175, 192.

18 Analyses of Zionist responses to the findings of various commissions can be found in *ibid.* and Khalidi (n. 2 above).

For example, Zionist leaders reacted immediately following publication of the Shaw Report (1929). The commission had recommended setting limits to the Jewish colonisation of Palestine, and Zionist leaders interceded with the British Government to send another commission to Palestine to 'correct' the findings of the Shaw Report. The Jewish Agency opposed restrictions on land transfers or immigration to Palestine. Moreover, some Zionists expected Sir John Hope-Simpson (author of the following report, issued in 1930) to facilitate achievement of their goals by recommending that Arabs be transferred from Palestine to Transjordan or Iraq.¹⁹

The Hope-Simpson Report of 1930 was more critical in its conclusions than the disparaged Shaw Report. Presaging later developments, one of the findings of the Hope-Simpson Report concerned the 'extraterritorialisation' of lands in Palestine. This term refers to the principles underlying land acquisition by the JNF, whereby such lands, once purchased, could neither be leased nor sold to Arabs. Nor were these lands considered to be the property of individual Jews or of the Jews living in Palestine. Rather, they were to be held in perpetuity as the inalienable property of the 'Jewish people'.

Along with the Passfield White Paper, which was issued at about the same time, the Hope-Simpson Report referred to diminishing areas of cultivable land in Palestine and expressed concern at the growing class of landless Arabs. Eventually, recommendations in these reports were to lead to the passage of new laws regulating land transfers. Faced with the inevitability of these impending changes, Zionist representatives sought to lessen the impact of restrictions to land purchases by ensuring that landless Arabs would not be resettled in predominantly Jewish areas. Zionist leaders once again interceded with the latest British commission of inquiry and succeeded in having the definition of 'displaced Arabs' narrowed to tenant-occupiers who had been directly displaced by Jewish purchases and who had not acquired land or work elsewhere.

In 1931, the Jewish Agency set up three committees charged with handling the latest commission: the Lewis French mission of 1932. A list of 3 737 claims by landless Arabs had been compiled, but the Jewish Agency soon managed to get this whittled down to 899. Eventually, only 74 Arab families were resettled (with funding from the Development Department, a British Government agency that had been set up for this purpose).

Having greatly reduced the impact of official British intervention, the Zionist movement forged ahead with its nation-building efforts. Commenting on its successes, Stein notes:

For the Jewish Agency and Jewish purchasers, the absolution was gratifying. These hard-won successes derived from a combination of factors: the Jewish Agency had secured detailed information and data on the land regime in Palestine that no one else possessed; its leadership utilised sophisticated understanding of bureaucratic procedures and personnel that discredited its ideological opponents; and its excellent legal counsel anticipated and neutralised the potential barriers to land acquisition. The Jewish Agency and its affiliated land-settlement institutions avoided both debilitating land-transfer controls and unsavoury political incriminations.²⁰

In the early 1930s, and again under Zionist influence, the British authorities began considering plans for partition, including the wholesale resettlement of Arabs to areas far from parts of Palestine that were occupied by Jewish communities. The Zionist movement focused its efforts on securing areas of concentrated and contiguous Jewish settlements on which to declare the envisaged state. It also sought new lands in the Upper Galilee near the Lebanese border, between Tel Aviv and Jerusalem, and between Haifa and the Jordan Valley. The goal was to create new *faits accomplis*, or 'facts on the ground', pending partition.²¹

The report of the Peel Commission (1937) was unequivocal in recommending a termination of the Mandate and the partition of Palestine into two states. The Zionist Congress met with British authorities to discuss the 'precise terms' of partition and to clarify the issue of 'transfer' of Arabs out of the proposed 'Jewish State' (according to the Peel Report recommendations). In the words of Ben-Gurion (a Zionist leader who became Israel's first Prime Minister):

You must remember that this system embodies an important humane and Zionist idea, to transfer parts of a people to their country and to settle empty lands.²²

19 The Jewish Agency demanded access to all the findings, as well as the right to reply to documents and grievances submitted by the Arabs; see Stein (n. 17 above), pp. 89, 91, 94.

20 Ibid. p. 173.

21 Between the early 1930s and the year 1940, JNF-owned land in the general northern and Galilee area increased from 103 to 54 873 *dunum* (about 0.1 to 54.9 km²) and 44 new Jewish cooperatives and farms were established; *ibid.* p. 208.

22 From a speech to the 20th Zionist Congress (1937), quoted in Benny Morris, *Righteous Victims: A History of the Zionist-Arab Conflict 1881-1999* (New York: Alfred A. Knopf, 1999), p. 143.

The Zionist establishment wanted a firm commitment from the British that they would take responsibility for removing the Arabs, and that the 'Jewish State' would be larger than the proposed one-third partition of Palestine outlined in the Peel Report. Chaim Weizmann, a prominent early Zionist leader with close ties to influential British officials, reported the following regarding his communication with William Ormsby-Gore, Secretary of State for the Colonies (Colonial Secretary):

I referred to the statement in the Official Summary of the Commission's Report that approximately one-third of Palestine was to be allotted to the Jewish State. I suggested that either this statement should be corrected, or alternatively, we were owed 4 000 000 dunums. Mr. Ormsby-Gore said that this showed that there was room for concessions. I remarked that the Jews were a logical people, who would follow with the closest attention every action and statement of the Government. It would be the greatest mistake to insult the intelligence of the Jews.²³

The Peel Commission was followed by the Woodhead Commission (April 1938), also known as the Partition Commission, and an investigative mission headed by British Colonial Secretary Malcolm McDonald (August 1938). The Woodhead Commission's report, issued in November 1938, put forward three different plans for partition. The most-favoured option would divide Palestine into three parts: the British Mandate would retain two northern areas and the Negev desert area in the south; the rest of Palestine would be divided into a 'Jewish State' and an 'Arab State' (with a separate enclave for Jerusalem).

In the aftermath of the Arab Revolt (1936-39) against Jewish colonisation and British rule, and following the publication of the McDonald White Paper (1939), restrictions on Jewish immigration and land transfers were imposed. Partition plans were put aside and British responsibility for the whole of Palestine was re-emphasised. The 1940 *Land Transfer Regulations* were promulgated in Palestine. The British divided the country into three zones: 'A', 'B', and 'C' (the 'free zone') - presaging the division, 55 years later, of the West Bank into Areas 'A', 'B' and 'C' under the Oslo Accords.

Land transfers to Jews in Zones 'A' and 'B' were prohibited except as specified by law or as approved by the High Commissioner. Only in the 'free zone' were there no such restrictions. Zone 'A', about 63 percent of Palestine, comprised "the hill country as a whole, together with certain areas in the Jaffa sub-District, and in the Gaza District including the northern part of the Beersheba sub-District". Only in 'exceptional' cases were land transfers to Jews allowed in this area. Zone 'B', about 32 percent of Palestine, included "the plains of Esdraelon and Jezreel; eastern Galilee; a stretch of the coastal plain south of Haifa; an area in the north-east of the Gaza District; and the southern part of the Beersheba sub-District". In these areas, land transfers to Jews were subject to certain conditions specified in the regulations. The remaining five percent, Zone 'C', comprised "the Haifa Bay area; the greater part of the coastal plain; an area south of Jaffa, the Jerusalem town planning area, and all municipal areas".²⁴

In order to complete the land transfers it desired, the Jewish Agency responded to these restrictions by exploiting loopholes related to dates of transactions. It also attempted to acquire State lands in Zones 'A' and 'B', or to acquire lands by direct approval of the British High Commissioner. Abraham Granott (former Chairman of the Board of Directors of the JNF) reflects on these efforts:

Purchases were directed precisely to those parts of the country which were destined, by way of ban, to be closed to Jews The decisive element was the expansion of Jewish property in the restricted or forbidden zones, so as to loosen the stranglehold.²⁵

In Zone 'A', over 2 500 *dunum* (about 2.5 km²) of land was transferred to Jews between 1940 and mid-1946, followed by an additional 12 500 *dunum* (12.5 km²) in 1946-47. In Zone 'B', Jews acquired over 10 800 *dunum* (10.8 km²) in the former period, and an additional 10 700 or more *dunum* (10.7 km²) in the latter period. In the 'free zone', over 45 000 *dunum* (45 km²) of land was transferred to Jews between 1940 and 1946.²⁶

23 'Dr. Chaim Weizmann's Conversation with Mr Ormsby-Gore, the Secretary of State for the Colonies, on the Partition of Palestine 1937', reprinted in Khalidi (n. 2 above), pp. 331-335.

24 From Government of Palestine, *A Survey of Palestine*, Vol. 1 (n. 4 above), p. 262.

25 See Khalidi (n. 2 above), p. 396.

26 See: Government of Palestine, *A Survey of Palestine*, Vol. 1 (n. 4 above), pp. 263-265; and id., *Supplement to Survey of Palestine. Notes compiled for the Information of the United Nations Special Committee on Palestine* (Washington, D.C.: Institute for Palestine Studies, 1991), pp. 33-34. Both publications list figures for 1945-46. It is unclear how many *dunum* overlap with earlier figures or were actually added to each category in the interim.

3.4 The Biltmore Programme and US support for partition (1942-1946)

As we have seen, the skeletal infrastructure for the future 'Jewish State' had been put in place well before the beginning of the British Mandate. By 1939, however, the Zionist movement had established an almost complete nucleus for its new state.

By the early 1940s, the Zionist movement had already embarked on a fully-fledged land-acquisition campaign, well beyond the designated areas. Chafing at British restrictions to land acquisition, the Zionist leaders decided to shift their focus to the United States. They would lobby the US in support of a new partition plan in which they would be positioned at an advantage.

The Biltmore Programme, adopted by 600 American Jews on 11 May 1942, clearly marked this shift. The final paragraph of the Programme states:

The Conference urges that the gates of Palestine be opened; that the Jewish Agency be vested with control of Jewish immigration to Palestine and with the necessary authority for upbuilding the country, including the development of unoccupied and uncultivated lands; and that Palestine be established as a Jewish Commonwealth integrated in the structure of the new democratic world.²⁷

No longer satisfied with the development of a 'Jewish national home' in Palestine, Zionism was now calling for the establishment of Palestine as a 'Jewish commonwealth' – even though Jews formed less than one third of the population and owned less than six percent of Palestine's land area (see: *Table 2*, above).

In 1946, the United States gave its approval to the latest Zionist partition plan, which called for a 'Jewish State' with the boundaries delineated in the Peel Report, plus the Negev, which Zionist Jews had only recently begun colonising. President Harry S. Truman's endorsement of this plan was remarkable, particularly as Jews were to be awarded some 75 percent of Palestine at a time when they still owned less than seven percent of the land. It was no less remarkable that the proposed 'Jewish State' would comprise nine sub-districts in which, with the exception of the Jaffa/Tel Aviv sub-district, Arabs were hugely in the majority (see: *Table 3*, below).

Table 3 summarises data from two maps produced by the United Nations (in 1950) on land ownership and population distribution in the sub-districts of Palestine between 1945-46.

Table 3: Land ownership and population distribution in all sub-districts of Palestine (1945-1946)

Sub-district	Palestinian-owned	Palestinian pop.	Jewish-Zionist owned	Public lands
Jerusalem	4%	62%	2%	14%
Hebron	96%	>99%	<1%	4%
<i>Beersheba</i>	15%	>99%	<1%	85%
<i>Gaza</i>	75%	98%	4%	21%
Ramleh	77%	78%	14%	9%
Ramallah	99%	100%	<1%	1%
<i>Jaffa/Tel Aviv</i> *	47%	29%	39%	14%
Nablus	87%	100%	<1%	13%
Tulkaram	78%	83%	17%	5%
Jenin	84%	100%	<1%	16%
<i>Beisan</i>	44%	70%	34%	22%
<i>Nazereth</i>	52%	84%	28%	20%
<i>Haifa</i>	42%	53%	35%	23%
<i>Tiberias</i>	51%	67%	38%	11%
<i>Acre</i>	87%	96%	3%	10%
<i>Safad</i>	68%	87%	18%	14%

* Excludes city of Jaffa, where Arabs were in the majority.

Notes: Places printed in italics were designated for the 'Jewish State'. Demographic distribution data from British Mandate sources for 1946 are taken from 'Distribution of population by sub-district, with percentages of Jews and Palestinians, 1946', (United Nations Map 93(b) August 1950), reproduced in Walid Khalidi, *Before Their Diaspora* (Washington, D.C.: Institute for Palestine Studies, 1984), p. 239. Statistics on land ownership for 1945 from 'Zionist and Palestinian landownership in percentages by sub-district, 1945' (United Nations Map 94(b) August 1950), reproduced in *ibid.* p. 237.

27 'The Zionist (Biltmore) Programme' (11 May 1942), reprinted in Khalidi (n. 2 above), pp. 495-498.

As shown in *Table 3*, above, nine sub-districts were designated as part of the 'Jewish State' according to Zionist/US plans. The proposed 'Jewish State' would also comprise most of the sub-districts of Tulkarm and Ramleh, as well as approximately one-third of the sub-district of Hebron. The proposed 'Arab State' would comprise the sub-districts of Jenin, Nablus and Ramallah, and parts of the sub-districts of Hebron, Ramleh, Tulkarm and Jerusalem. As envisaged in the plan, the city of Jerusalem was to have a special, separate status.

After World War II, the Zionist movement anticipated declaring independence unilaterally and using its new-found political pre-eminence to advance the objective of turning all of Palestine into the 'Jewish State'.²⁸

As this was not immediately feasible, the Zionist movement reverted to use of military means to achieve its aims. Four General Military Plans were designed and implemented over the next few years, ultimately leading to the creation of Israel and the dispossession of the Palestinians:

- Plan *Aleph* (Plan A) was drawn up in February 1945 to complement the political aim of a unilateral declaration of independence. It was designed mainly to suppress Palestinian Arab resistance to the Zionist take-over of parts of Palestine.
- Plan *Bet* (Plan B), of May 1947, was designed to replace Plan A in the context of new developments. Foremost among these was Britain's submission of the problem of Palestine to the United Nations. The Zionist establishment had by then assured itself of US support for its partition plan, but was encountering growing opposition from surrounding Arab states. Plan B was designed to thwart such new challenges.
- Plan *Gimmel* (Plan C), of November/December 1947, emerged in the wake of the United Nations Partition Plan (see Subsection 3.5 below). It was designed to enhance Zionist military and police mobilisation and enable action as needed.
- Plan *Dalet* (Plan D), of March 1948, is the most noteworthy. Its overall objective was to seize as much territory as possible in advance of the termination of the British Mandate – when the Zionist leaders planned to declare their state. Guided by a series of specific operational plans, the broad outlines of which were considered as early as 1944, the Zionists planned to capture areas well beyond those allotted to them by the UN.²⁹

3.5 The UN Partition Plan and termination of the British Mandate (1947-1948)

Following considerable US – and, behind the scenes, Zionist – pressure, the United Nations General Assembly voted on 29 November 1947 to partition Palestine into a 'Jewish State' and an 'Arab State'. Jews then constituted about one-third of the population and owned less than seven percent of the lands of Palestine (see: *Table 1*, above). According to UN General Assembly Resolution 181, the 'Jewish State' was to comprise approximately 55 percent of the land area, including some of the most fertile areas of Palestine, and the Negev desert. The 'Arab State' would comprise about 45 percent of Palestine and include the enclave of Jaffa. The area of Jerusalem (including Bethlehem) would be established under a special regime as a *corpus separatum* (separate body) that would not be part of either state.

Although Jews were still distinctly in the minority in most sub-districts of Palestine (see: *Table 3*, above), the 'Jewish State' would include some 499 000 Jews and over 509 000 Arabs (including Bedouins). The 'Arab State' would remain predominantly Arab, with around 725 000 Arabs (and others) and only 10 000 Jews. At the time, the population of the city of Jerusalem was almost evenly divided, with nearly 100 000 Jews and some 105 000 Arabs (and others).³⁰

28 See 'The Zionist Military Organisations 1946', from British Government sources, reprinted in Khalidi (n. 2 above), pp. 595-601.

29 For information on these plans, see: Lt.-Colonel Netanel Lorch (in 1969, Director of Information, Israeli Foreign Ministry), 'Plan Dalet', reprinted in Khalidi (n. 2 above), pp. 755-761; and discussion in Subsection 3.5.1 below.

30 Two committees investigated the problem of Palestine and submitted their reports to inform the UN General Assembly's (UNGA's) deliberations. One called for the establishment of a binational state. The other, calling for partition, prevailed. For further information, see 'Binationalism not Partition', a report by the UN Special Committee on Palestine, 11 Nov. 1947 (A/AC.14/32 and Add.1), reprinted in Khalidi (n. 2 above), pp. 645-703. UNGA Res.181 addressed several issues in addition to borders. Concerning 'Religious and Minority Rights', it specified that there should be no discrimination against minorities or others, and that "All persons within the jurisdiction of the State shall be entitled to equal protection of the laws". Note that provisions protecting the rights of the respective populations in both states, especially the demographically larger Arab population within the proposed 'Jewish State', were inconsistent with the Zionist aim of establishing Jewish ownership over the land and a 'Jewish State' in Palestine.

The Jewish Agency officially endorsed the UN Partition Plan but had no intention of adhering to the borders specified for the 'Jewish State'. Over the next six months, Zionist strategy shifted from the 'defensive' stance of General Military Plans A and B to the more pro-active and 'offensive' Plans C and D. Plan D, in particular, provided the Zionist movement with a blueprint for seizing additional lands by force, and, more significantly, an opportunity to effect the desired 'transfer'; that is, the forcible displacement of massive numbers of Arabs from their lands in Palestine.

3.5.1 Plan *Dalet* (Plan D) and territorial acquisition

Plan *Dalet* of March 1948 was drawn up to expand Jewish-held areas beyond those allocated to the proposed 'Jewish State' in the UN Partition Plan. This planned expansion was to be accomplished before the termination of the British Mandate, which was scheduled for 15 May 1948. Plan *Dalet* was designed to achieve both a military and political *fait accompli*, including:

The strengthening of the static defensive dispositions of all areas, and the blocking of all major avenues of approach from enemy areas into the area of the State; broadening of static defence lines, *inter alia*, by the occupation of all police fortresses evacuated by British forces and of Arab villages close to Jewish settlements; creating continuity between Jewish cities and neighbouring Jewish settlements; gaining control of lines of communications; besieging enemy cities; capturing forward bases of the enemy; counterattacks both inside and outside the borders of the State.³¹

The military strategy elaborated in Plan *Dalet* comprised thirteen specific operations, all of which were launched before the official termination of the Mandate on 14 May 1948 and the entry of Arab forces into Palestine. Eight of these operations were carried out in areas allotted to the Arabs under the UN Partition Plan. The other five were primarily designed to eradicate Arab villages, and remove their inhabitants, from Jewish-held areas.

These operations were largely successful. By January 1948, some 70 000 Arabs had already 'departed' from Palestine. A few months later, still before the Arab armed forces had entered what was rapidly becoming an all-out war, over 400 000 Palestinians from 213 villages - close to half the final number of Palestinian refugees - had already been forced to flee their homes and villages. At the eve of the declaration of the independent 'Jewish State of Israel', Zionist Jews had taken control of 14 percent of Mandate Palestine.³²

31 Lorch, in Khalidi (n. 2 above), pp. 756-757.

32 For names, dates and areas targeted in these operations; see: App. VII, 'Zionist Military Operations in Palestine, 1 April 1948-15 May 1948, Within the Framework of Plan Dalet', in Khalidi (n. 2 above), pp. 856-867; and maps in *ibid.* pp. 758-759. See also Table 4, 'Israeli Invasion 1948-1949/ Operations', in Salman Abu Sitta, *The Palestinian Nakba 1948, The Register of Depopulated Localities in Palestine* (London: The Palestinian Return Centre, 2000), p.15.

SECTION 4

**Land acquisition, land laws and colonisation policies
within the State of Israel (1948-1967)**

The State of Israel was officially declared on 14 May 1948. Arab armies entered the war and, over the ensuing months, Israeli forces seized control of an additional 64 percent of the land area of Mandate Palestine. By the time Israel and surrounding Arab states signed the armistice agreements in 1949, Israel controlled 78 percent of Mandate Palestine.

More than three-quarters of the indigenous Palestinian population of the area that became Israel – over 800 000 people – were either expelled or forced to flee from their homeland. Up to 531 Palestinian towns and villages were depopulated and/or fully or partially demolished. The dispossession of Palestinians, known as the *Nakba* ('Catastrophe'), lies at the heart of the Palestinian refugee issue, which remains unresolved to this day.

Under the 1947 UN Partition Plan, the area known as the West Bank (of the River Jordan) had been allocated to the 'Arab State'. After the war, the Kingdom of Jordan assumed control over this entire territory, including the eastern part of Jerusalem (see 'West/East Jerusalem' in our *Glossary*). The area now known as the Gaza Strip, as it came under Egyptian administration after the war, was much reduced in comparison to its original area. Its two sub-districts, Beersheba and Gaza, lost huge amounts of land to the newly formed State of Israel. The remaining portion of the Beersheba sub-district, which was incorporated into the Gaza Strip, comprised a mere 60 000 *dunum* (60 km²) of its original area of over 12.5 million *dunum* (12 500 km²). After 1948, several villages in the border areas of the Gaza sub-district lost close to half their original lands.³³

4.1 The creation of the Palestinian refugee issue: depopulation and 'transfer'

Scholars still differ on the total number of Palestinians made refugees and the total number of villages destroyed in the aftermath of the 1948 War. They also continue to debate whether the mass expulsions and the fleeing of Palestinians from their homeland were deliberate and/or premeditated, or simply part of the exigencies of war. This subsection provides information to clarify both these issues.

4.1.1 Zionism and the idea of 'transfer'

As documented in Sections 2 and 3 above, the Zionist movement had always planned for a 'Jewish State' in Palestine, preferably one free of Arabs. To achieve that end, its representatives had relied either on Arab landowners to evict tenants or on the British authorities to 'transfer' Arabs out of areas designated as part of the envisaged 'Jewish State' under successive partition plans. The Zionist movement had also sought to purchase lands outside the area of Mandate Palestine, in Transjordan and elsewhere, to resettle Arabs far away from Jewish areas.

In addition, the Zionist establishment had taken *direct* measures to rid Palestine of as many as possible of its indigenous Arab inhabitants. Intensive discussions about 'transfer' had long been conducted among key Zionist leaders and within the upper echelons of the Jewish Agency (JA) and the Jewish National Fund (JNF). These included a proposal, presented to the JNF Directorate in 1930, to 'transfer' newly landless peasants to Transjordan. The JA submitted a similar proposal to the British in 1931.

The Jewish Agency established two official Population Transfer Committees during the Mandate period: one in 1937 and the other in the early 1940s. In conjunction with other subcommittees set up for the same purpose, these committees began evaluating options for 'transfer'. An idea advanced by one of the committees was to set up a 'transfer company' to purchase lands for the purpose of relocating Arabs outside the envisaged 'Jewish State'. While discussing an eventual need for 'compulsory transfer', the first Transfer Committee focused on influencing the British authorities to adopt land, taxation and other policies that would bring about the 'voluntary' transfer of Palestinians (see Subsection 3.3.1 on Zionist reactions to various commissions to Palestine).

Plans deliberated on by the first Transfer Committee included the work of Yosef Weitz (Director of the JNF's Land Settlement Department, member of the first Transfer Committee, and, in 1948, head of the Government of Israel's Transfer Committee). It was Weitz who had put forward earlier plans for the eviction of specific categories of tenant farmers from the proposed 'Jewish State'. Now Transfer Committee discussions revolved around whether it was necessary to remove whole villages, rather than smaller groups of farmers, in order to prevent other Arabs from resettling lands just vacated. In 1938, the Transfer Committee requested, and obtained, extensive information from British land registration and taxation departments.

33 See Table 3.1, 'Area and Population in Various Gaza Strip Localities, 1945', and Table 3.2, 'Area of the Gaza Strip, 1948', in Sara Roy, *The Gaza Strip: The Political Economy of De-development* (Washington, D.C.: Institute for Palestine Studies, 1995), pp. 76-77.

Apart from its immediate purposes, this information would, according to a member of the committee, “also constitute the basis of our agrarian policies in the future”.³⁴

‘Transfer’ was portrayed as a ‘noble’, ‘moral’ and indeed ‘humanitarian’ act, whereby Palestinians would be resettled among ‘their own people’. As Selig Soskin, former director of the JNF’s Land Settlement Department, stated in a memo to the members of the Twentieth Zionist Congress (1937):

I therefore insist on the compulsory transferring of the whole rural Arab population from the Jewish State to the Arab State. It is a preliminary step to the up-building of the Jewish State The [re-]settling of the Arab rural population must be presented as a great humanity [i.e. humanitarian] work. Tenants shall become freed from the exploitation of the *effendis* [lit. ‘masters’; here, Ottoman officials], small owners shall receive land divided in separate independent lots.³⁵

The Jewish Agency Executive continued to discuss and evaluate specific proposals for ‘transfer’. After 1938, and once it was clear that the Peel Commission’s recommendations for ‘partition’ (see Subsection 3.3.1 above) would not be put into immediate effect, JA Executive meetings took up the issue of the wholesale ‘transfer’ of Arabs out of Palestine. This coincided with Zionist overtures toward the US and appeals to both the US and Britain to pressure other Arab states to accept resettlement of Palestinians in Iraq and elsewhere.

By the time the second Population Transfer Committee was established in the early 1940s, Zionist leaders had become convinced that they needed a clear plan of action to remove the Arabs. Officials such as Weitz travelled to Iraq and Syria in 1941 to investigate options for ‘transfer’, and planning continued during the next few years. By 1944, the Jewish Agency was deliberating on Ben-Gurion’s stated plans to bring one million Jews to Palestine.

Military preparations were made for the inevitable showdown with the Palestinians. Plans C and D (see Subsections 3.4 and 3.5 above) listed objectives and targets for Jewish military forces in Palestine. Plan D also contained explicit guidelines for capturing strategic areas for the planned ‘Jewish State’ both inside and outside the boundaries laid out in the UN Partition Plan, and for clearing these areas of their Arab inhabitants. In this respect, the newly formed Committee for Abandoned Arab Property (whose members included *Haganah* and JNF officials) collaborated closely with the military. The Committee’s role was to draw up a list of Arab localities targeted for clearance, and to dispose of any captured Arab property. For several months both preceding and following the 1948 War, the Jewish military forces were to achieve the objective of ‘transferring’ Palestinian Arabs from their homeland.

At Weitz’s urging, a third official Transfer Committee was established in August 1948, following the creation of the State of Israel.³⁶ The main responsibility of this Transfer Committee, which began unofficial operations in June 1948, was to consolidate the war gains and to ensure that Arabs, once driven out, would not return to their homeland. Headed by Weitz and guided by his proposal for a “Scheme for the Solution of the Arab Problem in the State of Israel”, the Committee’s main function was to implement what was defined as ‘retroactive transfer’. This included plans to destroy Arab villages, fields and farms; to settle Jews on lands, and in homes, ‘vacated’ by Arabs; to draw up legislation to prevent their return; to prevent ‘infiltration’ by peasants and farmers returning to cultivate their fields; and to make proposals for resettling refugees abroad.

34 Quoted in Nur Masalha, *Expulsion of the Palestinians* (Washington, D.C.: Institute for Palestine Studies, 1992), p. 100.

35 Quoted from Soskin’s memo, ‘To the Members of the Political Commission of the XXth Zionist Congress’, in *ibid.* pp. 81-82.

36 Confusingly, Benny Morris refers to this as the ‘second Transfer Committee’; he refers to the first Transfer Committee as the ‘temporary’ committee established by Weitz in June 1948; see Benny Morris, Ch. 4, ‘Yosef Weitz and the Transfer Committees, 1948-1949’, in *id.*, *1948 and After. Israel and the Palestinians* (Oxford: Clarendon Press, 1994), pp. 103-159. Intent on realising the evacuation and non-return of Arabs, Weitz met with various people in March 1948 – including members of the Committee for Abandoned Arab Property – to discuss the ‘eviction’ of Palestinians. He completed a report on the Arab villages to be evacuated and pressed for the adoption of a formal ‘Transfer Policy’ of Arabs; in *ibid.* p. 115.

The JNF contributed to the work and funding of several of these initiatives, including the destruction of Arab villages. The Transfer Committee continued to operate throughout the summer and autumn; for example, guiding the expulsion of tens of thousands of Arabs from their lands following Israel's capture of areas in the northern Galilee and in the south of the country in October and November 1948. The Committee advised that, as a general policy, Arabs should never exceed 20 percent of the population of Israel.³⁷

A diary entry by Yosef Weitz, for 20 December 1940, is highly revealing:

Amongst ourselves it must be clear that there is no room for both peoples in this country. No 'development' will bring us closer to our aim to be an independent people in this small country. After the Arabs are transferred, the country will be wide open for us; with the Arabs staying the country will remain narrow and restricted. When the war is over, and the English have emerged victorious and when the judging nations sit on the throne of law, our people should bring their petitions and claims before them: and the only solution is the land of Israel, or at least the Western Land of Israel [i.e. Palestine], without Arabs. There is no room for compromise on this point. The Zionist work so far, in terms of preparation and paving the way for the creation of the Hebrew state in the land of Israel, has been good and was able to satisfy itself with land purchasing but this will not bring about the state; that must come simultaneously in the manner of redemption (here is the meaning of the Messoainic idea). The only way is to transfer the Arabs from here to neighbouring countries, all of them, except perhaps Bethlehem, Nazareth and Old Jerusalem. Not a single village or a single tribe must be left. And the transfer must be done through their absorption in Iraq and Syria and even in Transjordan. For that goal, money will be found – even a lot of money. And only then will the country be able to absorb millions of Jews and a solution will be found to the Jewish question. There is no other solution.³⁸

4.2 Destruction and depopulation of Arab villages and towns (1947-1949)

The military actions of 1947 and subsequent years with the aim of removing the indigenous Palestinian inhabitants could be viewed as logical steps in the fulfilment of the original aim of Zionism – the establishment of Palestine as the 'Jewish State'. Zionist leaders had made no secret of their preferences in this regard. In 1947, for example, David Ben-Gurion (a prominent Zionist leader, the previous chairman of the Jewish Agency Executive and destined to become Israel's first Prime Minister) gave a foretaste of the Zionist stance in the forthcoming war:

We [should] adopt the system of aggressive defence; with [i.e. to] every Arab attack we must respond with a decisive blow: the destruction of the [Arab] place or the expulsion of the residents along with the seizure of the place.³⁹

Despite the existence of the Transfer Committees and clear pronouncements by Zionist leaders, most historical documents maintain that the military plans drawn up after 1947 to capture key areas for the 'Jewish State' (specifically Plan D or *Dalet* – see Subsection 3.5.1) did not amount to a 'blueprint for expulsion'. Plan *Dalet* did, however, assign value to 'military targets', among which were the securing of key routes adjoining Jewish areas, the take-over of mixed towns, and the capture of Arab villages located within strategic areas. The inhabitants of the latter were required to 'surrender' or face the consequences.

In the military operations carried out under Plan *Dalet*, widespread destruction and eviction were clearly authorised as means of expanding Jewish territory into Arab areas. Hundreds of thousands of Palestinians fled their homes and villages, spurred along by news of massacres committed against Arab villagers (such as in Deir Yassin in April 1948) and by fear of the approaching Jewish forces. The Arab armies, overwhelmed, could do little to protect Palestinians or prevent their expulsion.

Authoritative analysis of factors underlying the expulsion and exodus of Palestinians would not be complete without reference to the painstaking research of three authors: Benny Morris, Walid Khalidi (who collaborated with other researchers) and Salman Abu Sitta. Based on their respective calculations, *Table 4*, below, summarises the available information on the depopulated and destroyed areas of Palestine.

37 Cited in Masalha (n. 34 above), p. 199; see also: id. (n. 34 above), pp. 116; and Morris (n. 36 above). Masalha, Morris and others consulted declassified Central Zionist Archive material for their research. Analysis of newly uncovered and revealing archive materials can be found in Benny Morris, *The Birth of the Palestinian Refugee Problem Revisited* (Cambridge, UK: Cambridge University Press, 2003), which was published following the drafting of the present study. See also other sources cited in our *Bibliography*.

38 Quoted in Masalha (n. 34 above), pp. 131-132.

39 Quoted in Simha Flapan, *The Birth of Israel* (New York: Pantheon Books, 1987), p. 90. Various sources document support for 'transfer' among most major Zionist figures of the time. On another occasion, Ben-Gurion stated bluntly: "We must prepare *ourselves* to carry out the transfer" [emphasis in original]. Quoted from 'Ben-Gurion's Memoirs', in Masalha (n. 34 above), p. 65.

Table 4: Destroyed and/or depopulated Palestinian localities (comparative figures)

Reference:	Towns	Villages	Tribes	Total
Morris	10	342	17	369
Khalidi	1	400	17	418
Abu Sitta	13	419	99	531

Note:
 For information on methodologies; see: Benny Morris, *The Birth of the Palestinian Refugee Problem, 1947-1949* (New York: Cambridge University Press, 1987); Walid Khalidi (ed.), *All that Remains. The Palestinian Villages Occupied and Depopulated by Israel in 1948* (Washington, D.C: Institute for Palestine Studies, 1992), App. IV, pp. xix, 585-586; and Salman Abu Sitta, *The Palestinian Nakba 1948* (London: The Palestinian Return Centre, 2000).

Morris's list of affected localities, the shortest of the three, includes towns but excludes other localities cited by Khalidi and/or Abu Sitta. The six sources compared in Khalidi's study have in common 296 of the villages listed as destroyed and/or depopulated. Sixty other villages are cited in all but one source. Of the total of 418 localities cited in Khalidi, 292 (70 percent) were completely destroyed and 90 (22 percent) "largely destroyed". Khalidi notes that in cases where habitations were not completely demolished or obliterated, Jewish families simply moved into homes belonging to Palestinians who had fled. He also notes that other sources refer to an additional 151 localities that are omitted from his study for various reasons (for example, major cities and towns that were depopulated, as well as some Bedouin encampments and villages 'vacated' before the start of hostilities). Abu Sitta's list, which is the most comprehensive, includes tribes in Beersheba that lost lands; most of these were omitted from Khalidi's work.⁴⁰

4.2.1 The creation of the Palestinian refugee issue

For Palestinians, the return of the refugees to their homes and homeland is of paramount importance – indeed, it is an internationally recognised right. The State of Israel, however, continues to reject the return of Palestinian refugees.

The exodus of Palestinian Arabs from their homeland has been explained in different ways. Historians generally cite one or more of six contributing factors: expulsion by Jewish/Israeli forces, military assault on the locality in question, fear of attacks, abandonment (on Arab orders), psychological warfare, and the effect or impact of similar actions in neighbouring villages and towns.

According to Salman Abu Sitta, Jewish/Israeli forces launched as many as 30 identifiable military operations in the period 1948-49, resulting in the fleeing or expulsion of over 804 000 Palestinians and the destruction and/or depopulation of 531 Palestinian towns, villages and tribal localities. Abu Sitta identifies 35 major massacres that were perpetrated in the same period (many of which are also substantiated by Morris). Half of these took place before Arab armies entered the war. Abu Sitta, citing recently declassified material from the International Committee of the Red Cross (ICRC), as well as eyewitness reports, sheds new light on that period. One of his contentions is that forced (Palestinian) labour was used to move along the process of demolition and expulsion. In Abu Sitta's words:

The village is [i.e. was] attacked and besieged from three sides leaving the fourth open to facilitate expulsion. Men and women were separated into two groups. The women with children were expelled to Lebanon, Jenin, Ramallah or Gaza (depending on location) after being stripped of their valuables. Young men, about 20-100 in number, were selected, shot and killed in groups of 4-6, after an earlier group had been ordered to dig mass graves for them. Other able-bodied men were taken to labour camps. Their immediate task was to bury the dead in other villages, to demolish Arab houses, to remove the debris from already demolished houses and carry salvaged items to Jewish homes. Generally they did arduous and dangerous jobs. They were fed a slice of bread daily. They were kept in cramped concentration camps. Their conditions improved after ICRC visits.⁴¹

40 Another study, involving field research and comparisons with British and other documents, concludes that 472 Palestinian habitations (including towns and villages) were destroyed in 1948. It notes that the devastation was virtually complete in some sub-districts. For example, 96.0% of the villages in the Jaffa area were totally destroyed, as were 90.0% of those in Tiberias, 90.3% of those in Safad, and 95.9% of those in Beisan. It also extrapolates from 1931 British census data to estimate that over 70 280 Palestinian houses were destroyed in this period; see Abdul Jawad Saleh and Walid Mustafa, *Palestine: The Collective Destruction of Palestinian Villages and Zionist Colonisation 1882-1982* (London: Jerusalem Centre for Development Studies, 1987), p. 30.

41 Salman Abu Sitta, *Labour camps in Palestine*, 19 May 2002 (posted on Al-Awda listserve).

Relying on ICRC and other materials, Abu Sitta reveals instances where Jewish forces used lethal chemical and biological agents against Arabs during the 1948 War. Examples include the injection of typhoid into Acre's water supply in the spring of 1948, and in Gaza soon after, and the planting of biological agents that caused an outbreak of cholera in Syria and Egypt around 1947.⁴²

Table 5, below, summarises Abu Sitta's findings on eight distinct phases in the depopulation of Palestine between 1947-1949:

Table 5: Summary of information on the depopulation of Palestinian towns and villages (1947-1949)

Phase:	No. of destroyed/ depopulated localities	No. of refugees	Jewish/Israeli lands (km ²)
29 Nov. 1947 - Mar. 1948 Partition Plan to Plan <i>Dalet</i>	30	>22 600*	1 159.4
Apr. - 13 May 1948 Plan <i>Dalet</i> to State of Israel (Tiberias, Jaffa, Haifa, Safad, etc.)	199	>400 000	3 363.9
15 May - 11 June 1948 15 May to 1st Truce (an additional 90 villages)	290	>500 000	3 943.1
12 June - 18 July 1948 (Lydda/Ramleh, Nazareth, etc.)	378	>628 000	5 224.2
19 July - 24 Oct. 1948 (Galilee and southern areas)	418	>664 000	7 719.6
24 Oct. - 5 Nov. 1948 (Galilee, etc.)	465	>730 000	10 099.6
5 Nov. 1948 - 18 Jan. 1949 (Negev, etc.)	481	>754 000	12 366.3
19 Jan. - 20 July 1949 (Negev, etc.)	531	>804 000	20 350.0
<p>* Other sources put this figure at over 70 000. Note: Source: Salman Abu Sitta, <i>From Refugees to Citizens at Home</i> (London: Palestine Land Society and Palestinian Return Centre, 2001), which includes extensive maps and charts on all these phases.</p>			

In contrast, Morris puts the number of displaced Palestinians at no more than 760 000. He identifies four 'waves' of Arabs fleeing Palestine:

1. December 1947 to March 1948;
2. April to June 1948;
3. 9 to 18 July 1948, and 18 July 1948 to 15 October 1948; and
4. October to November 1948.

Morris also maintains that the majority of refugees, between 250 000 and 400 000 'went into exile' between April and mid-June 1948, largely as a result of Jewish military and paramilitary attacks or due to fears of such attacks.⁴³

42 For a full account, see Salman Abu Sitta, *Traces of Poison*, <http://weekly.ahram.org.eg/2003/627/focus.htm>. There is mounting evidence that Israel used an unknown type of nerve agent against Palestinians in Khan Yunis (Gaza) in 2001 and elsewhere in the West Bank. Victims suffered pain and uncontrollable convulsions. Abu Sitta and a few journalists refer to these incidents. Documentary filmmaker James Longley captures scenes of Palestinians affected by this gas in his film, *The Gaza Strip* (2002).

43 Morris (n. 36 above), pp. 21, 102.

It is clear from the historical record that several major towns were attacked and their Arab populations expelled before either the declaration of the State of Israel or the entry of Arab armies into the war. Tiberias, for example, was attacked on 17 April 1948 and its Arab population 'evacuated' on 18 April. The Arab quarters of Haifa were attacked between 21 and 22 April and the bulk of their Arab inhabitants evacuated between 22 April and 1 May. Jaffa was attacked between 25 and 27 May and the majority of its inhabitants forced to flee between 25 April and 13 May. Safad was attacked between 9 and 10 May and its Arab population was also forced to flee. A similar fate befell towns and villages in the Western Galilee. As Morris notes, the Palestinians "never had a chance".⁴⁴

Morris bases his analyses on declassified documents as well as a *Haganah* Intelligence Service report of 1948, the title of which he translates from Hebrew as "The Emigration of the Arabs of Palestine in the Period 1/12/1947-1/6/1948". Based on this information, he states:

Rather than suggesting Israeli blamelessness in the creation of the refugee problem, the Intelligence Service assessment is written in blunt factual analytical terms and, if anything, contains more than a hint of 'advice' as to how to precipitate further Palestinian flight by indirect methods, without having recourse to direct politically and morally embarrassing expulsion orders.⁴⁵

The *Haganah* report lists ten factors that precipitated the Arab 'exodus', the top three of which are:

1. Direct, hostile [*Haganah*/Israeli Defence Forces] operations against Arab settlements.
2. The effect of our [*Haganah*/IDF] hostile operations on nearby [Arab] settlements ... (... especially - the fall of large neighbouring centres).
3. Operations of the [Jewish] dissidents [the *Irgun Z'vai Leumi* ('National Military Organisation') and *Lohamei Herut Yisrael* ('Freedom Fighters of Israel'), commonly referred to as the Irgun and the Stern Gang: extremist, militaristic underground groups operating in Mandate Palestine and later 'co-opted' into the *Haganah*].

Based on these findings, it is reasonable to conclude that well over 80 percent of the Arabs who fled from Palestine by the publication date of the *Haganah* report, 1 June 1948, did so as a direct or indirect result of Jewish military actions. The vast majority of Palestinians fleeing their towns and villages did not immediately leave the country, but settled close by, awaiting an opportunity to return to their homes. The *Haganah* then resorted to direct expulsions to drive them completely out of the area.

Military acts to expel Palestinians did not come to a halt with the end of the war and the signing of the Armistice Agreements in July 1949. In October 1950, Israel expelled the inhabitants of Majdal to Gaza. In the ten-year period between 1949 and 1959, hundreds of thousands of Bedouins were expelled from the Negev and other parts of the country, adding to the displaced refugee population. Following Israel's occupation of the West Bank and Gaza Strip in the 1967 War, the process of mass expulsions of Palestinians was to be repeated, although to a lesser extent.

4.2.2 Refugees and their rights under international law

It cannot be understated how crucial the forced exodus of huge numbers of Palestinians was to the success of the Zionist conquest of Palestine. Were it not for their enforced absence, Israel would not have come into being as the 'Jewish State', nor would it have been able to lay claim to lands and property throughout the country.

International law is clear on the rights of Palestinian refugees. It addresses the right of Palestinian refugees to return to their homes, to receive restitution of lost property, and to receive compensation in cases where they do not seek to return. UN General Assembly (UNGA) Resolution 194 (III) (para. 11) of 11 December 1948 is explicit in that it:

44 Ibid. p. 14. Attacks on Lydda and Ramleh on 12-13 July 1948 were similarly unprovoked military offensives designed to expel Palestinians from these two major cities. Later that autumn, the same pattern was repeated in towns in the Eastern Galilee.

45 See Morris (n. 36 above), Ch. 3, 'The Causes and Character of the Arab Exodus from Palestine: the Israel Defence Forces Intelligence Service Analysis of June 1948', pp. 85, 83-103. Elsewhere, Morris cautions that the report's findings are limited to the area designated as the 'Jewish State' in the UN Partition Plan, and covers only the period up to 1 June 1948. Despite its shortcomings and a margin of error as high as 10-15%, the report, according to Morris, is highly revealing. It states that by 1 June 1948, 239 000 out of 342 000 Palestinians had fled, and 180 out of 219 towns and villages had been emptied of their Arab inhabitants in the area of the proposed Jewish State. In the same period, over 152 000 Palestinians were driven out of, or forced to flee from, other parts of Palestine. Elsewhere, Morris states that by 2 June 1948, 7 towns and 190 villages with over 335 000 Arabs had been emptied; *ibid.* p. 118. Direct expulsions are listed as contributing factor no. 6 in the *Haganah* report (see following para.).

Resolves that the refugees wishing to return to their homes and live at peace with their neighbours should be permitted to do so at the earliest practicable date, and that compensation should be paid for the property of those choosing not to return and for loss of or damage to property which, under principles of international law or in equity, should be made good by the governments or authorities responsible.

UNGA Resolution 194 further instructs the UN Conciliation Commission for Palestine (formed pursuant to this resolution) to implement the article quoted above. Although the international community has reaffirmed UNGA Resolution 194 over one hundred times since its adoption in 1948, its provisions have yet to be implemented.

Among the many refugee populations around the world, the status of the Palestinian refugees is quite unique. In other cases, the United Nations High Commissioner for Refugees (UNHCR) is automatically responsible for the provision of services to, and the protection of, refugee populations. In the case of the Palestinians, however, two special agencies were set up on their behalf. The United Nations Relief and Works Agency (UNRWA) was created in 1949 to provide essential services to Palestinian refugees, while protection of their rights fell to the United Nations Conciliation Commission for Palestine (UNCCP). The UNCCP soon became defunct, unable to operate in the face of Israel's categorical rejection of the repatriation of Palestinian refugees. (Nevertheless, the UNCCP still has an office in New York.)

Other applicable instruments of international law concerning the rights of Palestinian refugees include:

- The Universal Declaration of Human Rights (1948) Articles 13(1) and 13(2);
- The Fourth Geneva Conventions (1949), Articles 47 and 49;
- The Convention Relating to the Status of Refugees (1951) and its 1967 Protocol;
- The International Convention on the Elimination of All Forms of Racial Discrimination (1965), Article 5.d.ii;
- The International Covenant on Civil and Political Rights (1966), Article 2.2;
- The International Covenant on Economic, Social and Cultural Rights (1966); and
- A series of UN Security Council and General Assembly resolutions – notably, UNGA Resolution 3236 of 22 November 1974, 51/124 of 13 December 1996, 51/126 of 13 December 1996, and 51/129 of 13 December 1996.⁴⁶

In recent years, legal experts and human rights organisations concerned that the Palestinian refugee issue has remained unredressed for nearly six decades have emphasised that no international agency has an explicit mandate to protect Palestinian refugees and find a permanent solution to the refugee issue. Some human rights organisations and experts have lobbied the UNHCR to assume these responsibilities; others have proposed that UNHCR and UNRWA share such a mandate. These efforts are ongoing.⁴⁷

46 For more information, see United Nations, <http://www.un.org>. For information on the applicability of international law to the Palestinian refugee issue, legal remedies, comparative analyses, submissions to the UN Committee on Economic, Social and Cultural Rights, and related issues, see: BADIL Resource Centre for Palestinian Residency and Refugee Rights, <http://www.badil.org>; Susan Akram, 'Palestinian Refugees and their Legal Status, Rights, Politics, and Implications for a Just Solution', in *Journal of Palestine Studies*, Vol. 31, No. 3 (spring 2002), pp. 36-51; and Al-Haq (Law in the Service of Man) - Ramallah, Al-Mazen Centre for Human Rights - Gaza, BADIL - Bethlehem, LAW (The Palestinian Society for the Protection of Human Rights and the Environment) - Jerusalem, PCHR (The Palestinian Centre for Human Rights) - Gaza, and CESR (The Centre for Economic and Social Rights) - New York, *Language Concerning Palestinian Refugees, Document Submitted to Chairperson, UN Committee on Economic, Social and Cultural Rights* (15 August 2001).

47 For updates on the UNHCR position concerning Palestinian refugees; see BADIL Resource Centre, 'More International Protection for Palestinian Refugees: A Critical Analysis of the September 2002 Revised UNHCR Interpretation of the Status of Palestinian Refugees Under International Law', *BADIL Press Release (E/63/02)*, 24 Nov. 2002.

4.3 Israel's land and property laws

"Land, as a housing resource, is an essential element of the right to housing. This is most conspicuous in the breach of individual and collective land tenure rights, as seen in the practice of ethnic cleansing and expulsion of land-based people and communities, as has historically been the case in Palestine."⁴⁸

This subsection examines the legal framework governing land and property issues in Israel. Following its establishment, Israel designed a system of law that legitimised both a continuation and a consolidation of the 'nationalisation' of land and property, a process that it had begun decades earlier. For the first few years of Israel's existence, many of the new laws continued to be rooted in earlier Ottoman and British law. These laws were later amended or replaced altogether. Even at an early stage, it became clear that Israel's unique interpretation of existing law would reflect the interests of the dominant (Jewish) settler community at the expense of Palestinians – whether those who had become citizens of the new state, or those who had been forced into exile.

By 1949, some 800 000 Palestinians had been displaced from their lands and villages. Israel was now in control of some 20.5 million *dunum* (approx. 20 500 km²) of lands in what had been Mandate Palestine. Of these lands, Palestinians had owned a full 92 percent (nearly 18 850 km²), of which about 85 percent (approx. 16 000 km²) had constituted the depopulated Palestinian villages. Palestinian lands in the newly formed State of Israel amounted to a paltry 7 percent (approx. 1 300 km²) of what Palestinians had previously owned. In 1949, only about 8 percent (approx. 1 650 km²) of all the Israeli-controlled lands were actually Jewish-owned. The rest – a massive 92 percent – were under some form of Government control.⁴⁹

The first challenge facing Israel was to transform its control over land into legal ownership. This was the motivation underlying the passing of several of the first group of land laws.

4.3.1 Backdrop to legislation: Israel as a 'Jewish State'

The Declaration of the Establishment of the State of Israel defines it as a 'Jewish State' for Jews worldwide. The framers of the declaration described themselves as the "representatives of the Jewish Community of Eretz Israel and of the Zionist Movement". Laws and statutes enacted by the Israeli Knesset (parliament) are rooted in Jewish law.⁵⁰

By July 1948, newly formed Israeli ministries, committees and departments had begun taking over functions performed earlier by 'National Institutions' (that is, the Jewish National Fund, the Jewish Agency and others). The establishment of the State of Israel did not obviate the need for such institutions. This became clear from the agreements entered into between Israel and prominent Jewish organisations concerning their respective roles in the national endeavour.

One of the first steps adopted by the new state was the reactivation of the *Defence [Emergency] Regulations* adopted earlier by the British in 1939 (and later repealed). Since British regulations had applied to the whole country, the Government of Israel passed the *Law and Administration Ordinance [Amendment] Law [1948]* to reverse the British repeal and reinstate these *Emergency Regulations*, which now applied exclusively to the Arab population.

The 1949 *Emergency Regulations [Security Zones] [Extension of Validity] No. 2 Law* allowed the Government to declare certain Arab villages 'closed areas', from which the original Arab inhabitants were barred. Specific regulations allowed the Government to restrict movement, detain or expel people, ban organisations, impose curfews, demolish homes, and so on. Jewish settlers and more recent immigrants to Israel were not subject to these restrictions and were free to cultivate lands, including those belonging to Arabs who had remained in the new state and who themselves were largely prevented from accessing their own lands. Martial law was imposed upon Arab communities in three parts of the country: the northern (Galilee) area, the central ('Little Triangle') area, and the area of Beersheba in the Negev. Martial law was not lifted until 1966. Since then, and despite the 1979 repeal of a handful of their provisions, the *Emergency Regulations* have remained on the statute books to be invoked as needed (as has indeed happened on a few subsequent occasions).

48 *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Mr Miloon Kothari: Addendum: Visit to the occupied Palestinian territories (5-10 January 2002)*, Commission on Human Rights, E/CN.4/2003/5/Add.1, 12 June 2002, <http://www.unhcr.ch/Huridocda/Huridoca.nsf/0/36351ea8a4425f1cc1256c84003e0c84?Opendocument>, para. 10.

49 See: Abu Sitta (n. 32 above); and id., *From Refugees to Citizens at Home* (London: Palestine Land Society and Palestinian Return Centre, 2001).

50 The Knesset formalised such precepts by passing laws affirming Israel's character as Jewish and Zionist, and by barring from representation in the Knesset all those candidates who did not recognise Israel as the "State of the Jewish people"; see: *Basic Law: Knesset (Amendment No. 9) (1985)*.

4.3.2 Land and property laws in Israel: introductory comments

Several sets of laws govern land and property rights within Israel's 1948 borders.⁵¹ The Israeli Lands Administration (ILA), a Government agency that collaborates closely with the JA and JNF, is the main body responsible for lands in Israel. More is said about the ILA in Subsection 4.3.3.3 below.

Land and property laws in Israel could be seen as evolving through three main phases or categories:

1. The imperative to physically acquire and colonise lands vacated by Palestinians who fled or were expelled, and to prevent their return;
2. The necessity of legalising such land acquisitions in order to pre-empt any future claims made by refugees or their descendants;
3. The goal of proceeding with the nationalisation/Judaisation process in areas of the country where Arabs still predominated.

Israel quickly formed a Ministerial Committee for Abandoned Property to decide the disposition of refugees' lands and determine policies relating to the destruction of Arab villages. This committee held its first meeting in July 1948. In October 1948, the Government decided to formally affiliate the Transfer Committee (see Subsection 4.1.1 above) with the Foreign Ministry. The Transfer Committee submitted an extensive report with recommendations on Palestinian refugees that included preventing their return, resettling them in surrounding Arab countries, and seeking to blame the Arabs themselves for their flight.

Several other Israeli bodies and offices were created to deal with Arab affairs as well as land and property matters, illustrating how crucial these issues were to the new Government. Among the new bodies was a trusteeship for 'Enemy Property', a Ministerial Committee on Transfers [that is, on forced displacement of Arabs], the Arab Property Department, and the 'Office of the Custodian of Absentee Property'.⁵²

Laws of the first category (as defined in the numbered list above) passed in Israel were designed to prevent Palestinian refugees from returning to their homes and punish them for attempting to do so. Under the *Prevention of Infiltration (Offences and Jurisdiction) Law, 5714-1954*, the definition of 'infiltrators' corresponded closely with that of 'absentees'. This law referred to any person who "entered Israel knowingly and unlawfully and who at any time between the 16th Kislev, 5708 (29th November, 1947) and his entry" was a national or citizen of one of the surrounding Arab states, was visiting those countries, or was in Palestine - though outside the area that became Israel - or who was 'armed'. The law established strict penalties for such 'infiltration'. Under this law, 'internal refugees' (Palestinians who were declared absent from their own villages but inside Palestine at the time Israel was created) were also barred from returning to their villages. When caught, they were expelled from the country. Over the ensuing years, several thousand Palestinians were expelled in this manner, paving the way for Jewish immigration and colonisation of their lands.

To pre-empt a return by Arabs, immigrant Jews were quickly settled in the homes of those who had fled. By April 1949, some 150 000 Jews were reported to have been settled in what were formerly Arab homes. For the same purpose, houses were confiscated from Arabs who remained in the State of Israel, and they were expelled or forced to resettle elsewhere.

Lands taken from Palestinians had then to be transformed into Jewish property. This was the thrust of a two-pronged approach to land laws: on the one hand, the passing of a set of laws dealing specifically with 'absentees' property' - especially lands of those who had fled or been expelled from the country; on the other hand, the passing of laws designed to retroactively legalise (as well as expand) the confiscation of lands from Palestinians.

51 It should be noted that the State of Israel has not formally defined its final borders, except those with Egypt and Jordan, which were established by virtue of its peace agreements with these two countries. Information for this subsection is from: *Laws of the State of Israel* (Jerusalem: Government Printer, 43 vols., 1948-1989); Morris (n. 36 above); John Quigley, *Palestine and Israel: A Challenge to Justice* (Durham, N.C.: Duke University Press, 1990); Abu Sitta (n. 49 above); Prof. W. Thomas Mallison and Sally Mallison, *The Palestine Problem in International Law and World Order* (London: Longman, 1986); and BADIL Resource Centre, 'Follow-Up Information Submitted to the Committee for Economic, Social and Cultural Rights Regarding the Committee's 1998 "Concluding Observations" Regarding Israel's Serious Breaches of its Obligations under the International Covenant on Economic, Social and Cultural Rights', for the November 2000 convening of the Committee.

52 Morris (n. 36 above), pp. 219, 230, 245 and 276.

By the 1960s, the Government of Israel was also setting its sights on lands belonging to Arab Palestinians who remained in the country, namely in the Galilee/'Northern Triangle' area and in the Negev. The laws enacted in that period reflected these emerging priorities. The focus on acquiring lands belonging to Palestinians with Israeli citizenship continued unabated over the ensuing decades. To this end, successive governments continued to amend the land and property laws well into the 1980s and beyond.

Israeli laws legalising the expropriation of Palestinian lands did not go unchallenged. Jewish and Arab lawyers in Israel filed dozens of lawsuits challenging the legal grounds of specific confiscation orders. Many lawsuits made their way to the Israeli Supreme Court. Although detailed discussion of such legal action is beyond the scope of this study, it is instructive to note that most cases brought before the Supreme Court on behalf of Palestinians were adjudicated largely in favour of the State of Israel. There are many examples of such rulings, as in the many lawsuits filed by Palestinians appealing confiscations of their lands on the basis of the *Prescription Law* (see paragraphs on this law in Subsection 4.3.3.3 below). The Israeli Supreme Court wields enormous power in interpreting provisions and intent in the law, and its bias in favour of Jewish/Israeli interests is significant. Arab landholders faced with the loss of their lands are usually placed in an impossible situation, where virtually every available means of establishing their claims is invalidated.⁵³

4.3.3 Israeli land and property laws: summary of major legislation

This subsection summarises the main body of Israeli land and property laws enacted since the establishment of the State of Israel. It focuses primarily on legislation affecting the property rights of the Arab population – those who became refugees and those who became citizens of the State after 1948.

The laws are grouped into the following three subsections:⁵⁴

- 4.3.3.1 Initial emergency laws and other regulations;
- 4.3.3.2 'Absentees' property' laws and related laws;
- 4.3.3.3 Laws enacted to legalise further acquisition of Palestinian lands, and related laws.

Note that, within each of these subsections, the laws appear in chronological order.

4.3.3.1 Initial emergency laws and other regulations

Immediately upon assuming power, the Government of the State of Israel issued a series of laws and regulations to formalise its approach to land issues and legalise its confiscation of Arab lands. Among the most noteworthy are the following:

Proclamation, 5708-1948

Issued the same day as the declaration of the State, this proclamation repeals the 1939 White Paper and provisions of the 1941 *Immigration Ordinance*. It also repeals the 1940 *Land Transfer Regulations* retroactively to 18 May 1939, invalidating transactions conducted since then.

Law and Administration Ordinance, 5708-1948

This law defines the responsibilities and composition of the Provisional Government. Noteworthy provisions in the law include the repeal of provisions of the 1941 *Immigration Ordinance* and the 1945 *Defence [Emergency] Regulations*, so as to allow Jews who entered the country illegally under Mandate laws to remain as legal immigrants.

The law confirms the retroactive repeal of the 1940 *Land Transfer Regulations* (see paragraph on *Proclamation, 5708-1948*, above), to allow 'new claims' to be filed. It specifies that henceforth 'Palestine' would be read as 'Israel' in any new law. The law also states that unless explicitly revoked, legal validity is given to all regulations and orders issued by the Jewish Agency and other Jewish groups on matters concerning supplies and services.

53 This point is elaborated in Subsections 4.3.3.3 and 4.5.1 below. For more on lawsuits and rulings in court cases; see, for example: Adalah (The Legal Center for Arab Minority Rights in Israel), *Adalah's Review Volume II - Land* (autumn 2000), <http://www.adalah.org>; and Alexandre (Sandy) Kedar, *Israeli Law and the Redemption of Arab Land 1948-1969*, thesis presented in partial fulfilment of the Requirements for the Degree of Doctor of Juridical Science, Harvard University, Cambridge, MA, May 1996. Kedar notes that of the 12 cases brought before the Supreme Court between 1948 and 1966, ten were settled in favour of the State, and only in one case did the Court rule in favour of the Arab plaintiff. The other cases were remanded to the district or lower courts for further instructions. (BADIL Resource Centre is compiling information on significant court cases for a forthcoming publication).

54 In these subsections, unless indicated otherwise, all titles, dates and summaries of laws, including all quotes from laws, are from *Laws of the State of Israel* (n. 51 above). For a complete list of relevant Israeli laws, see App. 2.

Area of Jurisdiction and Powers Ordinance, 5708-1948

As Israel had conquered lands far beyond those allocated to it under the 1947 UN Partition Plan, this law underscores that:

Any law applying to the whole of the State of Israel shall be deemed to apply to the whole of the area including both the area of the State of Israel and any part of Palestine which the Minister of Defence has defined by proclamation as being held by the Defence Army of Israel.

Israel did not then define its borders, nor has it subsequently done so. Since its 1967 capture of the West Bank and Gaza Strip (the remainder of historic Palestine), Israel has also imposed its law on Jerusalem and its military authority on the rest of these areas (see Sections 5 and 6 below).

Abandoned Areas Ordinance, 5708-1948

This law defines as 'abandoned' "any area or place conquered by or surrendered to [Israeli] armed forces or deserted by all or part of its inhabitants, and which has been declared by order to be an abandoned area". All properties in these areas are also declared 'abandoned' and the Government is authorised to issue instructions as to the disposition of such properties.

Defence (Emergency) Regulation 125 (1948) (Article 125)

This regulation, based on the British *Emergency Regulations* (1945), was used by Israel to declare closed 'security' zones and expel their inhabitants. These lands were then declared 'uncultivated' and confiscated by the Ministry of Agriculture.

Israel enacted a number of additional initial emergency laws on land, 'absentees' property' and related issues. These laws, which are not discussed further here, include:

Emergency Regulations (Security Zones) Law, 5708-1948

Emergency Regulations (Absentees' Property) Law, 5709-1948

Emergency Regulations (Requisition of Property) Law, 5709-1948

Emergency Regulations (Cultivation of Wastelands) Law, 5709-1948

Emergency Regulations (Cultivation of Wastelands) (Extension of Validity) Law, 5709-1949

Emergency Regulations (Security Zones) Law, 5709-1949

Under this law, the Ministry of Defence could declare closed 'security' areas from which people were then excluded or removed – and their lands later confiscated. This measure was used extensively in various parts of the country, including areas in the Galilee, near the Gaza Strip and close to the borders. Lands so acquired would often be sold to the JNF. These regulations remained in place until 1972.

Emergency Regulations (Cultivation of Waste [Uncultivated] Lands) Law, 5709-1949

Originally enacted in 1948 and amended in 1951 as the *Emergency Regulations (Cultivation of Waste Lands) Law, 5711-1951*, this law authorises the Ministry of Agriculture to declare refugees' lands as 'waste' lands and to take control over 'uncultivated' lands. This law operated in conjunction with other laws including those declaring 'security areas'. Once people (Arabs) were barred from their lands, these could be defined as 'uncultivated' and seized.

Emergency Land Requisition (Regulation) Law, 5710-1949

This law repeals the earlier *Emergency Regulations (Requisition of Property) Law, 5709-1948*. It authorises land expropriation for "the defence of the State, public security, the maintenance of essential supplies or essential public services, the absorption of immigrants or the rehabilitation of ex-soldiers or war invalids".

The law includes clauses concerning the requisition of houses, and authorises the "use of force to the extent required for the carrying into effect of an order made by a competent authority". The law retroactively legalised land and housing requisitions that were carried out under existing emergency regulations.

This law was amended in 1952 and 1953. A 1955 amendment, *Land Requisition Regulation (Temporary Provision) Law, 5715-1955*, allows the Government to retain property seized under the law for longer than the three years originally specified. Along with a later (1957) amendment, the law also specified that any property held after 1956 would be determined to have been acquired on the basis of the British *Land (Acquisition for Public Purposes) Ordinance* of 1943 (see relevant paragraphs in Subsection 4.3.3.3 below).

4.3.3.2 'Absentees' property' laws and related laws

In several respects, 'absentees' property' laws are rooted in emergency ordinances issued by the Jewish leadership soon after the war and subsequently incorporated into the laws of Israel. Examples are the *Emergency Regulations (Absentees' Property) Law, 5709-1948* (December), the *Emergency Regulations (Requisition of Property) Law, 5709-1949*, and other related laws. Unlike other laws that were designed to establish Israel's 'legal' control over lands, this body of law focused on formulating a 'legal' definition for the people (Arabs) who had left or been forced to flee from these lands. Specific laws in this category include:

The Absentees' Property Law, 5710- 1950

This law replaces the *Emergency Regulations (Absentees' Property) Law, 5709-1948*. Under this law, an 'absentee' is any person who, before September 1948, was out of the county in an area under the control of the Arab League Forces, or who had left [his/her] normal place of residence during the period prescribed in the law, or who, between 29 November 1947 and the date of coming into effect of this law, was otherwise deemed 'absent' based on criteria defined in this law:

1 (b) "absentee" means -

1. a person who, at any time during the period between 16th Kislev, 5708 (29th November 1947) and the day on which a declaration is published, under section 9 (d) of the Law and Administration Ordinance, 5708-1948, that a state of emergency declared by the Provisional Council of the State on the 10th Ayar, 5708 (19th May 1948) has ceased to exist, was a legal owner of any property situated in the area of Israel or enjoyed or held it, whether by himself or through another, and who, at any time during the said period -
 - i. was a national or citizen of the Lebanon, Egypt, Syria, Saudi Arabia, Trans-Jordan, Iraq or the Yemen, or
 - ii. was in one of these countries or in any part of Palestine outside the area of Israel, or
 - iii. was a Palestinian citizen and left his ordinary place of residence in Palestine
 1. for a place outside Palestine before the 27th Av, 5708 (1st September, 1948); or
 2. for a place in Palestine held at that time by forces which sought to prevent the establishment of the State of Israel or which fought against its establishment;
2. a body of persons which, at any time during the period specified in paragraph (1), was a legal owner of any property situated in the area of Israel or enjoyed or held such property, whether by itself or through another, and all the members, partners, shareholders, directors or managers of which are absentees within the meaning of paragraph (1), or the management of the business of which is otherwise decisively controlled such absentees, or all the capital of which is in the hands of such absentees[.]

Provisions in this law ensured that, without being overtly discriminatory, the term 'person' was understood not to include Jews. The law also applied to those Arabs who subsequently became citizens of the State of Israel. At the time, about half their number, an estimated 40 000-75 000 people, had not been in their usual place of residence as defined by the law. They were therefore termed 'present absentees' (an apparent contradiction in terms which, however, is used in the sense that such people were physically present but 'absent' under the law). As a result, they lost their lands. The number of such 'internally displaced people' (IDPs) within Israel is today estimated to be around 250 000. A large proportion of these people - somewhere between 70 000 and 100 000 - reside in what are known as 'unrecognised villages'. These are communities that are not recognised by the State and consequently do not receive services or any other benefit from it.⁵⁵

Lands and property confiscated in accordance with the *Absentees' Property Law* were transferred to the 'Custodian of Absentee Property'. According to Art. 4.(a)(2), "every right an absentee had in any property shall pass automatically to the Custodian at the time of the vesting of the property; and the status of the Custodian shall be the same as was that of the owner of the property." Those who were found to occupy property in violation of this law could be expelled, and those who built on such property could have their structures demolished. The law came to apply not only to Palestinians who fled but also to those who were away from their regular places of residence (as described in the previous paragraph).

Estimates of the total amount of 'abandoned' lands to which Israel laid claim vary between 4.2 and 5.8 million *dunum* (4 200-5 800 km²). Between 1948 and 1953 alone, 350 of the 370 new Jewish settlements were created on lands confiscated under the *Absentees' Property Law*.

55 For more information on the operation of applicable articles and exemptions in the *Absentees' Property Law*, see Kedar (n. 53 above), p. 60.

The *Absentees' Property Law* underwent several amendments, including the *Absentees' Property (Amendment) Law, 5711-1951*, and the *Absentees' Property (Amendment) Law, 5716-1956*. Both amendments clarify rental arrangements and tenant protection rights on such property. Other related amendments include the *Absentees' Property (Amendment No. 5) (Increase of Payment to Absentees' Dependents and to Absentees) Law, 5727-1967* and subsequent amendments to the latter. These are not discussed further here.

The Land Acquisition (Validation of Acts and Compensation) Law, 5713-1953

The Government of Israel did not automatically gain title to lands seized under the *Absentees' Property Law*. This was accomplished under the *Land Acquisition (Validation of Acts and Compensation) Law, 5713-1953*.

This law legalised expropriations (retroactively in many cases) for military purposes or for the establishment of (Jewish) settlements. Under the law, the Government is authorised to lay claim to lands not in the possession of their owner as of 1 April 1952. The law stipulates that those losing agricultural lands, where those lands formed their main source of livelihood, would be offered lands elsewhere. The law further defines what monetary compensation, if any, would be offered to Arab owners.⁵⁶

Absentees' Property (Eviction) Law, 5718-1958

This law provides for the possibility of revoking an ordered eviction or expulsion under specific circumstances. This applied, for example, where an eviction or expulsion had not yet been carried out, or when an order was issued before the publication of the *Absentees' Property (Amendment) Law, 5716-1956* (an amendment clarifying tenancy rights).

Absentees' Property (Amendment No.3) (Release and Use of Endowment Property) Law, 5725-1965

This law extends the scope of the *Absentees' Property Law* and earlier regulations concerning the Muslim religious endowment, the *Waqf*. It allows the Government to confiscate vast amounts of Muslim (charity) land and other properties, including cemeteries and mosques, and place them under Government administration. According to the law, income from these properties would be used in part to build institutions and provide services for the Muslim inhabitants in areas where such property is located.

This law amends the 1950 law to the effect that:

[W]here any property is an endowment under any law, the ownership thereof shall vest in the Custodian free from any restrictions, qualification or other similar limitation prescribed, whether before or after the vesting, by or under any law or document relating to the endowment if the owner of the property, or the person having possession or the right of management of the property, or the beneficiary of the endowment is an absentee. The vesting shall be as of the 10th Kislev, 5709 (12th December 1948) or from the day on which one of the aforementioned becomes an absentee, whichever is the later date.

The law applies retroactively and explicitly declares that 'endowment property' "means Muslim *waqf* property being immovable property validly dedicated".

Absentees' Property (Amendment No. 4) (Release and Use of Property of Evangelical Episcopal Church) Law, 5727-1967

This law amends relevant sections of the original *Absentees' Property Law (1950)* to authorise the establishment of a body of trustees to manage properties vested in the 'Custodian of Absentee Property' formerly owned by the Evangelical Episcopal Church. In certain cases, for example where owners and their rightful descendants had passed away, the 'Custodian' could retain control over such properties. No comparable legislation was enacted to release *Waqf* properties taken over by the State after 1948.

Absentees' Property (Compensation) Law, 5733-1973

This law defines procedures for compensating property confiscated under the *Absentees' Property Law (1950)*. One provision concerns the definition of those eligible for compensation:

A person entitled to claim compensation for property (hereinafter referred to as a "claimant") is a person who is an Israel resident on the date of the coming into force of this Law or who becomes an Israel resident thereafter and who before the property was vested in the Custodian was one of the following:

⁵⁶ Until 1959, compensation was calculated on the basis of the 1950 land values. Kedar cites a 1965 ILA report which shows that over 1.2 million *dunum* (about 1 200 km²) of Arab land were taken in this manner; see Kedar (n. 53 above), p. 153.

- (1) the owner of the property, including the person who would have been his heir had the property not been vested;
- (2) in the case of urban property – an absentee who was the tenant thereof, including his wife who lived with him at that time;
- (3) the lessee (*hokher*) of the property;
- (4) the holder of an easement over the property[.]

Other provisions specify the time limit legally allowed for filing a claim, whether compensation would be awarded in cash or bonds (depending on circumstances), the payment schedule (generally over a fifteen year period) and other provisions. Appended to the law is a detailed schedule of how compensation is to be calculated for each type of property, urban or agricultural. Some provisions of this law were amended in later years.

4.3.3.3 Laws enacted to legalise further acquisition of Palestinian lands, and related laws.

Land (Acquisition for Public Purposes) Ordinance (1943)

This ordinance was originally enacted by the British in 1943 and later used by Israel to authorise the confiscation of lands for Government and 'public' purposes. These included building Government offices, creating lands and parks, and suchlike. Kedar describes this law as "the main general land expropriation law in force in Israel today".⁵⁷

A 1964 amendment to this law, *Acquisition for Public Purposes (Amendment of Provisions) Law, 5724-1964*, specifies procedures to be followed in the acquisition of lands based on this and other laws, including the original *Land (Acquisition for Public Purposes) Ordinance (1943)*, the *Town Planning Ordinance (1936)*, and the *Roads and Railways (Defence and Development) Ordinance (1943)*.

The 1964 amendment also defines circumstances under which no compensation would be offered to those whose lands had been expropriated; generally, where the expropriation had occurred prior to the coming into force of this law. Additional amendments corrected various laws under which such lands might be expropriated, substituting Israeli laws for earlier British versions and clarifying rights to compensation.

Israel used this law extensively to expropriate Palestinians lands. Many Palestinians challenged the expropriations and did not accept compensation. A 1978 amendment to the law, *Acquisition for Public Purposes (Amendment of Provisions) (Amendment No.3) Law, 5738-1978*, addresses this issue by decreeing that where the owner refuses compensation or does not give consent within the time allotted, these funds would be deposited with the Administrator-General in the name of the owner. However, this provision has no bearing on the matter of the expropriation itself.

Lands acquired under this law were used for the building of new Jewish settlements or other ventures from which Arab Palestinians with Israeli citizenship were excluded. The Jewish-dominated sector of Upper Nazareth was created in this manner and was the subject of several lawsuits filed at the Supreme Court (for more information on the Judaisation of the Galilee, see Subsection 4.5.1.1, 'The Arab Galilee', below).

Jerusalem Military Government (Validation of Acts) Ordinance, 5709-1949

This law extends Israeli jurisdiction to 'the Occupied Area of Jerusalem' (the western part of Jerusalem that was incorporated into Israel in 1948). It declares that all orders and regulations enacted by the Military Governor or other Government ministries shall be given the force of law.

Development Authority (Transfer of Property) Law, 5710-1950

The 'Authority for the Development of the Country' (or the 'Development Authority') was established to work with relevant Government agencies to acquire and prepare lands for the benefit of newly arriving Jewish immigrants. Vast amounts of land allocated for this purpose were bought from the 'Custodian of Absentee Property'. Pursuant to this law, lands passing into the hands of the State or to JNF control would be deemed inalienable. Article 3(4)(a) reads:

[t]he Development Authority shall not be authorised to sell, or otherwise transfer the right of ownership of, property passing into public ownership, except to the State, the Jewish National Fund, to an institution approved by the Government, for the purposes of this paragraph, as an institution for the settlement of landless Arabs, or to a local authority; the right of ownership of land so acquired may not be re-transferred except, with the consent of the Development Authority, to one of the bodies mentioned in this paragraph.

57 Kedar (n. 53 above), p. 155.

State Property Law, 5711-1951

This law repeals the earlier (British) Public Lands Ordinance of 1942. It designates as 'State land' all categories of land and property that became the property of the State of Israel after 15 May 1948. This includes 'all immovable property', all 'mines and minerals', all 'movable property', and any rights previously held by the (British) Government of Palestine in such property. The law declares that: "Ownerless property situate[d] in Israel is property of the State of Israel as from the day of its becoming ownerless or as from the 6th Iyar, 5708 (15th May, 1948), whichever is the later date."

The law further stipulates that: "The Government may, on behalf of the State, acquire by way of purchase or exchange, or in any other manner, hire, take on lease or otherwise acquire rights in property, situate[d] in or out of Israel, on such conditions as it may think fit." Other provisions regulate transactions the Government is authorised to enter into under this law, including the right to sell or lease lands to the JNF and the Development Authority.

Roads & Railways (Defence & Development) (Amendment) Ordinance, 5711-1951

This law revises earlier British ordinances relating to road construction, to give more weight to the 'development' of the country (as well as its defences). It contains provisions for compensating owners whose lands are requisitioned for such purposes. It also stipulates the size of areas to be cleared alongside roads. This law may not immediately appear to be a land law with a disproportionate effect on Palestinian citizens. However, viewed in the context of other laws (particularly those defining 'unoccupied State land'), both this law and its 1966 amendment played a significant role in legalising massive land expropriations in the Galilee and other Arab areas for the construction of the Trans-Israel Highway, for which land was expropriated in 1994. This major road network is designed to bisect Palestinians lands in Israel all the way from the northern Galilee to the Negev in the south. Its completion will require the expropriation of some 20 000 *dunum* of land (20 km²), of which 17 000 *dunum* (17 km²) are Arab-owned.

Cultivators (Protection) Ordinance (Amendment) Law (1953)

This law amends earlier legislation protecting tenant farmers from eviction upon the sale of their lands. The 1953 law removes such protection of farmers on what became 'Absentees' Property', thus facilitating the acquisition of these lands by the State.

Candidates for Agricultural Settlement Law, 5713-1953

This law is noteworthy because it defines the role of the WZO/JA as a 'settlement institution' that collaborates with the Government of Israel in establishing 'agricultural settlements'. These settlements are sites:

[T]he inhabitants of which have been settled for the purpose of agricultural settlement, whether simultaneously or at different times by one or more settlement institutions or with the assistance of a national settlement body; but where such a place is a part of a settlement the inhabitants of which have not been settled as aforesaid, only the place settled as aforesaid shall be regarded as an agricultural settlement.

The significance of this law lies partly in the fact that in WZO/JA terminology 'national' is synonymous with 'Jewish'.

Rural Property Tax Ordinance (Amendment) Law, 5714-1954

This law amends the 1942 (British) *Rural Property Tax Ordinance*. Viewed in conjunction with the earlier *Candidates for Agricultural Settlement Law, 5713-1953*, these laws offer special advantages to Jewish immigrants settling in Israel. The *Rural Property Tax Ordinance (Amendment) Law* states:

Land settled by an agricultural settlement established after the 5th Iyar, 5706 (15th May, 1948) by or with the assistance of the Government, the Jewish Agency or the Palestine Jewish Colonisation Association (PICA) shall be exempt from rural property tax for a period of five years from the first of April following occupation.

Plant Protection Law, 5716-1956

Laws regulating plant production fall into the general category of laws relating to land and property rights. Under this particular law, the Ministry of Agriculture is authorised, among other things, to regulate the import and export of plants and plant products. Related laws include the *Vegetable Production and Marketing Board Law, 5719-1959* and its subsequent amendments. A 1962 amendment of this law, for example, imposes prohibitions on cultivation without permits and provides for the declaration of 'personal cultivation and marketing quotas' on certain crops. By regulating which crops can be planted in a given season and whether or not crops can be marketed, and by imposing quotas on certain crops or other restrictions on cultivation for 'personal consumption', this law often works to the disadvantage of Palestinian cultivators. The *Plant Protection (Amendment) Law, 5726-1966*, amends the *Plant Protection Law* of 1956 to authorise the Minister of Agriculture to

destroy plants as necessary for pest control, especially in 'security areas'. Additional laws and various amendments to these and other laws have been enacted over the years (see Appendix 2).

Prescription Law, 5718-1958

The *Prescription Law* was first enacted in 1958 and amended in 1965. It repeals critical provisions of, and reverses British practices in relation to, the *Ottoman Land Code (1858)*.

The *Prescription Law* is one of the most critical to understanding the legal underpinnings of Israel's acquisition of Palestinian lands. Although not readily apparent in the language of the law, the purpose behind this legislation was to enable Israel to claim as 'State lands' areas where Palestinians still predominated and where they could still assert their own claims on the land (for example, in the north of the country). This law, in conjunction with the *Land (Settlement of Title) Ordinance (Amendment) Law, 5720-1960*, the *Land (Settlement of Title) Ordinance (New Version), 5729-1969* and the *Land Law, 5729-1969* (see relevant paragraphs below in this subsection), was designed to revise criteria related to the use and registration of *Miri* lands – one of the most prevalent types in Palestine – and to facilitate Israel's acquisition of such land.

Under this law, farmers are required to submit documentation proving uninterrupted cultivation of designated plots of land over a 15-year period (the 'prescription' period). The law adds the proviso that lands purchased after 1 March 1943 would be subject to a 20-year verification period. The law also specifies a five-year hiatus between 1958 and 1963 that would not be counted toward this 'prescription' period.

By 1963, much of the lands in question had still not been surveyed. Therefore, calculations of the requisite 20-year verification period were in effect halted, and the State was in a position to press its own claims to these lands. The *Prescription Law* had even more complex ramifications (see paragraphs on the *Land (Settlement of Title) Ordinance (New Version), 5729-1969*, below in this subsection, and the discussion in Subsection 4.5.1 below). For example, Israel decided that British aerial photographs of 1945 would be used to verify cultivation. Arab farmers who had not yet begun tilling their lands at the time the photographs were taken found they were by definition unable to meet the requisite 15-year 'prescription' period. Also, as Israel did not accept other evidence of cultivation, such as tax records, many Palestinians fell victim to a 'Catch-22': in the process of trying to establish their legal ownership they (retroactively) lost their lands.

A 1965 report by the Israeli Land Administration (ILA) reflects on the rationale behind the law:

In the Northern area, there was a danger of the [acquisition of rights] by prescription according to the Statute of Limitation (1958) regarding all State land, and those [lands] of the Custodian of Absentee Property and the Development Authority. Particularly in the area of the [Arab] minorities where various elements began to take over State land and those of the Development Authority, and [sic] there was worry that these lands would be taken away from the hand of the ILA [Israeli Land Administration] and be transferred to the ownership of the trespassers.⁵⁸

Town Planning Ordinance (Amendment) Law, 5719-1959

This piece of legislation amends earlier British law. When it is viewed in association with other town-planning laws and related land laws, the disproportionate impact on Palestinians in Israel becomes evident. The *Town Planning Ordinance (Amendment) Law* specifies that permits should be obtained prior to building. It also stipulates that:

Where any building operations continue in contravention of an order under subsection (1) or (2) (hereinafter referred to as a "judicial cessation order") without a permit under this Ordinance or in considerable deviation from the conditions of such a permit, the Court may, on the application of the Attorney General or the Local Commission, if it deems it just to do so, order that the whole or any part of a structure erected in contravention of the provisions of the judicial cessation order shall be demolished forthwith.

The significance of this law becomes apparent when we consider that Israel has not permitted the establishment of a single Arab town since 1948. This is despite severe overcrowding in many existing Arab towns and the fact that numerous Jewish towns have been established in the same period. The Israeli authorities have also restricted building expansion within existing Arab towns (for example, in Nazareth), and have continued to issue demolition orders against structures in what

58 From *Report of the Activity of the ILA No. 4 (1964-1965)*, quoted in Kedar (n. 53 above), p. 170. Kedar quotes another, almost identical passage from the same ILA report; *ibid.* p. 244. Note the emphasis on the "danger" posed by Arab citizens acquiring rights to land and the reference to them as "trespassers" in their own country.

are known as 'unrecognised villages' (for further discussion of these topics, see paragraphs on the *Planning and Building Law, 5725-1965*, below in this subsection, and Subsection 4.5.1 below).

Water Law, 5719-1959

Israel enacted several laws to regulate scarce and precious water supplies. The design of the first water policy predates the State, coinciding with the establishment in 1937 of the *Mekorot*, the Water Authority. This was a joint venture between the Jewish Agency, the Jewish National Fund and a *Histadrut* subsidiary company, to provide water for Jewish settlements. Following the establishment of the State, the *Mekorot* became the Israeli Water Authority and fell under the joint ownership of the Government and its original founders.

Water laws are clearly pertinent to land issues, particularly as they are implemented to the disadvantage of Arab citizens of the State. Prior to the enactment of the 1959 *Water Law*, an earlier *Water Drillings Control Law* (1954) required that licenses be obtained from the appropriate authorities at the Ministry of Agriculture prior to digging a well.

The 1959 *Water Law* decrees that all water resources in Israel are 'public property', 'subject to the control of the State'. Although all citizens are entitled to water; according to this law, rights to land do not confer automatic rights to water resources on the same lands. This law authorises the Ministry of Agriculture to declare 'rationing areas'. The law also lists requirements for any proposed water supply schemes and plans, and outlines conditions where approval may be subject to provisions of the town-planning laws. Pursuant to the *Water Law*, Government authorities could requisition land, as needed for installing water supply systems, and could restrict access to these lands.

The *Water Law* went through several amendments, including the *Water (Amendment) Law, 5720-1960*, the *Water Drilling (Control) (Amendment) Law, 5721-1962*, the *Water (Amendment No. 4) Law, 5725-1965*, the *Water (Amendment No. 5) Law, 5732-1971*, and the *Water (Amendment No. 6) Law, 5736-1976*. Several of the new provisions restrict water plans in parts of the country.

Israel enacted other laws pertaining to water supplies; for example, the *Streams and Springs Authorities Law, 5725-1965*, which gives relevant authorities control over springs and streams as water resources. This includes the right to regulate the flow of water, divert the water, control the supply of water to 'interested' parties, or drain the areas as necessary (in accordance with other relevant laws). Lands may be expropriated to these ends under the *Land (Acquisition for Public Purposes) Ordinance (1943)*. The appropriate Government bodies may also designate streams or springs within proscribed parks or nature reserves.

Leasing of Land (Temporary Provisions) Law, 5719- 1959

This law should be considered in conjunction with the *Prescription Law, 5718-1958* (see relevant paragraphs above in this subsection). It is designed to offer remedy to Palestinians whose lands were confiscated on the basis of the *Prescription Law*; either by giving Palestinians the right to cultivate lands they had just lost or by giving them the right to cultivate other lands acquired through long-term leases. These rights were subject to various conditions, and in practice very few Palestinians benefited.

Land (Settlement of Title) Ordinance (Amendment) Law, 5720-1960

The year 1960 saw the adoption of seminal laws that ushered in a new era of land administration in Israel. The first in the series was the *Land (Settlement of Title) Ordinance (Amendment) Law, 5720-1960*.

This piece of legislation amended earlier British law. It defined the role of District Courts in land disputes, particularly (as later became apparent) in cases where farmers challenged Government claims over rights to *Miri* lands. By this time - and pursuant to the *Prescription Law* - it had already become virtually impossible to challenge the Government's claim to *Mewat* ('dead') lands as 'State lands'. In 1969, Israel enacted both a new version of the *Land (Settlement of Title) Ordinance* and a new *Land Law* (see relevant paragraphs below in this subsection). These laws continue to underpin the land system in Israel to the present day.

In 1960, Israel also adopted the *Basic Law: Israel Lands*.⁵⁹ It declares that: "The ownership of Israel lands, being the lands in Israel of the State, the Development Authority or the Keren Kayemet Le-Israel, shall not be transferred either by sale or in any other manner." Complimenting this Basic Law was the enactment of the *Israel Lands Law, 5720-1960*. The latter defines

⁵⁹ Israel has no constitution; instead, over the years, it has enacted a number of Basic Laws, all of which essentially affirm Israel as the 'State of the Jewish people' and its lands and resources as the inalienable property of worldwide Jewry.

two categories of lands: 'Israel lands' (the same as in the Basic Law) and 'urban lands', located within town-planning areas (but not regional planning areas). The law clarifies categories of lands to which the prohibition against transfer referred to in the Basic Law does not apply. This includes transactions concerning "urban lands, transactions entered into on the basis of other laws, or those necessitated by certain conditions and approved by the government". Such distinctions between categories of land basically affirm the understanding that most lands in Israel are not available to Palestinian citizens of the State.

The next law to be enacted in 1960 was the *Israel Lands Administration Law, 5720-1960*. This sets up the Israel Lands Administration (ILA), the Government body in charge of lands in Israel. This law amends a section of the *State Property Law* (1951) to prohibit sale or lease of 'Israel lands' without permission from the relevant authorities. It also amends provisions in the *Development Authority (Transfer of Property) Law* of 1950 to similar effect. Another land law enacted in 1960 was the *Land Law Amendment (Conversion of Matruka) Law, 5720-1960*, which authorises the Minister of Justice to convert *Matruka* lands into other categories if this is deemed to be in the 'public interest'.

Property Tax and Compensation Fund Law, 5721-1961

This law should be considered in conjunction with the *Prescription Law, 5718-1958* (see relevant paragraphs above in this subsection). Enacted in 1961 and amended in the *Property Tax and Compensation Fund Law (Amendment), 1964*, this law overturns then reinstates a fundamental cornerstone of mandatory law regarding the use of tax records as evidence of cultivation of land.

The amended law specifies which agricultural land constitutes a legal habitation area for purposes of taxation, and to what structures such legal provisions would apply (for example, based on when they were built). The new law decrees that tax records do not qualify as a basis for proving continuous cultivation of land by (Arab) farmers:

[T]he entry of the name of a person as the owner of any immovable property in any record made or kept for the purposes of this Law, or the payment by any person of the tax due on any such property, shall not affect the rights of the State and shall not be evidence of any rights of that person against the State in respect of that property.

The introduction of such new criteria paved the way for the State's acquisition of additional Arab property for the settling of Jewish immigrants. This law underwent further amendments in subsequent years (see Appendix 2). A 1969 amendment, for example, affords certain tax exemptions to Jewish immigrants to Israel.

National Parks and Nature Reserves Law, 5723-1963

This law authorises the Government, in consultation with the Minister of Agriculture, to designate certain areas as 'national parks' or 'nature reserves', where access and building could be restricted as necessary. A council consisting of Government officials, an ILA representative, a *Keren Kayemet Le-Israel* representative, and others, would oversee administration of these areas. 'Security' areas could be designated as park areas if so approved by the Minister of Defence.

Under this law, Arab lands could be seized and declared parks or reserves, and would thus no longer be available for use by Arabs. Other lands, initially requisitioned from Palestinians by the army as 'security areas', could be transferred to the Parks Authority. This law was amended in 1964 to forbid the sale of any 'national assets' without the approval of the Minister of Agriculture. In another amendment, *National Parks and Nature Reserves (Amendment No.3) Law, 5735-1974*, 'national sites' are defined as "a structure or a group of structures or a part thereof, including the immediate vicinity thereof, which are of national-historical importance with regard to the development of the Yishuv (the Jewish population of Eretz Israel)".

As discussed in Section 5 below, similar laws were later adopted in the Occupied Territories. In one instance, three Palestinian villages were demolished and their lands confiscated in this manner to make way for the establishment of 'Canada Park'.

Land Appreciation Tax Law, 5723-1963

This law regulates the assessment of taxes on various types of land transactions, including sales and leases, property offered in compensation for other expropriated lands, and so on. The law refers to the 'vesting rights' of various bodies, and specifies how taxes would be calculated for land transactions undertaken by an agency such as the 'Custodian of Absentee Property' that is not the original owner of such properties.

This law was amended several times over the ensuing years. A 1984 amendment, *Land and Appreciation Tax (Amendment No. 15) Law, 5744-1984*, extends the applicability of this law to other 'zones'; namely, 'Judea and Samaria and the Gaza Region' (territories occupied in the 1967 War). An 'Israeli national' who sells or acquires real estate rights in these areas "shall, for the purposes of this law, be regarded as selling or acquiring a real estate right in land situated in Israel". This law essentially gives legal validity to land transactions entered into by 'Israeli nationals' in the Occupied Territories, and makes tax assessments consistent with regulations operating within Israel itself.⁶⁰

Public Housing Projects (Registration) (Temporary Provision) Law, 5724-1964

This law authorises the Government to use certain lands for establishing public housing projects along with the requisite roads and public spaces – and to determine who has a right to settle (by ownership or leasehold) on such sites. This law operates in conjunction with the Land (Acquisition for Public Purposes) Ordinance (1943), town-planning laws, and related laws.

Countless public housing projects for Jewish immigrants were built on lands originally confiscated from Palestinians. A later 1981 amendment to this law, *Public Housing Projects (Registration) (Temporary Provision) (Amendment No.2) Law, 5742-1981*, clarifies provisions concerning registration of property for 'settlers', and revises the original law to classify all expropriations needed for public areas around such housing schemes under the 1965 *Planning and Building Law*.

Planning and Building Law, 5725-1965

The *Planning and Building Law* – extending to twelve chapters and 280 paragraphs (making it one of the longest laws on record) – has had serious and far-reaching implications for Arab Palestinians with Israeli citizenship. This law replaces essential provisions of the earlier British *Town Planning Ordinance (1936)* (the latter was repealed completely in a 1981 amendment to the *Planning and Building Law*).

The 1965 *Planning and Building Law* sets out in minute detail – from the national, through the district, to the local levels – the respective authority of various official bodies that are responsible for planning and implementation under the law. The Minister of Interior issues the actual regulations pertaining to every conceivable aspect of planning and building, including specifications regarding the height of buildings, what materials should be used, the width of roads, the procedure for applying for permits, applicable rules, fees, and so on. Special provisions apply to defence areas, areas designated as agricultural lands, territorial waters, and special planning areas so defined by the Government.

The law begins with provisions for a 'National Outline Scheme'. This lays out complete plans for the entire country, including building, industrial zones, designation and use of agricultural lands, road and electricity networks, antiquity sites, forecasts of population trends and settlement needs, responsibilities at district and local planning levels, etc. Regulations and procedures exist for every step in the planning, approval and implementation process. Once planning and building schemes are approved within designated areas and/or districts, buildings, infrastructure and other structures built there must conform to approved specifications. No other use of land or building or other construction is permitted or recognised outside the officially approved planning areas, unless so authorised by the State. As such, any area not specifically designated as a planning area under respective national, district or local authorities, is by definition illegal.

The existence of a national planning and building law is not in itself remarkable. What is noteworthy in this context, however, is the manner in which the law – at every level of implementation – discriminates against Arab Palestinians with Israeli citizenship. Planning and building areas in Israel are zoned in a manner that excludes Arab communities or otherwise restricts building in such communities. As noted in the discussion of the *Town Planning Ordinance (Amendment) Law, 5719-1959*, above in this subsection, not a single new Arab town or village has received approval or been established since the creation of the State.

Even lands falling within an approved planning area or under an approved planning scheme can be expropriated as needed. Under certain conditions, the partition of lands could be approved (leaving some land for the owner). The owner would be offered compensation or resettled in other areas 'outside the area of the Scheme' in exchange for the expropriation of his original lands. Whether these provisions are applied depends upon the State's recognition of a person's claim to that land.

60 The Government began to privatise property-holdings in the early 1990s. This step alienated Palestinian property-owners even further from their original lands and complicated any future claims they might make. Lands previously acquired through the *Absentees' Property Law* and other regulations were handed over to private Israeli entrepreneurs for the construction of apartment buildings and other housing units. These were then offered for sale to individual (Jewish) families. It is difficult to obtain detailed information on this issue. Some reports indicate that the process of privatisation later stalled.

As discussed in Subsection 4.5.1.2 below, this issue proved to be especially critical for the Bedouin population of the Negev, whose rights to their own lands were not recognised by the State.

The law also provides detailed procedures and penalties for what is defined as 'non-conforming building' or 'non-conforming' use of land. Under special circumstances, authorities may grant a grace period during which time the 'non-conforming' use would be tolerated, after which, depending on the situation, buildings would be demolished (sometimes at the owner's expense), lands expropriated, and various other penalties applied (this was also applied in the Negev).

The *Planning and Building Law* was amended in 1966 to affirm exemption from permits for certain State schemes that had been implemented before the coming into force of the 1965 law. Over 26 amendments and new provisions were added over the years to clarify various parts of the law, including those pertaining to demolition procedures. Both a 1980 and a 1987 amendment elaborated conditions for issuing an 'administrative demolition order' in situations where building proceeds without, or in contravention of, a permit. A 1982 amendment clarifies provisions relating to obtaining approvals to enlarge structures or add to existing building and structures.

Perhaps the most egregious example of the discriminatory operation of the *Planning and Building Law* concerns the situation of some 40 Arab villages in Israel in 1948, which, pursuant to this law, were (re-)classified as 'non-residential' within the approved planning schemes and hence designated as 'unrecognised'. Communities so designated, whose number has almost doubled since the declaration of the State of Israel and whose inhabitants hold Israeli citizenship, are not eligible for municipal services such as roads and electricity, or any other infrastructural developments, including clinics and schools. Although these communities existed before the establishment of the State, their redefinition under the law enables the Government to confiscate their lands, demolish their homes, and otherwise deny them services. The combined population of these villages is currently estimated at between 70 000 and 100 000 people.

Similar planning laws were later applied in the Occupied Territories, particularly East Jerusalem. As discussed in Subsection 5.4.2.3 below, these laws worked in favour of Jewish settlers and much to the detriment of Palestinian residents of the area.

Rehabilitation Zones (Reconstruction and Evacuation) Law, 5725-1965

This law establishes an 'Authority for the Reconstruction and Evacuation of Rehabilitation Zones':

[w]hose responsibility is "to initiate and plan the reconstruction and rehabilitation, and the evacuation for the purposes of reconstruction and rehabilitation, of slums and underdeveloped quarters and of structures which endanger their inhabitants, and to carry out any activity assigned to it by this Law."

This law, operating in conjunction with other relevant laws including the *Planning and Building* law and town-planning laws, enables the Government to declare certain areas 'rehabilitation zones' and present plans as needed for the "reconstruction of the zone and the evacuation, resettlement and re-housing of all or part of its inhabitants". Once so declared, new land transactions in these zones are prohibited. Certain exceptions may apply; for example, in cases of land acquisition by the State. All planning schemes are suspended. The authorities may requisition additional lands adjacent to the 'rehabilitation zone' if necessary for the 'efficient planning and reconstruction of the zone'. Lands may be expropriated by the State in a rehabilitation zone under the *Land (Acquisition for Public Purposes) Ordinance (1943)*, whereby these lands become 'State property'. The law requires that inhabitants of such zones be compensated or resettled elsewhere, so long as the alternative site itself is not to be designated as a 'rehabilitation zone' in the foreseeable future.

These laws have disproportionately affected Arab Palestinians remaining in Israel. For example, thousands of Bedouins of the Negev have been forcibly resettled outside their traditional areas. These were declared as rehabilitation or development zones - and thus placed strictly off-limits to Bedouin - so that Jewish towns could be built there. Another example is the coastal city of Jaffa, where old Arab quarters were declared 'slums' and torn down, paving the way for the construction of expensive development projects and artist colonies for Jews.

Agricultural Settlement (Restrictions on the Use of Agricultural Land and Water) Law, 5727-1967

This law declares that:

[A] person occupying or entitled to occupy agricultural land, being Israel lands within the meaning of the Basic Law: Israel Lands, under a lease or agreement or by authority (such a person hereinafter referred to as the "occupier"), shall not make a non-conforming use of that land save under a written permit from the Minister of Agriculture or from a person empowered on that behalf by the Minister.

Similarly, persons who are approved for a specific water supply or quota are prohibited from transferring these water supplies to any other person or for any 'non-conforming' land use (unless by permit). 'Non-conforming' use includes transferring land without authorisation, acquiring rights to land, and establishing any kind of partnership, with regard to the lands or the crops that grow on them, with persons other than residents of the same settlement or other approved partners. This law exempts the WZO/JA as an organisation, though its provisions and prohibitions do apply to persons holding agricultural land under the agency.

The intent of this law is to bar Jews who lease 'State' and Jewish Agency lands from sub-leasing them to Palestinians. Those who violate the law may pay fines, have their leases revoked, or see their lands confiscated. This law did not, however, prevent Jews from renting out lands to Arab Palestinians who had been displaced in 1948. In 1973, the Government submitted a bill to amend the law and extend it to other types of settlements. This amendment would prohibit Arabs from having access to such lands altogether, even in their work as day labourers.

Land (Settlement of Title) Ordinance (New Version), 5729-1969⁶¹

In 1969, Israel enacted a new version of the 1960 *Land (Settlement of Title) Ordinance* (see above in this subsection). It also enacted a comprehensive new land law, the *Land Law, 5729-1969*. Before this new legislation was passed, Israel had used other laws to circumvent remaining provisions of the *Ottoman Land Code* (1858) and the British *Land (Settlement of Title) Ordinance* (1928) concerning the disposition of *Mawat* and *Miri* lands that had not been explicitly repealed in the 1960 legislation. The 1969 laws closed the remaining loopholes with respect to the disposition of lands in these two categories, and gave Israel the legal basis to press its claim over wide tracts of 'State lands'.

The law's use of terms such as 'village', 'tribal area' and '*musha'a* lands' leaves no doubt that the purpose of the *Land (Settlement of Title) Ordinance (New Version), 5729-1969* relates to the disposition of Arab lands in Israel. As noted in Subsection 3.3 above, the process of land registration was not complete when Israel came into being. This law was enacted to redress that situation, while at the same time allowing Israel to take ownership of Arab lands.

Much of this law is concerned with the legal process of settling titles to land. The first step is the demarcation of a 'settlement area', the boundaries of which are decided by the relevant authorities and not by the residents concerned. Next, the authorities are required to provide adequate notice at village or district offices of the upcoming settlement. (This proved to be especially problematic for Bedouins, as notices were posted outside of their areas so that the information did not reach them in time for them to collect the requisite documentation.) Once a settlement notice had been issued, customary land transfers that had been legal under the Ottomans and British were no longer permitted.

Remaining provisions of the law outline specific procedures and requirements, such as: setting a date and time for the hearing "as a settlement officer may direct"; the "form prescribed" that every claimant must submit; the definition of valid documentation and evidence; the objection process, fees, and so on. The law also defines the land rights of the State; for example, that "rights to land which are not established by the claim of any other person shall be registered in the name of the State", and that "land which has been legally assigned for public purposes shall be registered in the name of the State". The 'settlement officer' enjoys considerable power in this process: he decides the time and place of hearings, he may decide the areas to be included in, or excluded from, a settlement case, as well as those areas needed for roads or other 'public interests', and he may decide what constitutes valid and acceptable forms of evidence of claims.

Affirming provisions of the 1960 *Land (Settlement of Title) Ordinance*, the 1969 law stipulates that the "power to hear and decide any dispute with regard to land in a settlement area shall rest solely in the court". In order that there be no doubt as to the outcome of court rulings, the law states that the "court shall not be bound by any rule of the Ottoman law prohibiting the court from hearing claims based on unregistered instruments or by the Ottoman rules of evidence". It adds that "at any stage in any proceedings before the court relating to the ownership of land in a settlement area, the court shall have the power to make, rescind, or vary an interim order for possession of any land to which such notices or proceedings relate".

In other words, under the law, documents and evidence considered valid proof under earlier laws would no longer be accepted. Nor could courts any longer settle titles to certain categories of land on the basis of Ottoman precedents.

61 See: *Laws of the State of Israel. New Version* (Jerusalem: Ministry of Justice. Published by Government Printer. Vol. 2. Update to 31 Dec. 1972).

Concerning the former (rules of evidence), maps, plans and similar documents from the Director of Surveys are listed among the types of acceptable documentation. This proved especially damaging to Palestinians who generally did not possess the requisite 'valid' documentation. Furthermore, Palestinians later discovered that the maps and surveys specified in this law constituted British aerial surveys from 1945 – evidence that would in any case automatically invalidate many of their claims under the *Prescription Law*.

As for invalidating claims based on earlier Ottoman law, this was accomplished by means of the *Land Law*, also enacted in 1969.

Land Law, 5729-1969

This comprehensive law covers many aspects of land rights, including ownership and possession, rights and obligations in joint ownership, dwellings, co-operative houses and other property, and the registration process.

The law repeals key provisions of earlier Ottoman and British land laws in Palestine, and replaces them with new official regulations, which have had a far-reaching impact on Palestinian land claims.

Concerning the category of 'public land and reserved land', the law defines public lands "within the meaning of the *Basic Law: Israel Lands*". Reserved land is that "intended for use in the public interest". No transactions regarding the latter can be finalised without approval of the Government. Provisions of the *Prescription Law* do not apply to this category of land; and the law states:

[T]o the extent that prescription applies under this law to public land other than reserved land, the period of prescription shall not begin before the day on which the land is registered in the name of its owner.

This measure effectively dispossesses Palestinian inhabitants who cannot produce the documentation needed to prove ownership of and thus register their lands, and who, given the time constraints regarding proof of continuous cultivation (see the *Prescription Law* above in this subsection), find themselves caught in a legal bind drawn by the law.

The most critical provisions of the *Land Law* are those which explicitly target customary categories of Arab land-holdings, and which overturn legal precedents and rights practised for generations in Palestine.

Under the new law, classifications of land that had existed under the Ottomans were abolished. Three categories of land are cited by name:

- Regarding *Miri* lands, the law states that "the ownership of property which immediately before the coming into force of this Law belonged to the *miri* category shall be full ownership in accordance with the provisions of this Law". Establishing full ownership, however, raised its own challenges – as is shown in examples in Subsection 4.5.1 below.
- Regarding *Matruka* property, the law states that under certain conditions, such as, for example, when property had not been registered within a local council area, property "which immediately before the coming into force of this Law belonged to the *Matruka* category shall be registered in the name of the State". It should be noted that few Arab localities had local councils at the time this law was enacted.
- Finally, regarding the critical category of *Mewat* lands, the law mandates that property: which immediately before the coming into force of this Law belonged to the *mewat* category shall be registered in the name of the State: Provided that where a person has received a title-deed for any such property under article 103 of the Ottoman Land Code of A.H. 1274 [AD 1858] or under the Land Transfer Ordinance, he or his successor shall be entitled to registration of the property in his name.

The next section of the *Land Law* repeals these same provisions: "the Ottoman Land Code of A.H. 1274 and all other Ottoman legislation relating to immovable property"; as well as the British *Land Transfer Ordinance*, the British *Mewat Ordinance*, and several other laws and ordinances that had existed to the date of its enactment. Some provisions of this law were amended over the ensuing years (see Appendix 2).

Legal and Administrative Matters (Regulation) Law (Consolidated Version), 5730-1970

This law is based on the *Law and Administration Ordinance* of 1948, which allows the Government to declare an 'application of law order' for a specific area of the country. That is, it allows the extension of Israeli law into any area designated by order of the Government (as was the case in East Jerusalem following the 1967 War).

The 1970 *Legal and Administrative Matters (Regulation) Law (Consolidated Version)*, which replaces the 1968 version, authorises the Government to declare 'an application of law order' for areas that came to be held by the Israeli army, and whose properties had since been taken over by the 'custodian of enemy property' or other Government authorities. 'Absentees' property' would be transferred to the control of an Administrator-General, who would decide on its disposition; that is, whether it be returned to a legitimate owner, retained for 'public purposes', allocated in some other manner, or retained by the State. The law declares that:

[f]rom the day of the coming into force of an application of law order, section 2 of the State Property Law, 5711-1951, shall apply *mutatis mutandis* to property situated in the area of application of such order of the state which was in *de facto* occupation of such area or of any of the authorities of such state.

A 1973 amendment of this law clarifies categories of land that become 'State property':

Immovable property situated in the area of application of an application [*sic*] of law order and which, at any time between the establishment of the State and the day on which such area came to be held by the Defence Army of Israel[,] was vested in or held or managed by a person referred to in subsection (a) shall become State property from the day of the coming into force of the application of law order.

This law specifies that the above provision concerning 'State land' would apply to areas that had been requisitioned for 'public purposes', or where construction had begun for a 'public purpose'. Property that the State later decides is not to be used for a public purpose may then be sold, and subsequent provisions outline procedures to be followed in this instance.

One effect of these laws was to retroactively legalise the appropriation of 'absentees' property' accomplished under earlier 'absentees' property' laws. They also appear to coincide with Israeli interests in the then newly occupied territories - particularly East Jerusalem, to which Israel extended its laws and administration shortly after occupation.

Tenants' Protection Law (Consolidated Version), 5732-1972

The consolidated version of the *Tenants' Protection Law* replaces the original 1954 law, all subsequent amendments thereof, and other specified laws. The provisions of the 1972 law address rights and obligations related to tenancies, including rentals of homes and businesses, services and repairs, transfers, crimes, etc. Notwithstanding various provisions and protections afforded by this law, several articles have direct implications with regard to Arab tenants.

Concerning grounds for eviction, for example, the law permits such action if "the landlord is the State or a local authority, and the premises are required by it for an essential public purpose, and it has notified the tenant in writing of its willingness to place alternative accommodation at his disposal". Other provisions of this law clearly privilege the Jewish community with regard to housing rights. For example, Article (150) allows Jews - under certain specifications - who own residences in Israel that were leased to others, and who plan to immigrate and settle in the country, to serve the tenants in question with notice to vacate the premises. Another section of the law gives special attention to Jerusalem - declared by Israel as its capital. The article in question refers to the *Emergency Regulations (Land Requisition) (Accommodation of State Institutions in Jerusalem)* of 1950 to affirm the legality of such requisitions, particularly if a tenant with a valid right to such property has been compensated for the loss.

Olim (Accommodation in Rented Dwellings) Law, 5725-1974

This law reflects the special treatment afforded Jewish immigrants to Israel. (Olim are Jews who immigrate to Israel under the *Law of Return* or other applicable laws.) The law deals with problems that may arise with rentals offered by the State or the Jewish Agency to Jewish immigrants, and outlines the rights of lessors in circumstances where lessees do not vacate the premises upon the termination of a lease, or where damage has been done to said premises.

Mikve Yisrael Agricultural School Law, 5736-1976

Illustrative of the decades of careful planning to cement the Jewish relationship to the land of Eretz Israel, this particular law concerns itself with the Mikve Yisrael Agricultural School, which - according to this law - was founded in 1870, as an 'agricultural school in Eretz Israel'. The law states that this school "shall continue to function as an agricultural school for the furtherance of its objects". The stated aim is "to educate youth in Israel for a life of agriculture and settlement and to impart to it a general education, as well as Jewish culture and a Hebrew education in accordance with Israel's heritage, as is customary in educational institutions in the State".

The law declares that the use of land by the school "shall not be changed" without Government approval and that if any additional lands are "made available" for the school, they shall be used in like manner. A schedule attached to the law specifies the exact blocks and related parcels of land that are available to the school.

Antiquities Law, 5738-1978

This law replaces earlier British ordinances regarding antiquities. In this law, an 'antiquity' is defined as "any object, whether detached or fixed, which was made by man before the year 1700 of the general era [AD 1700], and includes anything subsequently added thereto which forms an integral part thereof". It also comprises any such object "which the Minister has declared to be an antiquity" as well as "zoological or botanical remains from before the year 1300 of the general era [AD 1300]".

Under this law, all antiquities and antiquity sites are 'State property'. The law regulates excavation on such sites, restricts entry to and use of the property, and issues guidelines for collectors and collections, and other related matters. Once property is declared an antiquity site, the Government has the authority to expropriate it under the *Land (Acquisition for Public Purposes) Ordinance (1943)*, and remove any person from that site who is in contravention of the *Antiquities Law*.

The significance of this law with regard to Palestinian land in Israel is evident both in the provisions of the law itself and in Israeli measures taken before and after its passage.

Regarding Palestinian land, by establishing the year AD 1700 as the upper limit, this law effectively precludes any historical site established during the Ottoman era from being designated - or protected - as an 'antiquity'. This is in keeping with the whole Zionist enterprise of establishing 'proprietorship' over all the land of 'Eretz Israel'.

In 1949, Israel had set up a Government Names Commission to oversee this very process of establishing proprietorship. This commission was an extension of the work begun decades earlier by the first 'naming' committee of 1925 (linked to the Jewish National Fund). After 1948, the task of this committee was to identify and Hebraicise every part of the land; not only its sacred and historical sites, but every geographical feature, from birds and animals, to streams, springs, mountains, valleys, and ruins. Arab names had to be removed and substituted with Jewish names so as to establish Jewish ownership of the land in a 'flawless Hebrew map'. In the process, Israel also claimed Arab cemeteries as its own (as burial grounds of the Biblical patriarchs). What could not be claimed as Jewish was obliterated. The Hebrew map of 'the land of Israel' that was eventually completed included areas that later became the Occupied Territories.⁶²

Negev Land Acquisition (Peace Treaty with Egypt) Law, 5740-1980

This law should be considered in the context of a long history of Israeli actions to acquire and colonise the lands of the Negev desert. Long before the passage of this particular law, Israel had taken steps to remove or isolate the majority Bedouin inhabitants of the Negev and deny them rights to their traditional lands. This was accomplished under the rubric of various 'development plans', and by enforcing several land laws that had previously been enacted.

The passage of the 1980 law followed Israel's 1979 peace treaty with Egypt. This agreement committed Israel to returning the Sinai Peninsula to Egypt and dismantling the air base it had built there.

Under the 1980 law, the language of which explicitly refers to Arab Bedouin lands (by using terms such as 'tribe' and 'clan', as well as others that indicate Bedouin-type dwellings), the Government is authorised to confiscate lands in the Negev that could then be used as a substitute site on which to build an air base. The law identifies these lands, and states:

62 Quotes in this section are from Meron Benvenisti, *Sacred Landscape: The Buried History of the Holy Land Since 1948* (Berkeley, CA: University of California Press, 2000), pp. 36, 41 and 304. Benvenisti quotes a 1949 letter from the Prime Minister to the Naming Committee: "We are obliged to remove the Arabic names for reasons of state. Just as we do not recognise the Arabs' political proprietorship of the land, we also do not recognise their spatial proprietorship and their names" (ibid. p. 14). Benvenisti calculates that as many as 100 of the 140 village mosques existing before 1948 were totally destroyed. Of the hundreds of Arab cemeteries of the pre-State era, only about 40 remained (ibid. pp. 288, 296). See also Maoz Azaryahu and Arnon Golan, '(Re)naming the landscape: The formation of the Hebrew map of Israel 1949-1960', *Journal of Historical Geography*, Vol. 27, No. 2 (2001), pp. 178-195. The authors maintain that the 'Hebraicisation of the map' is a significant - if lesser known process - of the Hebraicisation of Israel. They quote a member of the Naming Committee as stating that by 1992, 7 000 Hebrew names had been assigned to various localities across the 'Land of Israel'. For more on the 'naming' process in the Occupied Territories since 1967, see Saul B. Cohen and Nurit Kliot, 'Place-Names in Israel's Ideological Struggle over the Administered Territories', *Annals of the Association of American Geographers*, Vol. 82, Issue 4 (Dec. 1992), pp. 653-680. The authors exclude the East Jerusalem area, but note that even more so than in Israel proper, place names - especially for settlements in the West Bank (the site of 'Ancient Israel') - derive from Biblical sources.

The land specified in the First Schedule, being required by the State for purposes arising out of the peace treaty with Egypt, shall become State property on the date of the coming into force of this law, free from every charge or other right, and shall be registered in Land Registers in the name of the State by virtue of this law.

Once land is declared as 'State property', the possessor is required to "surrender possession thereof to the State and shall vacate it of all persons, things and animals" within three months. The Government is authorised to use force if necessary to remove those who have not vacated such lands within the stipulated period.

This law establishes an Implementation Commission, consisting entirely of representatives of Government ministries, to determine claims and ensure that lands be emptied of their inhabitants. On the coming into effect of this law, settlement-of-title proceedings under other laws ceases, thus giving the State automatic and unchallenged title to the land.

Several provisions detail compensation due to those who 'voluntarily' vacate the lands within the specified period and others who claim to be possessors of such lands. Possessors may opt for plots of land in Government-designated sites located elsewhere and may be entitled to some monetary compensation. However, they do not have the option of keeping their own lands. Nor do they have a choice of settling anywhere else than in Government-approved 'permanent' sites: the two mentioned in this regard are "a settlement in the Arad Valley or at Tel Sheva". Moreover, compensation is far from commensurate with the lands they lose. Article 4(a) of the law states, for example, that:

Where the area of the entitling land of a person does not exceed 10 dunum [10 000 m²], he may opt for one of the following two:

- a. the ownership of a building plot, including infrastructure, (hereinafter referred to as a "building plot"), of an area of approximately one dunum, at a settlement in the Arad Valley or at Tel Sheva (both hereinafter referred to as "permanent settlements"), according to his choice;
- b. compensation of an amount equal to the value of the entitling land.

A person possessing "100 dunum or more" [at least 0.1 km²] would be given three options: either "an area of approximately three dunum in one of the permanent settlements according to his choice", or an "irrigated land the area of which is five per cent of the entitling land" (with some water rights), or monetary compensation. Other, comparable provisions apply to those possessing over 400 *dunum* (0.4 km²). In some cases, those removed from their lands would also be subject to various fees and debts payable to the State.

As a consequence of this law, over 8 000 farmers – all of them Arab – were removed from their lands. Over the years, Israel enacted other legislation to 'develop' the Negev. New laws delineated municipal areas and provided for the establishment of Jewish settlements on formerly Bedouin land. Bedouin communities in the Negev continue to be affected by the implementation of these laws. This includes their being removed from their lands and resettled in new Government townships (see discussion in Subsection 4.5.1.2 below).

Public Land (Removal of Squatters) Law, 5741-1981

'Public land' is defined as 'Israel lands', or 'lands of a local authority'. Under this law, representatives of the Government and its agencies are authorised to enter such areas "to examine the possession or use thereof and the right of the possessor or user to possess or use it and may request the possessor to produce to him the documents in his possession which prove his right". In cases of 'unlawful' possession, the Government is authorised to give notice to 'relinquish the land' within a specified time or be 'ejected' from the land, by force, if necessary.

This law was passed a year later than the *Negev Land Acquisition (Peace Treaty with Egypt) Law, 5740-1980* (see above in this subsection), and in the context of renewed Israeli interest in acquiring Arab lands in the Galilee and other predominantly Arab areas in Israel.

Galilee Law, 5748-1987

This law authorises the Government to "take care of the development and settlement of the Galilee" in the areas designated for these purposes. As the law further emphasises: "The Galilee shall be given priority in the activities of the Government ministries, including the development of settlement, education, health, tourism, industry, transport, communications, absorption and immigration."

The direct involvement of the WZO in this development venture, as well as terminology employed throughout the law (such as 'settlement', 'absorption', 'immigration'), indicate that the purpose of this law was to increase settlement of Jews in traditionally Arab areas.

A special 'Galilee Council' was to be set up in order to oversee the development of the area in this manner. Most members of this council are officials of various Government departments or agencies, and include WZO representatives.

Development Towns and Development Zones Law, 5748-1988

This law designates towns and zones for 'development'. That is, it identifies towns and other locations for development to the exclusive benefit of Jews, including 'development towns' and 'border' settlements (where Jewish immigrants were encouraged to settle). Considerations in declaring such a zone include, for example, "its distance from the population concentrations in the centre of the country and the policy of encouraging population circulation" (that is, encouraging the establishment and growth of Jewish settlements between and around areas of high Arab population concentration – in effect, fragmenting Arab communities and stifling their expansion); "its economic and social solidity and the level of services within" (in effect, excluding from this definition the dozens of 'unrecognised' Arab villages that are denied such services); and "the security situation in the zone". In order to leave no doubt as to its target, the law states that no locality would be included in a development zone unless it was: "On the eve of the passage of this Law, in either a new settlement zone or in a new development zone", or was so defined by order of the minister concerned.

A special budget would be allocated for development. Building in these areas would enjoy certain tax breaks and investment preferences that might not be available to residents elsewhere in the country. Benefits would be given to families moving into development towns. To ensure that such persons be Jewish, the law outlines the benefits to "a family of *Olim* resident in a development town". (*Olim* are Jews who immigrate to Israel under the *Law of Return* or other applicable laws.) Residents would also benefit from professional training in key sectors, free elementary and secondary education, scholarships, etc.

This law formalised a process that had been underway in Israel since the creation of the State. Between 1949-1952, for example, some 240 new Jewish communities were created around the country, many in areas along the 'Green Line' (the '1949 Armistice Line' – see our *Glossary*). By the 1960s, there were 27 new 'development towns', and 56 villages for Jewish immigrants. By the late 1990s, another push in this direction resulted in the establishment of over 150 new settlements, several of them straddling the 'Green Line'. During the same period, as previously noted, no new Arab communities were created. Nor were they given permission to expand their existing municipal boundaries to meet the needs of a rapidly growing population. On the contrary, some municipal borders in Arab areas were actually redrawn to reduce the area available to their residents, or to render these localities 'illegal' altogether and not eligible for services and infrastructure.⁶³

Jerusalem Development Authority Law, 5748-1988

This law entrenches Israel's claim to sovereignty over Jerusalem. It was enacted in the aftermath of Israel's annexation of East Jerusalem, which followed the June 1967 War, and on the foundations of the 1980 Basic Law declaring Jerusalem as Israel's 'unified, eternal capital'.

The law establishes the Jerusalem Development Authority, which is responsible for various spheres of development in the city, including economic enterprises. Another of the Authority's roles is "to promote the concentration of the managements of government ministries and units and national organisations in Jerusalem". Its other responsibilities include allocating resources and determining which bodies are authorised to undertake any particular development scheme. This body may also "mobilise capital in and outside Israel for the purpose of carrying out its functions". The law also provides for the formation of a Council to carry out some of the Authority's responsibilities. The Council's members come from various Government ministries and agencies, and one aspect of its work is: "To advise the government as to anything relating to the implementation of section 4 of the *Basic Law: Jerusalem Capital of Israel*, and to advise the Minister as to anything relating to the implementation of this Law." Only Israeli nationals can serve on the Council, automatically excluding the majority of Palestinian residents of (East) Jerusalem.

63 The Arab Association for Human Rights reports that in the designation of priority development areas in 1998, only 4 out of 429 were Arab. See Adalah, *Discrimination in Israeli Law*, fact sheet, <http://www.adalah.org>

4.4 The legal framework and Judaisation

Enacting legislation to legalise Israel's title and claim to property that once belonged to Palestinians is only one facet of the transformation of Palestine into the 'Jewish State'.

Operating alongside land laws referred to in Subsection 4.3, above, are a variety of other laws that define and reaffirm Israel's existence as the 'State of the Jewish people' and otherwise establish the 'inalienability' of lands acquired by Jews. It is this underlying purpose – Judaisation of the land, rather than the immediate target of any single law or regulation – that indicates the full import and the main thrust of Israel's legal system.

Two key laws that shed further light on the Judaisation process are the 1950 *Law of Return* and the 1952 *Nationality Law*, which follow:

*Law of Return, 5710-1950*⁶⁴

Enacted in 1950, this law underwent various amendments over the years. Article 1 of the law declares: "Every Jew has the right to come to this country as an *oleh*" (that is, an immigrant; literally, one 'uplifted' to Israel). This law applies retroactively to any Jew born in the country at any time, and to any Jew who entered the country before the law came into force. A 1970 amendment clarifies who is a Jew and is therefore allowed to immigrate under this law: "For the purposes of this Law, 'Jew' means a person who was born of a Jewish mother or has become converted to Judaism and who is not a member of another religion." (Article 4B). The law also specifies the rights of family members (Article 4 A (a)):

The rights of a Jew under this Law and the rights of an *oleh* under the Nationality Law, 5712-1952, as well as the rights of an *oleh* under any other enactment, are also vested in a child and a grandchild of a Jew, the spouse of a child of a Jew and the spouse of a grandchild of a Jew, except for a person [who] has been a Jew and has voluntarily changed his religion.

*Nationality Law, 5712-1952*⁶⁵

This law, also known as the *Citizenship Law*, establishes the distinction – unique to Israel – between citizenship and nationality. The law specifies conditions pertaining to the acquisition of citizenship: based on birth, based on the *Law of Return*, by residence, and by naturalisation. For Jews acquiring nationality on the basis of the *Law of Return*, the *Nationality Law* states that "Israeli citizenship becomes effective on the day of arrival in the country or of receipt of an *oleh's* certificate, whichever is later". A 1970 amendment expanded rights for Jews worldwide (as defined in the *Law of Return*).

The process is different for non-Jews. Until it was amended in 1980, the law did not recognise, in principle, the right to citizenship for resident Palestinians and their descendents born in Israel after 1948. The 1980 amendment gives citizenship rights to Arabs on the basis of 'residence', and is applicable to those who have documents proving they were residents of Israel between 1948 and when the law was first enacted in 1952. This amendment also clarifies circumstances under which nationality can be annulled.

Israel's annexation of East Jerusalem following the 1967 War and the extension of Israeli law to that area did not afford Arab residents the automatic right to Israeli citizenship. Rather, if they wished to acquire such citizenship, they had to fulfil various conditions for naturalisation.

Together, the *Law of Return* and the *Nationality Law* give Jews everywhere in the world the automatic right, by virtue of being Jewish, to immigrate to Israel and acquire Israeli citizenship. Arab Palestinians, on the other hand, face restrictions in acquiring such citizenship. Those who fled or were expelled in 1948 are denied the right to return or to acquire citizenship in their homeland.

4.4.1 The Government of Israel and the 'National Institutions'

Underpinning Israel's legal system, including its approach to land, is an implicit equivalence between 'national' and 'Jewish'. 'Nationalisation' (that is, Judaisation) of the land could not have proceeded without the input of key Jewish organisations – most notably, the Jewish Agency and the Jewish National Fund. The role of these 'national' organisations did not end with Israel's establishment.

64 See Israeli Ministry of Foreign Affairs, <http://www.mfa.gov.il/mfa/go.asp?MFAH00kp0>

65 See: Amnon Rubinstein, 'Citizenship', in Alon Kaplan and Paul Ogden (eds.), *Israeli Business Law. An Essential Guide* (The Hague, Netherlands: Kluwer Law International, 1996), pp. 275-287; and <http://www.mfa.gov.il/mfa/go.asp?MFAH00mz0>. See also discussion in Section 6.2 below.

After the State of Israel was established, both the World Zionist Organisation/Jewish Agency (WZO/JA) and the Jewish National Fund (JNF) reached agreements with the Government of Israel on their respective spheres of responsibility. Together with the Government, both the WZO/JA and JNF reaffirmed the Jewish character of the State for the Jewish people and the 'inalienability' of lands acquired by Jews.

4.4.1.1 The Government of Israel and the Jewish Agency

In 1952, with the Government and the Jewish Agency agreeing that it was imperative to encourage Jewish immigration to Israel, the Israeli Knesset (parliament) and the WZO/JA entered into a 'covenant', establishing their mutual spheres of responsibility. The resulting law, *The World Zionist Organisation-Jewish Agency (Status) Law, 5713-1952* states:

The mission of gathering in the exiles, which is the central task of the State of Israel and the Zionist Movement in our days, requires constant effort by the Jewish people in the Diaspora; the State of Israel, therefore, expects the cooperation of all Jews, as individuals and groups, in building up the State and assisting the immigration to it of the masses of the people, and regards the unity of all sections of Jewry as necessary for this purpose.

This law, in conjunction with the subsequent *Covenant Between the Government of Israel [Hereafter the Government] and The Zionist Executive called also [sic] the Executive of the Jewish Agency (hereafter the Executive)*, established the WZO/JA as a full partner to the Government of Israel (although without the attendant political and legal ramifications of a Government agency). In this capacity, the WZO/JA and the JNF worked on behalf of Israel and the world-wide Jewish community in functions such as fund-raising, developing and preparing lands for Jewish colonisation, as well as managing the immigration of Jews and their property to Israel.⁶⁶

The 1952 *Status Law* was amended in 1975 to cement Israel's continued coordination with the WZO/JA. Representatives of the Jewish Agency participated in Israeli committees and planning bodies including the National Board for Planning and Building, the Committee for the Protection of Agricultural Land, the Water Authority and others. This WZO/JA representation on official Israeli bodies ensured that projects implemented in Israel would be for the exclusive benefit of the 'Jewish people'.

4.4.1.2 The Government of Israel and the Jewish National Fund

Israel's agreements with the JNF can be seen as an extension of its other efforts to obtain legal title to Palestinian land.

The JNF, as a branch of the WZO/JA Executive, continued its land-purchasing activities well after the establishment of the State. Mirroring the Government's agreement with the JA (see Subsection 4.4.1.1 above), the Israeli Knesset passed legislation to define Israel's relationship with the JNF.

Pursuant to the *Keren Kayemet Le-Israel Law, 5714-1953*, a 'new' JNF, incorporated legally in the State of Israel, would assume responsibility for activities previously performed by the JNF abroad. The *Keren Hayesod Law, 5716-1956*, defines this reconstituted fund as the "Keren Hayesod - United Israel Appeal", which would own and develop lands within the State of Israel on behalf of the Jewish people.

Subsequent negotiations between Israel and the JNF produced additional agreements, the most significant provisions of which were woven into Israeli law as the *Basic Law: Israel Lands* and the law setting up the Israel Lands Administration.⁶⁷

As in the period preceding the establishment of the State, lands falling under JNF control are held in perpetuity as the 'inalienable' property of the 'Jewish people'. This extraterritorialisation of lands places them beyond the control of the Government and renders them inaccessible to State citizens – particularly Arabs and those from whom the lands were confiscated in the first place. As indicated in the introductory paragraphs of Subsection 4.3 above, since 1949 at least 92 percent of lands within the State of Israel have been under some form of Government control. The JNF holds title to nearly 16 percent of these lands. (The JNF holds title to about 50 percent of all lands outside of the Negev.)

66 The World Zionist Congress determines policy for the WZO/JA. See also App. 6, 'Covenant Between the Government of Israel [hereafter the Government] and The Zionist Executive called also the Executive of the Jewish Agency [hereafter the Executive]', and App. 7, 'Appendix to the Covenant Between the Government and the Executive of the Jewish Agency 1 (July 1957)', in Mallison and Mallison (n. 51 above), pp. 431-441.

67 Lehn (n. 3 above), p. 103, notes that the original titles for these laws were '*Basic Law: The People's Land*' and '*The People's Land Administration Law*', signifying that lands were understood to belong to the 'Jewish people'

Israeli 'State land' is similarly out of bounds to Palestinians. As defined in *Basic Law: Israel Lands (1960)*, Article 1 prohibits 'transfer of ownership': "The ownership of Israel lands, being the lands in Israel of the State, the Development Authority or the Keren Kayemet Le-Israel [Fund], shall not be transferred by sale or in any other manner." This law defines 'lands' as "land, houses, buildings and anything permanently fixed to land".

Non-Jews are barred from leasing JNF-owned lands or from living in communities built on such lands. Sub-leasing to non-Jews is also restricted; in 1967 the Knesset passed the *Agricultural Settlements Law* to ban such activities (see Subsection 4.3.3.3 above). Quigley concludes that "the national institutions can discriminate in favour of Jews without the state itself being seen as discriminating".⁶⁸

In spring 2002, the Israeli Cabinet endorsed a bill to preserve exclusively Jewish communities on 'State land' and prevent Arabs from moving into them. Although this bill failed, Palestinians are still in practice denied rights on 'State lands'. At the time, Reuven Rivlin, Minister of Communications, defended the proposed legislation, saying:

We are trying to convince the whole world there is no gap between Judaism and democracy, but where there is a conflict, everyone has to remember there is only one Jewish state. We have to keep it secure [for its] future This is the state for the Jewish people, not the state for all its citizens. That has to be obvious.⁶⁹

4.5 The legal system and housing rights for Palestinians in Israel

In the area of land and colonisation policies and activities, collaboration between the Government of Israel and the JA, as well as that between the Government and the JNF, extends to the housing sector. New residential settlement areas are financed and established for Jews only, to the disadvantage of Arab citizens of the State.

As we have seen, in the period leading up to the establishment of the State of Israel the Zionist movement had strategically targeted key areas around the country for land acquisition and colonisation. Following Israel's establishment, residential blueprints reflected similar strategic priorities. One such priority was to immediately settle Jews into towns and villages that had not been demolished, to ensure that the Arab refugees could not return. Another priority was to build new settlements for Jews in areas that had been earmarked for the Palestinian state under the UN Partition Plan, so as to pre-empt any repartitioning of the land. A third priority was to build Jewish communities in such a configuration as to encircle and contain Arab areas. A fourth priority was to direct Jewish colonisation to 'buffer zones' along the borders. The Government offered many incentives to such initiatives. These included reduced loan rates to Jews immigrating under the *Law of Return*. The Government designated 'development areas', which were almost exclusively Jewish. It also offered benefits and subsidies to families whose members had served in the Israeli armed forces; these were thus limited to Jews and a few among the Druze community who were also eligible.

When it comes to punishment for violating provisions of the *Planning and Building Law*, Arab citizens of the State have suffered disproportionately to Jews. The usual punishment for illegal building is that the home is demolished. Despite this deterrent, as there are so many restrictions on building, in many cases Palestinians have no alternative but to build illegally. The Arab Association for Human Rights cites a 1996 Ministry of Interior report to the effect that while Arab construction accounted for 57 percent of 'illegal' building, Arab communities experienced over 90 percent of the demolitions. As of 1998, there were over 12 000 demolition orders for the Galilee alone. Warnings publicised in March 2003 indicated that as many as 50 000 Palestinian homes in Israel were threatened with demolition at that time. These include about 20 000 in the Galilee area alone (including sites of 'unrecognised villages'). Other homes targeted for demolition belonged to Bedouins in the Negev, whose communities were to be replaced with Jewish settlements (see discussion in Subsection 4.5.1.2 below).⁷⁰

68 Quigley (n. 51 above), p. 125; see also Lehn, (n. 3 above), p. 117. The March 2000 settlement in the case of the Qa'dan family is illustrative of these processes. For more information on this case, see Adalah (n. 53 above). For further reading on discrimination against Palestinians with Israeli citizenship, see sources in our *Bibliography*.

69 Quoted in *The Chicago Tribune*, 10 July 2002.

70 Arab Association for Human Rights, Factsheet Series: *Land and Planning Policy in Israel* (Factsheet 2) and *The Unrecognised Villages* (Factsheet 4), <http://www.arabhra.org/article26>

4.5.1 Land and property issues in the Arab Galilee and the Negev

As Arab citizens continued to predominate demographically in the Galilee and the Negev, these areas automatically became the special focus of Jewish land-acquisition and colonisation activities. Underlying Israel's rush to claim and settle these lands was concern that Arabs could still assert legal title over considerable amounts of property in both areas. By the mid-1950s, therefore, the Government of Israel began to set its sights on such property.

Israel has taken a number of steps over the past few decades to claim lands and settle Jews in the Galilee and the Negev. With parallels to the situation in the Occupied Territories following the 1967 War, Jewish communities are intentionally placed within and encircling Arab localities. In all cases, the Government tends to view the Arab presence as dangerous and illegal:

Since September 1997, the Israeli government has announced on several occasions the introduction of strategies to block the "Arab invasion" into state lands within the Green Line, and to curtail "illegal" Bedouin dwellings, construction, and grazing. In most cases, "illegal dwelling" and "Arab invasion" are code terms for Bedouin residence on traditional tribal land and resistance to involuntary concentration in a small number of towns designated by the state in the Negev and Galilee.⁷¹

Israel had a number of laws at its disposal. Among them, the 1958 *Prescription Law* stands out as one of the most significant 'legal' mechanisms that was designed to prevent Arab citizens from exercising their land rights under pre-existing ordinances. In particular, measures taken under this law affected the *Miri* and *Mewat* land categories. These were precisely the types of property that Palestinians could still claim - lands that Israel now prepared to remove from Arab hands altogether by redefining them as 'public' (or 'State') lands.

Ottoman and British laws had generally given farmers rights to transform 'dead' (uncultivated) *Mewat* lands into *Miri* holdings by 'reviving' (cultivating) them. Indeed, under Ottoman rule, Palestinians were encouraged to do so. Both the Ottomans and the British employed specific criteria for defining *Mewat* land, including its distance from a village or habitation. The British added the stipulation that the revival of *Mewat* lands had to have taken place before 1921, and that, henceforth, permission had to be sought and granted for such revival. The British also required farmers to register their intention to cultivate with the requisite authorities by 18 April 1921 in order for their rights to be recognised. However, the British did not always enforce this provision.

Under earlier Ottoman laws, *Miri* lands - that is, communally tilled lands situated within a designated distance of a village or habitation - could be registered if farmers proved that they had cultivated such lands for fifteen consecutive years (the 'prescription period'). Once the British authorities had declared a particular area as a 'settlement' area - that is, an area designated by the authorities for settling land claims - they added conditions for the registration of such lands. These included proof of both possession and cultivation during the prescription period. Once again, however, the British did not always enforce this law and accepted claims on other bases; for example, possession without proof of continuous cultivation.

Until the enactment of the *Prescription Law* in 1958 and the *Land (Settlement of Title) Ordinance (New Version)* in 1969, Israel's initial rulings on this matter unfolded through a series of lawsuits filed in the Supreme Court. Final judgements in these cases reflected Israel's reinterpretation not only of the original intent of Ottoman law but also of British amendments to such law, so as to give the State extensive and unassailable rights to these lands.⁷²

Israel's Supreme Court played a key role in redefining criteria in existing law with regard to what, in the first place, would constitute *Mewat* lands. Most importantly, the maximum distance from a village or habitation within which lands had to fall in order to be determined as *Mewat* lands that could potentially be revived and claimed as *Miri* lands was reduced to a mile and a half (approx. 2.4 km). All lands beyond the specified range were automatically liable to be confiscated as 'State property'. Revised provisions also changed the requisite term, scope and nature of cultivation of given tracts of land, and then applied these retroactively so that farmers would, by definition, not be able to meet the new requirements. A new time limit was set for determining whether lands could be considered legally 'revived' or registered. The law also changed the very definition of what constituted a 'habitation', and hence altered the designation of lands around (Arab) dwelling places to which *Miri* rights could apply.

71 Oren Yiftachel, 'Ethnocracy: The Politics of Judaizing Israel/Palestine', in *Constellations*, Vol. 6, No. 3 (1999), pp. 384-385.

72 Information for this section is from Kedar (n. 53 above) and id., 'The Legal Transformation of Ethnic Geography: Israeli Law and the Palestinian Landholder 1948-1967', in *New York University Journal of International Law and Politics*, Vol. 33 (4), (summer 2001), pp. 923-1001. Kedar uses the term "legal magic" to describe how these rulings were decided.

In respect of the latter, the Israeli courts decided that the only Arab settlements that would be recognised as 'legal' for the purpose of filing claims to *Miri* land would be those established before the 1858 passage of the *Ottoman Land Code*. In other words, any (Arab) settlement established after that date was by definition 'illegal': its lands were declared *Mewat* and confiscated. As discussed in Subsection 4.5.1.2 below, this was an important mechanism whereby Israel declared various Bedouin habitations 'illegal', enabling it to confiscate much of the lands in the Negev.⁷³

The enactment of the *Prescription Law* in 1958 institutionalised some of the earlier Supreme Court rulings and provided Israel with a far-reaching legal mechanism to claim rights over both *Miri* and *Mewat* lands.

Under the *Prescription Law* and related legislation, with regard to Palestinian claims to *Miri* lands within approved settlement areas, a new provision was introduced which retroactively changed the period of proof of cultivation as well as what actually constituted cultivation (for example, the required percentage of land under continuous cultivation). The law labelled as 'trespassers' those Arabs whose claims had been rejected.

Many Arab farmers owned tracts of rocky lands with intermittent patches of cultivation – lands that the State could and did then claim on the basis of its own interpretation of the applicable laws. These newly reinterpreted provisions were applied quite liberally in the Galilee and other areas inhabited mainly by Palestinians. By definition, it became impossible for Palestinian farmers and cultivators to fulfil the retroactive requirements, and they therefore lost their lands. Once their lands were declared 'State land', Arab citizens were, again by definition, excluded from the benefits, and they – the original owners – became 'trespassers'.

So far as *Mewat* lands are concerned, whereas Ottoman and British law allowed cultivators to obtain permission to till these lands and be eligible to claim legal title over such property, Israeli rulings precluded this. Israel declared that all *Mewat* lands would revert automatically to the State unless the farmer could provide documentary evidence that he had already been permitted to 'revive' these lands (from 1921 onward). In cases where the farmer could establish that he possessed such a permit, he was then obliged to claim these lands as *Miri* (and no longer as *Mewat*, as these were now 'State lands'). This, in turn, placed the farmer in the position of having to establish rights to *Miri* land; that is, subject to the relevant provisions described in the preceding paragraphs.

The operation of Israel's land laws placed many Palestinian landowners in impossible situations. They were unable to 'legally' assert their claims to land, whereas the State was able to confiscate and acquire much of their remaining property. The Judaisation of the Galilee and the Negev proceeded virtually unhindered.

4.5.1.1 The Arab Galilee

The true nature of the quest for 'Judaisation' of land in this area is evident in the Government of Israel (and JA/JNF) plans under the 'Project for the Development of the Galilee' – initially termed the 'Project for the Judaisation of the Galilee'.⁷⁴

Planning for the Judaisation of the Galilee began in earnest in the 1960s. The aim was slowly but surely to erode the demographic predominance of Arabs in the area and to disrupt whatever remained of the cohesiveness of their communities there. To this end, the Government began expropriating lands under the *Land (Acquisition for Public Purposes) Ordinance (1943)*, ostensibly to set up Government offices. Lands were then re-allocated to the construction of housing and other enterprises for Jews; as, for example, with the establishment of the town of Nazarat Illit – Upper Nazareth – which is populated mainly by Jews.

In the 1960s, the Israeli authorities also launched a massive effort to settle title to lands in the Galilee, identifying lands of some 42 villages as appropriate to this process. Provisions of various laws, including the *Prescription Law* and the *Land (Acquisition for Public Purposes) Ordinance (1943)*, were employed to deny Palestinians claims to their own lands.

73 The contradiction is striking: Israel, while outlawing Arab settlements established after 1858 for purposes of land reclamation, was bent on creating new settlements for the Bedouin – ostensibly to afford them opportunities to participate in 'modern' life. In this way, Israel was engaged in a type of reverse land reclamation: Palestinians were punished for 'modernising' (by establishing new villages after 1858), yet simultaneously, in the Negev, were punished for remaining semi-nomadic and not establishing 'modern' villages. In either case, the Israeli authorities found ways to use the laws to their advantage and confiscate the lands of villagers and Bedouins alike.

74 See Kedar (n. 72 above), p. 951.

A secret 1976 report submitted to the Israeli Prime Minister and other officials proposed a detailed plan for the Judaisation of the Galilee. Its architect was Israel Koenig, then Northern District (Galilee) Commissioner of the Ministry of Interior.⁷⁵ In the report, Arabs are viewed with suspicion. Outlining what he viewed as “objective thought that ensures the long-term Jewish national interests”, including demographic concerns, Koenig recommended specific measures to keep a close eye on the Arabs and reduce their population. He proposed, for example, restricting their employment, restricting their access to universities, reducing their family benefits, and giving preferential treatment to Jews. Koenig, especially concerned with the Arab majority in the Galilee, called for the expansion of Jewish settlements to break up the contiguity of Arab communities in that area, stressing the need to “examine the possibility of diluting existing Arab population concentrations”. He advocated the use of law enforcement agencies to control and crack down on the actions and movement of Arabs, and to generally facilitate Arab immigration out of the country.

Although the Government has never acknowledged that its official policies were guided by this plan, many of the recommendations of the Koenig Plan were in fact implemented, especially those to expand land expropriations from Arab owners and establish new Jewish settlements in the area in order to fragment and contain the Palestinian population.

Successive plans for the ‘development’ of the Galilee clearly reflected Koenig’s recommendations (*see also: Galilee Law, 5748-1987*, in Subsection 4.3.3.3 above). Waves of land confiscations sparked widespread demonstrations by Palestinians in 1976, and the commemoration of their first ‘Land Day’. By 1981, some 58 rural Jewish settlements had been established in the Galilee area, more than half of which were located in three concentrations of settlement ‘blocs’.

In 1982, Israel took an additional step to dilute the concentration of Palestinians in the northern area, by establishing a new regional council in the Galilee. This move brought the lands of some 23 Arab villages (as well as those of some 25 Jewish communities) directly under the control of the Jewish community – and made them subject to Jewish interests. This was followed in 1985 by the appointment of an inter-ministerial commission to investigate the possibility of limiting (and even eliminating) Palestinian localities. The resulting Markovitz Report of 1986 recommended, among other things, that Israel should retroactively legalise any illegal Arab buildings within approved areas, but move to raze homes and remove village sites in areas declared ‘illegal’ ‘grey areas’ (that is, in most of the unrecognised villages in the north and the Negev). The report identified 19 Bedouin villages and hamlets and 6 268 ‘grey houses’ slated for demolition, not counting those in the northern area. Several of the recommendations of the Markovitz Report were implemented over the ensuing years, leading to the demolition of dozens of homes and the complete disappearance of several Bedouin communities.⁷⁶

Plans for the ‘development’ of the Galilee continued well into the 1990s. In 1991, Israel issued a new ‘Master Plan’ for the Northern Galilee district. This plan was intended in part to redress the perceived problem of the small number of Jews in this area and the geographic contiguity of Arab localities. While its Judaisation of the Galilee continues, Israel’s development plans for the period up to 2020 envisage reclaiming some of the lands that were granted to Nazareth for the establishment of an industrial area, re-zoning these as an environmental area and placing them off limits to (Arab) development. Widespread home demolitions of ‘illegal’ Arab houses also appear to be part of Israel’s long-term plans for thinning out the Arab population of the Galilee. In the early months of 2003, there was a spate of measures towards this goal.

75 The full text of Koenig’s memorandum was published on 7 Sept. 1976 in the Israeli newspaper, *Al-Hamishmar*, and reprinted in ‘Special Document: The Koenig Report, Top Secret: Memorandum – Proposal – Handling the Arabs of Israel’, *The Journal of Palestine Studies*, Vol. 6, Issue 1 (autumn 1976), pp. 190-200.

76 *See, for example:* Ghazi Falah, ‘Israeli “Judaisation” Policy in the Galilee’, in *Journal of Palestine Studies*, Vol. 20, No. 4 (summer 1991), pp. 69-85; and The Arab Association for Human Rights, *The Unrecognised Villages* (Factsheet 4) (n. 70 above).

4.5.1.2 The Negev

In the early 1950s, Israel also turned its attention to asserting sovereignty and control over the lands of the Negev desert. This vast area comprises almost 60 percent of Israel as demarcated by its 1948 boundaries. The Bedouin people of the Negev were to bear the full brunt of Israeli actions.

At the time when the British Mandate ended and the State of Israel was created, the Bedouin of the Negev totalled between 65 000 and 90 000 people belonging to some 95 tribes. After 1948, up to 85 percent of the Bedouin were displaced or driven out of the area, leaving a mere 11 000 or so in place. Bedouin were still being driven out of the Negev as late as 1959.⁷⁷

Those Bedouin who ended up in the West Bank once again found themselves the target of Israel's drive to acquire lands and build Jewish settlements. Those who remained in the Negev were initially driven off their ancestral lands and herded into Government-designated 'enclosure zones' in the northeast part of the Negev. A ring of Jewish towns tightly surrounded these enclosure zones. Later, under various 'development plans', Israel established seven 'permanent settlements' to which Bedouins were to be resettled. According to recommendations contained in the 1976 and 1986 Master Plans for the area, the Bedouin would be removed from their lands and homes, and allowed to lease - but not own - lands within Government-designated settlements. The Bedouin would need separate permits to build houses within these new settlements. Those who refused to move soon discovered that their habitations were not recognised by the Government and were thus deprived of the most basic services and infrastructure.

Bedouin today constitute about one quarter of the population of the Negev. Just over half (around 56 percent) of the estimated 120 000-130 000 Bedouin live in designated settlements. Several of these townships still face severe housing shortages and grossly inadequate services, several years after their establishment. Only five out of the seven mayors of these settlements are Bedouin. The others are Ministry of Interior appointees. The remaining Bedouin live in up to 45 unrecognised communities (various sources put the total number of such communities at between 22 and 45). The unrecognised communities are deprived of basic services and live under constant threat of home demolition and forced relocation.

The Zionist interest in the Negev predates the creation of the State. As noted in Subsection 3.4, Jewish colonisation activity in this area started in the 1940s, coinciding with the Zionist plan to claim these lands under any future partition plan. However, the Bedouin already had a long-standing presence on these lands. Contrary to later Israeli assertions about seeking to 'modernise' the Bedouin, by the time of the British Mandate most Bedouins had already abandoned a purely nomadic lifestyle. Most had indeed settled into sedentary and semi-nomadic lives in distinct habitations scattered around the Negev and elsewhere, where they made their living by practising seasonal agriculture and livestock grazing.

Out of the estimated total of 12.5 million *dunum* (12 500 km²) of Negev lands, only some 2.3 million *dunum* (2 300 km²) are considered to be cultivable. Before Israel's establishment, Bedouins had cultivated between 1 and 2 million *dunum* (1 000-2 000 km²) in the area. Following the establishment of the State, uncultivable lands - about 10 million *dunum* (10 000 km²) of *Mawat* lands - were declared 'State lands' and off limits to Bedouin. As previously noted, Israel's rush to remove and relocate the Bedouin population of the Negev was part of an effort to pre-empt potential claims by the latter to their lands and to enable Israel to transfer legal title to these lands into the name of the State.

77 Information for this section is from: Kurt Goering, 'Israel and the Bedouin of the Negev', in *Journal for Palestine Studies*, Vol. 9, Issue 1 (autumn 1979), pp. 3-20; Ghazi Falah, 'Israeli State Policy toward Bedouin Sedentarisation in the Negev', in *Journal for Palestine Studies*, Vol. 18, Issue 2 (winter 1989), pp. 71-91; and Ronen Shamir, 'Suspended in Space: Bedouin under the Law of Israel', in *Law and Society Review*, Vol. 30, No. 2 (1996), pp. 231-257.

The total land area of the seven official settlements of the Bedouin currently amounts to less than 60 000 *dunum* (60 km²), compared to approximately two million *dunum* (some 2 000 km²) that used to be at their disposal. Meanwhile, the Bedouin continue to press for official recognition of their 'unrecognised' communities, even as plans to 'disperse' the remaining population continue. They resist Israel's efforts to relocate them, and insist that they will go on doing so until their land claims have been satisfactorily settled. In this respect, close to 750 000 *dunum* (750 km²) of land remain 'in dispute', 60 percent of it agricultural land. Previously, Israel had indicated that it would confiscate about half of these remaining lands in return for compensation and settlement of claims over the other half. More recently, Israel has resumed home demolitions in 'unrecognised' habitations, and has declared its intention to resettle the remaining Bedouins against their will, regardless of the status of their land claims (see Section 8.2 below).

The fate of the Bedouin of the Negev illustrates how the Israeli authorities utilise laws to deprive Arab inhabitants of their rights to their traditional lands. A combination of laws, including provisions of the *Prescription Law (1958)*, have been used to enormous effect in the Negev (as in other instances where this law was applied). Among other laws that have been applied in the Negev is the *Land Acquisition (Validation of Acts and Compensation) Law* of 1953, which specifies that lands not in the possession of their owners in April 1952 would revert to 'State property'. At that time, the Bedouin, having been forced off their lands and into the enclosure zones, discovered that they could not reclaim their lands once military law had been lifted.

As we have seen in relation to the Galilee, all *Mewat* lands were registered as 'State property' on the basis of the 1969 *Land (Settlement of Title) Ordinance*. In the Negev, this left the Bedouin with no further legal recourse with regard to such land. Using provisions of the 1965 *Planning and Building Law*, the Government then decided to re-zone communities and designate areas where building and construction would be permitted. Any buildings or habitations outside these zones were declared illegal, and therefore subject to demolition. It was in this manner that many Arab communities became 'unrecognised', especially in areas claimed for Jewish colonisation and expansion. In the Negev, the effect of this law was that hundreds of thousands of homes in 'unrecognised communities' remained vulnerable to demolition. Some 1 300 homes were demolished in such 'unrecognised' locations between 1992 and 1998, and, based on the findings of the 1986 Markovitz Committee, over 6 000 are liable to be issued with a demolition order. The Regional Council of Unrecognised Villages in the Negev has estimated that more than 16 000 homes remain vulnerable to demolition – and that figure is certain to have increased since.⁷⁸

It was the 1980 *Negev Land Acquisition (Peace Treaty with Egypt) Law* that authorised the establishment of 'permanent settlements' to which Bedouin were to be relocated, and facilitated the confiscation of large tracts of Bedouin lands. Although, ostensibly, such expropriations were necessary for the building of military bases, several Jewish settlements have been built on these lands and many more are planned. Other laws regulate the number of flocks and livestock owned by Bedouin and specify where they may graze. As a result of various laws, the majority of Bedouin who had made an independent living in agriculture and raising livestock have now been transformed into a source of cheap wage-labour for the Jewish community.

As in the rest of the country, the Jewish Agency and the Jewish National Fund played an instrumental role in the takeover of Negev lands. Before the establishment of the State, a Negev Committee (comprised of JA, JNF and other officials) was formed to acquire lands. Later, an official Negev Authority was set up in its place.

The JNF contributed to Government efforts by purchasing lands and helping to set up the 'Green Patrol'. This patrol was established in 1976. Its official task was to prevent violation of land laws. Its real work, however, was geared to "stopping and rolling back the encroachment of Bedouin squatters and of Bedouin flocks on Jewish farming areas, and of preventing the Bedouin from establishing legal squatters' rights to state-owned land in the Negev".⁷⁹

78 See: Shamir (n. 77 above), p. 246; Arab Association for Human Rights, <http://www.abraha.org/rcuv/index.htm>; and Section 8 below.

79 This quote is from an interview with Ariel Sharon, then Arab affairs advisor to the Prime Minister, in Lehn (n. 3 above), p. 148. The Green Patrol continues to be instrumental in enforcing Israeli measures: tearing down hundreds of Bedouin tents, seizing flocks and destroying crops; all as part of the pressure to force Bedouins to move.

4.6 Summary

Since its creation in 1948, Israel has utilised its land and property laws to expropriate over 17 million *dunum* (17 000 km²) of land from Palestinians who became refugees. Israel has also confiscated between 60 and 80 percent of all lands owned by Palestinians who remained in the State. These lands are roughly estimated to amount to one million *dunum* (1 000 km²). Overall, at least 92 percent of lands within the State of Israel are under some form of Government control. Palestinians, who number around 1.2 million and constitute about one-fifth of the population of Israel, own less than 3 percent of the lands.

Re-zoning laws rendered as many as 100 Arab villages, with a combined population of between 70 000-100 000, 'unrecognised' and deprived of basic services and infrastructure. Orders for home demolitions are issued retroactively, and homes in mainly Arab areas remain highly vulnerable to such measures. At the time of writing this report, although a handful of villages in the northern area had been recognised, they had yet to receive adequate services.

Palestinian property losses are not just in terms of land, but include homes, possessions, businesses, citrus groves, vineyards and quarries, etc. Since 1948, Israel has taken over or destroyed an estimated 150 000-200 000 Palestinian homes.⁸⁰

Some scholars have attempted to calculate the value of these losses in present-day terms. Atif Kubursi, who has conducted careful and painstaking analyses on the subject, estimates that the material losses suffered by Palestinians between 1948 and 1998 total around US\$ 20.9 billion. With the addition of human capital losses, growth projections, and estimations of psychological damage and pain inflicted on Palestinians, the total figure would rise to a staggering US\$ 281 billion.⁸¹

Operating in conjunction with a host of other Israeli laws, land and property laws in Israel underscore a legal reality that favours the Jewish population over the indigenous Arab citizens of the State. As is discussed in the next section, such laws provided the template for the enactment of virtually identical laws governing land and property in the Occupied Territories. The nationalisation and Judaisation processes facilitated by such laws have enabled Israel to confiscate or take control of over 4.7 million *dunum* (4 700 km²) of land in these areas (including in East Jerusalem). All told, over 70 percent of the West Bank and over 40 percent of the Gaza Strip are now under full Israeli control.⁸²

80 See BADIL Resource Centre, *Nakba Anniversary - 2: Refugee Return and Real Property Restitution*, Press Release, 10 May 2002.

81 For more information on his methodology, see Atif Kubursi, 'Valuing Palestinian Losses in Today's Dollars', in Naseer Aruri (ed.), *Palestinian Refugees: The Right of Return* (London: Pluto Press, 2001), pp. 217-252.

82 More information on Israeli laws can be found in Adalah, *History of the Palestinians in Israel: The Palestinian Minority in the Israeli Legal System*, <http://www.adalah.org/background.shtml>. For a detailed historical examination of the Palestinian refugee property question, largely based on archival records not previously available to the public, including those of the United Nations Conciliation Commission of Palestine (UNCCP), and including expert analyses and calculations of Palestinian refugee losses, see Michael R. Fischbach, *Records of Dispossession: Palestinian Refugee Property and the Arab-Israeli Conflict* (New York: Columbia University Press, 2003). This invaluable study was published several months after the drafting of the present study was completed.

SECTION 5

**The occupied West Bank and Gaza Strip:
land acquisition and settlement building (1967-1993)**

5.1 Introduction

The causes of the June 1967 War (also known as the Six-Day War) are still the subject of much debate (though detailed discussion of this topic is beyond the scope of this study). The consequences of the war, however, are indisputable: prolonged Israeli occupation of the West Bank and Gaza Strip, accompanied by Israel's drive to control all the remaining lands of historic Palestine.⁸³

The West Bank and Gaza Strip together comprise 22 percent of the land area of Mandate Palestine. The West Bank is an area of around 5.6 million *dunum* (5 600 km²); the Gaza Strip is about 365 000 *dunum* (365 km²). Under international law, these areas are defined as 'occupied' territories from which Israel is required to withdraw. However, Israel has repeatedly emphasised that it does not recognise this formulation. Instead, since 1967 it has extended legal sovereignty over an expanded East Jerusalem and has established hundreds of Jewish settlements in the occupied West Bank and Gaza Strip – in clear contravention of international law.

In Israel, 'maximalists' and 'minimalists' debated the status of these territories. The former called for immediate annexation of these areas into Israel. The latter preferred to integrate strategic lands and resources without taking responsibility for the Palestinian population that had come under Israeli control. However, there was general consensus that the eastern part of Jerusalem would be annexed and united with the western part, as Israel's capital.

Israel's policy in the West Bank and Gaza Strip went through several transformations in the decades following 1967. The specific approach taken depended on a combination of factors. A key factor was the preference of the particular government in power at the time (that is, either Labour or Likud). Another important factor was the strength of the settler movements. Consideration of Palestinian, Arab and other international reactions also affected policy-making. Underlying all this were Zionist imperatives. What all policies had in common was the need to acquire lands and resources in the Occupied Territories and create 'facts on the ground', favouring Israel in the event of a final peace settlement. Also documented below, in Subsection 5.4, is the fact that the most significant mechanisms of land acquisition and colonisation in the West Bank and Gaza Strip closely paralleled those previously employed in other areas, both before and after the establishment of the State of Israel within its pre-1967 boundaries.

5.1.1 Legal and ideological backdrop

Three types – or 'layers' – of laws can be identified as operating in the Occupied Territories. These include British law (predating 1948), Jordanian law (in the West Bank only), and Israeli law. The latter layer consists mostly of amendments to Jordanian law, as well as other Israeli regulations enacted since 1967. The legal system in the Gaza Strip differs slightly from that in the West Bank in that Egypt administered, but never annexed, the Gaza Strip (whereas Jordan did annex the West Bank – in 1950). The establishment of the Palestinian Authority pursuant to the Declaration of Principles signed in 1993 added yet other layer to the legal situation in the Occupied Territories and is discussed in Subsection 7.1 below.

The reality on the ground in the Occupied Territories is actually more complex. The apparent multi-layered nature of the legal system ultimately derives from Israel's singular assessments of its strategic interests in these areas and its peculiar interpretation of its obligations under international law. Israel has always been meticulous about establishing 'the rule of law' – a legal framework to govern its activities in the Occupied Territories. Understanding this, rather than focusing primarily on international law, is of vital importance to appreciating the far-reaching implications of Israeli actions in the Occupied Territories.

As various analysts have pointed out, the situation in the Occupied Territories is one of 'undeclared annexation'. A number of human rights organisations, including The Israeli Information Center for Human Rights in the Occupied Territories, B'Tselem, document the processes whereby Israel has absorbed lands while simultaneously attempting to reduce or get rid of the Arab (Palestinian) population. As is explained in the present section, processes of 'creeping annexation' – concomitant with 'creeping transfer' – emerge as direct outcomes of the ways in which Israel's legal system has operated in the West Bank and Gaza Strip.⁸⁴

83 Some sources claim that, long before this war, preparations were made for the occupation of the West Bank and Gaza Strip. See, for example, Morris (1999) (n. 22 above), p. 336. Several prominent Israeli leaders – including Ben-Gurion himself – have regularly been quoted as saying that they regretted not capturing the rest of 'the Land of Israel' (Eretz Israel) in 1948, and would not lose that opportunity if it presented itself again; see, for example, quotes from Ben-Gurion and Yigal Allon, in *ibid.* p. 321.

84 Benny Morris maintains that this policy of 'undeclared annexation' began with Defence Minister Moshe Dayan, immediately following the occupation; see Morris (1999), in *ibid.* p. 338. See also B'Tselem (Yael Stein, ed.), *Land Grab, Israel's Settlement Policy in the West Bank* (Jerusalem: B'Tselem, May 2002), p. 65.

Key features of this legal system include:

- The claim that these are not 'occupied territories' and are therefore not subject to the provisions of the Fourth Geneva Convention.
- The primacy of Israeli 'security' enactments, to which all other law is subject.
- The uninterrupted process of imposing and extending *de facto* Israeli sovereignty over wide tracts of lands in the Occupied Territories
- The deliberate creation of a dual legal system in the Occupied Territories for the Palestinian residents on the one hand and Jewish settlers and settlements on the other hand.

5.1.2 Israel's occupation and the Fourth Geneva Convention

The international community has repeatedly affirmed the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention, 1949) to the Israel-occupied West Bank and Gaza Strip, including East Jerusalem, and has insisted that Israel adhere to its articles.⁸⁵

In brief, articles of this Convention cover issues such as: measures that are to be taken by occupying armies under certain circumstances; prohibitions on the settlement of civilians from the occupier's country in occupied areas; prohibitions on transfers of populations from occupied areas; and prohibitions on collective punishment.

Israel's contention that the West Bank and Gaza Strip are not 'occupied' in the definition of the Fourth Geneva Convention reflects its interest in retaining control over the Occupied Territories and stifling the demographic growth of Palestinians. The actual process of acquiring land is achieved by way of the legal system Israel put in place in these areas to circumvent international law on issues concerning land acquisition and related property matters.

Concerning the applicability of the Fourth Geneva Convention, Israel claims that:

- Prior to its occupation, there was no legitimate sovereign in either the West Bank or the Gaza Strip. Egypt merely administered the Gaza Strip, and Jordan's annexation of the West Bank was only recognised by a few countries;
- The Convention constitutes conventional humanitarian law rather than customary law (such as the Hague Convention) and therefore Israel is not obligated to adhere to its provisions;
- It does apply the 'humanitarian' provisions of the Convention *de facto* in the Occupied Territories.⁸⁶

Despite Israel's claim that it did not recognise Jordan as a legitimate sovereign, it did pay careful attention to introducing changes to the law in the West Bank as 'amendments' to Jordanian law, rather than as direct applications of its own law. As a result of this approach and other legal manoeuvring, Israel could proceed with land acquisitions without having to declare these territories annexed *de jure*. Had it done so, it would have been bound to extend Israeli law to the entire population of the Occupied Territories as well.

Israeli measures in the Occupied Territories mirror many of the processes adopted by the Zionist movement both before and after the establishment of the State of Israel. As in preceding decades, Israel's focus would be on acquiring and settling lands for the Jewish people and so creating 'facts on the ground' that would prove decisive in any final settlement. However, the international context had changed in the intervening years. Israel could no longer resort to wholesale destruction of villages and mass expulsion of the Palestinian population. The Palestinians too had learned their lessons after 1948 and would not easily be dislodged from what remained of their homeland.

85 For a recent reaffirmation of the applicability of this convention; see ICRC, *Statement by the International Committee of the Red Cross, to The Conference of the High Contracting Parties to the Fourth Geneva Convention* (Geneva: ICRC, 5 Dec. 2001).

86 See, for example, Meir Shamgar, 'Legal Concepts and Problems of the Israeli Military Government - The Initial Stage', in id. (ed.), *Military Government in the Territories Administered by Israel 1967-1980: The Legal Aspects, Vol. 1* (Jerusalem: Alpha Press, 1982). Shamgar was reportedly instrumental in composing the decisive Israeli position; see also B'Tselem (2002) (n. 84 above), p. 37. Israel did not immediately repudiate the Fourth Geneva Convention. The Government of Israel continued to affirm the applicability of this Convention to the 'administered' areas until Aug. 1967, when a Military Order was issued to reverse this; see Raja Shehadeh, *The Law of the Land* (Jerusalem: PASSIA, 1993), pp. 110-111.

5.1.3 Use of legal rulings to circumvent the Fourth Geneva Convention

Israel's emphasis on 'the rule of law' conceals the process by which the law itself is used to circumvent provisions of the Fourth Geneva Convention. Highly illustrative of this is a Supreme Court ruling, twelve years after the occupation began, on the expropriation of privately owned Palestinian land for the purpose of building a Jewish settlement. The ruling in the *Beit El* case (1979), as one that also set the tone for later rulings, gives us a glimpse of how Israel's legal system is used to encourage the establishment of new *faits accomplis*, or 'facts on the ground'. Israel, in turn, cites these as proof that it does in fact abide by the provisions of the Fourth Geneva Convention.

Settlement building during the first decade of Israel's occupation tended to abide by the guidelines laid down in the Allon Plan (see Subsection 5.3.1 below). In brief, settlements were concentrated along the Jordan Valley, within the boundaries of the expanded Jerusalem, and at other strategic locations. In numerous cases, lands confiscated from Palestinians for 'military' purposes – permissible under certain circumstances in the Fourth Geneva Convention – were later handed over to civilian Jewish settlements. Israel's first Labour governments generally avoided requisitioning privately owned Arab land for the establishment of such civilian settlements – especially where these lands lay in the heart of densely populated Arab areas.

The judgement in the *Beit El* case of 1979 was a landmark decision. Not only did it retroactively justify acquisitions of privately owned land, but it also framed Jewish colonisation itself as somehow consistent with the Fourth Geneva Convention. The case was filed on behalf of private Palestinian landowners, one of whom owned land near the Beit El military camp in the El-Bireh area. The land in question had originally been requisitioned on the basis of 'essential and urgent military needs', but construction of a civilian Jewish settlement began soon after that. The petitioners argued that (a) establishing a civilian Jewish settlement is inconsistent with the 'military' and 'security' needs by which they (Palestinians) were deprived of use of their lands in the first place, and that (b) transferring and settling civilians from the occupier's country on occupied land is in violation of international law.

Highly instructive are the deliberations and final rulings of the Supreme Court, to which the following principles and determinations were pivotal:

- The claim that 'requisition' of land is not equivalent to confiscation – even if for all intents and purposes these lands become permanently unavailable to the original legal landowners.
- The insistence that establishing a civilian Jewish settlement is indeed a 'security measure'. To quote from the proceedings:

The main thing, however, is that, as regards the pure security aspect, it cannot be doubted that the presence in occupied territory of settlements – even "civilian" settlements – of citizens of the occupying power contributes appreciably to security in that territory and makes it easier for the army to carry out its task. One does not have to be a military and security expert to realise that terrorist elements operate more easily in an area inhabited only by a population that is indifferent or is sympathetic towards the enemy than in an area where there are also persons likely to look out for them and to report any suspicious movement to the authorities.⁸⁷

- The assertion that if an action is carried out 'truly and honestly' for one purpose, whereas a quite different purpose is later added, this should not necessarily be construed as implying that the original purpose was some kind of camouflage or subterfuge. That purpose would not be invalidated. This point is noted here because subsequent court rulings relied on the same determination of 'good faith' in deciding land disputes. Later Military Orders also reaffirmed this principle. There are numerous examples of cases where construction of a Jewish settlement began before a final decision as to the rightful owner of the land had been made. Almost invariably in such cases, the Supreme Court ruled that when the action was found to have been taken 'in good faith', the settlement would remain and construction would proceed. The determination of 'good faith' rested upon an assessment as to whether the Jews in question really believed that they legally possessed the land, even if the court agreed that the rightful owner was a Palestinian.
- With regard to international law, specifically the Hague Convention Respecting the Laws and Customs of War on Land (Hague Convention IV, 1907) and the Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention, 1949), it was determined that the petitioners were 'protected' persons. However, after some deliberation, the justices decided that the Fourth Geneva Convention is part of conventional international

87 Shamgar (n. 86 above), p. 377.

law – and is therefore a 'political' issue outside their jurisdiction. Some justices expressed disagreement with the specific provision that prohibits an occupying power from deporting or transferring part of its own population into the territory it occupies. They argued that Jewish settlers chose to settle 'voluntarily' on these lands and were not there by forcible transfer.

- It was determined that the Hague Convention is part of customary law, the provisions of which may be brought to a municipal court. This proved a precedent (later codified into law – see Subsection 5.5.1.2) for Jewish settlements to be placed under the direct jurisdiction of Israeli municipal law. To all intents and purposes, settlers and settlements exist extraterritorially as part of Israel. The court agreed that private property might not be confiscated. But it also decided that this did not apply in the case at hand. In this case, they argued, land would be 'requisitioned' and the owner offered compensation. Some justices took issue with the Hague Convention and saw it too as lacking. They quote a passage to the effect that:

The Hague Regulations fail to cover a rather important aspect of private property: the problem of what to do about private property owned by legal or real persons and used against the interests and possibly even against the safety, of the occupant. Common sense would appear to dictate the need for preventive measure by the occupant against such use of private property by its owners.⁸⁸

These deliberations of Israel's Supreme Court raise questions about the State's view of its presence in these areas; in this case, there is every indication of permanence. The Court ruled that if the Military Government declared that a certain tract of land was required for 'security' purposes and a Jewish civilian settlement was needed for such, then the Court would be satisfied with the claim. The court did not seem to be preoccupied with the fact that the Jewish civilian settlements themselves attracted precisely the problems that the occupying army ostensibly sought to avert (that is, they exacerbated or even caused 'security' problems, rather than providing an effective response to them).⁸⁹

The *Beit El* case paved the way for much more 'requisitioning' of private lands for settlement building, all justified on 'security' grounds. Shortly after this court case, there was another involving the settlement of Elon Moreh (see Subsection 5.3.4 below). The settlement of the latter case, in 1979, prompted the Government of Israel to reverse the trend of requisitioning private lands. It also forced the Government to issue declarations of 'State lands' for settlement building. These issues are examined in greater detail in Subsection 5.4.2.3 below.

Beit El and other court cases demonstrate that although Israel has rejected the applicability of the Fourth Geneva Convention, it has found it necessary to use Supreme Court judgements concerning land disputes to essentially turn provisions of this and other international law on their heads. For example, the most quoted articles of the Fourth Geneva Convention refer to changes a military may make in an occupied area (Articles 27 and 49). These changes are circumscribed by what is deemed necessary for public order and security and/or the welfare of the local population. Israel's Supreme Court has argued that settling of a critical mass of its own (Jewish) population in the Occupied Territories is consistent with this particular provision of the Fourth Geneva Convention. It further argues that since Jewish settlers now constitute part of the 'local population', for whose benefit the army is acting, the Israeli military is justified in its actions. As Moshe Dayan is quoted as saying:

Without them [the settlers] the IDF [Israel Defence Forces] would be a foreign army ruling a foreign population.⁹⁰

88 Ibid. p. 383.

89 Ibid. pp. 394, 396. The Supreme Court's final ruling on the Beit El case reveals that the justices seemed keenly aware of the underlying purpose of Jewish settlement building in the Occupied Territories. They understood that settlements were "likely to serve the movement of military forces" and would become vital to 'self-defence' in some future war.

90 Apr. 1979, quoted in Geoffrey Aronson, *Creating Facts: Israel, Palestinians and the West Bank* (Washington, D.C.: Institute for Palestine Studies, 1987), p. 98. A similar argument about benefits to the 'local population' was later advanced in response to the confiscation of Palestinian land for the creation of Jewish-only 'by-pass' roads in the West Bank. See, for example, Raja Shehadeh, *Occupier's Law: Israel and the West Bank* (Washington, D.C.: Institute for Palestine Studies, 1985), p. 13.

5.2 Israel's colonisation of the occupied West Bank and Gaza Strip

*"Before all else[,] Jewish settlement across the June 1967 boundaries should be seen not as a radically new phenomenon but as a development arising out of trends and philosophies well-entrenched in Israel's past."*⁹¹

Soon after securing the newly acquired territories, Israel embarked on an extensive and intensive programme of settlement building. It began by annexing an expanded area around East Jerusalem and establishing Jewish settlements in ever-widening arcs around the city. Israel then concentrated on building settlements in strategic sites in the West Bank, mainly along the lines identified in the Allon Plan (see Subsection 5.3.1 below). Settlements were also established in the Gaza Strip, though with less urgency and focus than in the West Bank.

The final political status of these territories remains unresolved to this day. In the eyes of international law they are still illegally occupied. The United Nations Security Council has reaffirmed the illegality of continued occupation in countless resolutions over the past few decades. It has also passed numerous resolutions declaring the Palestinian right to 'national self-determination'.

While Israel has publicly made several proposals for 'territorial compromises' in the event of a final peace settlement, its actions on the ground belie such intent.⁹²

Shortly after the war, on 19 June 1967, the Israeli cabinet declared that it would be willing to withdraw from the Sinai desert and the Golan Heights in exchange for a permanent peace agreement with Egypt and Syria. Israel's final borders with these countries would be drawn on the basis of the pre-war frontiers. The omission of the occupied Gaza Strip from the declaration suggested that Israel would keep this area. Although the fate of the West Bank had apparently not been decided, the consensus was that Israel would not pull back to its pre-1967 borders. During a supposedly secret meeting in October 1967, the Israeli Cabinet "resolved not to return to the pre-war frontiers". Instead, it would draw future borders on the basis of its 'security' needs. In addition to retaining the occupied West Bank, Israel decided not to withdraw from the Gaza Strip, nor from Sharm al-Sheikh, nor from an area on the coast linking Sharm al-Sheikh and Eilat.⁹³

5.2.1 Preparing a legal framework for land acquisition and colonisation

One of Israel's first steps after the war was to amend the *Law and Administration Ordinance* (1948). On 27 June 1967, it issued the *Law and Administration Ordinance (Amendment No. 11) Law, 5727-1967*, stipulating that: "The law, jurisdiction and administration of the State shall extend to any area of Eretz Israel designated by the Government by order."⁹⁴

Israel's sovereignty over an expanded East Jerusalem was effectively imposed the next day with the passage of the *Law and Administration Order (No. 1)* of 28 June 1967. The order declares that:

[T]he territory of the Land of Israel described in the appendix [to this Order] is hereby proclaimed territory in which the law, jurisdiction and administration of the state apply.

Not only did this order extend Israeli jurisdiction over an enlarged Municipality of Jerusalem, but the city was also proclaimed as Israel's "unified, eternal capital".

According to B'Tselem, the areas specified in the appendix to this order cover 70 000 *dunum* (70 km²) of lands in East Jerusalem and the West Bank that would be incorporated into (municipal) West Jerusalem. The order authorises the Government of Israel to extend complete sovereignty into newly annexed areas. However, Palestinian residents of such areas are not automatically afforded personal or property rights that are equal to those of Israeli residents.

91 William W. Harris, *Taking Root. Israeli Settlement in the West Bank, the Golan and Gaza-Sinai, 1967-1980* (London: Research Studies Press, John Wiley and Sons, Ltd., 1980), p. 32.

92 See, for example, B'Tselem, *Israeli Settlement in the Occupied Territories as a Violation of Human Rights: Legal and Conceptual Aspects* (Jerusalem: B'Tselem, Mar. 1997).

93 Morris (1999) (n. 22 above), p. 330. The Sinai desert was returned to Egypt following the 1979 peace treaty between the two countries.

94 *Laws of the State of Israel, Vol. 21* (n. 51 above), p. 75.

Israel has not issued comparable orders to extend legal jurisdiction over any other part of the Occupied Territories. Yet Israeli law routinely refers to the West Bank as 'Judea and Samaria'; that is, part of the 'Land of Israel'. This designation was institutionalised into law by virtue of Military Order 187, *Order Concerning Interpretations (Additional Instructions)*, of 17 December 1967. This Military Order "specifies that the term 'Judea and Samaria' is to replace 'West Bank' wherever it appears".⁹⁵

In 1977, in another measure to officially designate the West Bank as 'Judea and Samaria' for purposes of the law, the Government of Israel extended the *Emergency Regulations* for the Occupied Territories by passing the law significantly entitled *Emergency Regulations (Judea and Samaria, Gaza Region, Golan Heights, Sinai and Southern Sinai - Criminal Jurisdiction and Legal Assistance) (Extension of Validity) Law, 5738-1977*.⁹⁶

5.2.2 Land and property issues in the West Bank - background

Jordan formally annexed the West Bank in 1950 and granted citizenship to its Palestinian inhabitants. Jordanian law was extended into the area, though remnants of earlier British law remained in place. At the time, about 80 percent of the Palestinian population were villagers who lived on their own lands and derived their livelihood from agriculture.

On the eve of the June 1967 War, there were over 800 000 Palestinians in the West Bank. During and immediately after the war, between 250 000 and 300 000 Palestinians were expelled or forced to flee. Some became refugees for a second time. In September 1967, according to the results of an Israeli census, the population of the West Bank was 595 900. The Palestinian population of the West Bank is currently estimated to be about 2.2 million – nearly one-third of them refugees.

The Jerusalem Metropolitan area covers some 220 000 *dunum* (220 km²) – 3.9 percent – of the total West Bank area of about 5.6 million *dunum* (5 600 km²). By the early 1990s, at least 40 percent of the remaining West Bank lands had also come under the control of Israel and its Jewish settlements in the area. These lands include built-up areas, municipal and other lands held by various councils, and lands held in reserve for future settlement building (the distinctions between these categories are explained in Subsection 5.5.2 below, with breakdown statistics).

As in the areas that became Israel proper, in the West Bank the process of registering land and settling titles, begun earlier under the British Mandate, was only slowly established. Indeed, it had barely got underway in the years leading up to the June 1967 War. The Jordanians, who had actually seized the West Bank in 1948, resumed the land-registration process only after declaring the territory annexed in 1950. By 1967, however, only about one-third of the claims had been settled. Israel suspended the registration process shortly after 1967. Israel also prohibited Palestinians from inspecting land registers, unless they were the actual owners or had power of attorney, or could otherwise prove to a court that such inspection was necessary. Over the subsequent years of occupation, West Bank Palestinians found themselves confronting problems similar to those of their counterparts in Israel. For example, they discovered that they lacked the documentation that Israel required for settling land disputes.

5.2.3 Land and property issues in the Gaza Strip - background

Vast areas of the Gaza district were incorporated into Israel in 1948. In that year, the population of the narrow strip of land that remained – the Gaza Strip – almost tripled with the influx of some 250 000 refugees who had been expelled from their lands and villages, which were now within Israel's borders. The Gaza Strip continued to be administered by Egypt until the June 1967 War. After the war, according to a September 1967 census, close to 400 000 Palestinians resided in the Gaza Strip. Currently, nearly 80 percent of its population of around 1.2 million are refugees. The vast majority of them live in the Strip's nine refugee camps.

The land area of the Gaza Strip is roughly 365 000 *dunum* (about 365 km²). Prior to the Israeli occupation, probably as much as half of that land was cultivated. Israeli policies in the area over the past few decades, including the establishment of

95 See the compilation of Military Orders in Jerusalem Media and Communications Centre (JMCC), *Israeli Military Orders in the Occupied Palestinian West Bank 1967-1992* (compiled by Jamil Rabah and Natasha Fairweather), (Jerusalem: JMCC, 1993), p. 26. After the first Likud government came into power in Israel in 1977, references to the Occupied Territories as lying "[...] within the borders of the lands of Israel" became the norm; see quote by former Prime Minister Itzhak Shamir, in Aronson (1987) (n. 90 above), p. 26.

96 Until then, this law had been renewed automatically each year without revision. Its language simply referred to these areas as 'security zones', or 'Areas Held by the Defence Army of Israel'; see: *Laws of the State of Israel, Vol. 32* (n. 51 above), p. 58.

Jewish settlements on prime agricultural lands, have led to considerable losses of cultivable lands for Gaza Strip Palestinians – one of their primary sources of income and self-sufficiency. They are now largely urban-based and, as a direct result of Israeli policies, increasingly impoverished.⁹⁷

Israeli efforts to quell all resistance in the Gaza Strip began fairly soon after the occupation. In the first 17 months, Israel expelled some 75 000 Palestinians from the area. In 1971, under the command of Ariel Sharon, then Head of the IDF (Israel Defence Forces) Southern Command, Israel launched a major military campaign, targeted largely at the refugee-camp population. Thousands of Palestinian refugee dwellings were destroyed and over 15 000 people displaced. Hundreds were expelled from the area. Israel constructed or widened 'security roads' and built electrified fences to surround the entire Gaza Strip.

As in the West Bank, Israeli measures in the Gaza Strip reflect its interest in controlling local lands and resources. In this regard, Sara Roy refers to a 'confidential' 1986 study by the Israeli Defence Ministry and the Gaza Civilian Administration, reportedly forecasting developments in the area up to and including the year 2000. The main thrust of the study is said to be Israel's control of land and water resources in the Gaza Strip, as well as its domination of other economic and social sectors in the area.⁹⁸

Although the Gaza Strip was a focus for land expropriation and Jewish colonisation, this never quite reached the same scale as in the West Bank. By 1978, six Jewish settlements had been established in the Strip – part of the general strategy to create 'facts on the ground' to pre-empt future withdrawal. By 1984, Israel controlled more than one-third of the Gaza Strip. By the early 1990s, shortly before the Interim Agreements between Israel and the Palestinian Authority were signed, between 42 and 58 percent of Gaza Strip lands had been expropriated or otherwise placed under the control of Israel and Jewish settlements in the area.⁹⁹

5.3 An overview of Israel's colonisation plans

"The frontier is where Jews live, not where there is a line on the map."¹⁰⁰

The process of land acquisition and colonisation in the Occupied Territories closely mirrors strategies adopted earlier in Mandate Palestine and later in Israel. Again, a 'Custodian of Absentee Property' was to play a pivotal role in the alienation of Palestinian lands. The 'Custodian' – later renamed the 'Custodian of Governmental and Abandoned Property in Judea and Samaria' – assumed control over vast areas of land confiscated under a variety of legal mechanisms. His office determined the disposition of these lands in conjunction with the Israel Lands Authority (and Minister of Defence).

In the first decade or so after occupation, Jewish settlements were concentrated mainly in 'strategic' areas and away from major Palestinian communities. From the late 1970s onwards, Israel began 'planting' settlements in the very midst of, and surrounding, Arab communities – destroying the territorial contiguity between Palestinian areas.

As in the Galilee and the Negev, Jewish colonisation activity in the West Bank – and to a lesser extent in the Gaza Strip – focused on consolidating Jewish control over territory. A series of 'Master Plans' were developed for the regional expansion of settlements. Key aspects of these plans included the fusion of disparate settlements into distinct 'blocs', the building and expansion of settlements straddling the 'Green Line' (the 1949 Armistice Line demarcating the internationally recognised borders between Israel and the West Bank and Gaza Strip), and the construction of road networks criss-crossing the West Bank.¹⁰¹

97 Sara Roy coined the term 'de-development' to describe Israeli policies in the Gaza Strip. She notes that in the first year of occupation alone, 1967/68, the area cultivated by Palestinians in the Strip was reduced by a full 20%; see Roy (1995) (n. 33 above), pp. 128, 224.

98 The plan is cited as *Civilian Administration of Gaza, A Plan for the Development of the Gaza Strip Through the Year 2000* (Tel Aviv: Ministry of Defence and Gaza Civilian Administration, 1986), in *ibid.* p. 61 and *ibid.*, note no. 1, p. 200.

99 Percentages vary with source. The higher estimate of 58% is cited by Roy, based on her 1990 interviews with Israeli and American officials; see: Roy (1995) (n. 33 above), p. 175; and *ibid.*, note no. 54, p. 203.

100 Prime Minister Golda Meir, Sept. 1972, quoted in Aronson (1987) (n. 90 above), p. 14.

101 Official procedures for the establishment of settlements are discussed in B'Tselem (2002) (n. 84 above), pp. 20-23; an analysis of such procedures is beyond the scope of this study. Maps associated with various plans, including Ehud Barak's proposals at Camp David in 2000, can be found in Eyal Weizman, *Settlements in the West Bank – the authoritative map*, 14 May 2002, <http://www.opendemocracynet.net>. Weizman refers to difficulties in obtaining information on the '150 original settlement master plans'.

The following subsections examine five key master plans:

- 5.3.1 The Allon Plan
- 5.3.2 The Dayan Plan
- 5.3.3 The Sharon Plan
- 5.3.4 The Drobless (Drobles) Plan
- 5.3.5 The Seven Stars Plan

5.3.1 The Allon Plan

Israeli proposals for colonising the Occupied Territories were first articulated in the Allon Plan of July 1967 (later revised). Although this plan, drawn up by Labour Minister Yigal Allon, was never formally adopted as official Government policy, its recommendations continued to guide Israeli colonisation activities over most of the subsequent decade.

In 1969, in an official step mirroring the 'unofficial' Allon Plan, the Government of Israel issued an 'Unwritten Agreement' - known as the 'Oral Law' - to articulate its general policy on colonisation in the Occupied Territories.¹⁰² The Oral Law outlined points of Government consensus with regard to land and colonisation policy in areas including East Jerusalem, the Latrun area and the Gaza Strip (the Golan Heights and parts of Sinai were also mentioned).

Allon's guiding principle was to allow Israel to annex as much territory as possible with a minimum of (Arab) inhabitants. The motto was "maximum security and maximum territory for Israel with the minimum of Arabs". To this end, Allon proposed that Israel secure a belt of land along the Jordan River, 12-15 km from west to east and widening to 18-25 km in the southern West Bank (and possibly including Hebron). At its middle, this belt would link up with an enlarged Jerusalem. The 1970 version of his plan recommended that Israel annex a somewhat larger belt than originally proposed.

Allon recommended that Israeli agricultural settlements and military bases be established on all these lands. The remainder of the West Bank, with its majority Arab inhabitants, would thus be contained and neutralised. The West Bank Arabs would be offered limited autonomy in a system administratively linked with Jordan and/or Israel. He proposed that Israel retain the entire Gaza Strip. Its population of Palestinian refugees would gradually be removed and relocated, either to the West Bank or Northern Sinai.

The Allon Plan envisaged Israeli annexation of some 40 percent of the West Bank. Guided by this plan, by 1977 Israel had established 34 settlements in the West Bank.¹⁰³

5.3.2 The Dayan Plan

Defence Minister Moshe Dayan was instrumental in articulating Israel's initial policy toward the Occupied Territories. He consistently favoured an approach that would facilitate Israel's control over lands - especially strategic lands - without the burden of providing for the (Arab) population. He spoke of 'functional' rather than 'territorial' autonomy for Palestinians. In his view:

It is also important for ourselves to emphasise that we are not foreigners in the West Bank. Judea and Samaria is Israel and we are not there as foreigner conquerors but as returners [*sic*; that is, returnees] to Zion.¹⁰⁴

Dayan's ideas were put together in a July 1973 document in which he made a 10-point proposal for settlement building. Central to this report, known as the Dayan Document, was the recommendation that private land purchases by Jews be encouraged and that settlements be expanded in specific areas - including Jerusalem, the southern Gaza Strip and the northern part of the West Bank.

102 See: Harris (n. 91 above), pp. 41, 52; and Aronson (1987) (n. 90 above), p. 16.

103 See: Weizman (n. 101 above); Meron Benvenisti, *The West Bank Handbook. A Political Lexicon* (Boulder, Colorado: Westview Press, 1986), pp. 4-6; and Aronson (1987) (n. 90 above), pp. 14-16.

104 *The Jerusalem Post*, 15 July 1976, reprinted in Middle East Research and Information Projects (MERIP), 'Israeli Settlement Policy: Documents', *MERIP Reports*. Vol. 0, Issue 59 (Aug. 1977), p. 20.

The publication of the Dayan Plan was followed in August 1973 by the publication of the Galili Document (Israel Galili was then head of the Inter-Ministerial Settlement Committee). Galili affirmed: "No settlement was established on the assumption that we would abandon it."¹⁰⁵

The publication of both the Dayan and Galili plans confirmed that the Government of Israel had not only been proceeding along the lines of an 'unofficial' Allon Plan, but that actual colonisation activity on the ground in the Occupied Territories had already far outstripped Allon's original guidelines.¹⁰⁶

5.3.3 The Sharon Plan

The first Likud government came into power in 1977. The message it sent out to the Arab world was that Israeli control over the Occupied Territories was essential for peace.

In September 1977, Ariel Sharon, then Minister of Agriculture, released a plan entitled 'A Vision of Israel at Century's End'. This document provided a clear statement of Likud's position. It affirmed that the West Bank and Gaza Strip were an integral part of 'Greater Israel'. It proposed that settlement building be accelerated, rather than constrained, due to the existence of Arab communities. By then, there were some 90 Jewish settlements in the Occupied Territories, with a settler population of about 57 000 (mostly in Jerusalem).

The Sharon Plan anticipated that two million Jews would be settled in the Occupied Territories over the next couple of decades. Sharon proposed deliberately situating new settlements in and among Palestinian localities so as to further restrict their development and disrupt their territorial contiguity. This plan called for the establishment of some 50 new settlements over a 15-year period, complete with major highways and other roads that would split the northern part of the West Bank from the southern part, and would link the settlements to Jerusalem and into Israel. His plan, in many ways a precursor to the division of the West Bank into Areas 'A', 'B' and 'C' under the Oslo 'peace process', was intended to fragment Palestinian areas and to pre-empt Palestinian self-determination. The grid-like system that would emerge out of the new settlements and roads:

... would divide 600 000 Palestinians into areas where their numbers would be no greater than 100 000 – a strategy of isolation aimed at making the creation of a unified Arab entity in the West bank impossible.¹⁰⁷

Maps of the Sharon Plan, published in 1980, designated three-quarters of the West Bank as 'vital to Israel's security'. These areas would remain under permanent Israeli control.

Several recommendations of the Sharon Plan were incorporated into the Drobless Plan (see Subsection 5.3.4 below). Among these were proposals to build settlements along the mountain ridge of the West Bank, as well as within and surrounding Palestinian areas. The former plan also envisaged an expanded Jerusalem area ringed by Jewish 'satellite cities', with a corridor linking Jewish communities to each other and to Israel. Most notably, it also called for the establishment of settlements at certain key points along the 'Green Line', the purpose being to erase this undeclared border. It would 'plant' Jewish communities in such a configuration as to drive a wedge between major Palestinian areas on either side of the pre-1967 border, especially between the Northern West Bank and the Northern Galilee.

In Sharon's view, Jordan was the Palestinian state, and he anticipated that Palestinians would eventually be persuaded to move there or elsewhere. According to one report, Sharon went even further in requesting the development of an operational plan detailing the number of vehicles that would be needed to transport Arabs from northern Israel out of the country in the event of war.¹⁰⁸

105 Jerusalem Radio discussion, 11 June 1977, reprinted in *ibid.* p. 22.

106 The Dayan and Galili Documents are reproduced in App. 2 of Harris, (n. 91 above), pp. 177-182; see also Aronson (1987) (n. 90 above), pp. 29-32.

107 Aronson (1987) (n. 90 above), p. 71.

108 Aronson quotes a passage to this effect from journalist Uzi Benziman's book (1985), in *ibid.* p. 69 and pp. 70 ff.; see also: Meron Benvenisti (1986) (n. 103 above), pp. 48-49; and Geoffrey Aronson, *The Impact of Israeli Settlements in the West Bank, Gaza Strip and Golan Heights* (New York: United Nations, Economic and Social Commission for Western Asia, 1994), p. 7.

5.3.4 The Droblless (Drobles) Plan

This plan, by Matityahu Droblless (then head of the Jewish Agency's Land Settlement Department and the World Zionist Organisation's Settlement Division) was prepared in 1978, at the beginning of negotiations between Egypt and Israel over 'autonomy' for Palestinians. It was revised in 1980 and 1981.

The plan illustrates the close and continuous involvement of the World Zionist Organisation in Israeli affairs. In its capacity of representing Jews around the world, the WZO also became quite closely involved in decision-making on land acquisition and colonisation activities in the Occupied Territories. Indeed, the Jewish Agency, as the main colonisation organ of the WZO, had long been participating in settlement-related decisions beyond the 'Green Line'. In order not to entangle the JA in the construction of settlements exclusively for Jews in the Occupied Territories – and thus jeopardise its tax-exempt funding (mainly from donors in the US) – these activities were listed as the province of another Settlement Division within the WZO.¹⁰⁹

The Droblless Plan was officially entitled 'World Zionist Organisation Department for Rural Settlement. Master Plan for the Development of Settlement in Judea and Samaria, 1979-1983.' In essence, it asserted Israel's claim to the Occupied Territories in advance of negotiations over autonomy. It unequivocally stated: "There must not be the slightest doubt regarding our intention to hold the areas of Judea and Samaria forever."¹¹⁰

As a way of asserting Israel's sovereignty, Droblless proposed encircling, then fragmenting, Palestinian communities. Settlements would be concentrated along the mountain ridge and in the heart of Palestinian communities in the West Bank. The Droblless Plan was clearly designed to disrupt territorial contiguity between Arab localities by positioning settlements both between and around major concentrations of Arabs – a strategy echoed in the fragmentation of Palestinian communities during the Oslo 'peace process'. Other proposals included constructing a road network to bypass Arab towns and villages, surround Jerusalem and link Jewish settlements to each other and to Israel:

The disposition of the settlements must be carried out not only *around* the settlements of the minorities, but also *in between them*, this in accordance with the settlement policy adopted in the Galilee and in other parts of the country.¹¹¹

In a departure from earlier colonisation ventures, the Droblless Plan proposed the establishment of a different kind of community settlement, one that would not necessarily be economically self-sufficient, as had been the trend thus far. Instead, these settlements would attract resident-commuters, who would live within the Occupied Territories and commute to their jobs in various metropolitan areas of Israel proper. In addition to the 'thickening' of existing settlements, 46 new settlements, with a total population of 16 000 families, were planned for the West Bank over the first five years. This would result in a total of 125 settlements and a settler population of about 190 000 – including those in Jerusalem. The budget was estimated at 54 billion Israeli lira (then about US\$ 3.2 billion).¹¹²

Droblless envisaged that community settlements would later be joined to form larger urban settlement blocs. Much of the impetus for the establishment of such settlements came from *Gush Emunim* ('Block of the Faithful'), a settler movement formed in 1974. This movement was guided by the conviction that these lands were all part and parcel of 'Eretz Israel', promised by God to the Jewish people. The activities of *Gush Emunim* and the WZO became ever more closely coordinated. Settlements that the former had established outside the scope of Government recommendations were recognised and approved retroactively.

In the 1970s the Government of Israel launched a massive campaign to legally identify and expropriate 'State lands' for settlement building. This campaign accelerated in the aftermath of the 1979 Supreme Court ruling in the *Elon Moreh* case, in which 'security needs' were rejected as justification for the establishment of a settlement on what were privately owned Palestinian lands.

109 A Ministerial Committee for Settlements includes representatives of the WZO/JA, the Ministry of Agriculture, and the Ministry of Housing and Construction. B'Tselem notes that while much of the funding comes from the State budget, the JA's Settlement Department staff continued to direct operations until 1992, B'Tselem (2002) (n. 84 above), pp. 20-23. From 1993 on, the JA's Settlement Department has operated separately from the WZO Settlement Division, though the practical implications of this separation are unclear. The 1979 Droblless Plan is reproduced in App. 11 of Mallison and Mallison (n. 51 above), pp. 446-559.

110 From the Droblless Plan, translated in B'Tselem (2002) (n. 84 above), p. 14.

111 Quoted in Mallison and Mallison (n. 51 above), p. 447. Emphasis in original.

112 Aronson (1987) (n. 90 above), p. 96.

Until then, the acquisition of private Palestinian land for the construction of Jewish settlements had commonly been justified on 'military' or 'security' grounds. Israel's Supreme Court generally did not challenge this justification. However, in the *Elon Moreh* case, *Gush Emunim* settlers made a point of refusing to embrace a 'security' or 'military' rationale for the building of this settlement. They argued instead that since this was the land of the Jewish people, they had the right to claim it. It was on this basis that the Supreme Court ruled against the acquisition of privately owned Palestinian lands for the establishment of such settlements – but with critical caveats: the Supreme Court would not intervene in settling disputes over land ownership. Nor would it rule on the implications of seizing land (for the establishment of settlements) when this did not involve assuming actual ownership of such land for the 'duration' of occupation. These decisions paved the way for the wholesale declaration of 'State lands' (see Subsection 5.4.2.3 below), unencumbered by the judicial oversight of the Supreme Court. The Elon Moreh settlement was later established on nearby 'State land'.¹¹³

The Government of Israel justified the designation and use of 'State lands' in the West Bank for settlement-building purposes by arguing that it was abiding by Article 55 of the Hague Conventions. This article recognises the rights of an occupier "only as an administrator and usufructuary" of public properties in an occupied territory. In response to the criticism that the use of public property is intended to be temporary, Israel responded that settlements are not "permanent changes", and its derivation of profits from settlements in fact contributes to preserving the properties of the (former) Jordanian Government.

The Drobless Plan was subsequently revised in cooperation with the Ministry of Agriculture. Incorporating recent decisions on the requisition of 'State lands', the new 'Master Plan for the Year 2010' was accompanied by an ambitious Development Plan for 1983-1986. This plan envisaged adding 80 000 new settlers and paving between 100 and 150 new roads during each of the next five years. The total cost would amount to more than US\$ 2.6 million over a three-year period. By the mid-1980s, Israel had used the method of declaring lands as 'State lands' to take control of more than 40 percent of the West Bank – on which 90 percent of the settlements were eventually located.¹¹⁴

The WZO invested millions of dollars in the settlements built in accordance with these plans. From just over US\$ 5 million in 1974, WZO funding jumped to almost US\$ 30 million in 1979 and to over US\$ 41 million in 1981. The bulk of these investments went to settlements in areas identified as a priority in the Drobless Plan: 73 percent of the funds in 1978 and 69 percent of those in 1981 were invested in settlement building in the mountain-ridge areas of the West Bank.¹¹⁵

Once Likud had come to power in 1977, restrictions on the private purchase of lands were greatly eased. The Government of Israel amended Jordanian laws to facilitate direct purchases by Israeli Jews, especially of lands that could be redefined as 'State lands' (see Subsection 5.4.2.3, below, on Military Orders).

Although it is difficult to obtain accurate information on the involvement of the Jewish National Fund in land acquisition in the Occupied Territories, by all accounts the JNF played a significant role in this regard. In the early 1970s, in its capacity as the principal land-purchasing institution for the WZO/JA, the JNF set up a subsidiary company – Hemnutah Ltd. – in the West Bank:

... to engage in buying, selling, exchanging, taking and giving on lease, and cultivating land and other immovable properties in the West Bank and in the [other] territories controlled by the Israeli Defence Forces and under their administration.¹¹⁶

Sources suggest that despite prohibitions on the sale of lands to Jews, the JNF played an active role in purchasing West Bank property directly from Arab landowners or through various middlemen (sometimes fraudulently and/or without the knowledge of the actual landowner). According to Americans for Peace Now, Jewish settlement organisations such as the *Ateret Cohanim* may obtain leasing rights to properties owned by the JNF. These groups circumvent the process of issuing tenders; as a result, Palestinians are deprived of the right to bid for lands. The JNF works in collaboration with the Government of Israel to take hold of 'absentee property'. By so doing, it ensures that non-Jews cannot acquire such property.

113 For more on the Supreme Court ruling in the *Elon Moreh* case, see Shehadeh (1985) (n. 90 above), pp. 18-21.

114 See B'Tselem (2002) (n. 84 above), pp. 10, 34-35, 51. See also specific Military Orders below governing 'State land' in the Occupied Territories. Accelerated settlement building in 1978 and 1979 reflected an effort to establish irreversible 'facts on the ground' in advance of the autonomy talks proposed in the Camp David negotiations between Israel and Egypt and the subsequent peace treaty between the two countries.

115 Meron Benvenisti (1986) (n. 103 above), pp. 63-65.

116 Quoted in Lehn (n. 3 above), p. 171; see also: Aronson, 1987 (n. 90 above), p. 89; B'Tselem (2002) (n. 84 above), p. 62; and, Shehadeh (1985) (n. 90 above), p. 39.

The JNF also works with settler organisations, through subsidiaries such as Hemnutah, to evict Palestinian residents from such property, as, for example, occurred in Silwan in the Jerusalem area in the late 1980s.¹¹⁷

The total amount of land owned by the JNF 'for the Jewish people' in the West Bank is not known. However, Lehn estimates that by 1979, Israel had already acquired over 66 percent of West Bank lands. This is consistent with figures cited earlier.¹¹⁸

5.3.5 The Seven Stars Plan

The architect of this plan, which was drawn up in 1990 and approved under Yitzhak Rabin's government in 1991, was Ariel Sharon, then Housing Minister. In many ways, it stemmed from Sharon's earlier 1977 plan (see Subsection 5.3.3), as well as from proposals advanced in the Drobless Plan. The Seven Stars Plan focused on consolidating Israeli control of the pre-1967 'border' area and locating Jewish settlements between areas of Palestinian concentration on both sides of the 'Green Line'. Although the areas targeted for increased Jewish colonisation fell largely within the pre-1967 borders, the Seven Stars Plan remains noteworthy because of its significant ramifications for the West Bank.

[Therefore] the Seven Star Plan refers only to developments inside the Green Line and avoids discussing the close link between the Star Plan and the strengthening of Jewish settlements in the occupied territories. But, because the settlements are constructed so close to the Green line, their future expansion into the area within the occupied territories is inevitable. The Seven Star plan is designed to deceive the international community, and especially the United States, which insists on tying loan guarantees to an Israeli commitment to refrain from settling immigrants in the areas occupied in 1967. The Seven Star Plan seeks to overcome such restrictions by giving the impression that Israel is settling the newcomers within pre-1967 boundaries.¹¹⁹

This plan proposed the establishment (or expansion) of seven key settlements along an 80-kilometre strip of land northward from Jerusalem to straddle the 'Green Line'. Increased Jewish immigration from the former Soviet Union was expected to add some 350 000 new settlers over the next 15 years. The plan also included the construction of a major highway - the Trans-Israel Highway - to run north-south through Israel, parallel to the 'Green Line'. Other proposed highways and roads would run west to east across the West Bank, effectively separating its northern and southern parts.

In 1990, some 140 000 Palestinians and 40 000 Jews lived in Israel's northern 'Triangle' area, which borders on the West Bank and includes a number of prominent Arab towns and villages. Although this was Palestinian land and liable to expropriation, Palestinians were not consulted about the Seven Stars Plan. At the time, on the other side of the 'Green Line', an estimated 240 000 Jewish settlers lived in the Occupied Territories, most of them in the annexed areas of East Jerusalem. There were some 85 000 settlers in other parts of the West Bank and probably around 3 000 in the Gaza Strip.

As the Seven Stars Plan was implemented over the years, several of the proposed settlements, including Modi'in, Rosh Ha'ayin and others, were expanded. As envisaged, they effectively erased the Green Line. In 1994, the Government of Israel passed a law authorising the confiscation of (mainly Arab) land inside Israel for the construction of the Trans-Israel Highway. In the occupied West Bank, the signing of the Oslo agreements between the Palestinians and Israel paved the way for the construction of a vast network of roads and highways bisecting the area. The Seven Stars Plan was well on its way to realisation. By the end of 2001, the number of settlers in the West Bank had jumped to over 380 000 - many in the concentrated rings of settlements around Jerusalem or straddling the 'Green Line'.

117 See Americans for Peace Now, <http://www.peacenow.org/news/docs/jnfsettl.htm>. Meron Benvenisti estimates that JNF investments in the West Bank between 1974 and 1983 were nearly US\$ 16 million. The largest investments, in 1979, 1980 and 1981, were for US\$ 3.53 million, US\$ 3.10 million and US\$ 3.27 million respectively; see Meron Benvenisti (1986) (n. 103 above), p. 134. No data are available for JNF investments or expenditures in the Gaza Strip, though it is known that in 1981 the JNF invested directly in land acquisition in the Gush Katif settlement area.

118 Lehn (n. 3 above), p. 184.

119 Assaf Adiv and Michal Schwartz, *Sharon's Star Wars: Israel's Seven Star Settlement Plan* (Jerusalem: Hanitzotz A-Sharara Publishing House, 1991), p. 7.

Table 6, below, summarises data on Jewish settlements and settlers in the West Bank and Gaza Strip over the period 1967-2001.

Table 6: Jewish settlements in the West Bank and Gaza Strip (selected years)

Year	West Bank ⁽¹⁾		East Jerusalem ⁽²⁾		Gaza Strip ⁽³⁾	
	No. of settlements	Settler pop.	No. of settlements	Settler pop.	No. of settlements	Settler pop.
1967	1	-	-	-	-	-
1968-75	19	-	-	-	-	-
1975-77	31 (34)	4 400 (5 023)	8	52 000	5-6	700
1977-84	102 (114)	35 300 (44 146)	11	-	-	-
1985-89	115	68 900 (78700)	11-12	103 200 [1986]	13	800
1990-93	120 (122)	110 900 (117 100)	11-12	124 400 [1992]	15	3 000
1993-99	123 (169)	177 500 (180 300)	11-15	170 400	16-19	4 800
2000-2001 ⁽⁴⁾	123	198 000	11-16	Est. 200 000	19-20	7 000

Notes:

- (1) Data on settlements and settlers in the West Bank are from Table 2, 'Settlements and Settlers in the West Bank', in B'Tselem (2002), *Land Grab. Israel's Settlement Policy in the West Bank* (Yael Stein, ed.), p. 18. Data from the Israeli Central Bureau of Statistics are usually considered to be underestimates. Bracketed numbers between 1985 and 1999 (based on the Israeli CBS and the Foundation for Middle East Peace) are from Table 1, 'Settlements and Settlers in the WBGs, 1972-1999' in Ch. 4 of Leila Farsakh, *Palestinian Labour Migration and the Redefinition of Boundaries between Israel and the West Bank and Gaza Strip: Land, Labour and Structural Change, 1967-2000*, Ph.D. thesis in Economics (School of Oriental and African Studies, University of London, 2002), p. 11. Other bracketed numbers of settlements are from Meron Benvenisti, *The West Bank Handbook. A Political Lexicon* (Boulder, Colorado: Westview Press, 1986), pp. 49-51. Other bracketed numbers of settlers are from id., *The West Bank Database Project, 1987 Report* (Boulder, Colorado: Westview Press, 1987), p. 55.
- (2) Data for Jerusalem is from Table 2, 'Palestinian and Israeli Populations in east Jerusalem', in Farsakh (2002) (note 1 of this table), p.13. See also Section 6 below.
- (3) Data for the Gaza Strip are from Farsakh, (2002) (note 1 of this table), p. 11. Other sources give higher figures: see Meron Benvenisti and Shlomo Khayat, *The West Bank and Gaza Atlas* (Boulder, Colorado: Westview Press, 1988), p. 113; the authors estimate that the settler population of the Gaza Strip in 1987 was 2 506.
- (4) Provisional figures for the West Bank as of 31 Sept. 2001 are from B'Tselem (2002) (note 1 of this table), p. 18; figures for the Gaza Strip are from various sources.

5.4 Legal framework for land acquisition in the Occupied Territories

As is the case with land expropriations inside Israel, the acquisition of Palestinian lands in the West Bank and Gaza Strip proceed along several lines simultaneously. Generally speaking, the main methods of land acquisition fall into the following categories: expropriations for specific purposes (for example, military or public use, etc.); claims to vast areas of 'State lands'; and individual purchases. The various methods of transferring property from Palestinians to Jews are facilitated by an intricate web of ordinances, laws, and amendments to existing laws.¹²⁰

¹²⁰ After the June 1967 War, small tracts of land purchased by Jews earlier in the century were 'repossessed' and turned over to Jewish settlement. These areas totalled some 30 000 *dunum* (30 km²) and are not discussed further here. In Sept. 1967, Kfar Etzion, south of Jerusalem, became the first Jewish settlement established on such lands.

5.4.1 Legal considerations and first steps

Three legal systems overlapped in the West Bank: remnants of British law from the Mandate period, Jordanian law, and Israeli regulations and amendments to Jordanian law (mostly in the form of Military Orders). The legal system in the Gaza Strip was similar, with the exception that since Egypt had not annexed the area, the laws and regulations that related to land were derived almost exclusively from former British rule and from Israeli Military Orders and other laws enacted since 1967.

In the West Bank in particular, Israel initially took great care to disguise its interests by portraying changes to the law as necessary 'amendments' to Jordanian law.

As Shehadeh points out:

The Israeli occupying power came to realise that the control of over close to a million Arabs in the occupied territories was easier and more manageable than they had expected. They found that they had also succeeded in neutralising opposition to administrative and legal changes.... The Western world had become convinced of the benevolence of the occupation and the compliance of the occupying power with international conventions. However, Jordanian law continued to be a stumbling block on the way to achieving Israel's now changing policies over the West Bank.¹²¹

Israel also took pains to design a legal system for the West Bank to "disguise the real policies of the occupation" and ultimately cause Palestinians to leave, allowing Israel to annex the area.¹²²

Israeli amendments to Jordanian law, whether relating to land or other matters, deviated quite radically from the original intent of that law. An enormous body of Israeli Military Orders and regulations have accumulated over the occupation years – many of them with absolutely no basis in Jordanian law. Together, they establish Israel's transformation of the legal system in the West Bank (and Gaza Strip), aimed at tying these areas ever more closely into Israel and creating a situation of *de facto* annexation.

The first step in this direction came on 7 June 1967, when the Regional Commander of the Israel Defence Forces (IDF) issued the *Proclamation on Law and Administration (Proclamation No. 2)*. This proclamation stipulated that laws already in existence would remain in force, as long as they did not conflict with any other Israeli regulations. In the event that they did, Israeli law would supersede any pre-existing law.

Henceforth, Israel's transformation of the entire legal system in the Occupied Territories, particularly the West Bank, proceeded according to the following, now familiar, pattern:

1. Military Orders were initially issued to place both the West Bank and the Gaza Strip under the absolute control and jurisdiction of Israel's Military Government. Military law would now prevail and take precedence over any existing law;
2. Israel then issued Military Orders to 'amend' Jordanian law, authorising the Military Commander to remove Jordanian officials from their positions in various offices and departments and replace them with military or other officials – predominantly Israeli.
3. Israel then removed and undercut the protections afforded to Palestinians under previous laws so as to facilitate the achievement of its own objectives in the Occupied Territories, especially the acquisition of land and the building of Jewish settlements.

Eventually, Israel began issuing Military Orders without couching them as 'amendments' to Jordanian law. It also issued separate Military Orders relating exclusively to the growing settler population in the territories.

Soon after *Proclamation No. 1* came *Proclamation No. 2*, which authorised the Government of Israel, through the military governor of the territories, to take over any 'State property' (see discussion of 'State property' in Subsection 5.4.2.3 below). Relevant sections of this proclamation are quoted here:

121 Raja Shehadeh, *The West Bank and the Rule of Law* (New York: International Commission of Jurists, 1980), p. 102. Shehadeh explains that Moshe Dayan had initially suggested examining the feasibility of completely substituting Jordanian law with Israeli law, but decided against this. The Government of Israel discovered that by placing full legislative authority in the hands of the Military Government it could reap the same benefits without bearing the burdens.

122 Shehadeh (1985) (n. 90 above), p. 12. This book contains detailed documentation and analyses of Israeli changes to the legal system.

Interpretation

"Region" means the Region of Judea and Samaria.

Validity of Existing Law

2. The law in existence in the Region on June 7, 1967, shall remain in force, insofar as it does not in any way conflict with the provisions of this Proclamation or any Proclamation or Order which may be issued by me, and subject to modification resulting from the establishment of government by the Israel Defence Forces in the Region.

Assumption of Powers

- 3(a) Any power of government, legislation, appointment, or administration with respect to the Region or its inhabitants shall henceforth be vested in me alone and shall be exercised only by me or by any a person appointed by me to that end or acting on my behalf.
- 3(b) Without detracting from the generality of the aforesaid, it is hereby provided that any duty of consultation, obtaining approval or the like laid down in any law as a prerequisite to any legislation or appointment or as a condition to the validity of any legislation or appointment, is hereby declared invalid.

Provisions Regarding Property

4. Any movable or immovable property, including monies, bank accounts, arms, ammunition, vehicles and other transport equipment, and any other military or civilian equipment which was the property of, or registered in the name of the Hashemite Kingdom or Government of Jordan or any of its units or branches or any part thereof, which is in the Region, shall pass into my exclusive possession and shall be subject to my administration.

Promulgation of Legislation

6. Proclamation, Order or Notice issued on my behalf shall be promulgated in any manner I may deem fit.¹²³

5.4.2 Israeli laws and Military Orders in the Occupied Territories

As of April 2002, the Israeli authorities had issued some 1 500 Military Orders to regulate virtually every aspect of life in the West Bank. Similarly restrictive Military Orders operate in the Gaza Strip, though they are slightly less in number. Palestinian lawyers have voiced concern that not all these Military Orders are made available to them. They also observe that the numbering of these orders is often confusing (some orders are even unnumbered) and that the Hebrew and Arabic versions of these orders differ.

Some orders are listed as Military Regulations (often unnumbered) or as other unnumbered orders. Frequently, amendments to a prior order have tended to overlap, being amendments to entirely different Military Orders as well, or have entirely superseded and replaced other orders. Quite a few Military Orders appear to loop around each other, as is illustrated below in this subsection (and in note 126). Keeping track of changes, cancellations, amendments and other provisions is exceedingly difficult for Palestinians under occupation – the very people to whom these laws apply.

Israeli human rights organisations have also noted the difficulty of obtaining accurate information, particularly regarding settlements. B'Tselem, the Israeli Information Centre for Human Rights in the Occupied Territories, accuses Israel of concealing such information.¹²⁴

As of 1992, ninety-six of the full set of Military Orders operating in the West Bank had been issued specifically as 'amendments' to Jordanian law. Israel maintains that such 'amendments' are essential to its rule in the West Bank. Israel's insistence on this point, even though Jordanian law is no longer recognisable as the basic legal framework underlying Israeli rule in this area, helps to conceal the *de facto* application of Israeli law in the Occupied Territories.

123 Reproduced in Shamgar, App. C (n. 86 above), pp. 450-452. Shamgar notes that identical proclamations were issued for the remaining territories occupied in 1967, with the exception of the Golan Heights.

124 B'Tselem states that it took almost a year and the threat of legal action to obtain some of the information it sought. The results are documented in B'Tselem's comprehensive report, *Land Grab: Israel's Settlement Policy in the West Bank* (May 2002) (n. 84 above), <http://www.btselem.org> For a discussion of obstacles facing Palestinian lawyers in obtaining these Military Orders, see Shehadeh (1993) (n. 86 above), pp. 35, 103-104, 121. Shehadeh notes that the main body of Military Orders issued since the beginning of the occupation became more readily available to Palestinians after 1982. However, regulations pertaining to settlers and settlements still remain largely inaccessible to Palestinians.

Most of the Military Orders pertaining to Jewish settlers and settlements in the Occupied Territories are also numbered and included in the totals. This gives rise to other legal concerns. Essentially, the same Israeli Military Government that rules over Palestinians in what are internationally recognised 'occupied areas' has also issued Military Orders applying to Jewish citizens. As such, it has created a dual legal system for the Palestinians on the one hand and the Jewish settlers on the other hand. The significance of this development is discussed in Subsection 5.5 below.

The status of the Occupied Territories was altered neither by the imposition of a 'Civilian Administration' in the West Bank in 1982 (see discussion in Subsection 5.4.2.3 below), nor by the establishment of areas of self-rule under the Palestinian Authority during the Oslo 'peace process'. No Military Orders have ever been revoked. Ultimate jurisdiction over the entire occupied West Bank and Gaza Strip remains in the hands of the Government of Israel through its Ministry of Defence.

The following subsections examine the most significant Military Orders, Military Proclamations and Military Regulations, grouped into the following three specific categories:¹²⁵

- 5.4.2.1 Emergency and security regulations relating to land and property.
- 5.4.2.2 'Absentee property' orders and regulations.
- 5.4.2.3 Military Orders and regulations concerning land and property, and related laws

A fourth category, Military Orders and regulations concerning Jewish settlers and settlements in the Occupied Territories, is discussed separately in Subsection 5.5.1.

5.4.2.1 Emergency and security regulations relating to land and property

Military Proclamation No. 3 Concerning Security Provisions (June 1967 - undated)

This proclamation is cited to illustrate the extensive authority enjoyed by the Israeli Military Commander in the Occupied Territories. Issued at an early stage in the occupation, the original proclamation confirms that provisions of the Fourth Geneva Convention are applicable to judicial procedures and military courts. The proclamation declares that the Military Commander can close areas and deny freedom of movement. He can also impose curfews and forbid movement without a permit. *Proclamation No. 3* has been amended 18 times since being issued. Especially noteworthy is Military Order (MO) 144 of 22 October 1967. This amendment revokes Article 35 of the original proclamation, which stipulated that Israel was bound by the provisions of the Fourth Geneva Convention in its treatment of Palestinians under occupation.

Other amendments to this proclamation extend the authority of the Military Commander and the jurisdiction of the military courts. Separate Military Orders also cover the power to declare areas closed and restrict freedom of movement. Amendment 17 of 10 February 1969 (MO 307) gives the Area Commander the power to seize the property of any person who has failed to pay a fine for any violation, and to resell such property to ensure payment of the fine. Amendment 257 of 28 May 1968 also gives soldiers the power to remove from the area people who lack permits.

Military Order 378, Order Concerning Security Provisions, 20 April 1970

This Military Order repeals *Proclamation No. 3* and addresses a number of security matters included in it. MO 378 specifies that the relevant authority may issue orders verbally, and that ignorance of the law on the part of those to whom orders apply does not invalidate such orders.

Several provisions (superseding prior Military Orders) relate to the establishment of military courts, their functions and jurisdiction. Articles on offences include those against the 'public order' which is defined in part as the "security of the area or of the Israeli Defence Forces and its soldiers". This Military Order gives great latitude to soldiers to arrest and search persons, and to seize goods and other items in the event a person has committed an offence under this Military Order. Amendment No. 12 to MO 378, of 14 October 1976, authorises the seizure of goods and documents in cases where there is evidence that an offence will be committed.

125 Military Orders and regulations are issued in Hebrew and occasionally in Arabic. All titles in English in this study are unofficial translations. Laws listed in this section apply to the West Bank, but are comparable to those operating in the Gaza Strip. Unless otherwise stated, all information for these subsections, including titles, dates and summaries of, and extracts from, these Military Orders and regulations are from: JMCC (1993) (n. 95 above). For more information, see various works by Raja Shehadeh cited in this study. See also Usama Halabi, 'Israeli Law as a Tool of Confiscation, Planning and Settlement Policy', in Adalah (2000) (n. 53 above), pp. 7-13. Information on Military Orders and regulations issued since 1992 is incomplete. For a summary of the operation of different Military Orders pertaining to land; see Aronson (1994) (n. 108 above), pp. 44-46. For information on specific mechanisms of land confiscation in the Gaza Strip, see Roy (1995) (n. 33 above), pp. 175-176.

MO 378 also authorises the Military Commander to restrict the movement of certain individuals. A Military Commander, or those authorized to act under his authority, may close certain roads and otherwise restrict the movement of a specific class of people, impose curfews, declare closed areas, and so on.

By 1992, MO 378 had been amended by over 70 numbered and some 17 unnumbered Military Orders, as well as a handful of unnumbered Military Regulations. In cases where amendments to this Military Order refer to a particular area under curfew or closure, for example, such amendments may in turn have been amended by other, separate Military Orders. Such is the case with MO 488 of 1 October 1972, which amends MO 378 to designate areas under curfew in the Jordan Valley. MO 488 was amended by MO 547 of 22 May 1974 (expanding the restricted areas), which was superseded by MO 551 of 21 June 1974. In all this law-making, however, there is no explicit reference to the original Military Order having been amended.¹²⁶

Much of this law concerns 'security', as do other Military Orders dealing with the regulation of permits. Ultimately, MO 1220 (also listed as MO 1217) of 3 February 1988 amends MO 378 to specify that no sovereignty in judicial procedures can prevail over security legislation.

Also pertaining to 'security' is the matter of access to 'closed areas'. Thus, another amendment to MO 378, MO 726 of 6 September 1977, even forbids persons with valid permits to remain in 'closed areas'. The issue of security extends to other aspects of property: MO 741 of 6 November 1977 also amends MO 378 in authorising an Area Commander to attach [that is, seize] and resell property or appoint others to do so. MO 997, *Order Concerning Permits to Work on Areas Seized for Security Purposes*, of 2 August 1982, extends these restrictions to prohibit construction, by any person, of roads, buildings or any other structure, on lands that have been expropriated for security purposes.

Mirroring restrictions on Bedouins in Israel, Amendment No. 20 of 22 June 1980 (MO 852) forbids grazing animals in closed military areas without a permit. Amendment No. 36 (MO 987) of 3 May 1982 also authorises any soldier to "seize any animal which he suspects is involved in a violation of an order or law".¹²⁷

A separate body of 'Emergency Regulations' dating from the British Mandate period were reissued immediately after occupation and extended over subsequent years. These outline restrictions on people wishing to enter or exit the Occupied Territories, and are not covered here. Suffice it to say that the Israeli authorities occasionally cite the *Emergency Regulations* in declaring land expropriations. For example, MO 1323, *Order Concerning Methods of Punishment (Provisional Regulations)*, of 13 January 1991, states: "It is permissible for the government to expropriate land under defence regulations (Emergency Regulations of 1945), and demolish buildings in the area."

Military Order No. 5, Order Concerning the Closure of the West Bank (8 June 1967)

This Military Order declares the entire West Bank a closed military area. It was amended by MO 18 of 13 June 1967, stating that anyone wishing to enter the West Bank requires a permit. MO 34 of 2 July 1967 amended MO 18 and replaced MO 5. An additional 17 unnumbered amendments to this Military Order were issued between November 1967 and June 1974.

Regulating the entry of persons to the West Bank allows Israel to control other aspects of life as well, including access to land and property. This Military Order should not be confused with another category of orders that grant authority to the Military Commander or designated officials to declare specific closed areas within the West Bank and/or the Gaza Strip.

126 This level of detail concerning Military Orders is necessary if we are to appreciate the intricacy and complexity of military law in the Occupied Territories. Since the complete texts of the Military Orders are not available, it is unclear whether these would provide other details tracking specific amendments that are not included in the summaries. However, the pattern evident here is repeated in other Military Orders: the Israeli authorities first issue a Military Order to 'amend' Jordanian law, then issue subsequent amendments to the original law and to other laws simultaneously. This pattern is repeated until countless military laws loop around each other in a tangled legal web. All relation to the original Jordanian law is lost. Even Palestinian legal experts are hard-pressed to follow all the intricacies of the law. This, in turn, makes it difficult for them to advise their clients on fundamental matters concerning their lives, their lands and their property.

127 Separate Military Orders restrict grazing; for example, MO 544, *Order Concerning Grazing in the Jordan Valley*, of 30 Apr. 1974 prohibits grazing of cattle in designated parts of the Jordan Valley. MO 544 was subsequently amended three times (for example, by adding a map of areas where grazing is permitted) before being cancelled altogether by MO 1012 of 8 Aug. 1982. Another, unnumbered Military Order, *Order Concerning Security Provisions*, of 19 Aug. 1973 (classified as an amendment to MO 34 and 378) prohibits transporting animals into Israel for grazing. An unofficial translation of the entire MO 378 is reproduced in App. II of JMCC (n. 95 above), pp. 182-210; see also App. C, *Security Provisions Order (Consolidated Version 1980) Order No. 378*, in Shamgar (1982) (n. 86 above), pp. 476-488.

Israel resumed the declaration of 'closed areas' during the first *Intifada* of 1988-1993. As a prelude to the imposition of various types of internal and external 'closure' during the 'Oslo era' (1993-2000) and later during the second *Intifada*, on 30 June 1991 Israel issued an unnumbered Military Order, *Order Concerning Security Provisions (Closed Areas)*, in the West Bank. By virtue of this order, various areas were declared 'closed' and entry to them without a permit was prohibited.

Military Order 60, Order Concerning Security Provisions (Closure of Military Training Zones), 6 August 1967

This Military Order, together with MO 61 of 1 August 1967, specifies areas closed for military training purposes. MO 60 was amended a month later, and both Military Orders were cancelled and superseded by MO 496, issued on 25 December 1972. The latter also amends MO 378 (see above in this subsection) concerning the designation of closed areas in the Northern Jordan Valley.

Two additional Military Orders, MO 62 and MO 63, both of 1 August 1967, delineate additional military training zones. The former was superseded by the separate MO 383 of 4 June 1970, which in turn was cancelled by MO 497 of 25 December 1972. The latter designates an area around Hebron as 'closed'.

In another example, MO 259, *Order Concerning Security Provisions (Closure of Military Training Zones)*, 13 June 1968, designates a zone in the Bethlehem area as 'closed' for 'military training purposes'.

In the Occupied Territories, the Israeli authorities have often turned over areas previously declared 'closed' for 'military purposes' to Jewish colonisation (see, for example, the *Beit El* case in Subsection 5.1.3 above). Palestinians have often found it difficult to obtain accurate and timely information about which areas have been so declared, and when and why the closure has been lifted to allow for the establishment of Jewish civilian settlements in the area.

Separate Military Orders were also issued for the establishment of military camps. For example, five Military Orders were issued on 8 January 1968 (MOs 200-204), all of them entitled *Order Concerning Closing an Area for a Military Camp* and all of them designating certain areas closed for 'security purposes'. The areas in question are identified numerically as '8040', '8038', '8119' and so on (it is not specified to which sites these numbers refer).

In some instances, Military Orders are issued to announce specific confiscations for 'military purposes'. Two examples of this practice are the unnumbered Military Orders *Order Concerning Confiscated Land 14/75*, of 14 December 1975, and *Order Concerning Confiscated Land 15/75*, of 15 December 1975.

Still other separate Military Orders designate specific closed areas (without specifying a military purpose). For example, MO 571, *Order Concerning Closed Areas (Area 22)*, of 3 January 1975, declares 'area 22' closed; MO 572, issued the same day, declares 'area 23' closed; MO 590, *Order Concerning Closed Areas (904 North A)*, of 7 May 1975, declares '904 North A' closed, and so on.

Causing even more confusion for Palestinians, new announcements of areas closed for military training could, by virtue of a Military Order, be conveyed verbally to a *mukhtar* (a traditional Arab community elder), who would in turn be responsible for transmitting such information to the people concerned. For example, MO 377, *Order Concerning Security Provisions (Closure of Training Zones)*, of 19 March 1970, designates certain parts of the Bethlehem, Hebron and Jordan Valley districts as closed zones for military training. This MO states that verbal closure orders would be given to the relevant *mukhtars* and local authorities, who would then be responsible for informing their constituents. This Military Order was superseded by MO 383 of 4 June 1970 (see above in this subsection), which in turn was replaced by MO 497 of 25 December 1972 (which is listed as an amendment to the separate MO 378 of 20 April 1970 (see above in this subsection)).

Mukhtars did not always convey the information in a timely manner, and Arab landowners often remained utterly unaware of the relevant closure or confiscation order until they found bulldozers tearing up their lands. This practice also had implications with regard to the appeals process. By the time construction had begun on such lands, it was already too late to file an appeal under the law (see discussion of MO 172 in Subsection 5.4.2.3 below.)

According to B'Tselem, some 47 000 *dunum* (47 km²) of mostly privately owned lands in the West Bank were confiscated for 'military needs' between 1968 and 1979. These lands were then turned over to construction of Jewish settlements, including Beit El (see Subsection 5.1.3 above), Kiryat Arba, Efrat, Har Gilo, and numerous others.¹²⁸

128 B'Tselem (2002) (n. 84 above), p. 48.

The requisition of privately owned lands for Jewish colonisation was largely discontinued following the 1979 *Elon Moreh* case (see Subsection 5.3.4 above). However, Israel continued to seize privately owned Palestinian lands for 'public purposes', such as settler-only by-pass roads. Later, private lands were also confiscated for construction of the new 'Separation Barrier' (also referred to as 'the Security Fence', 'the Wall' or - by its opponents - 'the Apartheid Wall') between Israel and the Palestinian population of the West Bank.

Military Order 151, Order Concerning Closed Areas (Jordan Valley) of 1 November 1967

This is an example of a declaration of 'closed areas'. MO 151 declares the Jordan Valley a 'closed area' and stipulates that anyone wishing to enter or exit the area must obtain a permit. As noted in Subsection 5.3.1 above, the Jordan Valley was targeted for colonisation and permanent retention under the Allon Plan. An amendment to this Military Order, MO 388 of 1 June 1970, provides a redrawn map of the 'closed area'. Two other amendments to this Military Order were added later.

Military Orders declaring 'closed areas' are commonly enforced in conjunction with other Military Orders, such as those imposing curfews or those permitting or restricting entry to and exit from 'closed areas' to certain categories of people. Illustrative of this practice is the unnumbered Military Order of 6 November 1967, *Order Concerning Closed Areas* (which also amends MO 34), which permits "anyone above the age of 60 who is a resident of Israel and/or a foreign resident who is staying legally in Israel" to enter and exit 'closed areas' (the entire West Bank had been declared a closed area by virtue of MO 34). Those under 60 could enter, but only if accompanied by a person over 60, providing that they adhered to certain roads and avoided refugee camps and military sites. Another amendment was issued on 30 November 1967. This unnumbered Military Order allows Palestinians from the Gaza Strip to enter the closed areas (that is, the West Bank) but only via a specific road.

In another example of overlapping restrictions concerning closed areas, an unnumbered Military Order of 14 May 1968, *Order Concerning Closed Areas* (which also amends MO 34), adds the stipulation that people are forbidden to change their place of residence from one area to another (temporarily, or permanently - that is, for longer than 48 hours) without obtaining a permit. Moreover, so as to effectively separate Jerusalem from the rest of the West Bank and to prevent Palestinians from moving into the city, the Israeli authorities issued an additional amendment to MO 34 concerning permits. This unnumbered Military Order of 19 December 1968 allows Palestinians to enter Jerusalem in order to pray at their holy sites or to transit the city, but forbids them to stay in the city or open a business there.

Other Military Orders pertain to specific areas without reference to MO 378; for example, MO 492, *Order Concerning Closed Military Area*, of 20 October 1972, declares the Jenin area closed.

A different set of Military Orders governs roads and transport. Noteworthy among these is the law that establishes differently coloured vehicle license plates for different areas. This enables Israel to regulate the movement of Palestinians within the West Bank and the Gaza Strip separately, as well as between these two areas; to restrict their entry into Jerusalem; and to separate Israeli citizens and settlers and facilitate their passage through the Occupied Territories. For example, MO 344, *Order Concerning Road Transport* (15 October 1969), the seventh amendment to MO 56 of 11 July 1967, details the different types of license plates required.

Similarly, a 28th amendment to the original Military Order concerning road transport (MO 56 of 11 July 1967), MO 1169 (sometimes listed as MO 1168), *Order Concerning Road Transport*, of 1 May 1986, specifies regulations for license plates, including colours, size, letters and the like. Further regulations are laid down in MO 1251 (Amendment No. 33 to MO 56), *Order Concerning Road Transport Law*, of 18 August 1988, which specifies that license plates are to be colour-coded to correspond to the place of origin. (MO 1310, *Order Concerning Road Transport*, of February 1992, supersedes MO 56 and some of these provisions.)

Military Order 152, Order Concerning Curfew Hours (Jordan Valley), 22 October 1967

Several Military Orders designate areas under curfew at particular times. MO 152, which imposes a night-time curfew on the Jordan Valley area, is illustrative of this process. Later amendments extended and then reduced curfew hours. Other amendments specify what roads could be used, as in MO 488, *Order Concerning Restrictions on Transport, Transfer and Curfew (Jordan Valley)*, 1 October 1972. MO 547 of 22 May 1974 amends this last Military Order to include the Jerusalem-Jericho road. MO 547 is in turn cancelled by a Military Order of 22 June 1974.

Under Israeli occupation, the imposition of curfews occurs with regular frequency to restrict Palestinians in their daily activities. It interferes with their ability to cultivate their lands, hinders the marketing of their produce, and affects their other day-to-day economic pursuits in countless ways.

5.4.2.2 'Absentee Property' orders and regulations

Certain Military Orders mirror provisions of Israeli civilian law in providing that lands belonging to Palestinians who have left or fled the West Bank may be targeted for confiscation by the Israeli authorities.

Military Order 58, Order Concerning Absentee Property (Private Property) (23 July 1967)

By virtue of MO 58, "property whose legal owner, or whoever is granted the power to control it by law, left the area prior to 7 June 1967 or subsequently" is declared 'abandoned' or 'absentee' property. The Area Commander may appoint a 'Custodian of Absentee Property' to take control of all matters related to the property in question, including the authority to rent or sell it as he sees fit. The 'Custodian' may also appoint other officials to oversee the property. To him are transferred all rights previously vested in the owner. MO 58 warns that anyone controlling property belonging to an 'absentee' owner must declare this property as such or risk punishment. If the owner returns to the area legally, the property may be restored to him (after deduction of an administrative fee) if he can credibly establish his property rights. According to Article 5 of this Military Order:

... any transaction carried out in good faith between the Custodian of Absentee Property and any other person, concerning property which the Custodian believed when he entered into the transaction to be Absentee Property, will not be void and will continue to be valid even if it is subsequently proved that the property was not at that time Absentee Property.¹²⁹

In a few cases, Palestinians have been able to demonstrate that they were not 'absentees' and have demanded the return of their property – which was already turned over to Jewish colonisation. The outcome of such court cases often hinged on Article 5, whereby the 'Custodian' or his appointee would argue that he had acted in 'good faith' in disposing of the land.

MO 58 operates in conjunction with other laws enacted by Israel's Military Government, most notably MO 172, which authorises the establishment of an Objections Committee (see discussion of MO 172 in Subsection 5.4.2.3 below). This committee, consisting of various Israeli officials, is the only body authorised to hear challenges against the 'Custodian'. Rulings almost invariably favour him.

By 1982, this Military Order concerning 'absentee property' had been amended six times. The first amendment, MO 115 of 5 September 1967, added 'stone quarries' to the types of real estate covered by the law.

Military Order 150, Order Concerning Absentee Property (Private Property) (Additional Regulations) of 23 October 1967

This Military Order widens the scope of MO 58 by defining 'abandoned property' as that which is owned or controlled by a resident of a 'hostile' country. It also establishes provisions for the transfer of assets and control of any businesses owned by an 'absentee'. (MO 150 was amended by the separate MO 358 in 1969).

Theoretically and legally, the 'Custodian' is entrusted with protecting the property and assets of 'absentees' until they return to reclaim their rights. In practice, however, and because Israel has consistently barred the repatriation of refugees, the 'Custodian' in the West Bank functions very similarly to his counterpart inside Israel. Essentially, the former facilitates the transfer of 'absentee properties' (especially lands) to Jewish control and thus prevents the rightful Palestinian owners from pressing claims to their own lands and property. Palestinians who have returned to the area under processes including family reunification and have tried to reclaim their lands have been frustrated by the 'good faith' provision, which is virtually impossible to overrule. (Several lawsuits have been filed on behalf of Palestinians classified as 'absentees' under the law, even though they have never left the West Bank; nevertheless, they have ended up losing their lands on the basis of the 'good faith' defence cited above.). A few Palestinian returnees have been able to obtain symbolic monetary compensation for lost businesses or other enterprises, but they have not regained their lands.

The merger of the different 'Custodian' functions into a joint 'Custodian of Government and Abandoned Property in Judea and Samaria' has facilitated Israel's declarations of 'abandoned' land as 'State land'.

129 Quoted in JMCC (n. 95 above), p. 9. This Military Order is reproduced as App. C, *Abandoned Property of Private Individuals Order*, in Shamgar (1982) (n. 86 above), pp. 465-469. Article 5 deals with the delivery of 'Abandoned Property'. Shehadeh notes that the office of the Custodian, officially titled 'Administrator of Lands of Israel: Custodian of Abandoned and Government Property in the Area of Judea and Samaria', is located in West Jerusalem and is under the administration of the Israeli Lands Administration. That is, this office is part of the same body that manages lands expropriated from Palestinian refugees inside the State of Israel; see Shehadeh (1993) (n. 86 above), pp. 63-64.

5.4.2.3 Military Orders and regulations concerning land and property, and related laws

Military Order 25, Order Concerning Transactions in Property (18 June 1967)

This, the first Military Order concerning transactions in land and property, makes it illegal to engage in any transactions in land and property without a permit from the military authorities. MO 25 declares such transactions invalid and imposes penalties for violators.

Under earlier Jordanian law, any disposition of land and water rights that extended beyond three years had to be registered with the relevant authority. MO 25 abolishes this requirement and mandates that all such transactions receive prior approval.

Some sources speculate that this Military Order may have been issued to restrict unregulated Jewish land purchases in the West Bank other than those approved by the Government (through recognised JNF subsidiaries). However, restrictions on Jewish purchases were later lifted and Israeli entrepreneurs were encouraged to purchase privately owned Palestinian lands.

In the meantime, other related Military Orders were issued; for example, MO 450 (see below in this subsection). The brunt of these new regulations were borne by Palestinian property owners, whose customary transactions in land or property rights had now to receive prior approval from the appropriate military authorities.

By 1985, there had been 11 amendments to MO 25. Several of these were in the form of unnumbered regulations on the payment of fees for permits and registration. Amendment No. 3, MO 794, *Order Concerning Land Transactions*, of 20 May 1979, stipulates that land transactions completed without a permit or in violation of the terms of a permit are to be considered invalid.

Military Order 28, Order Concerning Income and Property Tax (22 June 1967)

This Military Order states that the Jordanian property tax laws of 1954 and 1964 remain applicable to the area under *Proclamation No. 2* (see Subsection 5.4.1 above), unless changed by order of the military authorities. By 1992, there had been seven amendments to this Military Order, including MO 120 of 10 September 1967, which imposes village property taxes. Several amendments authorise the Israeli official-in-charge to remove or appoint officials as he sees fit.

Separate Military Orders regulate land taxation. MO 642, *Order Concerning Amendment to the Land Tax Law*, of 31 March 1976, amends Jordanian law to impose taxes on cultivated lands according to the type of trees planted on them. This Military Order was amended by MO 1102, *Order Concerning Amendment to Law of Land Tax*, of 23 March 1984, which authorises the head of the Civilian Administration to change certain regulations concerning the land tax law. By 1991, there had been two amendments to MO 642.

Related Military Orders regulate such matters as attaching [that is, seizing] property in cases of non-payment of income taxes. MO 770, *Order Concerning Amendment to the Income Tax Law (Fines, Advance Payments)*, of 5 November 1978, amends the original MO 543, of 20 March 1974, concerning the income tax law. MO 770 allows tax department officials to obtain an order from a 'special court' (independent of a court order) to attach the property of a person as laid down in this Military Order. MO 791, *Order Concerning Amendment to the Income Tax Law (Fines)*, of 9 April 1991, amends MO 770 to authorise Israeli tax officials to confiscate and sell property where there are outstanding debts in respect of it.

In an amendment to another Military Order (MO 113 of 6 September 1967, which itself amended Jordanian law on the collection of Government monies), MO 1095, *Order Concerning Amendment to Collection of Government Monies Law (Permission to Attach Third Party Property)*, of 26 January 1983, authorises the attachment of debtors' property to include property in the hands of third parties (such as relatives) or other specified agencies and groups. By virtue of this law, the third parties concerned must inform officials of the debtor's identity and are liable to be fined for violations.

MO 1285, *Order Concerning Amendment to Law for the Collection of Government Monies*, of 13 September 1989, amends MO 113 to authorise a tax official to confiscate a debtor's property if he does not pay his taxes within 10 days. Some of these provisions were later amended by MO 1319, *Order Concerning Amendment to Collection of Government Monies*, of 18 October 1990, stipulating that if a person is suspected of transferring property to a third party to avoid paying taxes, tax officials may still confiscate such property.

The separate MO 1287, *Order Concerning the Collection of Taxes (Provisional Regulations)*, of 12 November 1989, amends MO 1262 in respect of the collection of taxes. The latter, of 17 December 1988, stipulates that 23 different types of licenses can

only be granted if the applicant can prove that he has paid various taxes. By virtue of the new amendment, tax authorities are no longer required to post tax claims in the Official Gazette, but may publish claims once in two newspapers or twice in one newspaper. Tax authorities are also granted secrecy in conducting their work.

MO 78, *Order Concerning Jurisdiction Over Customs Fees and Excise Duties, 24 August 1967*, partly amends *Proclamation No. 3* (see Subsection 5.4.2 above) to allow relevant authorities to confiscate the property of anyone who violates a specific list of Military Orders and Military Regulations, including: "Any order, regulation, or instruction notice issued by the Military Commander"; "Military Order 47" (*Order Concerning Transportation of Agricultural Produce*) of 9 July 1967; and "Military Order 49" (*Order Concerning Closed Areas (Prohibiting the Transportation of Goods)*) of 11 July 1967.

As a result of these and other Military Orders issued since occupation, some form of taxation now regulates virtually every aspect of life in the Occupied Territories. Taxes are levied on agricultural lands (depending on the type of cultivation), on homes and other structures in towns or villages, on licensing, on planting and marketing produce, on obtaining permits for different activities, and so on. Furthermore, there is a value-added tax on certain products, which Israel has progressively increased over the years.

Many original Military Orders related to taxation are subsequently amended, taxes changed or raised, and new categories added. Listing all the relevant Military Orders and describing them in their full complexity is beyond the scope of this study. Suffice it to say that Palestinians have often complained of the onerous tax burdens imposed upon them, which are out of proportion to those imposed upon Israelis. The constant struggle to meet their tax liabilities has increased the difficulties Palestinians face in trying to retain and cultivate their own lands. In contrast, as we will see in Subsection 5.5.1.2 below, Jewish settlers receive countless tax benefits and other incentives to encourage them to settle and remain in the Occupied Territories.

Military Order 37, Order Concerning Appointment and Employment of Staff in the Government Sector, 18 July 1967

One of the first actions of Israel's Military Government in the Occupied Territories was to transfer to the Israeli official-in-charge all powers concerning the removal and appointment of Government employees, and the replacement of those previously hired (under Jordanian rule). The same process occurred in a variety of other sectors, including the courts and municipal councils, as authorised by different Military Orders. By 1992, MO 37 had been amended at least 19 times.

Military Order 39, Order Concerning the Powers and Jurisdiction of District Courts (16 July 1967)

This Military Order amends Jordanian law to place the entire judicial system under the control of the military administration. It was amended twice: the first of these amendments, MO 57 (21 July 1967), transferred all areas of jurisdiction formerly under the Jordanian Court of Cassation to the Israeli Supreme Court. MO 39 and its two amendments had a profound effect on the settlement of land and property claims (see below in this subsection). MO 39 was formally repealed and replaced by MO 412, *Order Concerning Local Courts*, of 5 October 1970, which essentially gave the Israeli officer in charge of the judiciary all authority formerly invested in the Jordanian Minister of Justice. By 1986, this new law had been amended nine times. Amendment No. 8, MO 1130 of 13 February 1985, states:

It is permissible for the Israeli official-in-charge to alter the amendments pertaining to government files and registration documents which were ruined or lost.

In this context, it is important to note that, in late 1984 and early 1985, suspicious fires and other acts of vandalism occurred at Magistrate and District courts in Nablus, Jenin, Bethlehem and Ramallah. Tens of thousands of civil case files pertaining to land claims, most of which had already been settled in favour of Palestinians, were destroyed. It is unclear whether MO 1130 was issued in relation to these events. (See discussion of MO 841 below in this subsection.)

Military Order 47, Order Concerning Transportation of Agricultural Produce (9 July 1967)

MO 47 prohibits transport of agricultural goods (except canned items) into or out of the West Bank without a prior permit from the military authorities. It imposes fines and other punitive measures on violators. MO 47 was amended several times. For example, MO 155 of 24 October 1967 amended MO 47 to authorise Israeli officials to designate specific routes for the export of agricultural products and to give inspectors the authority to search vehicles and confiscate vehicle documentation.

Another amendment, MO 1010 of 24 July 1982, gives the appropriate authority the right to confiscate agricultural goods from any person "suspected of violating this law". Goods are to be returned only after the person in question has proved that he has paid all duties and taxes.

Another separate set of Military Orders regulate the definition of 'custom areas', and the type of vehicles requiring permits for transporting goods and produce. Yet another category of Military Orders regulates the planting of trees. For example, MO 474, *Order Concerning Amending the Law for the Preservation of Trees and Plants*, of 26 July 1972 (cited as an amendment to Jordanian law), authorises the Military Commander to appoint inspectors to enforce the law, and empowers inspectors to remove people from cultivated land if they hinder their work. This Military Order imposes restrictions on planting specified types of plants and fruit trees.

Military law even governs matters such as types and quantities of flowers that can be grown, including carnations and roses. MO 818, *Order Concerning the Planting of Certain Decorative Flowers*, of 22 January 1980, was issued to protect the interests of Israeli cultivators, especially since these flowers are grown for export abroad.

MO 1015, *Order Concerning Planting of Fruit Trees*, of 27 August 1982, prohibits the planting of fruit trees without the appropriate permit. This Military Order was amended by MO 1039, *Order Concerning the Control over the Planting of Fruit Trees*, of 5 January 1983, to include certain vegetables and to expand the list of plants and trees for which permission must be obtained. A subsequent amendment, MO 1147, *Order Concerning Supervision over Fruit Trees and Vegetables*, of 30 July 1985, adds the provision that the relevant authority can issue permits to restrict the planting of specific agricultural products to designated areas. Similar additional restrictions are imposed by virtue of MO 1051, *Order Concerning Marketing of Agricultural Produce*, of 28 March 1983.

MO 1002, *Order Concerning Restriction of Agricultural Activity*, of 21 June 1982, amends Jordanian law to transfer jurisdiction to the Israeli official-in-charge and give him control over farming. This Military Order was amended by the unnumbered *Order Concerning Plant Nurseries Law*, of 8 February 1983, which further amends Jordanian law concerning regulations for planting seeds and sales of seedlings. (A subsequent amendment provided for the appointing of officials to enforce this law.)

Military law also regulates what agricultural equipment can be brought into and used in the territories. MO 134, *Order Concerning Prohibition on Operating Israeli Tractors and Other Agricultural Equipment*, of 29 September 1967, prohibits bringing in or using certain agricultural equipment without obtaining a permit. Punishment for violating this law may include fines or imprisonment. This Military Order is significant because tractors, bulldozers and other equipment available in Israel, or permitted for use in Jewish settlements and by the army, are not available for Palestinian use. Thus, Palestinians seeking to develop their lands do not have access to the more advanced equipment available to Jewish settlers.

In these ways, Israel restricts Palestinian agriculture and facilitates the acquisition of Palestinian lands, while ensuring that Palestinian agricultural products and plants cannot compete with similar Israeli produce.

Prior to occupation, Palestinians had cultivated over 40 percent of West Bank lands. With the operation of these and other Military Orders restricting Palestinians' activities on their own lands, by the 1980s this figure had dropped to around 31.5 percent. The implementation of Military Orders and policies designed to further the acquisition of Palestinian lands only accelerated throughout the 'Oslo era' and into the second *Intifada* of 2000 (see Sections 7 and 8 below).

Military Order 54, Order Concerning Appointments in Accordance with Surveying Laws, 6 July 1967

This Military Order amends the Jordanian *Land Surveying and Valuing Laws* of 1953 to transfer to the Israeli official-in-charge the authority to make appointments, among other matters of jurisdiction previously in the hands of Jordanian officials. The Israeli official may then appoint other officials to replace those dismissed. MO 54 was superseded by MO 451 of 6 October 1971, *Order Concerning the Surveying and Definition of Land Boundaries*, which also supersedes the applicable Jordanian law. MO 451 transfers to the Israeli official-in-charge all powers and jurisdiction under the law, and gives him the authority to remove and appoint officials as he sees fit.

Military Order 291, Order Concerning Settlement of Disputes Over Land and Water, 19 December 1968

MO 54 (see preceding paragraph) may be regarded as a precursor to other land-related laws, including MO 291, *Order Concerning Settlement of Disputes Over Land and Water*, of 19 December 1968. MO 291 amends earlier Jordanian law to suspend and freeze the land registration process in the West Bank. As noted in Subsection 5.2.2 above, prior to the Israeli occupation, registration had been completed for only one-third of West Bank lands.¹³⁰

MO 291 authorises the Military Commander to declare land and water transactions invalid and cancel prior settlements in respect of land and water even in instances where they have already been ratified by civil courts. To properly appreciate the full implications of the passage of MO 291, it should be examined in relation to other Military Orders including MO 569, *Order Concerning Registration of Separate Transactions in Land, 17 December 1974* (see relevant paragraphs below in this subsection).¹³¹

Military Order 59, Order Concerning State Property, 31 July 1967

This Military Order, issued at an early stage in the occupation, as were its subsequent amendments, proved to be one of the most far-reaching measures in providing Israel with legal cover to take over vast areas of Palestinian land in the Occupied Territories.

MO 59 defines 'State property' as any property belonging to a 'hostile state' before 7 June 1967, or any property belonging to an arbitration body connected to a hostile state. This definition includes any unregistered lands or any lands whose title may have been in the process of being settled in the courts. It covers movable and immovable property, and places all such property under the control of the 'Custodian of Public (Government) Property' – created under this Military Order – to dispose of as he sees fit.

As in the case of 'absentee property', this Military Order declares that transactions, made 'in good faith' between the 'Custodian' and any other person, of property:

... which the Custodian considered, at the time of making the transaction, to be state property, shall not be cancelled and shall continue to be binding even if it is proven that the property in question was not state property at the time when the transaction was made.¹³²

This provision had serious ramifications for those Palestinians who had registered valid legal claims but whose lands had already been turned over to Jewish colonisation. Once again, the courts tended to uphold claims by the 'Custodian' and other relevant officials of having acted 'in good faith' in disposing of such land.

Under Jordanian rule, only about 13 percent of the lands in the West Bank had been officially registered to the 'State'. Israel used a variety of legal mechanisms to drastically redefine the status of various types of land-holdings and amass considerable property in the name of the 'State'.

Such identification and confiscation of lands closely paralleled the operation of laws inside Israel. Once again, Israel employed its unique interpretations of Ottoman and Jordanian law to redefine requirements for the registration of particular types of land, and then proceeded to confiscate such lands when Palestinians were unable to, or were prevented from, meeting the new requirements.

The first step in this process was to suspend land registration. As in Israel proper, Israel then claimed all *Mawat* lands in the name of the 'State'. It also redefined what constituted *Mawat* lands in the first place – for example, by changing the criterion based on their distance from a place of habitation – to prevent their conversion to *Miri* lands.

130 Some scholars claim that registration was intended to protect the lands of 'absentees'. However, this reasoning is belied by the fact that the 'Custodian of Absentee Property' who assumed control over some 430 000 *dunum* (430 km²) of 'abandoned' lands has used his position to transfer these lands to Jewish settlements. Such transactions were commonly registered within a special registration department and hidden from public view. See MO 569 below and, for example, Shehadeh (1985) (n. 90 above), p. 23. According to B'Tselem, MO 291 excludes registration of 'State lands' held by the Custodian of Government Property, so that confiscation of such lands can continue unimpeded; see B'Tselem (2002) (n. 84 above), p. 54.

131 B'Tselem translates this order as 'Order Concerning the Registration of Transactions of Certain Lands (Judea and Samaria)'; see *ibid.* p. 54.

132 Quoted in JMCC (n. 95 above), p. 9; see *also* B'Tselem (2002) (n. 84 above), p. 59.

Under Jordanian rule, cultivators had enjoyed extensive rights of possession and use of *Miri* lands. These lands were clearly distinguished from other 'State lands'. Under Israeli occupation, the burden of proof for the registration of *Miri* lands was made more stringent. This applied particularly to providing proof of cultivation for a period of 15 years (the 'prescription' period). Similarly, if Palestinians could not prove that they had cultivated their *Miri* lands for three consecutive years, these lands were redefined as 'abandoned' and confiscated as 'State lands'. Since Israel also used closure and curfew orders to disrupt the continuous cultivation of lands, Palestinians were placed in an impossible situation, and many people lost their lands.

By 1979, Israel had used MO 59 to take over some 527 000 *dunum* (527 km²) of lands in the West Bank formerly held by the Jordanian Government. Following the final ruling on the *Elon Moreh* case (see Subsection 5.3.4 above) that same year, Israel intensified its process of surveying, identifying and confiscating lands under MO 59. It identified an additional 1.5 million *dunum* (1 500 km²) of land in various categories – about 26 percent of the West Bank – that could still be confiscated in this manner.¹³³

By the early 1980s, Israel had apparently exhausted the supply of lands that could be acquired by this method. It then resorted to other methods of land confiscation and MO 59 was amended accordingly. Perhaps the most significant amendment came with the passage of MO 1091, *Order Concerning State Property*, of 20 January 1984. This expands the definition of property liable to expropriation to include certain registered lands, and thus defines as 'State lands' those that would or could be subject to an expropriation order:

1. Property that on the date of occupation or afterwards was registered in the name of an enemy state, or any organisation or company linked or controlled directly or indirectly by a hostile state.
- ...
4. Land that has been confiscated in the public interest in accordance with legislation or security legislation through or for one of the sectors/authorities of the Israeli military forces which is not necessarily local.
5. All property which belongs to individuals who have requested that the official authorities administer and manage their properties, and which the official has consented to administer.

By 1990, this Military Order had been amended eight more times. For example, Amendment No. 8, MO 1308, *Order Concerning State Property*, of 20 July 1990, declares that any property falling under 'trading with the enemy' laws would be designated as 'State property'.

Other Military Orders further consolidate Israeli control over 'State lands'. For example, MO 1006, *Order Concerning Appointments and Jurisdiction in Accordance with Law for the Preservation of State Land and Property*, of 8 July 1982, amends Jordanian law to transfer any jurisdiction under the latter to the special Israeli military court. This Military Order stipulates that no objections can be made to hinder the court's proceedings.

Pursuant to MO 364 of 29 December 1969 (amending MO 59), 'State property' is further defined as that over which an owner is unable to prove private ownership before a military committee and according to its rules of evidence. This places the burden of proof on the owner to establish that his is not 'State land'.

The Objections Committee (see discussion of MO 172 below in this subsection) is the only body authorised to hear cases of dispute over declarations of 'State land'. The Committee, composed entirely of Israelis, has not been inclined to accept documents submitted by Palestinians in an attempt to prove their ownership of land. Moreover, once construction has begun on a settlement, the Committee tends to decide in favour of the 'Custodian', who maintains that the transaction in question was made 'in good faith'.

Military Order 89, Order Concerning Public Parks, 16 August 1967

As is the case within Israel, specific Military Orders concern the designation and acquisition of lands for 'public parks' and other recreational areas. MO 89 specifies that the Israeli public parks authority controls such areas.

MO 89 is replaced by MO 373, *Order Concerning Public Parks*, of 8 February 1970, which details the responsibilities of the relevant authorities. By 1982, there had been a further 17 amendments to this Military Order. For example, Amendment No. 2 (MO 404) of 27 July 1970 redefines 'public parks' and authorises the relevant authorities to build roads or other structures

¹³³ See: Aronson (1987) (n. 90 above), p. 148; and Shehadeh (1985) (n. 90 above), pp. 26-34. Shehadeh discusses in detail obstacles faced by Palestinians in trying to disprove the Government's claim that a certain plot of land is 'State land'.

in such areas (sometimes requiring the confiscation of additional Palestinian lands). Other amendments are concerned with setting and increasing entry fees for public parks. For example, MO 1011, of 25 July 1982, authorises the “appropriate authority to set the fees for entry into parks for different categories of visitor”.

Military Order 92, Order Concerning Jurisdiction Over Water Regulations, 15 August 1967

By virtue of this Military Order, all powers formerly vested in the Jordanian Government are transferred to an Israeli officer appointed by the Area Commander. This person is given full authority over all matters concerning allocation and control of water resources. MO 158, *Order Concerning Amendment to Supervision Over Water Law*, of 19 November 1967, amends the Jordanian *Water Law* to the effect that:

No person is allowed to establish or own or administer a water institution (any construction that is used to extract either surface or subterranean water resources or a processing plant) without a new official permit. It is permissible to deny an applicant a permit, revoke or amend a licence, without giving any explanation.

Consequently, the Israeli authorities could confiscate the water supplies of any person not holding the required permit.

There is a separate set of Military Orders that apply to specific districts. For example, MO 484, *Order Concerning Water Works Authority (Bethlehem, Beit Jala and Beit Sahour)*, of 15 September 1972, establish a water authority and specifies its functions and areas of jurisdiction. MO 484 stipulates that the Military Commander may appoint members to, or change the composition of, this body. MO 484 was amended twice before being superseded by MO 1376, *Order Concerning the Water and Sewage Authority (Bethlehem, Beit Jala and Beit Sahour)*, of 24 July 1991. In addition to specifying the structure and jurisdiction of the water authority, this Military Order makes most projects and functions of this body subject to the approval of the Israeli official-in-charge. It also empowers him to assume control over the authority if he believes it is not meeting its responsibilities.

In 1967, the waters of the Occupied Territories were formally placed under the control of the Israeli water authority – the *Mekorot*. As MO 158, *Order Concerning Amendment to Supervision of Water Law*, of 19 November 1967, makes clear, Palestinians are required to obtain permits from the Israeli authorities to dig or expand wells. In reality, permits for digging wells for agricultural use are routinely denied, though some permits are given for digging or expanding wells for household use.¹³⁴

Israeli restrictions on the use of water resources have caused a permanent water shortage for Palestinians in the Occupied Territories. This has been exacerbated by the diversion of water supplies into Israel and Jewish settlements, especially from aquifers in the West Bank, and has proved to be especially detrimental to Palestinian agriculture. The denial of adequate water supplies has forced many Palestinian farmers to abandon their agricultural pursuits and has thus facilitated Israel's take-over of their lands.¹³⁵

Many Palestinians hoped that the 1993 signing of the Oslo Accords would bring about a more equitable sharing of water resources than had been the case throughout the preceding decades of occupation. However, with most of these resources remaining under direct Israeli control and with projects subject to Israeli veto, water security for the majority of Palestinians remains elusive. Israel continues to pump out more than 85 percent of the water in the West Bank aquifers for its own use. This represents about 25 percent of Israel's total water use. The disproportionately small amount of water consumed by Palestinians as opposed to Israelis and Jewish settlers is striking. Annually, the nearly three million Palestinians in the Occupied Territories use an estimated 246 million m³ of water compared to Israel's 1 959 million m³ for its population of six million (that is, nearly 12 percent of the total supplies for the Palestinians against 88 percent for the Israelis). Daily per capita drinking water consumption is similarly skewed in Israel's favour, with an estimated 82 cm³ (less than one-tenth of a litre) consumed by Palestinians, compared to 326.5 cm³ (nearly one-third of a litre) by Israeli citizens and Jewish settlers. The daily per capita water use of the Israelis and settlers is estimated to be five times that of the West Bank Palestinians and seven times that of the Gaza Strip Palestinians.¹³⁶

134 According to Shehadeh, by 1983, only five new permits had been given to Palestinians to dig wells; see Shehadeh (1985) (n. 90 above), p. 154.

135 Eyal Weizman (n. 101 above) notes that the West Bank mountain aquifer system supplies 40% of Israel's agricultural water and close to 50% of its drinking water.

136 See: Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living (12 June 2002) (n. 48 above), paras. 65-73. In Mar. and Apr. 2003, reports surfaced about the flow of sewage from Jewish settlements into Palestinian communities in the northern West Bank.

In addition to this inequitable official allocation of water, actions by the army and settlers often disrupt or destroy water supplies to the Palestinians. Both army and settlers have destroyed wells, pumps, water tanks and other infrastructure serving Palestinians in the Occupied Territories. In other instances, expropriation of lands has gone hand-in-hand with the confiscation of underlying water supplies, as has occurred in the Qalqilya area during construction of Israel's 'Security Fence', also known as 'the (Apartheid) Wall'. In the Gaza Strip, water available to Palestinians has become excessively saline because so much fresh water is pumped to Israeli settlements. In many parts of the Occupied Territories, Israeli dumping of hazardous chemicals and other waste materials has contaminated the water supply available to Palestinians.

Some 150 Palestinian villages and a total of 282 Palestinian communities have no direct access to a public water network or distribution source. The *Intifada* has exacerbated water problems. Curfews and closures have prevented water trucks from entering needy areas and have prevented residents from shopping for the water they require. An official response to this situation from the Israeli Ministry of Defence was apparently intended to offer 'assurance' to the effect that "the defence establishment is working to meet all needs of the broad Palestinian population uninvolved in terror".¹³⁷

Military Order 108, Order Concerning Amendment to Law of Land Expropriation (For Public Purposes), 22 September 1967

This Military Order amends the relevant Jordanian law, affirming the continued validity of the Jordanian *Land Expropriation Law* (1953), except as subject to changes in Israeli military law or by virtue of any other orders issued by the relevant military authorities. It authorises the establishment of a Military Objections Committee to assume the functions previously undertaken by the Jordanian courts (see discussion of MO 172 below in this subsection).

Similarly to the equivalent law operating in Israel, MO 108 authorises the relevant Israeli authorities to remove any person who refuses to vacate lands that have been acquired for 'public purposes'. It also facilitates the expropriation of lands without any judicial review. MO 108 allows the Military Government to expropriate land without facing court challenges, and – by virtue of MO 321 (see below in this subsection) – without being required to publish an announcement of an impending confiscation. Additionally, these two Military Orders permit the Area Commander to punish (by fines or imprisonment) or evacuate anyone refusing to vacate such lands.

MO 108 is amended by an unnumbered Military Order of 13 February 1968 to authorise the expropriation of additional specified lands for 'public purposes', especially for road construction. Another unnumbered Military Order, of 21 April 1968, authorises the expropriation of even more lands for 'public purposes'. MO 108 was replaced by MO 321, *Order Concerning Land Expropriation for Public Purposes* of 28 March 1969 (see below in this subsection).

Israel often issues Military Orders (many of them in an unnumbered series) to announce specific expropriations. By way of illustration, between 20 January and 18 March 1980, five unnumbered Military Orders were issued concerning the expropriation of specific tracts of land in the Nablus and Tulkarm areas for 'public use'. An additional 19 confiscations in various areas were authorised by virtue of a series of unnumbered Military Orders issued between 19 August 1982 and 26 December 1983, and another 22 confiscations by virtue of unnumbered Military Orders issued on 17 June 1984. An additional 29 unnumbered Military Regulations were issued for the same purpose on 17 September 1984.¹³⁸

Military Orders often use numbers rather than names to identify sites targeted for expropriation for 'public' or military purposes. These numbers may correspond to those appearing in maps or surveys conducted by the Israeli authorities, or they may correspond to tracts of land whose titles have been settled and registered – it is not clear which. For example, an unnumbered Military Order of 11 June 1986, *Order Concerning Expropriation of Property for Public Purposes (321)*, announces the expropriation of a specified piece of land identified merely by the number 321.

Lands acquired by virtue of such expropriation orders are commonly used for the establishment of Jewish settlements and for roads servicing these settlements.

Military Order 159, Order Concerning Law of the Jordan Electric Authority, 1 November 1967

In 1967, the Israeli authorities assumed control not only over the water resources of the Occupied Territories but also over their electricity supplies, issuing a number of Military Orders to specify the powers of the relevant authorities in this sector. Illustrative of this control are MO 159 and associated Military Orders. As in other sectors, Military Orders were issued stating

¹³⁷ Quoted from an article in *Haaretz*, 16 Oct. 2002, in LAW, *Israel's Apartheid Wall: we are here and they are there* (2002), <http://www.lawsociety.org/wall/wall.html>

¹³⁸ JMCC (n. 95 above), pp. 108, 125, 126 and 129.

that permits were required – in this case, for electrical installations and connections. Under one Military Order, a number of Israeli settlements are separated from the (Palestinian) Jerusalem District Electricity Company and connected instead to the Israeli electricity supply grid. This is confirmed by MO 1219 (also listed as MO 1216), *Order Concerning the Provision of Electricity*, of 12 January 1988, which provides a list of Jewish settlements to be connected to the Israeli electricity grid.

Connecting Jewish settlements to the Israeli grid is another step in the extraterritorialisation of these settlements and their *de facto* annexation into Israel. For Palestinians, placing the control of vital electricity supplies under Israeli jurisdiction obstructs their independent economic and agricultural development and, by extension, makes it more difficult for them to stay on their own lands.

Military Order 161, Order Concerning Interpretations (Additional Instructions 2), 5 November 1967

Although this Military Order was not the first of its kind, and does not immediately appear to affect land and property issues, it is significant.

The first 'Interpretation Order', MO 130, defining the application of various legal terms, was issued on 27 September 1967. MO 161, which gives additional instructions regarding interpretations, is noteworthy in that it stipulates that a law, regardless of whether it has been published in the Official Gazette, is still legally binding on those affected by it, if so determined by the Area Commander. MO 161 is supplemented by a similar Military Order of 8 November 1967, which specifies that, for notices to be valid, it is sufficient for them to be announced on the radio, published in the offices of the Area Commander or communicated via a *mukhtar*. A subsequent amendment in July 1970 added daily newspapers as a suitable medium for official publication of such notices.

As Palestinians were soon to discover, the implications of these Interpretation Orders with respect to land and property issues were quite serious. Palestinians often found out too late that their lands had already been designated for confiscation under a certain Military Order – for example, when they discovered that Israeli bulldozers were already working on their lands. By then, it was too late to appeal on the grounds that they had not been given advance notice. Even in the unlikely event that the Objections Committee were actually to hear such cases, the military authorities would counter that they were not required to publish advance notice in the Official Gazette for such a Military Order to be binding. The military authorities would also claim that they had transmitted such information to the appropriate *mukhtar*, and in any case had acted 'in good faith' (see Subsection 5.4.2.2 above). The Objections Committee would invariably accept this argument, even if the Palestinian concerned was able to establish legal ownership of said property.¹³⁹

Military Order 164, Order Concerning Local Courts in the Place of the Authorities of the Israeli Military Forces, 3 November 1967

The significance of MO 164 goes beyond land and property issues. This Military Order generally restricts the ability of Palestinians to file lawsuits against Israelis in local courts. By virtue of this Military Order, local courts are forbidden to hear any case or issue any order against the State of Israel, its employees, or the Israeli Defence Forces (IDF) without special permission from the military authorities. This exclusion was later extended to Jewish settlers and the military authorities controlling the Occupied Territories, enabling them to act with immunity from prosecution in their numerous violations of Palestinian rights, including property rights.

An amendment to this Military Order, MO 384 of 12 May 1970, extends the immunity of Israelis with regard to property issues by declaring that no legal action can be taken "against property over which any Israeli authority presides".

Another amendment, by MO 1161 (also referred to as MO 1159) of 8 November 1985, is difficult to interpret, but appears to allow cases involving Israeli military employees and other specified authorities to be taken to local courts, and claims involving such persons to be brought before the Objections Committee. However, given the limited jurisdiction of local courts and the fact that all the members of the Objections Committee are Israelis, it is unclear if and how Palestinians have actually benefited from these changes.

Several other Military Orders pertain to lawyers, courts and other legal matters. They are not discussed here, except to note that, in this as in other sectors, Israeli officials assumed control from Jordanian officials. Various Military Orders have been issued to place restrictions on, or otherwise interfere with, the work of lawyers in local courts.

¹³⁹ The original *Interpretation Order, No. 30*, of 27 Sept. 1967, is reproduced in App. C of Shamgar (1982) (n. 86 above), pp. 495-507. Article 8 (a) states that: "A security enactment takes priority over any other law even where not so provided expressly." This gives wide latitude to Israeli authorities to issue land confiscation orders on 'security' grounds.

Military Order 166, Order Concerning Nature Reserves, 10 November 1967

Similarly to the equivalent Israeli civilian law, this Military Order stipulates that no one without the required permits may harm or remove animals or plants from areas designated as nature reserves. Vehicles are only permitted on certain specified roads. An amendment, MO 277 of 27 August 1968, forbids construction without a permit in nature reserve areas. Another amendment, MO 308 of 11 February 1969, adds three specified areas to the category of nature reserves. Further areas are added to this category by virtue of MO 554 of 16 July 1974, MO 751 of 13 February 1978, MO 803 of 17 September 1979, and MO 894 of 1 February 1981. These last four are listed as amendments to MO 363 (see below in this subsection). Similarly, MO 239, *Order Concerning Protection of Nature*, of 27 March 1968, states: "It is forbidden to harm nature, but the appropriate authority has the right to permit people to pick flowers or tamper with nature in the course of research studies."

A separate set of Military Orders was issued to designate an authority for the protection of nature reserves. The first in this regard was MO 363, *Order Concerning Protection of Nature Reserves*, of 22 December 1969, which defines the jurisdiction of this authority. By 1984, this Military Order had been amended 19 times. The first amendment, MO 402 of 20 July 1970, redefines what constitutes 'nature reserves' and authorises the official-in-charge to construct roads or paths and put up buildings and other structures. Amendment No. 19, MO 1119 of 10 August 1984, declares that permits are required for entry into specified 'nature reserves'. The separate MO 389, *Order Concerning Investment in Nature Resources*, of 5 June 1970, also concerns itself with the appropriate authorities responsible for nature reserves. By virtue of this Military Order, which is listed as an amendment to a temporary Jordanian law of 1966, all powers of appointments and jurisdictions under Jordanian law are transferred to the Israeli official-in-charge.

Among other Military Orders concerning nature reserves and resources is MO 457, *Order Concerning Regulation of the Law of Nature Resources*, of 15 February 1972. Cited as an amendment to Jordanian law, it allows the appropriate authority to estimate values of land and water for various purposes, and exempts work in this sector from regulations concerning claims (which are specified in other laws).

Related Military Orders include the unnumbered *Order Concerning Acquisition of Land for Public Forests, 22 November 1967*, which declares that "a number of wooded areas are to be acquired".

The operation of these and other Military Orders related to nature reserves is yet another mechanism to restrict access to lands by Palestinians and to prevent them from claiming title to such lands.

Military Order 172, Order Concerning Objections Committees, 22 November 1967

This important Military Order establishes the Objections Committee (also referred to as the Appeals Committee). The Objections Committee was formed to hear cases involving land disputes, particularly those concerning 'abandoned' or 'absentee' property and the transfer of assets and monies associated with such property (including 'State land') to the Israeli authorities.

By virtue of MO 172, a defendant is usually given 45 days from the date of land requisition to file an appeal. As mentioned previously (see, for example, MO 161, above in this subsection), Palestinians often do not discover that their lands have been confiscated until they encounter bulldozers working on their lands – months, or even years after the actual requisition. By then it is too late to file an appeal. Decisions of the Objections Committee are usually presented as recommendations to the Area Commander, whose final decision cannot be appealed.

By November 1991, MO 172 had been amended about 18 times, gradually broadening the jurisdiction of the Objections Committee to cover 28 different areas. For example, MO 473 of 21 August 1972 added objections and claims related to the Nature Reserves Authority. Later amendments added other types of claims that could be brought before the Objections Committee. Initially, this committee included a few Palestinian residents of the area, who, according to Shehadeh, were not notified about the convening of meetings. The Area Commander eventually replaced these Palestinians with Israelis. From then on, this committee was composed entirely of Israelis.¹⁴⁰

Amendment No. 13, MO 1212 (sometimes listed as MO 1209) of 19 November 1987, authorises the head of the Objections Committee to issue temporary orders to one or both parties to a claim. Responsibility for the implementation of such orders lies with any soldier, police officer or other official designated for the task by the committee head.

¹⁴⁰ See: Shehadeh (1980) (n. 121 above), pp. 31-32; and id. (1985) for a list of areas of jurisdiction assumed by the Objections Committee. Ten or more of these pertain to land and property issues alone, see Aronson (n. 90 above), pp. 88-90.

The amended Military Order specifies the documents that must accompany an appeal, including precise survey maps, proof of payment of fees, and suchlike, which involve expenses and the following of procedures that are beyond the means of most Palestinians. As is the case inside Israel, Palestinians are required to submit proof of continuous cultivation of land. Payment of land and property taxes is not accepted as sufficient proof of Palestinian rights to land.

Amendment No. 14, MO 1303 of 1 April 1990, even authorises the Objections Committee to issue 'secondary legislations'. Amendment No. 17, MO 1357 of 17 November 1991, vests powers of an Objections Committee in a single judge in certain instances. This Military Order also amends the process of submitting objections and claims, stating that, on the basis of certain considerations, the committee may accept or reject a claim brought before it. Such considerations include, for example, the claim having been previously brought to the committee, or as the committee otherwise deems appropriate.

By virtue of MO 172, the burden of proof rests upon Palestinians to establish to the Committee's satisfaction that a particular plot of land is *not* 'State land'. This Military Order states that "the Appeals Committee shall not be bound by the laws of evidence and legal proceedings, except for those established in this Order, and shall determine its [own] procedures".¹⁴¹

Due to the stringent requirements for establishing rights to land and the automatic primacy of 'security' needs, it has proved virtually impossible for Palestinians to succeed in appeals made to the Objections Committee. As MO 59 (concerning 'State lands') notes:

If a Custodian has confirmed, in a written certificate bearing his signature, that any property is government property, that property shall be considered government property until proven otherwise.¹⁴²

A separate set of Military Orders pertains to compensation claims for damage caused by the Israeli army in its operations in the Occupied Territories. This is a crucial issue because of the extensive damage caused to Palestinian persons, belongings and property - including homes and lands - under Israeli occupation. Much of this damage has occurred since the second *Intifada*, which started in September 2000.

The first Military Order in this set is MO 271, *Order Concerning Claims*, of 12 August 1968, which establishes a claims committee to review complaints. Amendments to this Military Order restrict the scope of claims against the army that Palestinians can bring. For example, MO 302 of 16 January 1969 transfers such hearings to the Objections Committee and stipulates that they be bound by existing security regulations. A second amendment, MO 372 of 1 February 1970, states:

It is not possible to file, consider or pay a compensation claim against any damage which was caused in any areas which the Area Commander has defined as a 'fighting zone'.

This measure deprives Palestinians of legal recourse to making claims. MO 372 was replaced by MO 385 of 25 May 1970, and MO 271 was amended by MO 1101 of 15 March 1984. Both of these new Military Orders detailed conditions under which damage claims may be made. Additional amendments were issued over subsequent years.

Military Order 191, Order Concerning Administration of Villages Law, 25 December 1967

Several Military Orders amend Jordanian law to transfer authority for the administration of villages to Israeli officials, who can then appoint or remove persons as they see fit. In order to implement their policies, such officials often attempt to work through a co-opted *mukhtar*. By 1984, MO 191 had been amended eight times. For example, Amendment No. 3, MO 607, *Order Concerning Village Administration Law*, of 9 September 1975, stipulates that village councils can only issue regulations if they have obtained authorisation from the appropriate Israeli military officials.

MO 366, *Order Concerning Village Administration Law*, of 5 January 1970, is listed as an amendment to Jordanian law as well as to MO 191. It authorises the Israeli official-in-charge to appoint or remove a *mukhtar* as he sees fit "in the interest of public order".

Three separate Military Orders - MO 176, *Order Concerning Amending the Law of Mukhtars*, of 28 November 1967; MO 237, *Order Concerning Appointment of Mukhtars*, of 26 March 1968; and MO 365, *Order Concerning Appointments Pertaining to Law of Mukhtars*, of 5 January 1970 (which cancels MO 176 and amends MO 237) - authorise the Israeli officials-in-charge to remove persons and appoint officials and *mukhtars* as they see fit.

141 Quoted in B'Tselem (2002) (n. 84 above), p. 58.

142 Translated in *ibid.* p. 55.

Certain Military Orders were issued to dissolve or extend the terms of Arab village councils. For example, MO 742, *Order Concerning Assumption of Responsibility by Village Councils*, of 9 December 1977, extends the term of office of village councils until otherwise specified in subsequent Military Orders. By 1991, this had been amended by five unnumbered Military Orders (mainly listing new appointments to specific village councils). Others issued to dissolve councils in designated villages are not described in detail here.

The Israeli practice of appointing members to village and municipal councils was widespread in the years following occupation. Many of the Israeli Military Orders issued in relation to specific areas are noteworthy in the light of Israel's sustained efforts to put in place a Palestinian leadership willing to cooperate with Israel's general policy of encouraging functional rather than territorial self-rule (that is, a leadership willing to assume responsibility for the population and leave Israel in control of the land). Attempts to put such a leadership in place were institutionalised further in the Civilian Administration (see below in this subsection) and continued throughout the years of the Oslo 'peace process'.

Military Order 194, Order Concerning Municipal Law, 25 December 1967

Similar Military Orders were issued with regard to municipalities. MO 194 authorises the Israeli officials-in-charge to remove or appoint persons in municipal positions. By 1987, this Military Order had been amended some 16 times. The amendments often coincided with attempts by the Israeli authorities to restrict the physical expansion of Palestinian municipalities or to contain the popular response following municipal elections.¹⁴³

An example of a Military Order that relates to the issue of municipal boundaries is MO 537 of 17 February 1974, which authorises the Area Commander to set up a committee to study municipal boundaries and development projects, and to modify the area of any municipal boundary.

The significance of Israeli Military Orders regulating Palestinian municipalities can be seen in relation to comparable laws concerning Jewish settlements in the Occupied Territories. In order to safeguard Jewish settlements from falling under local laws governing municipalities, the Israeli authorities set up separate administrative units for settlements that had no equivalent in Jordanian law (see discussion of MO 783 and MO 892 in Subsection 5.5.1.2 below).

Israeli amendments to Jordanian law – as in MO 194 and other Military Orders – give Israeli authorities wide latitude in intervening in the powers and affairs of Palestinian municipalities. Certain Military Orders were issued to establish municipal councils. For example, an unnumbered Military Order of 22 January 1975 establishes the municipal council of Qabatia (West Bank) along with its boundaries, jurisdiction and applicable rules. As with village councils, the Israeli authorities may appoint members, extend the period of service, and so on. MO 839, *Order Concerning Extension of Municipal Council Services*, of 8 April 1980, states that municipal councils will continue to operate even if they lack a quorum, until further order. Other Military Orders extend the period of service of municipal councils, or authorise the head of the Civilian Administration to appoint a committee to administer municipalities irrespective of any other legislation; for example, MO 1049, *Order Concerning Extending the Services of Municipal Councils*, of 28 February 1983.

Israeli control over individual Palestinian municipalities is illustrated by MO 993, *Order Concerning Vesting Jurisdiction in the Municipality of Nablus (Provisional Regulations)*, of 10 June 1982. This amends an earlier Military Order relating to the Nablus municipality, to the effect that:

If the head of the Civilian Administration is convinced that either a member or the entire membership of the municipal council are refusing to cooperate with the appropriate authority, then it is permissible for him to transfer all the jurisdiction granted to that municipal council.

An identical Military Order was issued on the same day with regard to the Ramallah municipality.¹⁴⁴

Other Military Orders define district boundaries; for example, MO 210, *Order Concerning Districts*, 24 January 1968, which was later superseded by MO 249 of 12 May 1968. MO 249 stipulates that the boundaries of districts will be drawn in accordance with 'security regulations' defined by the Military Commander. This was supplanted by MO 376, *Order*

¹⁴³ Shehadeh notes that MO 194 amends the original 65 sections of the Jordanian law into 152 sections, "the longest single piece of legislation produced by the West Bank Military Government authorities" over the first decade and a half since occupation; Shehadeh (1993) (n. 86 above), p. 38.

¹⁴⁴ Many of these orders were issued after the 1976 municipal elections that brought a number of nationalist and pro-PLO mayors to office.

Concerning Districts, 18 February 1970, again redefining district boundaries. That in turn was replaced by MO 601 of 16 July 1975, which specifies the boundaries of districts (according to an attached map). MO 601 was then superseded by MO 675 of 26 August 1976, which redefines district boundaries.

Despite the enormous growth of the Palestinian population since 1967, Israel has not permitted the establishment of any new Palestinian municipalities. Instead, Israel has used its authority under military law to confine the boundaries of existing municipalities to geographical areas delineated by the British in the 1940s. In so doing, Israel has effectively barred Palestinian communities from expanding into areas that it has planned to acquire. Utilising their powers to re-zone existing areas, Israeli officials have discovered additional methods of taking municipal lands out of Palestinian hands and turning them over to Jewish colonisation (see discussion of MO 418 below in this subsection).

Military Order 293, Order Concerning Inapplicability of the Legislation Protecting Tenants in Specific Cases, 1 January 1969

This Military Order 'amends' existing Jordanian rental laws that protect tenants from eviction, to afford the 'Custodian of Absentee Property' greater power in such instances. Property rented by Israeli officials is excluded from the provisions of this Military Order

Military Order 321, Order Concerning Land Expropriation for Public Purposes, 28 March 1969

MO 321 (listed as an amendment to Jordanian law) cancels and replaces MO 108 (see above in this subsection). MO 321 stipulates that any appointment or jurisdiction previously existing under the Jordanian authorities be transferred to the Israeli official-in-charge. The latter may cancel all prior appointments and replace the appointed officials with other personnel. MO 321 establishes procedures for the confiscation of lands for 'public purposes', such as roads and highways, and does away with the requirement to publish notice of intent to expropriate land.

Further provisions in this Military Order outline powers of the Objections Committee, which takes over hearings in matters such as appeals and claims for compensation. The law specifies that decisions of the Committee are final and cannot be challenged.¹⁴⁵

By 1991, MO 321 had been amended by three subsequent Military Orders. The first, MO 949 of 30 November 1981, concerns notification of owners whose land is to be expropriated. Under the original Military Order, the authorities were no longer required to notify owners directly or to publish notices in the official newspaper. The amended law stipulates that notifications must be transmitted to the owner or a local *mukhtar*, or published in an official Compilation of Proclamations (in practice, the latter option is more commonly used). Lands expropriated by virtue of these Military Orders are placed under the control of the 'Custodian of Government and Abandoned Property'.

The operation of MO 321 with its various amendments, especially MO 949, is comparable to the operation of the equivalent law inside Israel (see discussion in Subsection 4.3.3.3). As is the case within Israel, the term 'public purpose' does not necessarily include Palestinians among the public to be served. Lands expropriated in this manner in the Occupied Territories have been turned over to Jewish colonisation. This was the case, for example, with the expropriation of some 30 000 *dunum* (30 km²) for the establishment of the vast settlement of Ma'ale Adumim in 1975. However, this type of Military Order has most commonly been used to expropriate lands for the construction of by-pass roads for the exclusive use of Jewish settlers.¹⁴⁶

Since 1967, the method of expropriating lands for 'public purposes' has also been used extensively in the Jerusalem area, largely on the basis of the 1943 *Land (Acquisition for Public Purposes) Ordinance* and subsequent Israeli amendments. Such expropriations are examined in Subsection 6.3.1 below.

Military Order (unnumbered), Order Concerning Law of Urban and Rural Planning (Regulations Concerning Supervision Over Construction) (Restrictions on the Height of Buildings in Ramallah South), 26 January 1970

Restrictions on Palestinian property rights go far beyond the various mechanisms of land confiscation, key examples of which are described above in this subsection. Military Orders also restrict building by Palestinians on their own lands and

145 Shehadeh maintains that the Objections Committee is not qualified to decide issues of land ownership. He adds that Palestinian defendants often do not possess documents and other proof required by the Israeli authorities. What proof they have, in the form of tax records and deeds of purchase, are generally deemed insufficient; Shehadeh (1980) (n. 121 above), p. 108.

146 For more information on by-pass roads; see Land and Water Establishment (LAWE), *By-Pass Road Construction in the West Bank: The End of the Dream of Palestinian Sovereignty* (Jerusalem: LAWE, 28 Feb. 1996).

within their own municipalities. Palestinians are required to obtain permits for building or expanding their homes. Even when these are granted, Palestinians have to abide by regulations concerning the height of buildings, their distance from roads, and so on. Some of these procedures changed in the 'self-rule' areas following the installation of the Palestinian Authority in May 1994. However, the basic restrictions remain intact in most of the West Bank.

Building restrictions should be considered in the general context of rules and regulations that discriminate disproportionately against Palestinians. This particular Military Order amends Jordanian law to restrict the height of buildings in specified zones (and is amended by another unnumbered Military Order of 27 July 1970). MO 393, *Order Concerning Supervision of Construction Work*, of 14 June 1970, which does not appear to amend Jordanian law, clarifies such restrictions. It authorises the Area Commander to limit or forbid construction of any building which, in his view, may endanger the security of the Israeli military forces, and to demolish any such existing structures.

Other Military Orders impose additional restrictions on construction. For example, MO 465, *Order Concerning Prohibition of Construction*, 18 April 1972, prohibits construction on expropriated lands and rebuilding on the site of a demolished home. This Military Order was amended by MO 1197, *Order Concerning Prohibition of Construction*, of 30 June 1987, to extend the provisions of the law and specify that buildings which have been expropriated and sealed cannot be reopened.

Construction activities are also regulated by the separate MO 1153, *Order Concerning Supervision Over Construction (Provisional Regulations)*, of 4 December 1985, which states:

It is prohibited to engage in construction without a prior permit and the construction should be consistent with the terms of the permit. The committee of experts appointed by the head of the Civilian Administration, however, may allow for additional construction on land beyond that specified by the law if the construction is in the "interests of the public" or if the Israeli military forces contribute up to 25% of the cost of the construction.

In practice, the term 'public purpose' has often been interpreted as being synonymous with 'Jewish purpose'. For obvious reasons, it is highly unlikely that Israeli military forces would contribute to any construction benefiting Palestinians. This Military Order therefore affirms restrictions against Palestinian building while providing flexibility and exemptions for Jewish building.

Military Order 398, Order Concerning Companies, 19 June 1970

This Military Order, which cancels MO 362 of 21 December 1969, requires companies in the West Bank that existed prior to 1970 to re-register with the military officials-in-charge. However, Israeli companies are permitted to operate freely in the Occupied Territories, exempt from the requirement to register there.

The relevance of this Military Order to land and property issues lies in the fact that it facilitates the establishment in the Occupied Territories of offices of JNF subsidiary companies such as Hemnutah (see Subsection 5.3.4 above, particularly the paragraph containing n. 116). These companies, even though they have no registered official presence in these areas, may then purchase lands from Palestinians.

Military Order 418, Order Concerning Urban and Rural Planning, 23 March 1971

MO 418 is another in the series of laws that deprive Palestinians of decision-making power in respect of their own development. This Military Order, listed as an amendment to earlier Jordanian law, abolishes all local authorities and national planning bodies concerned with decisions and planning related to land use.

MO 418 restricts the licensing power of Palestinian municipalities and transfers such power to regional planning committees and the Higher Town Planning Council. The latter, composed entirely of Government of Israel officials and settler representatives, is granted extensive powers under this Military Order, including the right to amend or cancel any plan or licence at any time for any reason it sees fit. MO 418 also authorises this council to permit certain persons to build without having to obtain a licence.

The related MO 604, *Order Concerning Law of Urban and Rural Planning*, of 20 July 1975, authorises the Military Commander to appoint a special planning committee accountable to the Higher Town Planning Council to oversee planning decisions in Palestinian areas.

By 1991, MO 418 had been amended 10 times. For example, Amendment No. 4, MO 460, *Order Concerning Urban and Rural Planning*, of 13 August 1980, authorises the Israeli Area Commander to appoint a district planning committee. Amendment

No. 7, MO 1100, *Order Concerning Urban and Rural Planning*, of 25 March 1984, stipulates that any person so authorised by the special planning committee has the power to halt any construction, even if the committee has not yet considered the case in question. Amendment No. 8, MO 1227 (also listed as MO 1224), *Order Concerning Urban and Rural Planning*, of 8 March 1988, authorises the local planning committee to issue building licenses even if the plans concerned have been changed, as long as such plans have been approved by a specified date and no objection has been filed. District committees are also entitled to approve plans and issue licenses.

Various individual appointments to the planning committees, the surveying department, and the Objections Committee are made by virtue of an unnumbered Military Order of 5 September 1991 (listed as an amendment to MO 418).

As discussed above in this subsection in relation to MO 194 and subsequent Military Orders concerning Palestinian municipalities, MO 418 gives the Israeli authorities, specifically through settler communities, extensive jurisdiction over the disposition of lands in the West Bank. This Military Order and its various amendments give settler organisations significant powers over planning decisions in the West Bank. Local settlement authorities (see Subsection 5.5.1.2 below) are given such authority over the submission of building and development plans to the Supreme Planning Council – a privilege that the Palestinian village councils are denied. Consequently, Palestinian authority over planning – which was previously exercised under Jordanian law – is severely curtailed and restricted.

As noted above in this subsection – in the discussion of MO 194 and other Military Orders concerning Palestinian municipalities – the areas of jurisdiction of these municipalities were declared on the basis of their 1942 boundaries (as previously delineated by the British). Palestinians were prohibited from building or expanding beyond these boundaries. Furthermore, additional lands surrounding these communities and approved for agriculture and other purposes could be confiscated.¹⁴⁷

In the 1990s, Israel drew up detailed perimeter plans for some 400 Palestinian villages in the West Bank. Instead of allowing for much-needed Palestinian development and expansion, Israel essentially limited these villages to their existing boundaries and prohibited any development beyond them. This limitation even included a prohibition on development on privately owned Palestinian lands.¹⁴⁸

Over nearly four decades of occupation, huge numbers of Palestinian homes have been demolished on the basis of such Israeli demarcation plans. Palestinians are rarely given permits to build even on their own lands where these lie outside an Israeli-demarcated zone. Population density and other pressures leave Palestinians with no alternative but to build on such lands, yet sooner or later their homes are demolished.¹⁴⁹

Military Order 419, Order Concerning Juridical Bodies, 19 March 1971

This Military Order amends Jordanian law to empower the Area Commander to permit designated bodies – for example, settler bodies – to acquire, own or manage immovable property, even where not all of the appropriate conditions specified in the law are met. As such, it bypasses earlier Jordanian restrictions under the law concerning the purchase of lands by certain entities. It was amended by MO 1025, *Order Concerning Possession of Immovable Property by Legal Bodies*, of 4 October 1982, which:

... permits the head of the Civilian Administration to license and authorise the companies mentioned in articles 4 and 5 of the law to attain and acquire immovable property in the area and also to dispose of such even if the conditions specified in articles 5 and 8a of the law are not met.¹⁵⁰

147 Shehadeh describes the impact of MO 418 and other restrictions on Palestinians in a few specific cases. One such example is Plan 1/82, which restricts Palestinian development in an area of some 275 000 *dunum* (275 km²) around Jerusalem. This area extends from Ramallah in the north to Bethlehem in the south. The plan was to preserve these lands for future settlement expansion; Shehadeh (1993) (n. 86 above), pp. 81-84.

148 B'Tselem (2002) (n. 84 above), p. 87.

149 As defined under the Oslo accords, Areas 'A' and 'B' of the West Bank (respectively, the Palestinian self-rule areas, which together constitute about 40% of the land, and areas of joint Palestinian/Israeli control) conform almost exactly to demarcation borders of municipalities and villages drawn up by the Israelis earlier in the occupation. In other words, Israel's use of various Military Orders to contain the expansion of Palestinian communities on their own lands prefigures the Oslo map.

150 Shehadeh notes that MO 1025 authorises the head of the Civilian Administration to allow certain bodies to acquire lands, even if these transactions contravene earlier Jordanian law. These are now legalised by virtue of the new law; Shehadeh (1993) (n. 96 above), p. 60. In other words, MO 1025 facilitates acquisition of land by settler bodies.

Military Order 448, Order Concerning Amendment to the Law Regarding the Declaration of Unregistered Immovable Property (Money), 26 September 1971

This Military Order amends Jordanian law to establish committees for the registration of immovable property, and to specify their functions and jurisdiction. MO 448 was amended by MO 1034, *Order Concerning Amendment to Law Regarding the Declaration of Unregistered Immovable Property*, of 6 December 1982, which gives the right to appeal to the Objections Committee (see discussion of MO 172 above in this subsection) within 15 days following receipt of an order related to this law.

Portions of the original Jordanian law are revoked. Amendment No. 2, MO 1060, *Order Concerning Law of Registration of Immovable Property*, of 28 June 1983, gives the Land Registration Committee "absolute jurisdiction in all matters relating to land for which an application for registration has been submitted". It further stipulates that local courts may not hear objection cases concerning land registration. These should instead be submitted to the Land Registration Committee, unless there had been a prior court ruling in the case.

Local Palestinian courts are denied jurisdiction over unregistered lands in the West Bank. Amendment No. 3, MO 1145, *Order Concerning Law of Registering Previously Unregistered Immovable Property*, of 17 July 1985, which also pertains to the functions of the Objections Committee, imposes additional restrictions by removing Palestinian judges from appeals committees and laying down regulations concerning the Objections Committee and its functions in relation to the Land Registration Committee. The operation of this Military Order should be seen in conjunction with laws, including MO 569, that establish the Department for Special Transactions in Land, and MO 59, which relates to the definition of 'State lands'.

The separate, unnumbered *Order Concerning Amendment to Law Regarding the Declaration of Unregistered Immovable Property*, of 26 July 1991, adds further regulations concerning the registration of immovable property. It ostensibly amends earlier Jordanian law, stipulating that:

... plans will be inspected initially by the official-in-charge of surveying and then a decision will be taken by the registration committee.

A further amendment states:

... the official-in-charge of property registration has the authority to exempt anyone at his own discretion from providing all the documents required by the secondary regulations.

It is important to note that by the early 1980s, when the first amendments to MO 448 were issued, the Government of Israel had also launched a massive campaign to identify and expropriate 'State lands'. Once so declared, these lands could not be claimed or registered into Palestinian ownership.

Military Order 450, Order Concerning Land Law, 6 October 1971

Soon after MO 448 (immediately above) came MO 450, *Order Concerning Land Law*, and MO 451, *Order Concerning the Surveying and Definition of Land Boundaries*, 6 October 1971. MO 450 operates in conjunction with a whole body of Military Orders, including MO 264, *Order Concerning Authentication of Signatures*, of 11 July 1968 (which itself replaces an earlier Military Order). MO 264 facilitates Jewish purchases of lands from Palestinians abroad by restricting authentication of signatures to Israeli consuls and otherwise restricting registration to Israeli-approved officials. This Military Order was amended twice in 1991. The purpose of MO 450 was to encourage and facilitate direct Israeli purchases of West Bank lands by transferring jurisdiction for land registration to the 'Custodian of Government and Abandoned Property'.

Military Order 504, Order Concerning Amendment to Surveying Regulations, 31 December 1972

Although this Military Order is listed separately to MO 450 and MO 451 (immediately above), it is also referred to as an amendment to Jordanian survey regulations. It establishes fees for building-permit applications and specifies that such permits are valid for one year.

A number of subsequent Military Orders regulate fees and licensing requirements and are not detailed here. These include: MO 624, *Order Concerning Amendment to the Surveying Law*, of 30 October 1975 (which itself had previously been amended by MO 690 of 20 January 1977); MO 759, *Order Concerning Amendment to the Surveying Laws*, of 25 May 1978; MO 1046, *Order Concerning Law of Surveying*, of 27 January 1983; and MO 768, *Order Concerning Jurisdiction in Accordance with the Law of Licensing Surveyors*, of 8 October 1978.

Military Order 505, Order Concerning Amendment to Fees for Land Registration Law, 31 December 1972

Also issued separately to other land registration laws is MO 505, which is cited as an amendment to the Jordanian *Land Registration Law*. In addition to setting new fees, this Military Order determines what maps must accompany any submissions for land registration (for example, to establish continuous cultivation over a 'prescription period').

To illustrate just how complex and intertwined Israeli military law can become, by 1982, MO 505 had undergone an estimated 14 amendments. As with other Military Orders, some of these also amended previous amendments or other separate Military Orders. For example, MO 828, *Order Concerning Administration Fees*, of 18 March 1980, is actually an amendment to MO 505, but is listed as an amendment to an earlier amendment (MO 760 of 25 May 1978). MO 828 is in turn amended by three other Military Orders, mostly related to fees. The latest of these, MO 875, *Order Concerning Land Registration Fees*, of 1 October 1980, is also classified as an amendment to MO 7 (the latter had been issued at an early stage in the occupation to declare the closure of banks and to prohibit monetary transactions – and was later amended). MO 875 concerns the fees for different services regarding land registration.

These laws are cited to illustrate the numerous and changing requirements Palestinians are obliged to follow and adhere to in matters concerning land registration, among others.

Military Order 569, Order Concerning Registration of Separate Transactions in Land, 17 December 1974

This Military Order is not cited as an amendment to Jordanian law. It creates a department for 'special transactions' in land, which, by virtue of this Military Order, are defined as expropriations of lands for 'military' or 'public' purposes and their transfer to the management of the 'Custodian (of Government and Abandoned Property)'. For such transactions, MO 569 establishes a special land registry, registration mechanisms, and procedures for expropriating and managing such property.

By 'legally' permitting the transfer of lands that were ostensibly expropriated for 'military purposes' or as 'State land', this Military Order allows Jews to circumvent the need to purchase lands directly from Palestinians in order to establish their settlements. Such lands are transferred to the WZO and other settlement bodies, which can in turn make them available for colonisation through this special land registry department. These land transfers proceed irrespective of whether Palestinians succeed in proving ownership and regardless of whether they intend or desire to give up their lands.

MO 605, *Order Concerning Registration of Special Transactions in Land*, of 24 July 1975 (amending MO 569), restricts inspection of this registry to authorised personnel. The special land registry department is located within Israel, in the offices of the Israeli Lands Administration, rather than in the Civilian Administration of the Occupied Territories. It is closed to the public. As Shehadeh points out, instead of treating lands acquired by Jews in the Occupied Territories as a distinct category, they fall under the same authority as lands within Israel – blurring their status as 'occupied' under international law.¹⁵¹

By 1985, MO 569 had been amended at least 11 times (mostly by unnumbered Military Orders or Military Regulations). As regards land transactions of this type, Amendment No. 2, MO 796, *Order Concerning Land Transactions*, of 4 July 1979, states that it is forbidden to own property unless this be "in accordance with an agreement with the Israeli official-in-charge" and registered according to regulations.

Military Order 810, Order Concerning Supervision and Maintenance of Roads, 4 November 1979

In addition to Military Orders authorising the confiscation of lands for 'public purposes' (including road construction), the Israeli military authorities issued specific directives on the width of roads and their distance from other structures, as well as areas of lands to be cleared on either side of various roads and highways. MO 810 amends Jordanian law, specifically in relation to specifications regarding sizes and dimensions of roads. Other Military Orders pertaining to roads are discussed above in this subsection.

Military Order 811, Order Concerning Amendment to Law of Immovable Property, 23 November 1979

This Military Order amends Jordanian law to extend the validity of irrevocable powers of attorney, whereby land transactions must be officially registered, from five to ten years. MO 811 was amended by MO 847, *Order Concerning Amendment to Law of Immovable Property*, of 1 June 1980, which extends the validity period to a maximum of fifteen years.

MO 811 allows the registration of land sales from Palestinian landowners to Jews to be delayed for up to 15 years without

151 Shehadeh (1993) (n. 86 above), pp. 8-9.

becoming invalidated. By so extending the irrevocable powers of attorney, it helps to conceal the identity of Arab property owners who sold land to Jews, without affecting the legal validity of such transactions.

The significance of this Military Order can be seen in relation to other Military Orders concerning land transactions (as for example, MO 450 above in this subsection).

Military Order 841, Order Concerning Closure of Investigation Files, 15 May 1980

Under this Military Order:

It is permissible for the Area Commander or the legal advisor to close an investigation or file or to refrain from proceeding with a certain case if they think that there is no public interest served by the investigation or the trial.

Subsequently amended twice, the significance of this Military Order in relation to land and property issues is that it empowers the Area Commander to refuse to investigate land-dispute cases. As Shehadeh explains, Jewish land acquisition in the Occupied Territories has often involved dubious transactions, forged papers and deeds, and other questionable practices. Legal owners of land, who have sought redress upon discovering that their property has been disposed of without their knowledge and approval, have found themselves blocked by virtue of the powers granted by Military Orders such as MO 841.

Shehadeh also reports a wave of arson attacks in 1984 that destroyed hundreds of irreplaceable files and documents of Palestinians who had succeeded in obtaining favourable rulings concerning their land. These attacks occurred in Nablus, Jenin, Bethlehem and Ramallah before the rulings could be implemented.¹⁵²

Military Order 947, Order Concerning Establishment of a Civilian Administration, 8 November 1981

MO 947 authorises the establishment of a 'Civilian Administration', both in the West Bank and in the Gaza Strip. The following analysis focuses on the establishment of this administration in the West Bank.

This Military Order was issued two years after the 1979 Israeli-Egyptian peace treaty (the culmination of the 1978 Camp David negotiations and accords), under which Israel agreed to establish some sort of 'autonomy' for the Palestinian population of the Occupied Territories.

The establishment of the Civilian Administration, intended to coincide with the 'withdrawal' – though not the abolition – of the Israeli Military Government, was one aspect of Israel's preparation for this Palestinian autonomy regime. Another aspect was ensuring that Jewish settlers and settlements in the Occupied Territories had their own separate administration. (Regarding the latter, a series of Military Orders were issued to establish distinct local and regional councils for Jewish settlements – see discussion of MO 783 and MO 892 in Subsection 5.5.1.2 below). In anticipation of autonomy negotiations, Israel had been consolidating its control over various sectors in the West Bank.

The Civilian Administration was not intended to replace the Israeli military administration. Instead, it was to be a system of Arab management of Arab affairs in the Occupied Territories under permanent Israeli occupation and rule. Previous attempts to establish such a system had failed. This approach was also key to the establishment of the Palestinian Authority under the Oslo Accords a decade or so later.¹⁵³

In establishing the Civilian Administration, 'military' and 'civilian' authorities would be ostensibly separated. However, the hundreds of Military Orders issued since the start of the occupation and regulating virtually every aspect of Palestinian life were not revoked. Instead, these Military Orders were subsumed under the Civilian Administration and effectively institutionalised and elevated into a system approximating permanent law in the Occupied Territories. Under the Civilian Administration, these Military Orders took on new status in a legal system that – as a *fait accompli* – could eventually be administered by Palestinians without the need to end the occupation itself.

152 Shehadeh (1993) (n. 86 above), p. 126.

153 Throughout the occupation, Israel has sought ways of separating 'functional' from 'territorial' autonomy. To this end, the Israeli authorities have put much emphasis on putting in place a Palestinian leadership that would govern the Palestinian population without interfering with Israel's ongoing land expropriation and colonisation plans in the Occupied Territories. This was the thinking behind the earlier establishment of the Village Leagues in the West Bank under MO 752 of 1978. In practice, these Village Leagues were regarded as collaborationist and were widely discredited.

Because MO 947 and subsequent clarifications in MO 950 had critical implications for the structure and functions of the Palestinian Authority under the Oslo 'peace process', it is worth examining these Military Orders in some detail.¹⁵⁴

MO 947 authorises the Area Commander to appoint a person to head the Civilian Administration. Certain designated areas of life that had previously been regulated by military law would be placed under the control of the Civilian Administration. Relevant Military Orders pertaining to those areas would be subsumed under this new authority. With certain restrictions, the head of the Civilian Administration would also be empowered to enact subsidiary legislation. Concerning the powers of the head of the Civilian Administration, Art. 3(b) of MO 947 clarifies that: "With respect to any article, acts of legislation that were issued by virtue of the law after the determining date shall be regarded as part of the law and not as security legislation."

As is emphatically asserted in MO 947 (and clarified in MO 950), the Military Government remains the ultimate source of authority in the occupied areas. Examination of the 'residual' powers retained by the Area Commander – powers that are not to be transferred to the Civilian Administration – reveal that these comprise essential 'non-civilian' functions, mainly military and security-related in nature. Specifically, they include: (a) powers acquired by virtue of specific laws and regulations, particularly the *Emergency Regulations* (see below in this subsection); (b) powers derived from Military Orders not included in Schedule 2 (see below in this subsection); and (c) powers to legislate new Military Orders and laws.

In this respect, Article 6 (B) of MO 950, *Order Concerning the Establishment of a Civilian Administration*, of 16 December 1981 (which amends MO 947), unequivocally states:

In order to remove any doubt, nothing in the provisions of this order restricts or abrogates any privilege or power vested in the Commander of the Israeli Defence Forces in the area [or] in whoever was appointed by him or his agents.¹⁵⁵

As MO 947 states, the powers of the head of the Civilian Administration consist of:

1. All the powers set forth in the law, except for powers set forth in acts of legislation that are detailed in Schedule 1;
2. All the powers set forth in the security provisions as detailed in Schedule 2.

Laws cited in Schedule 1 – powers retained by the Military Government – include: *Law for the Defence of East Jordan, 1935* (and associated orders and regulations); *Defence [Emergency] Regulations, 1945*; *Prisons Law, 1953*; and *Guards Law, 1925*. Schedule 2 lists the more than 160 Military Orders that were incorporated into the Civilian Administration.

What is so striking about Schedule 2 (powers transferred to the Civilian Administration) is not merely the number of Military Orders contained, but the range of areas of life that they regulate. This is especially significant as the head of the Civilian Administration is not empowered to change these Military Orders, only to administer them on behalf of Israel's Military Government. The contained Military Orders relate to control over key areas including land and water, electricity, roads, taxation, licensing, business and finance. Concerning land and property, as well as related issues such as transfer of powers, water and agriculture, Schedule 2 includes:

- MO 25 *Order Concerning Transactions in Property (1967)*
- MO 28 *Order Concerning Income and Property Tax (1967)*
- MO 37 *Order Concerning Appointment and Employment of Staff in the Government Sector (1967)*
- MO 47 *Order Concerning Transportation of Agricultural Produce (1967)*
- MO 49 *Order Concerning Closed Areas (Prohibiting the Transportation of Goods) (1967)*
- MO 58 *Order Concerning Absentee Property (Private Property) (1967)*
- MO 59 *Order Concerning State Property (1967)*

¹⁵⁴ For a thorough analysis of the context, content and implications of MO 947, see Jonathan Kuttab and Raja Shehadeh, *Civilian Administration in the Occupied West Bank: Analysis of Israeli Government Military Order No. 947* (Ramallah: Law in the Service of Man, West Bank Affiliate of the International Commission of Jurists, Geneva, Jan. 1982), especially pp. 9, 59-63. This work is the source of most of the information in this subsection. See also App. III, 'Military Order 947 (as amended by MO 950), Order Concerning the Establishment of A Civilian Administration', JMCC (n. 95 above), pp. 210-215. Kuttab and Shehadeh caution that though they have tried to check the Hebrew and Arabic versions of the Military Orders and appended orders for discrepancies, some confusion remains.

¹⁵⁵ Quoted in JMCC (n. 95 above), p. 210. Elsewhere, the date of MO 950 is given as 16 Jan. 1982; Shehadeh (1980) (n. 121 above), pp. 14-15; see also memorandum attached to MO 947 by Baruch Hollander, then legal advisor to the Military Government, in Kuttab and Shehadeh (1982) (n. 154 above), pp. 23-24, 59. They note that this memo was not made available in Arabic.

- MO 92 *Order Concerning Jurisdiction Over Water Regulations (1967)*
- MO 134 *Order Concerning Prohibition on Operating Israeli Tractors and Other Agricultural Equipment (1967)*
- MO 150 *Order Concerning Absentee Property (Private Property) (Additional Regulations) (1967)*
- MO 158 *Order Concerning Amendment to Supervision Over Water Law (1967)*
- MO 172 *Order Concerning Objections Committees (1967)*
- MO 216 *Order Concerning Jurisdiction to Execute Deals (1968)*
- MO 264 *Order Concerning Authentication of Signatures (1968)*
- MO 291 *Order Concerning Settlement of Disputes Over Land and Water (1968)¹⁵⁶*
- MO 293 *Order Concerning Inapplicability of the Legislation Protecting Tenants in Specific Cases (1969)*
- MO 306 *Order Concerning Woods and Forests (1969)*
- MO 321 *Order Concerning Land Expropriation for Public Purposes (1969)*
- MO 363 *Order Concerning Protection of Nature Reserves (1969)*
- MO 373 *Order Concerning Public Parks (1970)*
- MO 389 *Order Concerning Investment in Nature Resources (1970)*
- MO 418 *Order Concerning Urban and Rural Planning (1971)*
- MO 448 *Order Concerning Amendment to the Law Regarding the Declaration of Unregistered Immovable Property (Money) (1971)*
- MO 450 *Order Concerning Land Law (1971)*
- MO 451 *Order Concerning the Surveying and Definition of Land Boundaries (1971)*
- MO 457 *Order Concerning Regulation of the Law of Natural Resources (1972)*
- MO 474 *Order Concerning Amending the Law for the Preservation of Trees and Plants (1972)*
- MO 484 *Order Concerning Water Works Authority (Bethlehem, Beit Jala and Beit Sahour) (1972)*
- MO 569 *Order Concerning Registration of Special Transactions in Land (1974)*
- MO 768 *Order Concerning Jurisdiction in Accordance with the Law of Licensing Surveyors (1978)*
- MO 783 *Order Concerning Administration of Regional Councils (1979)*
- MO 818 *Order Concerning the Planting of Certain Decorative Flowers (1980)*
- MO 892 *Order Concerning Administration of Local Councils (1981)*

Other Military Orders which have a bearing on Palestinian property issues and which are also listed in Schedule 2 pertain to electricity, villages and municipalities (for example, MO 191 and MO 194), the appointment of *mukhtars* (for example, MO 237), and related regulations.

A further amendment to MO 947 (and MO 950) of 1981, Amendment No. 2, MO 1202, *Order Concerning Establishment of the Civilian Administration*, of 30 June 1987 (sometimes listed as MO 1200), cancels five Military Orders on Schedule 2 and adds 12 new ones. Those added include: MO 1102, *Order Concerning Amendment to Law of Land Tax* (23 March 1984); MO 1148, *Order Concerning New Shekel Currency* (9 October 1985); MO 1164, *Order Concerning Lawyer's Council* (25 February 1986); and MO 1167, *Order Concerning Antiquities Law* (1 May 1986).¹⁵⁷

Significantly, also appended to Schedule 2 are the Military Orders creating the Objections Committee (see discussion of MO 172 above in this subsection) and those creating the regional and local councils for Jewish settlements (see Subsection 5.5.1.2 below). The specific implications that this has for land and property issues can be summarised in three main points:

- All preceding Military Orders that 'legalised' the confiscation of Palestinian land and property and the transfer thereof to Jewish control become part of the ordinary 'civilian' law to be administered - and implemented - by the head of the Civilian Administration (conceivably a Palestinian).

¹⁵⁶ Some sources include 'MO 921' in Schedule 2, citing it as 'Order Concerning Settlement of Disputes over Land and Water (1968)'. This appears to be in error and most probably should be MO 291, with the same title and year. The complete list of Military Orders in Schedule 2 can be found in Kuttab and Shehadeh (1982) (n. 154 above), pp. 29-59. The authors note that some orders included in Schedule 2 were not issued publicly, or their numbers differ in the Hebrew and Arabic versions. This makes it difficult to verify which Military Orders are actually subsumed under the new Civilian Administration. For the sake of consistency, titles of the orders cited in this study are from JMCC (1993) (n. 95 above). One exception is MO 892, which appears to be erroneously cited in the JMCC report, though it is correctly cited in App. 3, *Summary of the Military Orders Listed in Appendix [Schedule] 2 of Military Order 947*, (ibid. pp. 212-216) and the subsequent discussion.

¹⁵⁷ As is often the case, some of these Military Orders are themselves amendments to Jordanian law or to other related orders. The reference is confusing because at least two of the orders slated for cancellation were not included in MO 947 in the first place. MO 1202 removes MO 58 and MO 158 from the list above; see JMCC (1993) (n. 95 above), p. 143.

- The fact that the administration and implementation of Military Orders (notably MO 783 and MO 892) concerning regional and local councils for Jewish settlements are included among the responsibilities of the Civilian Administration suggests that Jewish settlers and settlements are to be 'normalised' as part of the permanent 'public' in the West Bank and Gaza Strip. Their interests must henceforth be taken into account and advanced.
- Legal changes introduced and institutionalised by MO 947 and MO 950 entrench a predetermined *de facto* annexation of the Occupied Territories in advance of Israeli-Palestinian negotiations over their final status. Having thus legalised all preceding land expropriations and having separated functional from territorial responsibilities, Israel can then await a favourable shift in the demographic balance to assert permanent *de jure* annexation of these areas.

MO 947 was amended another three times. The first two amendments pertained to tax provisions; the third removed some of the attached Military Orders and added several others.

In retrospect, it is clear that the establishment of the Civilian Administration provided the template for the installation of the Palestinian Authority (PA) over a decade later. The laws subsumed under, and the powers delegated to, the Civilian Administration in 1981 were virtually the same as those transferred to the PA in 1994. In both cases, the Israeli Military Government was to remain the ultimate source of authority in the Occupied Territories; the PA was basically delegated only those powers not retained by Israel. As with the Civilian Administration, the PA would be expressly prohibited from introducing any legislation to amend existing military law, though it was granted certain powers of subsidiary legislation in areas directly under its control.

Military Regulation (Unnumbered), Regulation Concerning Antiquities, 1 January 1985

The issuing of Military Orders and Military Regulations designating historical sites in the Occupied Territories closely paralleled the process followed earlier in Israel. As noted in Subsection 4.3.3.3 above, the Zionist leadership had long been engaged in identifying and Hebraicising historical and religious sites in Israel proper. This was done both to institutionalise a historical Jewish claim to the lands and to prevent Palestinian encroachment upon them. Similarly, in the Occupied Territories, Israel undertook a mapping and renaming process in order to lay claim to such sites, which it regards as 'historical' and hence 'inalienable'.

An amendment to the earlier MO 119 concerning antiquities (*see next paragraph*), this 1985 Military Regulation declares expropriations in areas in the vicinity of Nablus and Hebron on the basis that these are 'historical' sites.

The original MO 119, *Order Concerning Law of Antiquities*, of 19 September 1967, amended Jordanian law to transfer jurisdiction to the Israeli official-in-charge and to authorise the latter to cancel all appointments and replace the people in question. Prior to the enactment of the unnumbered Military Regulation amending MO 119, the latter was amended eight times (most of these amendments pertain to fees). MO 119 was eventually replaced by MO 1167 (sometimes listed as MO 1166), *Order Concerning Antiquities Law*, of 1 May 1986. This regulates licenses and trading in antiquities and states that any construction on historical sites requires prior approval. By 1992, MO 1167 had been amended by three unnumbered Military Orders. Two of these amendments, both issued on 8 March 1992, declare areas around El-Bireh and Khirbet Alkouz as historical sites, and state that those with property rights in these areas are to be given notice of this. An area near Nablus was similarly designated by virtue of another unnumbered Military Order, of 13 March 1991. A separate unnumbered Military Order, *Order Concerning Antiquities*, of 1 September 1985, lists a number of areas and buildings as archaeological sites.

5.4.3 Summary

Summarising the effect of these numerous enactments in the Occupied Territories over the period from 1967 to the early 1990s, Shehadeh identifies two closely linked processes in Israel's take-over of Palestinian lands: (1) the use of law to acquire land; and (2) the imposition of restrictions on Palestinian development. In this period, Shehadeh also identifies the following four legislative stages:

1. The first stage, 1967-1971, was characterised by an Israeli focus on extending military jurisdiction over different facets of life in the Occupied Territories. Approximately 400 Military Orders were issued during this stage, covering matters including: security offences; categories of 'absentee' and 'State' lands; procedures for judicial review; and laws establishing the separation of Jerusalem from the rest of the West Bank. Shehadeh states that the net effect was to lay the groundwork for the *de facto* annexation of these territories.

2. The second stage, 1971-1979, was characterised by the Israeli focus on establishing Jewish settlements. Military Orders issued during this period facilitated Jewish acquisition and building on Palestinian lands, especially 'State land'. Such orders included laws restricting Palestinian development outside strictly defined municipal areas and facilitating the purchase and registration of lands by Jewish (settler) bodies. Other Military Orders created the first distinct councils for the administration of Jewish settlements. Also enacted in this period were Military Orders authorising the removal of Palestinians from positions of authority and decision-making in planning and development bodies, and the replacing of them with Israeli officials.
3. The third legislative stage, 1979-1981, was one in which Israel institutionalised the separate administrative status of Jewish settlements and settlers in the Occupied Territories, in line with laws operating in Israel. This period also witnessed the enactment of MO 947, which established a Civilian Administration in the occupied areas – and presaged the delegation of powers to the Palestinian Authority under the Oslo Accords.
4. The fourth and final stage, 1981-1987 (prior to the first *Intifada* and the 'Oslo era') was characterised by approximately 260 Military Orders, which helped consolidate Israel's *de facto* annexation of the Occupied Territories. This aim was furthered by other Military Orders that placed additional restrictions on Palestinian cultivation, as well as on planning and development, while also facilitating Jewish colonisation and increasing the powers and privileges granted to settlers.¹⁵⁸

The preceding subsections on laws relating to land and property in the Occupied Territories are deliberately rich in detail in order to demonstrate the intricacy of Israel's military rule in these areas. Navigating through the entire body of hundreds of Military Orders, one finds that some are clearly referred to as direct amendments to Jordanian law (in the case of the West Bank). Other Military Orders pertain to the same subject matter, but are issued without reference to earlier Jordanian law. Military Orders are amended by other orders, some of which amend more than one law at a time. Others replace earlier laws entirely. Some Military Orders are available in Arabic while others are not. Military Orders may be numbered in one way in the Arabic versions, yet in another way in the Hebrew versions.

When trying to follow the complex changes and permutations of these Military Orders over the years it is not difficult to lose sight of their original foundation in Jordanian law. Obscuring Israel's true interests and ambitions in the Occupied Territories under the 'rule of law', this overlapping and intentionally intricate and confusing web of Military Orders, Military Regulations and other legal devices has resulted in what can only be described as *de facto*, if not *de jure*, Israeli jurisdiction over the entire occupied West Bank and Gaza Strip. The process does not end there. An entire body of military laws were also issued to apply exclusively to Jewish settlers and settlements. That these Military Orders were often embedded among and within Military Orders pertaining to Palestinian life under occupation further confuses the situation and conceals their real purposes. That is the topic of the next subsection.

5.5 Legal dualism - a case of *de facto* annexation?

The hundreds of Military Orders and Regulations issued since occupation have enabled the Israeli authorities to encroach upon virtually every aspect of life in the Occupied Territories, depriving the Palestinians of control over their day-to-day activities, livelihoods, properties and resources. This vast and complex body of military law has relentlessly tightened the stranglehold on the Palestinians with respect to their ability to claim – or reclaim – their rights.

Concurrent with the legal system that facilitated land acquisition in the Occupied Territories is a separate legal system created for the Jewish settlers and settlements in those areas. The latter system emerged at an early stage in the occupation. As B'Tselem and other sources point out, it has provided political cover for extending Israeli territorial control over the Occupied Territories.¹⁵⁹

This dual legal system operating separately for Palestinians and Jewish settlers was created incrementally. Some measures were more visible than others. As shown in Subsection 5.4.2. above, what was most apparent was how laws operated to deprive Palestinians of their lands and resources, and thus to facilitate the transfer thereof to Jewish control. The parallel enactment of Military Orders and Regulations designed exclusively for settlers and settlements was less visible. In this

¹⁵⁸ For a more detailed discussion of the impact of legislative changes throughout these phases, see Shehadeh (1993) (n. 86 above), pp. 104-123.

¹⁵⁹ B'Tselem (2002) (n. 84 above), p. 65. Eyal Benvenisti calculates that by the late 1980s, 39% of the West Bank and 15% of the Gaza Strip had already come under "Israeli law, adjudication and administration"; Eyal Benvenisti, *Legal Dualism: The Absorption of the Occupied Territories into Israel* (Boulder, Colorado: Westview Press, 1990), p. 4.

respect, Israel was not amending laws previously in force (as it was ostensibly doing vis-à-vis the Palestinians). Instead, under the guise of 'Military Orders', it was extending its own - Israeli law - to the settlers and their settlements to bring them into line with laws that applied (to Jews) inside Israel. However, Israel went even further than this, benefiting the settlers by expanding on the powers and privileges normally enjoyed by Israelis under equivalent laws inside Israel. These points are clarified in Subsections 5.5.1 and 5.5.2 below, on Jewish settlers and settlements in the Occupied Territories.

5.5.1 Military Orders and regulations concerning Jewish settlers and settlements in the Occupied Territories

The first mechanism to extend Israeli law to Jewish settlers was established through the *Emergency Regulations (Offences in the Occupied Territories - Jurisdiction and Legal Assistance)* of 2 July 1967. These regulations stipulate that Israelis committing offences in the territories be made subject to Israeli law. An 'extraterritorialised' status is thus created for Israeli civilians in the Occupied Territories. The *Emergency Regulations* were regularly renewed over subsequent years. In 1984, Israel appended a selection of its - Israeli - laws to these regulations, applying them specifically to 'residents of Israel' in the territories. In 1988, Israel extended the applicable Israeli law governing 'development towns' to Israeli local authorities in the Occupied Territories. The significance of this move, as B'Tselem points out, was that it applied Israeli law "to the settlements *as territories*, and not just to settlers as individuals, as it had done previously".¹⁶⁰

Over the occupation years, several dozen Military Orders have been issued pertaining exclusively to Jewish settlers and settlements in the West Bank and the Gaza Strip. Palestinian lawyers have voiced concerns that a number of these are not available in Arabic, and that others are not available at all to Palestinians. In order to appreciate the implications of this extraterritorialisation of Israeli law, it is sufficient to examine just a small sample of these Military Orders.¹⁶¹

As of 1992, some 40 Military Orders relating to settlers and settlements were known to Palestinians - though in some cases only by topic or title. As with other Military Orders, these are mostly numbered and classified within the body of Military Orders governing the Occupied Territories, and over the years they have also been amended, sometimes more than once.

The language of these Military Orders concerning settlers and settlements often obscures their real purpose. For example, just as with the Military Orders issued for Palestinians, these include references to the authority and powers enjoyed by the 'Area Commander'. Such wording implies that the laws applying to the Palestinians are equivalent to those applying to the settlers, which is not true. Further examination of the language used reveals that Military Orders conferring privileges on settlers and settlements are issued under the mantle of 'security' legislation. As noted in Subsection 5.1.1 above, 'security' considerations take precedence above all other laws in the Occupied Territories. The most significant of these Military Orders are discussed in Subsections 5.5.1.1 and 5.5.1.2, which follow.

5.5.1.1 Selected examples of Military Orders concerning settlers and settlements

Military Order 432, Order Concerning Organising Guards in Settlements, 1 June 1971

As was the case in the early Jewish settlements in parts of Palestine that became Israel proper, guard units were originally set up to protect Jewish settlements in the Occupied Territories, though here too their role eventually evolved from 'protecting' lands and newly established communities to taking offensive action against Palestinians.

MO 432 allows guards to be stationed in Jewish settlements and defines their roles and responsibilities. By 1986, it had been amended 11 or 12 times (including three unnumbered Military Orders), gradually expanding the duties and powers of the guards and integrating them into the general functions of the Israeli armed forces in the Occupied Territories. For example, Amendment No. 5, MO 898, *Order Concerning Organising Guards in Settlements*, of 2 March 1981, authorises guards to carry weapons and detain anyone who acts 'suspiciously'. It defines those who resist these guards as violating security orders. Amendment No. 7, MO 1163 (sometimes listed as MO 1161), *Order Concerning Organising Guards in Settlements*, of

160 B'Tselem, *On the Way to Annexation. Human Rights Violations Resulting from the Establishment and Expansion of the Ma'aleh Adumim Settlement*, Information Sheet (Jerusalem: B'Tselem, July 1999), pp. 16-18.

161 Shehadeh explains that he obtained copies of these Military Orders from his Israeli contacts. He also explains how these orders expose the "apartheid-type system of law" developing in the Occupied Territories; see Shehadeh, *Strangers in the House. Coming of Age in Occupied Palestine* (Hanover, NH: Steerforth Press, 2002), pp. 169-170. Others note that the language of these orders often obfuscates the fact that they are intended to apply exclusively to one community or another. However, appendices, addenda or maps attached to various orders would unmistakably reveal the specific communities to which the law in question applied; see: B'Tselem (2002) (n. 84 above), p. 66; and id., *On the Way to Annexation* (1999) (n. 160 above), pp. 18-19.

20 January 1986, stipulates that the duties of guards are congruent with those under the Israeli civil defence law and security service laws.

Amendment No. 4, MO 844, *Order Concerning Organising Guards in Settlements*, of 18 May 1980, is not available in Arabic but apparently concerns the hours of guard duty per week. Also not available in Arabic are MO 1360 (of 8 December 1991) and MO 1365 (of 8 April 1992), both pertaining to guards in settlements. Separate Military Orders regulating guard duties at educational institutions in settlements are not included here.

By virtue of these Military Orders, Israeli settlers in their role as guards are permitted to perform their regular army service from their bases in settlements in the Occupied Territories. As of the early 1980s, settlers often staffed official positions in both the military and civilian administrations in the Occupied Territories.

Military Order 967, Order Concerning Employment of Workers in Specified Places, 3 March 1982

Several Military Orders regulate the employment of Palestinians in Jewish settlements. MO 967 outlines standards and conditions for Palestinian labour in settlements. These differ from standards pertaining to other economic spheres in the West Bank. By virtue of this Military Order, Palestinians are prohibited from working in the settlements of Kiryat Arba and Ma'aleh Adunim unless they were hired through the employment office. Subsequent amendments to this Military Order include MO 1141, *Order Concerning Employment in Specific Places*, of 28 May 1985. MO 1141 adds certain settlements to the list of those covered in the law (and is also cited as an amendment to MO 783 and MO 892 – see relevant paragraphs in Subsection 5.5.1.2 below).

A full discussion of the Palestinian labour situation in settlements is beyond the scope of this study. Suffice it to say that there is one obvious paradox of settlement building in the Occupied Territories – the contribution of Palestinian workers to this venture. Israel has, since the beginning of occupation, pursued a policy of economically integrating the Occupied Territories so as to benefit its own economy. Palestinians have faced numerous obstacles to developing a separate and independently viable economy of their own. Loss of lands, the presence of large numbers of destitute refugees (especially in the Gaza Strip), and the difficulties Palestinians face in competing with Israeli products are factors that have contributed to the creation of a huge class of wage-labourers dependent on work in – or for – Israel.¹⁶²

Military Order 990, Order Concerning Legal Assistance, 9 May 1982

This Military Order is classified as an amendment to MO 348, *Order Concerning Legal Assistance*, of 3 November 1969. The latter pertains to the implementation of Israeli court decisions on property and other matters in the West Bank. An amendment to MO 348 (MO 714, of 21 June 1977) authorises the Area Commander to establish a special office of execution to implement the provisions of MO 348.

MO 348 and its amendments jointly provide the basis for the differential treatment of Jewish settlers and Palestinians under the law. This is illustrated by cases in which the decision of a settlement court has differed from that of a local court – the settlement court's decision usually prevails. Settlers enjoy legal rights and privileges similar to their counterparts in Israel, while the rights of Palestinians are curtailed under the numerous laws enacted by the occupation authorities.

Military Order 1185, Order Concerning Amendment to Income Tax Law (Authority to Amend Special Regulations), 22 December 1987

Most of the Military Orders concerning Jewish settlers are issued separately to Jordanian law and not as amendments to it. However, in one or two instances, an amendment to a previous Military Order that was initially enacted as an amendment to Jordanian law relates directly to settlers and settlements.

MO 1185 is classified both as an amendment to Jordanian law and as Amendment No. 31 to MO 543, *Order Concerning Amendment to the Income Tax Law*, of 20 March 1974 (the first amendment to Jordanian law in this area). MO 1185 states:

162 For data on the employment of Palestinian workers in Jewish settlements, see Leila Farsakh, 'Palestinian Labour Flows to the Israeli Economy: A Finished Story?', *Journal of Palestine Studies*, Vol. 32, No. 1 (autumn 2002), pp. 13-27. Farsakh notes that between 1994 and the eruption of the second *Intifada* in 2000, approx. 30% and 12% of the permits given to West Bank and Gaza Strip Palestinians, respectively, was for work in settlements or industrial zones.

It is permissible for the head of the Civilian Administration to specify, at the request of a certain company, that 51% of its controlling and voting shares are owned by a foreign or an Israeli company. A special period for the estimation of taxes may be set along with special regulations regarding advanced payment on income tax, estimates, etc.¹⁶³

Other Military Orders regulate the collection of taxes in the settlements. For example, MO 1259, *Order Concerning Administration of Regional Councils (Tax Collection)*, of 24 October 1988, stipulates that “every settler in any settlement mentioned hereafter, shall pay municipal tax/fees to the regional council rather than to the local committee”.

Military Order 1213, Order Concerning Employment in Israel, 3 December 1987

MO 1213 (sometimes referred to as MO 1210) is listed as an amendment to MO 297, *Order Concerning Identification Cards and Personal Status*, of 3 January 1969, which stipulates that all Palestinians over 16 years old are required to carry identity cards at all times. The initial MO 297 and its more than 22 amendments jointly specify what information is required when registering, who is eligible for registration as a legal resident of the Occupied Territories, and who may be exempt from carrying such identification.

The issue of identity cards is crucial because of Israeli restrictions on the freedom of movement of Palestinians in the Occupied Territories. It is also especially significant to any Palestinian seeking to establish residence in Jerusalem.

The issue of identity cards and the applicable Military Orders is mentioned here in relation to Jewish settlers because these settlers are defined as local residents in the Occupied Territories. By virtue of this designation, settlers are allowed to work legally in the West Bank. This is a privilege generally withheld from ‘non-residents’ – unless they have obtained prior permission (see MO 65, *Order Concerning Prohibition of Employment*, of 12 August 1967, which is not discussed in this publication). Settlers also benefit from being designated as part of the ‘local population’ in that they thereby become part of the ‘public’, whose welfare and interests Israel has undertaken to uphold and protect. To all other intents and purposes, however, settlers are granted a separate extraterritorialised status. They thus enjoy privileges and legal rights not available to the rest of the local population – that is, the Palestinians.

Military Order 1219 (also listed as 1216), Order Concerning the Provision of Electricity, 12 January 1988

The removal of Jewish settlements from the electricity supply grid in the West Bank and their connection to the Israeli grid was noted in Subsection 5.4.2.3 above (see discussion of MO 159). MO 1219, which authorises the switch-over for a number of settlements, constitutes another step in the ‘legal’ annexation of settlers and settlements into Israel.

5.5.1.2 Military Orders establishing regional and local settlement councils

Among the most far-reaching measures that discriminate between the legal administration of the Jewish settlements and that of the Palestinian communities in the Occupied Territories are the Military Orders establishing regional and local councils for Jewish settlements.

Initially, Military Orders concerning the administration of settlements were issued for individual settlement areas. Two of these, MO 561 and MO 788, which follow, pertain to Kiryat Arba and Ma’aleh Adumim respectively:

Military Order 561, Order Concerning the Administration of Kiryat Arba, 3 October 1974

This Military Order specifies that the administration of the settlement should proceed “in accordance with administrative principles which the Military Commander shall declare by internal regulations”, without affecting other applicable laws.¹⁶⁴ Note that the ‘internal regulations’ referred to in this Military Order were not made available to Palestinians.

Military Order 788, Order Concerning Administration of Ma’aleh Adumim, 27 March 1979

This Military Order applies language similar to that of MO 561 to the administration of the settlement of Ma’aleh Adumim. Note again that the ‘internal regulations’ referred to in this Military Order were not made available to Palestinians.

With settlements proliferating in the Occupied Territories, it was no longer feasible to issue a separate Military Order for each one. Instead, new Military Orders of general applicability were issued. MO 892, *Order Concerning Administration of Local Councils (Settlements)*, of 1 March 1981, superseded MO 561. Similarly, MO 783, *Order Concerning Administration of Regional Councils*, of 25 March 1979, outlined provisions for the administration of regional councils.

163 Quoted in JMCC (n. 95 above), p. 141. In this subsection, unless otherwise noted, all titles, dates and extracts of, and quotes from, Military Orders and Military Regulations are taken from JMCC (1993).

164 Quoted in Shehadeh (1993) (n. 86 above), p. 93.

Jewish settlements in the Occupied Territories are generally designated as 'urban' or 'agricultural'. Military Orders concerning their governance follow this designation. 'Urban' settlements are administered mainly under the provisions of MO 892, whereas 'agricultural' settlements fall under the provisions of MO 783. Lists of settlements to which the respective law applies are regularly updated in addenda attached to these Military Orders. The addenda also record changes in the status of settlements; for example, if a local council has qualified as a municipality.

These Military Orders paved the way for the extension of Israeli municipal laws to Jewish settlements in the Occupied Territories. In other words, they ensured that, as far as administration was concerned, Jewish settlements in the West Bank and Gaza Strip would not fall under existing laws applicable to Palestinians, but would enjoy powers and privileges similar to their counterpart communities in Israel.

Jordanian law covered municipalities and village councils; it did not designate local or regional councils as such. However, pre-existing Jordanian law on municipalities was not easily circumvented. In line with other legal enactments, the Israeli Military Commander issued MO 892, *Order Concerning Administration of Local Authorities* (1981) to amend Jordanian law. In order to ensure that Jewish settlers and settlements could not fall under the operative Jordanian law (which continued to apply to Palestinian municipalities), this Military Order designates settlements that qualify as municipalities as being subject to its provisions – rather than to the jurisdiction of Jordanian municipal law. Thus, Palestinians would continue to be governed under some variation of Jordanian law, while new categories under the law would apply only to settlers. In this way, Israel could avoid being accused of discriminating against Palestinians under the same law. Under MO 892:

The Commander of the IDF Forces in the region is entitled, on the recommendation of the Custodian, to declare by order that a given local council shall be called a municipality.¹⁶⁵

MO 892 establishes regulations for the administration of local councils and appends the list of settlements to which it applies. Initially, this list included the West Bank settlements of Ariel, Elkaneh, Kiryat Arba, Ma'ale Adumim and Ma'ale Ephraim. Other settlements could be added at the discretion of the Military Commander, who is also authorised to redefine the boundaries of council areas as he sees fit. Such power in the hands of the Military Commander would ensure that Arab communities be excluded from the provisions of this Military Order. As is shown in *Tables 8 and 9* below, these councils' areas of jurisdiction are not limited to current built-up areas, but extend to areas of planned building and expansion.

With no apparent parallel in Jordanian law, the administration of agricultural settlements fell largely under MO 783 (1979). MO 783 authorised the establishment of five Jewish regional councils in the West Bank. Each council was to exercise jurisdiction over a number of Jewish settlements. However, as explained in Subsection 5.5.2 below, the area under the jurisdiction of a particular council often overlapped with major Palestinian communities, including privately owned Palestinian land (see also discussion of MO 418 in Subsection 5.4.2.3 above).

MO 783 stipulates that regional councils are to be administered in accordance with the laws issued by the Area Commander, without this affecting any laws or privileges enjoyed in the past or to be issued in the future. This language effectively elevates these Military Orders to security enactments and renders them unassailable and distinct from other laws operating with regard to Palestinians in the Occupied Territories (the same applies to MO 892 regarding local councils). The language of MO 783 (and of MO 892) also permits the wholesale incorporation of equivalent Israeli law into the by-laws of these councils – by order of the Area Commander.

As stated in the relevant by-laws:

[t]he regulations made in pursuance of these bylaws shall be deemed security enactments issued by the Area Commander.¹⁶⁶

Several such by-laws were amended in 1983, extending the jurisdiction of Israeli domestic courts to the settlements, along with a whole body of Israeli law. With little fanfare, some 29 Israeli laws were appended to the by-laws governing the administration of the settlements. Another amendment to the by-laws authorised official Israeli bodies to act directly in the settlements (including, for example, the Israeli Ministry of Education and Culture, and the Israeli police).

165 Quoted in B'Tselem (2002) (n. 84 above), pp. 67, 69. A 1992 law specifies that in order to qualify for municipal status, a (settler) community must have over 20 000 residents, and local councils must have populations of over 3 000. In practice, the Minister of the Interior may grant exceptions as he sees fit.

166 From orders establishing by-laws for regional and local councils, quoted in Eyal Benvenisti (1990) (n. 159 above), p. 62, note no. 43. See also B'Tselem (2002) (n. 84 above), pp. 67 ff.

Together, these measures institutionalised the separation of settlement courts from the military administration operating in the rest of the Occupied Territories and formally integrated the legal system governing the settlements into that operating within Israel.

MO 783 underwent several other amendments. For example, MO 806, *Order Concerning Administration of Regional Councils*, of 13 September 1979, permits the Area Commander to “redraw the boundaries of the regional councils”.¹⁶⁷

Other Military Orders also refer to the administration of local and regional councils. For example, *Military Order 848, Order Concerning Managing Local Councils*, of 15 June 1980, appears to be Amendment No. 3 to MO 783, above. Information on this Military Order is incomplete and contradictory.

Another Military Order, MO 1374, *Order Concerning Administration of Local Councils*, of 21 June 1992, amends MO 892 to the effect that:

Should a Military Commander decide that a particular settlement is to be transferred from the jurisdiction of a regional council into that of a local council, he is entitled to provide transitional instructions to ensure the continuity of work in the settlement.

The status of Jewish settlements as an integral part of Israel was given another boost in 1996, when the unit responsible for their supervision was transferred from the Civilian Administration to the direct control of the Ministry of Interior. This move gave them status equal to that of similar communities within Israel proper. As Eyal Benvenisti observes:

From the point of view of Israeli law, the activities of Israeli officials in the territories seem to be incompatible with the definition of the legal boundaries of the State of Israel. These boundaries confine the powers of the Israeli administration to the area within Israel.¹⁶⁸

In addition to this elevation of the legal status of settlements, Jewish settlers also enjoy personal rights and privileges comparable with their compatriots in Israel.

Concerning the personal status of settlers, in 1984 Israel amended the *Emergency Regulations (Judea and Samaria, Gaza Region, Sinai and South Sinai) (Criminal Jurisdiction and Legal Assistance) Law, 5744-1984*. This law was originally issued shortly after the June 1967 War. It was amended in 1977 to replace the term ‘administered territories’ with ‘Judea and Samaria’. The amended 1984 law authorises the application of nine key Israeli laws to those who are either Israeli citizens or were allowed to immigrate to Israel under the *Law of Return* and whose ‘presumed residency’ includes the West Bank and Gaza Strip. That is, these laws were intended to apply exclusively to Jews who settled in the Occupied Territories (and not even to Arab citizens of the State of Israel).¹⁶⁹

In 1998, in another move to privilege settlers and settlements in the Occupied Territories, Israel extended laws on ‘development towns’ to encompass Israeli settlements. This measure qualified Jewish settlements for special Government aid and support as though they were an integral part of Israel itself. That same year, Israel issued an updated list of ‘national priority areas’. The addition of Jewish settlements to this list was intended to guarantee that settlements would receive special perks and incentives from the Government of Israel, and to encourage Jews to move to the West Bank.¹⁷⁰

167 There is some confusion regarding MO 806. According to Shehadeh, it was issued on 30 Sept. 1970 and reaffirms the supremacy of security regulations, unless otherwise specified by law; Shehadeh (1993) (n. 86 above), p. 36.

168 Eyal Benvenisti (1990) (n. 159 above), p. 15; and B’Tselem (2002) (n. 84 above), p. 68. See also: *Law and Administration Ordinance, 1948*. In 1996, Israel and the Palestinian Authority were engaged in implementing the interim provisions of the Oslo Accords in preparation for negotiations over a final settlement. By taking such a step at that time, Israel had apparently already decided to retain settlements under permanent Israeli jurisdiction.

169 The title of this law varies according to the source; see: Eyal Benvenisti (1990) (n. 159 above), pp. 20-21; B’Tselem (2002) (n. 84 above), p. 66; and Shehadeh (1993) (n. 86 above), pp. 92-93. Other Israeli laws benefit Jewish settlers extraterritorially. These include criminal law, fiscal law and others, none of which are covered here.

170 For more on the significance of declaring settlements as ‘development towns’ or ‘national priority areas’, see: B’Tselem (2002) (n. 84 above), pp. 73-85; and Shlomo Swirski, Ety Konor-Attias and Alon Etkin, *Government Funding of the Israeli Settlements in Judea, Samaria, Gaza and the Golan Heights in the 1990s: Local Authorities, Residential Construction and the Construction of Roads* (Adva Centre, 27 Jan. 2002), <http://www.adva.org/settele/settel.htm>. A report by the Foundation for Middle East Peace notes that in the period from 1993 to 2000 some US\$ 2.5 billion were spent on settlement housing, <http://www.fmep.org>

5.5.2 Jewish settlers and settlements in the occupied West Bank and Gaza Strip

The creation of various types of settlement councils with their respective laws of governance was an essential step in extending Israeli control over the West Bank and Gaza Strip. The respective Military Orders establish a separate and extraterritorialised administration for these settlements as distinct from Palestinian municipal systems. The Military Orders also designate the vast geographical areas over which these councils exercise jurisdiction and control (see: *Table 8*, below). B'Tselem describes the outcome as a "straightforward picture of annexation".¹⁷¹

Table 7, below, provides data on local and regional Jewish settlement councils and municipalities in the West Bank (excluding Jerusalem). This data includes estimates of the number of settlements and their populations in the respective areas of jurisdiction.

Table 7: Jewish municipalities and settlements in local and regional council areas in the occupied West Bank (excluding Jerusalem)

Type of area	Name (regional council)	Year founded ⁽¹⁾	Population ⁽²⁾	
Municipality	Ariel (<i>Shomron</i>)	1978	15 600 (16 000)	
	Betar Illit (<i>Gush Etzion</i>)	1990	15 800 (17 200)	
	Ma'ale Adumim (<i>Binyamin</i>)	1981	24 900 (25 700)	
Local council ⁽³⁾	Oranit (<i>Shomron</i>)	1984	5 100 (5 200)	
	Alfe Menashe (<i>Shomron</i>)	1983	4 600 (5 000)	
	Elkana (<i>Shomron</i>)	?	3 000 (3 000)	
	Efrat (<i>Gush Etzion</i>)	1980	6 400 (6 600)	
	Beit El (<i>Binyamin</i>)	1977	4 100 (4 300)	
	Beit Arye (<i>Shomron</i>)	1981	2 400 (2 400)	
	Giv'at Ze'ev (<i>Binyamin</i>)	1982	10 300 (10 500)	
	Har Hadar	?	1 400 (1 500)	
	Modi'in Illit/ (Kiryat Sefer) (<i>Binyamin</i>)	1993	16 400 (18 900)	
	Ma'ale Efrayim (<i>Jordan Valley</i>)	1978	1 500 (1 800)	
	Immanuel (<i>Shomron</i>)	1982	3 000 (2 700)	
	Qedumim (<i>Shomron</i>)	1975	2 700 (2 700)	
	Kiryat Arba (<i>Mt. Hebron</i>)	1972	6 400 (6 500)	
	Karnai Shomron (<i>Shomron</i>)	1978	5 900 (6 100)	No. of settlements ⁽⁴⁾
Regional council	'Arvut Hayarden (<i>Jordan Valley</i>)	(1968-82)	3 000 (4 400) ⁽⁵⁾	18 (18)
	<i>Gush Etzion</i>	(1969-2000)	9 600	14 (16)
	<i>Mt. Hebron</i>	(1968-99)	4 100 (4 300) ⁽⁵⁾	12 (16)
	<i>Megillot (N. Dead Sea Area)</i>	(1968-80)	900	5 (5)
	<i>Mate Binyamin</i>	(1970-97)	27 200 (26 300) ⁽⁵⁾	27 (33)
	<i>Shomron ('Samaria')</i>	(1975-99)	17 400	106 (122) ⁽⁶⁾
Total			187 600 (212 147)	

171 B'Tselem (2002) (n. 84 above), p. 66.

Notes:

Information and figures are from: Table 3, 'Local Authorities in the West Bank', in B'Tselem (Yael Stein, ed.), *Land Grab, Israel's Settlement Policy in the West Bank* (Jerusalem: B'Tselem, May 2002), pp. 69, 92.

For similar data on the Gaza Strip, see *Communities in Yesha and Jordan Valley*, http://www.geocities.com/m_yericho/yishuvim.htm (website of the Association of Jewish settlers in the Occupied Territories).

Spelling of names of settlements are based on B'Tselem (2002). Names in brackets include 'Yesha' designation. This source identifies all municipalities and local councils within the designated regional council (in brackets).

- (1) From the 'Yesha' website for local councils and municipalities. Year ranges in brackets indicate earliest and most recent establishment of settlements in each of the six regional councils (not including 'new communities or outposts').
- (2) Population figures at end of 2000 are from B'Tselem. Numbers in brackets (for municipalities and local councils) reflect where these differ from the 'Yesha' website.
- (3) Numbers in brackets are from Table 6, 'Comparison Between Local Authorities in the West Bank and in Israel', B'Tselem (2002), p.83, where these differ from data in Table 3 in *ibid*.
- (4) Numbers of settlements in brackets are from the 'Yesha' website. B'Tselem notes that it has been unable to obtain information on the municipal boundaries of five settlements, including two listed in this table: Beit Arye and Har Hadar.
- (5) Numbers in brackets from the 'Yesha' website.
- (6) The total numbers of settlements are somewhat lower than those listed in other sources; see Section 8, *Table 13* below.

As of 2001 there were 14 local councils, six regional councils and three municipalities administering settlements in the West Bank. Jerusalem has a single municipality. Twelve main settlements are found within Jerusalem's expanded and annexed boundaries (see separate Subsection 6.3.2 below). The Gaza Strip has one regional council.

Local councils in the West Bank enjoy jurisdiction over contiguous areas in which the main urban settlements are located. These include built-up areas as well as vast amounts of lands already in Israeli hands and slated for settlement expansion (see: *Table 8*, below). Regional councils may include contiguous areas (as in the Jordan Valley) or non-contiguous areas. The latter are clusters of mainly agricultural settlements that enjoy jurisdiction over large areas that have come under Israeli control by means of many of the legal measures – mainly Military Orders – that are cited in the preceding subsections. In several instances, these areas overlap with existing Palestinian communities, over which regional councils essentially exert control. B'Tselem estimates that Jewish regional councils alone exercise jurisdiction over some 35 percent of the West Bank – areas that are not part of any particular settlement, but are kept as 'reserve' areas for later settlement expansion.¹⁷²

Accurate data on the numbers of settlements are difficult to obtain. This is due in part to the continuous proliferation of 'illegal outposts' in recent years. Different sources provide different figures. The Association of Jewish Settlers, for example, has a separate table on its website listing some 24 "new communities and outposts". Other sources put the number of new settlements established since 1997 at over 100, with most of these established since Ariel Sharon became Prime Minister in 2001. Many of the new settlements and outposts have been established as an integral part of, or as outlying extensions to, existing settlements; dozens of them have been legalised retroactively. Other reasons for the discrepancies between the various sources have to do with definitions. The Association of Jewish Settlers, for example, whose estimates tend to be higher than others, includes some 'urban' settlements listed elsewhere as 'local' councils. Whereas municipal boundaries demarcate areas directly under the control of a local council, settlement-planning areas may include additional lands beyond these boundaries, thus placing municipalities within the regional councils.

A similar discrepancy has to do with the exact year of establishment of particular settlements. For example, in relation to Ma'ale Adumim, other sources not cited here claim that lands were confiscated for it in 1975, though actual construction probably began later. Nonetheless, examination of such dates does shed light on the implementation of settlement plans down through the occupation years: over the first decade, settlement building in the Jordan Valley according to the Allon Plan (see Subsection 5.3.1 above); in the 1980s and beyond, the establishment of settlements around heavily concentrated Palestinian communities.

There is also confusion as to the number of settlers. Accurate data is difficult to obtain and figures sometimes vary within the same source. The data in *Table 7*, above, must be regarded as approximate. Adding the settler population of Jerusalem to the figures given in *Table 7* would bring the total settler population to well over 400 000.

Table 8, below, provides data on land areas under the control of Jewish local and regional councils in the occupied West Bank. It lists the main Palestinian communities falling within the boundaries of these councils.

172 B'Tselem (2002) (n. 84 above), p. 70.

Table 8: Land controlled by Jewish local and regional councils and the main Palestinian communities in the occupied West Bank (including Jerusalem)

Area	Regional councils	Main Palestinian communities (estimated pop. in governorate)	Municipal boundaries/ settlements (km ²) ⁽¹⁾	Regional council lands in reserve (km ²)	Total Jewish-controlled land in area (km ²)
Eastern Strip	'Arvut Hayarden (Jordan Valley) Megillot (N. Dead Sea Area)	City of Jericho and environs (plus a few villages) <i>Jericho (37 066)</i>	75.9 (14.8)	1 203.0	1 278.9
Mountain Strip	Shomron; Mate Benyamin, Gush Etzion; Mt. Hebron	Jenin (225 711) Nablus (290 621) Ramallah/El-Bireh (243 432) East Jerusalem (367 003) (2) Bethlehem (15 954) Hebron (plus dozens of towns and villages) (457 781)	62.6 (16.9)	409.4	472.0
Western Hills	Shomron; Mate Benyamin; Mt. Hebron	Tulkarm (149 188) Qalqilya (plus numerous towns and villages) (3) (81 942)	109.8 (30.9)	265.2	375.0
(Other) ⁽⁴⁾					
Jerusalem Metropolis	Mate Benyamin; Gush Etzion		129.4 (34.3)	90.6	220.0
Total (km²)			377.7 (96.9)	1 968.2	2 345.9
Total (%)⁽⁵⁾		(2 102 360)	6.7 % (1.7%)	34.7%	41.4%

Notes:

All the information is from: B'Tselem (Yael Stein, ed.), *Land Grab, Israel's Settlement Policy in the West Bank* (Jerusalem: B'Tselem, May 2002), pp. 77-79, 91-117; and Palestinian Academic Society for the Study of International Affairs, *Diary 2002* (Jerusalem: PASSIA, 2002), p. 263. Figures on settlers and settlements are approximate.

- (1) Figures in brackets refer to built-up areas within the total land held by existing municipalities and/or local councils.
- (2) This figure for East Jerusalem is significantly higher than in other sources. It includes both annexed areas and surrounding Palestinian communities located within the governorate. Estimates of the Palestinian population in mid-2001 put the number at 235 041.
- (3) Figures do not include land expropriations since 2002.
- (4) Other Palestinian towns and governorates include Salfit (pop. 54 595) and Tubas (pop. 41 067), bringing the total population (including East Jerusalem) in mid-2001 to 2 102 360.
- (5) These percentages are based on the total land area of the West Bank (including annexed East Jerusalem), estimated at about 5 670 km², so they differ slightly from B'Tselem's figures, which are based on a total area of 5 600 km².

There are between 400-650 Palestinian communities of various types in the West Bank. The figures in *Table 8* include totals for cities and surrounding smaller towns and villages in the governorate, as of mid-2001.

As shown in *Table 8*, two or more councils may overlap in a given region and several major local councils (main Jewish settlements) may also be located within the area of specific regional councils. The Arvut Hayarden Regional Council enjoys jurisdiction over the entire Jordan Valley, with the exception of three Palestinian localities: the city of Jericho and an area to its north, three villages in the Jiftlik area, and a cluster of villages in the northern Jordan Valley – totalling about 20.4 km². The Jordan Valley has important water resources, a disproportionate amount of which are used by settlers.

Together, the four regional councils in the Mountain Strip, Shomron, Mate Benyamin, Gush Etzion and Mt Hebron control much of the land surrounding the main Palestinian cities that lie roughly on a north-south axis in the middle of the West Bank. Other Israeli-controlled land in this region falls under the local councils of various settlements. This was the general area targeted by the 1983-86 WZO Plan, which called for the establishment of settlements in order to contain and fragment Palestinian communities.

The areas around Qalqilya and Tulkarm in the north-western part of the West Bank have some of that Occupied Territory's most fertile agricultural land. Since the summer of 2002, and in the wake of Israel's decision to build its 'Security Fence', Palestinian towns and villages in the Qalqilya and Tulkarm areas have faced massive land expropriations and the loss of their most fertile lands. This is discussed further in Subsection 8.1 below. This general region was also the focus of Ariel Sharon's Seven Stars Plan (see Subsection 5.3.5 above) to establish Jewish settlements along the 'Green Line' and, especially, north of Jerusalem.

Table 9, below, provides information on Jewish settlers and settlements in the Gaza Strip.

Table 9: Jewish settlements in the Gaza Strip

Region (dates established)	No. of settlements	Total areas within council boundaries (km ²)	Built-up area of settlement (km ²)	Est. no. of settlers ⁽¹⁾	Built on lands of main Palestinian communities	Governorate (estimated Palestinian population)
Northern Bloc (1982-90)	3	2.28	0.22	920 (1 620)	Beit Lahia	North Gaza (222 344) Gaza City (424 509)
Central Area (1970-72)	2	2.52	0.90	440 (666)	Gaza, Deir El-Balah	Deir El-Balah (173 416)
Southern Bloc 'Gush Katif' ⁽²⁾ (1972-93)	14	17.85	4.43	4 596 (5 450)	Khan Younis, Rafah	Khan Younis (233 202) Rafah (143 120)
Totals	18-19 ⁽³⁾	22.65 ⁽⁴⁾	6.25 ⁽⁵⁾	5 956 (7 736)		(1 196 591)

Notes:

All data is from Table 1, 'Israeli Settlements in the Gaza Strip - Summary Information Part I', and Table 2, 'Israeli Settlements in the Gaza Strip - Summary Information Part II', in Palestine Centre for Human Rights, *A Comprehensive Survey of Israeli Settlements in the Gaza Strip*. Series Study (10) 1996, <http://www.pchrgaza.org/files/S&r/English/study10/Settlements.htm>

Palestinian data for mid-2001 from the Palestinian Bureau of Statistics (PCBS), in Palestinian Academic Society for the Study of International Affairs, *Diary 2002* (Jerusalem: PASSIA, 2002), p. 263. Cities and refugee camps in the governorate are included.

- (1) Figures in brackets, as of December 2001, from Communities in Yesha and Jordan Valley, http://www.geocities.com/m_yericho/yishuvim.htm (website of the Association of Jewish settlers in the Occupied Territories).
- (2) The settlement of Neve Dekalim (established 1983) houses offices of the regional council of Hof 'Azza.
- (3) 'Yesha' lists a total of 20 settlements and 7 800 settlers as of December 2001. It adds the two settlements of Kerem Atzmona (pop. 24) and Shirat HaYam (pop. 40), both established in 2000. There may be an additional number of smaller outposts or settlements within the larger blocs.
- (4) This figure represents 6.2% of the Gaza Strip.
- (5) Information on two settlements is not available. This accounts for the discrepancy in total figures.

As in the West Bank, accurate information on settlers and settlements in the Gaza Strip is difficult to obtain. There are discrepancies in the data on the number of settlers and settlements, and on the dates the latter were established. Differences in dates, for example, may stem in part from the fact that some settlements in the Gaza Strip were first established as military sites before being turned over to civilian settlements. Or they may have initially been established at another location before being moved to the present 'permanent' site.

Especially noteworthy is the Gush Katif Bloc – the site of Gaza's sole regional council. This area covers approximately one-third of the lands along the Mediterranean coastline – among them the most fertile lands in the region.

Table 9, above, indicates that the municipal boundaries of Jewish settlements in the Gaza Strip enclose an area of at least 22.65 km² – that is, a mere 6.2 percent of the total land area of 365 km². However, one must also consider 'State land' and other lands leased to settlers. With these lands included, by 1986, 38.5 percent of the total Gaza Strip area was already under Israeli control. As of the year 2000, the area of the Gaza Strip under Israeli control totalled more than 43.0 percent.¹⁷³

5.5.3 Summary

It is difficult to obtain accurate data on the numbers and extent of Israeli settlers and settlements in the Occupied Territories. It is equally difficult to calculate the total areas of land brought under the jurisdiction and control of the local and regional councils. Figures on the total amounts of land confiscated or expropriated from Palestinians through the application of specific Military Orders are also imprecise.

The main methods of land confiscation and expropriation that are reviewed in this section on the Occupied Territories include:

- Declaration of 'abandoned property'
- Declaration of 'State land'
- Land expropriated for 'public purposes'
- Land confiscated for 'military' use
- Declaration of 'closed areas'
- Designation of 'nature reserves'.

Exact figures on each category are unavailable. What is clear, however, is that Israel's use of laws – in particular those concerning 'abandoned property' and 'State land' – facilitated the massive accumulation of originally Palestinian land now under Israeli control. By 1979, Israel had identified or confiscated some 687 000 *dunum* (687 km²) of 'State land' – about 13 percent of the West Bank. Over the next few years, an additional 1.5 million *dunum* (1 500 km²) were identified as 'State land', amounting to an additional 26 percent of the West Bank. By the late 1980s, this had brought the total area of land identified and/or confiscated in this manner alone close to 40 percent of the West Bank.¹⁷⁴

Throughout the 'Oslo era' (1993-2000), Israel accelerated its process of settlement expansion and confiscated even more lands through various legal mechanisms. For example, between 1994 and 1996, Israel confiscated over 4 300 *dunum* (4.3 km²) of privately owned Palestinian land for the construction of a network of 17 by-pass roads for settlers. Following the second *Intifada*, another wave of land expropriations for 'public purposes' was announced. These expropriated lands were used for the construction of additional settler-only by-pass roads. In the period from 1996 to 2002, the total land area taken up by such roads in the West Bank increased from 400 to 620 km².

173 The 1986 percentage is from Roy (n. 33 above), p. 177, who includes 49.5 km² of 'State land' and 54.0 km² of other lands leased to settlers. Note that she estimates that as much as 51-58% of the Gaza Strip was under Israeli control by the early 1990s; *ibid.* (see also n. 99 above). The year 2000 figure is from the Palestinian Academic Society for the Study of International Affairs (PASSIA), *The Palestine Question in Maps, 1878-2002* (Jerusalem: PASSIA, Aug. 2002), p. 86.

174 B'Tselem notes that as of 1984, 800 000 *dunum* of this land had actually been confiscated; B'Tselem (2002) (n. 84 above), p. 54.

5.6 Home demolitions as a consequence of Israeli military law in the Occupied Territories

Israel's changes to Jordanian law were neither cosmetic nor innocuous in their intent and their consequences for the Palestinian population of the occupied West Bank and Gaza Strip. Whether in the area of land and property, planning and building, Arab municipalities and village councils, zoning, or other related matters, the transfer of authorities previously vested in the Jordanian Government and its appointees to the Israeli Military Commander cannot be dismissed as a simple exigency of occupation. Rather, these measures were part of a preconceived and carefully calculated effort to institutionalise a legal system in the Occupied Territories, which, far from being fair and equitable to all, exclusively served Israeli/Zionist aims. In the Occupied Territories as in Israel proper, the Israeli-imposed legal system has had particularly tangible effects in the area of housing. Rules and regulations governing planning and development in residential areas restrict building by Palestinians to strictly defined areas and specifications. From these and other considerations stems the widespread practice of home demolitions; existing housing for West Bank and Gaza Strip Palestinians is susceptible to demolition on a variety of 'legal' pretexts. These stringent restrictions and untrammelled demolitions go hand in hand with the application of Israeli military law facilitating land acquisition and the establishment of settlements for Jews.¹⁷⁵

Between 1967 and 2000, the Israeli military authorities demolished an estimated 9 400 Palestinian homes in the West Bank and Gaza Strip. Between 2000 and November 2003 alone, over 4000 Palestinian homes were demolished, leaving close to 95 000 Palestinians homeless. The tally increases almost daily, rising abruptly during Israeli 'incursions' into Palestinian urban areas, such as that of March and April 2002, when some 1 200 families were made homeless.¹⁷⁶

The 'legal' grounds cited for demolition depend on the site in question and other circumstances. Among the most common grounds are 'military necessity' (which is often 'security-related') and 'administrative' violations. In Jerusalem, Palestinians have long faced administrative obstacles to obtaining building permits (see Section 6 below). Elsewhere in the Occupied Territories, Palestinian homes are demolished on the basis of a number of existing laws.

5.6.1 Home demolitions on 'military' or 'security' grounds

Home demolitions are often based on 'military' or 'security' concerns. Security regulations permit the Israeli authorities to demolish or seal the homes of Palestinians, or their family members, on suspicion of involvement in violent actions – even when the supposed suspects no longer reside there. Home demolitions of this kind were widespread during the first *Intifada* (1988-1993), but were largely halted by the end of 1997. According to B'Tselem, in the ten years from 1987 to 1997, in various parts of the Occupied Territories, an estimated 449 homes were demolished and over 400 others totally or partially sealed – all on 'security' grounds. Since the beginning of the second *Intifada* in September 2000, the practice of punitive home-demolitions has resumed and even escalated.

B'Tselem notes that many such home demolitions have been based on Regulation 119 of the 1945 *Defence [Emergency] Regulations*, which permits the Military Commander to act as follows:

[A]ny house, structure, or land from which he has reason to suspect that any firearm has been illegally discharged, or any bomb, grenade or explosive or incendiary article illegally thrown, or of any house, structure or land situated in any area, town, village, quarter or street the inhabitants or some of the inhabitants of which he is satisfied have committed, or attempted to commit, or abetted the commission of, or been accessories after the fact to the commission of, any offence against these Regulations involving violence or intimidation or any Military Court offence; and when any house, structure or land is forfeited as aforesaid, the Military Commander may destroy the house or the structure or anything growing on the land.

175 For a detailed analysis of Israel's changes to Jordanian law in the areas of planning, building and development, and the consequences for Palestinian housing; see: B'Tselem, *Demolishing Peace: Israel's Policy of Mass Demolition of Palestinian Homes in the West Bank* (Jerusalem: B'Tselem, Sept. 1997); and Parastou Hassouri, *Bulldozed into Cantons: Israel's House Demolition Policy in the West Bank since the Signing of the Oslo Agreements, Sept. 1993-Mar. 1998*, (Jerusalem: The Palestinian Society for the Protection of Human Rights and the Environment (LAW), 1998).

176 Estimates based on information from: the Israeli Committee Against House Demolitions (ICAHD), <http://www.rebuildinghomes.org>; Christian Peacemakers Team (CPT), ICAHD, the Palestinian Society for the Protection of Human Rights and the Environment (LAW), and the Land Defence Committee, *Campaign to Save the Homes of Palestine* (7 June 1998); Salim Ajluni, 'The Palestinian Economy and the Second Intifada', *Journal of Palestine Studies*, Vol. 32, No. 3 (spring 2003); United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), *Press Release No. HQ/G/05/2003* (7 May 2003), <http://www.un.org/unrwa/news/releases/2003/hqg05-03.pdf>; and United Nations High Commissioner for Human Rights, *Statement by Special Rapporteur on Adequate Housing Regarding House Demolitions in Occupied Palestinian Territories*, UN Press Release, 6 Nov. 2003, <http://www.unhchr.ch>

This regulation further provides that the authority concerned “may seize and occupy, without compensation, any property in any such area, town, village, quarter or street as is referred to in subregulation (1), after eviction without compensation of the previous occupiers if any”.¹⁷⁷

Once the Military Commander has issued a demolition order, the family is usually given 48 hours to appeal to Israel's Supreme Court. Only in a handful of cases have such appeals been successful. The resumption of home demolitions under Regulation 119 has allowed the Israeli authorities to demolish homes without issuing a demolition order (as in the village of Beit Rima in October 2001). As such, Palestinian victims are no longer afforded the opportunity to appeal to the Supreme Court.

In non-‘security’ cases, an appeal against a demolition order may be given more time (see Subsection 5.6.2 below). But even then, the Palestinian appellant must present documentary evidence that he is not building ‘illegally’. That is, he must submit proof of ownership and title to the plot in question, and demonstrate that the land is zoned for development and building purposes – among other conditions. Often, the response given is that the building violates zoning requirements, upon which the appellant is ordered to demolish his own home otherwise it will be demolished for him and he will be assessed for the charges.

Any form of ‘collective punishment’, such as that against relatives of Palestinians suspected of engaging in attacks against Israeli soldiers or civilians, is prohibited in international humanitarian law – unless it constitutes destruction absolutely necessary for military operations. (See specifically Articles 33 and 53 of the Fourth Geneva Convention, and Articles 23(g) 50 of the Hague Regulations, among others.)¹⁷⁸

Since the eruption of the second *Intifada* in September 2000, the frequency with which Israel demolishes homes and razes agricultural lands and orchards has escalated. The authorities seek to justify these measures on the basis of ‘pressing military necessity’. Israel has also threatened to demolish the homes of those who, according to the army, might be involved in future attacks against Israeli forces and civilians.

Between September 2000 and January 2002, an estimated 655 homes were demolished in the refugee camps of the Gaza Strip, affecting close to 5 200 people. In a period of just over two years from September 2000, probably up to 300 homes were demolished in Rafah refugee camp in southern Gaza. In a single day within that period, 10 January 2002, over 60 homes were totally demolished and another four partially demolished in the same camp, which borders on Egypt. Following Israel's massive incursions into Rafah in May 2004, the total number of home demolitions there rose to 1 476, with over 16 000 people affected. As if these home demolitions were not enough, between September 2000 and January 2002, Israel is estimated to have destroyed between 10 000 and 13 500 *dunum* (10-13.5 km²) of orchards and planted fields in the Gaza Strip – amounting to some seven percent of the territory's agricultural lands.¹⁷⁹ Israel refers to such actions as its ‘clearing’ policy. It accuses Palestinians of ‘hiding’ in homes and orchards to attack soldiers, and maintains that homes demolished for this reason are ‘abandoned’. B'Tselem insists that Israel has in fact adopted an official ‘policy’ of home demolitions and bulldozing of agricultural lands in the Gaza Strip. The aim of this policy, as far as the southern Gaza Strip is concerned, is to demolish all existing homes within 300 metres of Rafah's border with Egypt, and to create ‘security strips’ for Jewish settlers and the army in the area so cleared.

As for the West Bank, in April 2002 the Israeli military incursion into the Jenin refugee camp totally destroyed close to 400 homes and damaged or partially destroyed another 200. As a result, close to 5 000 people were left homeless.¹⁸⁰

177 See full text of Regulation 119 on B'Tselem website, http://www.btselem.org/English/House_Demolitions/Regulation_119.asp

178 See B'Tselem, *Excessive Force: Human Rights Violations during IDF Actions in Area A* (by Yehezkel Lein), (Jerusalem: B'Tselem, Oct. 2001). The report notes that home demolitions of this type were greatly reduced after 1992 (at least, until the second *Intifada* erupted).

179 See B'Tselem, *Policy of Destruction: House Demolitions and Destruction of Agricultural Land in the Gaza Strip* (Jerusalem: B'Tselem, Feb. 2002).

180 For information on COHRE's estimates of home demolitions in Jenin and elsewhere, see: BADIL Resource Centre, *International Human Rights Day (December 10) Israel Wins the World's Worst Housing Rights Violator's Award*, Press Release, 10 Dec. 02 (E/68/02); and B'Tselem (Sept. 1997) (n. 175 above), p. 19. See also LAW (1998) (n. 175 above), p. 2. The latter report claims that some 786 homes were demolished in the West Bank (excluding Jerusalem) during three years (1988-1991) of the first *Intifada*. Some 650 homes were demolished between 1993 and 1998, and over 1 000 demolition orders were still pending.

The severity of the situation has led human rights organisations to issue statements expressing concern. The International Committee of the Red Cross (ICRC), the UN Commission on Human Rights (UNCHR) and other agencies have criticised Israel's widespread destruction of Palestinian homes and lands in the Occupied Territories. Despite this, the policy of home demolitions for 'military', 'security' and other purposes has continued unabated in both the Gaza Strip and the West Bank (see, in particular, discussion in Subsection 8.2 below on the destruction of Palestinian homes and businesses following Israel's move to construct its 'Security Fence' in the West Bank).

5.6.2 Home demolitions on 'administrative' grounds

'Administrative' violations are most commonly cited as grounds for demolition within areas coveted by Israel for Jewish colonisation, and in annexed East Jerusalem. Ever since occupation, it has been very difficult for Palestinians to obtain new building permits; however, since the launch of the Oslo 'peace process' in 1993, this has become virtually impossible in Area 'C' – the 70 percent of the West Bank under full Israeli control.

Most of the home demolitions implemented on the basis of 'administrative' criteria revolve around lack of permits. This procedure, though, can only be fully understood in the broader context of amendments to Jordanian law (in the West Bank) and other Israeli laws and regulations. These changes have made it well nigh impossible for Palestinians to obtain the requisite building permits. As several studies indicate, home demolitions go hand in hand with land confiscation and settlement building in the Occupied Territories. All these measures, buttressed by Israeli military law, reflect Israel's long-standing policy of restricting Palestinian building and development. They are ultimately geared to placing more lands at the disposal of the Government of Israel. Home demolitions and land acquisition are undertaken to serve Israeli colonisation goals – a purpose that is itself illegal under international law.

In this respect, what appear on the surface to be perfectly legitimate policies to regulate building and development are in reality inherently discriminatory. Restrictions on land use for building purposes are found to apply almost exclusively to Palestinians and not to Jewish settlers. Furthermore, it is Palestinians who are disproportionately punished for violating laws that discriminate against them in the first place.

Between 1987 and 2002, over 2 450 Palestinian homes were demolished in the West Bank (including Jerusalem) on the basis of 'lack of permits'. As a result, at least 16 000 people were displaced. Human rights organisations warn that hundreds more homes are under impending demolitions orders. Home demolitions of this kind escalated significantly during the second *Intifada*.¹⁸¹

As discussed in Subsection 5.4.2.3 above, Israel enacted a number of Military Orders to regulate zoning and use of various types of lands. Certain Military Orders define procedures for obtaining approval for land transactions, for subdividing and registering lands, and for submitting adequate proof of land-ownership. Others regulate permits and licenses needed for building. Still other Military Orders – a whole host of them – define such matters as 'public purposes', for which lands may be expropriated and buildings destroyed.

Under these Israeli military laws, the first step in the building process is determining the type of land on which a building is to be erected. The occupation authorities designated three general types of land in the West Bank: 'agricultural', 'development' and 'nature reserves'. As noted in the discussion of MO 194 in Subsection 5.4.2.3 above, Israel essentially froze municipal boundaries – within which building by Palestinians is permissible – to areas identified and defined as such during the 1940s, under the British Mandate. These zones, known as 'R/5' (the regional plan for Jerusalem and the southern West Bank), and 'S/15' (for the northern West Bank), continue to guide Israeli policy with regard to Palestinian planning and building. Areas demarcated as 'agricultural' zones form the bulk of the West Bank. Much of these lands surround Palestinian municipalities and were intended to be used for Palestinian farming and future Palestinian development. Under Israeli occupation, however, building on such lands is severely restricted.

Areas designated as 'nature reserves' are also generally off limits to Palestinians and are commonly held in reserve for future expansion of Jewish settlements. Even where zoning laws permit Palestinian building, other restrictions apply to constrain and prevent development on this type of land.

181 Updated information can be found at B'Tselem, <http://www.btselem.org>

Israeli settlements are exempt from restrictions imposed by such zoning regulations. For Palestinians, the zones created under the British Mandate became obsolete long ago. These old boundaries have been rendered meaningless by the natural population growth and expansion of communities that has occurred in the more than 60 years since the Mandate ended, and the urgent need for Palestinian housing development to keep up with this trend. To illustrate the extent of the problem, it is estimated that even within municipal boundaries, the permits approved amount to a mere one-tenth of those required to keep up with the increase in population.¹⁸²

Palestinians are forbidden to build residences on agricultural lands – even when these are their own property – unless such lands are expressly zoned and approved for that purpose. Homes built in violation of this prohibition are routinely demolished.

The process of obtaining approval is onerous and discriminates against Palestinians at every stage. Palestinians must first establish ownership of the plot of land in question – which, as noted in Subsection 5.4.2.3 above, is difficult to accomplish. MO 291, issued in 1968, froze the registration of lands, and the Israeli authorities refuse to recognise other documents held by Palestinians as proof of ownership. Other Military Orders (MO 25 and later amendments, specifically MO 796 of 1979) made it impossible for Palestinians to enter into land and property transactions without prior authorisation from the appropriate military authorities. These measures have seriously constrained Palestinians in their attempts to sell (parts of) their lands to other Palestinians or even to bequeath them to their offspring.

Moreover, the applicable British Mandate regulations limit the number and size of houses that can be built on certain types of land, particularly agricultural lands. Palestinians are also restricted in subdividing such lands (even among family members) and are limited to only one house of a specified size. When overcrowding forces a family to build another house for their children, nearby on their privately owned land, the subdivision of the land is not recognised, the structure is deemed 'illegal' and the house is eventually demolished. Palestinians are also restricted in the number of floors permitted in any one house, and additions are liable to be demolished. These regulations do not apply to Jewish settlers.

Home demolitions also occur where Palestinians build at a distance designated by Military Order as being too close to an existing road – even where these structures are built on their own lands – or when new by-pass roads (which Palestinians are not permitted to use) carve through their lands, bringing existing structures within the minimum designated distance. In the latter case, all surrounding lands are razed as well. As noted in the discussion of MO 321 in Subsection 5.4.2.3 above, Israel regularly invokes 'public purposes' for the expropriation of privately owned Palestinian lands for the construction of such by-pass roads for Jews only.¹⁸³

The process of obtaining a building permit is time-consuming and prohibitively expensive for Palestinians. Because Israeli officials, including settler representatives, dominate planning bodies, permits for building on lands outside strictly defined areas are routinely rejected, leaving Palestinians with no alternative but to build 'illegally'. Even where all the above-mentioned conditions are met, Palestinians still face restrictions in obtaining building permits. The Israeli authorities frequently invoke 'security' concerns to issue a blanket prohibition on Palestinian development in a certain area, or to demolish certain buildings. MO 393 (1976) gives the Israeli Military Commander wide latitude to thus prohibit or demolish buildings.

In summary, it is fair to say that 'administrative' considerations in the true sense of the word have nothing to do with the reality, in which Palestinians are barred from building and see their homes demolished on all lands that are due to be used for Israeli settlement expansion. Significantly, the progressive constriction of Palestinian development, which began at the moment of occupation and whose contours were revealed in particularly stark relief after Oslo, essentially replicated plans laid much earlier. Oslo institutionalised into permanent form the territorial fragmentation of the Palestinian communities in the Occupied Territories as envisaged in the Drobless Plan of the early 1980s (see Subsection 5.3.4 above). This plan had called for the establishment of Jewish settlements surrounding and containing Palestinian communities, with the aim of disrupting and preventing territorial contiguity between them. Home demolitions have contributed highly effectively to the realisation of this aim.

182 LAW (1998) (n. 175 above), p. 4.

183 According to one estimate, by 1988, such 'road margins' had placed some 287 000 *dunum* (287 km²) of land off-limits to Palestinian development. See Meron Benvenisti and Shlomo Khayat, *The West Bank and Gaza Atlas* (Boulder, Colorado: Westview Press, 1988), p. 60.

With the designation of West Bank Areas 'A', 'B' and 'C' under Oslo, Palestinian construction was essentially limited to Areas 'A' and 'B' (Palestinian self-rule areas and areas where the Palestinian Authority exercises civilian control). This configuration left Areas 'A' and 'B' drastically fragmented and interspersed with, and encircled on all sides by, vast areas of Israeli control. As noted in the opening paragraph of this subsection, Palestinian construction in Area 'C' (over 70 percent of the West Bank) is virtually prohibited. Much of this area has been taken over for the building or expansion of Jewish settlements and for the construction of by-pass roads for Jews only. All these developments have prompted B'Tselem to observe that home demolitions are political in nature and not related to administrative regulations. The human rights centre characterises this as "a declared policy of strengthening and expanding Israeli settlement in the West Bank, and of creating permanent facts affecting negotiations over the final-status arrangements".¹⁸⁴

5.6.3 The right to housing in international law

The right to housing is entrenched in international law. The continuing Israeli demolition of tens of thousands of Palestinian homes in the Occupied Territories constitutes a serious violation of international law. This is equally true of Israeli demolitions of Bedouin dwellings in the Negev and homes of Arab citizens of the State of Israel. Whether demolitions are implemented under the guise of clearing 'illegal' dwellings, meeting 'security' needs or acting in the 'public' interest, these actions contravene the following provisions in international law:

- **Convention (IV) respecting the Laws and Customs of War on Land: Regulations, The Hague, 1907**
Art. 46: Family honour and rights, the lives of persons, and private property, as well as religious convictions and practice, must be respected.
 Private property cannot be confiscated.
- **The Universal Declaration of Human Rights, 1948**
Art. 25 (1): Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
- **Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War, 1949**
Art. 27: Protected persons are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs.
Art. 33: No protected person may be punished for an offence he or she has not personally committed.
 Collective penalties and likewise all measures of intimidation or of terrorism are prohibited.
 Pillage is prohibited.
 Reprisals against protected persons and their property are prohibited.
Art. 49: Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive.
 The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies.
Art. 53: Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations.
- **The International Covenant on Economic, Social, and Cultural Rights, 1966, Art. 11(1):**
 The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.
- **The International Convention on the Elimination of All Forms of Racial Discrimination, 1965**
Art. 2(1)(a): Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation;

184 See B'Tselem website, <http://www.btselem.org>, and B'Tselem (Sept. 1997) (n. 175 above), p. 23.

Art. 2(2): States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved.

Art. 5: In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: (e) Economic, social and cultural rights, in particular: (iii) The right to housing.¹⁸⁵

Israeli policy remains of particular concern since, as shown, home demolitions are implemented in a highly discriminatory manner, disproportionately targeting Arabs. It is rare for an illegal Jewish dwelling or structure to be demolished, or for Jews engaged in violence to be punished in this manner. More importantly, in essence, home demolitions directly target the ability of the Palestinian people to survive and remain on their lands.

In this respect, Palestinian refugees are especially vulnerable. Their displacement and dispossession as a result of war - in 1948 and 1967 - have never been redressed. Palestinian refugees today number well over 5 million, about 3.9 million of whom are registered with the United Nations Relief and Works Agency (UNRWA) and reside in 59 camps across the Middle East. As of June 2002, close to 43 percent of the 1.5 million or more registered refugees in the West Bank and Gaza Strip resided in the 27 or so camps in these areas.¹⁸⁶

Palestinian refugees have borne the brunt of Israeli actions during the second *Intifada* - the destruction of part of the Jenin and Rafah refugee camps is only one example of this. Their special vulnerability to losing their homes has been noted by organisations including the BADIL Resource Centre.

Regarding Israeli policy, Mr Miloon Kothari, UN Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, who visited the Occupied Territories in the period 5-10 January 2002, states:

Essentially, the institutions, laws and practices that Israel had developed to dispossess the Palestinians (now citizens) inside its 1948 border (the Green Line) have been applied with comparable effect in the areas occupied since 1967.

In his conclusions and recommendations, Mr Kothari further observes:

This attempt by the Special Rapporteur to appraise the cumulative damage to the Palestinian home and land validates the assessment of the international community, including the Commission on Human Rights and the United Nations treaty bodies, that Israeli occupation has had a devastating impact on the Palestinians' housing and living conditions and that Israel bears legal responsibility. The policies of belligerent occupation and collective punishment have been marked by land confiscations, punitive house demolitions, implantation of settlements and settlers, the dismemberment of the Palestinian territories through the building of bypass roads and other infrastructure to serve illegal settlers, and the control or theft of water and other natural resources in the occupied territories. All of these have had the result of consolidating occupation on the lands occupied by force in 1967.¹⁸⁷

In Israel and the Occupied Territories, the housing rights situation in general, and Israel's targeting of Palestinians in particular, should rightly be regarded within the context of Zionist ideology and goals that have guided Israel all along. Israel's frequent invocation of law in its almost exclusive pursuit of Palestinian infractions can best be understood as operating within that same ideological and political framework. It is part and parcel of the long-standing Zionist goal to establish Israel as a virtually exclusive 'Jewish State'. The combination of legal/administrative and military means utilised by Israel are intended to achieve what Mr Kothari has clearly termed "ethnic cleansing".¹⁸⁸

185 For more information on international laws and relevant provisions of the Oslo Accords; see: Gush Shalom, <http://www.gush-shalom.org/demolition/law.html>; Annex 1 of LAW (1998) (n. 175 above), pp. 30-34; and B'Tselem (Sept. 1997) (n. 175 above), pp. 30-35.

186 UNRWA figures cited in Palestinian Academic Society for the Study of International Affairs (PASSIA), *Diary 2003* (Jerusalem: PASSIA, 2003), p. 269.

187 Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living (12 June 2002) (n. 48 above), paras. 7, 79.

188 *Ibid.*, para. 10.

SECTION 6

**Land, colonisation and housing policies in annexed
East Jerusalem (1967-2003)**

According to United Nations General Assembly Resolution 181 (1947), which called for the partitioning of British-mandated Palestine into independent Arab and Jewish states, Jerusalem and the surrounding area was to be declared '*corpus separatum*' – a separate entity – and placed under international supervision. Under the UN Partition Plan, this area would belong neither to the Jewish nor to the Arab state.

At the end of the 1948 War, Israel controlled West Jerusalem (an area of about 38 km²). During the June 1967 War (also known as the Six-Day War), Israeli forces conquered Jordanian-controlled East Jerusalem. Israel has since declared Jerusalem its 'unified and eternal capital' and extended the municipal borders far into the adjacent West Bank territory. Because of Jerusalem's distinct legal status, its Palestinian residents find themselves in a situation contrasting both with that of their counterparts in the rest of the West Bank and with that of Palestinians who have Israeli citizenship (the 'Arab Israelis').

Soon after the war, on 27 June 1967, Israel issued an amendment to the *Law and Administration Ordinance* (1948) that stipulates: "The law, jurisdiction and administration of the State shall extend to any area of Eretz Israel designated by the Government by order."¹⁸⁹

On the next day, 28 June 1967, Israel issued the *Law and Administration Order (No.1)*, which declares that "the territory of the Land of Israel described in the appendix [to this Order] is hereby proclaimed territory in which the law, jurisdiction and administration of the state apply".

According to B'Tselem, which has made a translation of this order available, the attached appendix identifies 70 km² of lands in East Jerusalem and the surrounding West Bank to be annexed into (municipal) West Jerusalem by virtue of this order.

It was on the basis of the two aforementioned laws that Israel extended its sovereignty and control over (an expanded) East Jerusalem. In 1980, Israel reaffirmed its claim over Jerusalem by enacting the *Basic Law: Jerusalem, Capital of Israel* to declare the 'unified' city as Israel's permanent capital. None of these or any other legal changes to the city's status were to afford Palestinian residents equal rights and protections in respect of their persons or their property.¹⁹⁰

Many Israeli legal scholars criticise the use of the term 'annexation'. Recalling that unilateral annexation by an occupier is illegal under international law, they argue instead that the status of Jerusalem is yet to be 'resolved'. They maintain that Israel has merely incorporated Jerusalem into its 'administrative' and 'municipal' framework. However, neither the Israeli Knesset (parliament) nor Government of Israel officials have concealed the fact that they regard East Jerusalem as an integral part of Israel. Furthermore, considerations of international law have never deterred the Government, in its successive forms, from advancing and expanding Jewish colonisation in and around the city. Successive rulings of Israel's Supreme Court also bear out the claim that, to all intents and purposes, the expanded East Jerusalem area is annexed into Israel.

It may be that the use of the word "annexation" is inappropriate for Israel's political goal: to those persons abroad, the term is used pejoratively, bringing most of the world's nations to oppose it; internally, some see [this] as an improper use of it as regards parts of the Land of Israel, in general, and as regards Jerusalem, capital of Israel, in particular; but from the aspect of Israeli law, the exchange of words cannot alter the significance of the act: East Jerusalem became part of the territory of Israel for all purposes. The law of East Jerusalem today is the same as the law of West Jerusalem and other areas attached to the state as a result of the [1948] War of Independence.¹⁹¹

6.1 Background to land and colonisation issues in Jerusalem

Ever since the occupation began, the Palestinian residents of Jerusalem have been regarded as a 'demographic threat'. The Government of Israel has responded to this perceived threat with a variety of measures designed to increase the Jewish presence in the city while actively reducing the Palestinian presence. The Government's approach has been based on what B'Tselem characterises as "a policy of systematic and deliberate discrimination against the Palestinian population in Jerusalem in all matters relating to land expropriation, planning and building". Residence permits have long been used as

189 'Law and Administration Ordinance (Amendment No. 11) Law, 5727-1967', in *Laws of the State of Israel*, Vol. 21, (n. 51 above), p. 75.

190 See B'Tselem (Eitan Felner), *A Policy of Discrimination: Land Expropriation, Planning and Building in East Jerusalem* (Jerusalem: B'Tselem, Jan. 1997), pp. 20-22.

191 Statement by Justice Amnon Rubinstein (1991), quoted in *ibid.* p. 22-23.

an effective means of controlling the (Palestinian) population. Decades of discrimination have had a devastating effect on Jerusalem's Palestinians, as is shown in Subsection 6.2 below.¹⁹²

Under Jordanian rule, the land area of East Jerusalem was only 6 000 *dunum* (6 km²). After the June 1967 War, Israel confiscated and annexed lands from 28 adjacent Arab villages and incorporated these into the new Municipality of Jerusalem. In other words, over 90 percent of the expanded Municipality, now covering a total area of 70 000 *dunum* (70 km²), comprised lands confiscated from West Bank Arab villagers. This area extends as far as El-Bireh in the north and Bethlehem in the south.

The Arab villages in question lost prime lands that could have been used for their own expansion and development; furthermore, the villagers themselves were excluded from any benefits of integration into Jerusalem. They remained West Bank residents. International law prohibits expropriation of land for other than strictly defined military purposes. Should the authorities deem such expropriations necessary, these must at least benefit the local population. As shown in Subsection 6.3.1 below, these land expropriations to expand Jerusalem served no clear military purpose, nor did the local Palestinians in any way benefit from the transfer of their lands to Jewish settlements.

6.2 Housing and population control in Jerusalem

In an Israeli census conducted soon after the June 1967 War, the number of Palestinians who would be eligible for permanent legal residence in Jerusalem was estimated at between 66 000 and 69 000 (including some 20 000 residents of adjacent villages whose lands had been annexed). The Jewish residents of the city totalled around 198 000. Most, if not all, of the latter were defined as 'nationals' or were otherwise eligible for Israeli nationality under the *Law of Return*.

Israel's criteria for establishing eligibility for permanent residence in Jerusalem are noteworthy, especially because the same criteria were later used in reverse to revoke the residence status of many hundreds of Palestinians already living in the city. One provision specifies that a permanent resident who has settled in another country for at least seven years or who has acquired foreign citizenship or permanent residence status elsewhere automatically loses his/her permanent residence status in Israel. Additional criteria relate to the birth and residence status of each parent of the person in question. Other regulations issued over the years determine what is defined as a person's 'centre of life'. These and other criteria were interpreted and used in a manner deliberately designed to discriminate between Jews and Palestinians, and to deprive the latter of their rights in the city - an issue that is discussed in greater detail in Subsection 6.2.2 below.¹⁹³

By 1993, the year in which the Oslo 'peace process' was launched, there were an estimated 406 000 Jewish and 161 000 Palestinian residents of Jerusalem. Of the city's households, 116 100 were Jewish and 28 200 were Palestinian. These figures are noteworthy for several reasons. One is the severe restrictions on Palestinian building in the city, despite obvious problems of population growth, overcrowding and lack of available housing. Another reason is Israel's declared goal of maintaining a 'demographic balance' *in favour of Jews* in the city, and the measures it has taken to ensure this 'balance'.

Research conducted by B'Tselem indicates that of the 76 151 new housing units built in the Municipality of Jerusalem between 1967 and early 1995, a massive 64 867 were for Jews and only 8 890 for Palestinians. That is, less than 12 percent of these homes were built in Palestinian areas, mostly through private construction ventures. In stark contrast, the Government heavily subsidises Jewish communities and offers various financial incentives to attract settlers. According to B'Tselem, by 1995 some 38 500 housing units had been built in Jewish settlements on lands previously expropriated from Palestinians for 'public purposes'. As the report adds, "not one housing unit was built on the expropriated land for the Palestinian population".¹⁹⁴

192 See *ibid.* pp. 9, 13. B'Tselem supports its claims of deliberate discrimination with information from various official sources. These include reports from Government ministries and the Municipality of Jerusalem, town-planning schemes, and minutes of Municipal Council meetings.

193 Israeli officials stress that permanent Palestinian residents of Jerusalem are eligible for Israeli citizenship. They fail to point out that the criteria for citizenship are fairly stringent and often unacceptable to Palestinians: these include having to vow allegiance to the State, exhibiting knowledge of Hebrew, and proving that one does not possess any other citizenship. Israeli officials maintain that they do not 'revoke' residence status as such. Instead, they claim that Palestinians fail to meet the legal requirements to qualify for residence status. In their words, the status of these Palestinian residents simply 'expires' and is not renewed. Some of these issues are discussed below.

194 B'Tselem (Jan. 1997) (n. 190 above), p. 58.

This disparity in housing provision and availability only increased during the Oslo 'peace process'. Between 1990 and 1994, only 565 out of a total of 11 602 housing units were built in Arab neighbourhoods. B'Tselem reports that in 1994 alone, 2 233 housing units were completed – a mere 98 of them in Palestinian neighbourhoods. By 2000, the Palestinian housing deficit was estimated at between 21 000 and 25 000 units. The present requirement is for a doubling of the 22 800 or so dwellings currently available to Palestinians.¹⁹⁵

The growth of the city's Palestinian population, mainly as a result of natural increase, continued to preoccupy Israeli officials. In 1973, the Government of Israel adopted a recommendation from the Interministerial Committee to Examine the Rate of Development for Jerusalem (otherwise known as the 'Gafni Committee') to address the perceived 'demographic threat' posed by Palestinians. This called for maintaining the demographic 'balance' at its 1972 ratio; that is, not allowing it to drop below 73.5 percent Jews to 26.5 percent Palestinians. This ratio continued to guide official Israeli municipal policy in Jerusalem over subsequent decades. It was central to measures taken to reduce the Palestinian presence, and to those focused on attracting more Jews to the area. In this regard, B'Tselem quotes a 1990 planning document issued by the Municipality of Jerusalem to the effect that "the planned increase of the Jewish population of Jerusalem is dictated by the rate of growth of the non-Jewish population".¹⁹⁶

Over the past few decades, housing development and planning appear to have adhered closely to this demographic formula. Even though Municipal plans still proposed infrastructural and housing development in Arab neighbourhoods, in practice very little was done to improve Palestinian communities. On the contrary, as B'Tselem and others report, plans for housing development in Palestinian neighbourhoods were deliberately obstructed, rejected or simply never implemented. One official 1986 report reveals that:

The development of the Arab sector has a "picture window" effect, and it was decided, therefore, that what will be seen by a large number of people (residents, tourists, etc.) is important and prominent and receives a grade of 5, and projects that have no impact are graded 1.¹⁹⁷

When asked in 1990 about commitments to improve Arab neighbourhoods in Jerusalem, Teddy Kollek, former Mayor of Jerusalem, retorted:

*"Nonsense! Fairy tales! The Mayor nurtured nothing and built nothing. For Jewish Jerusalem I did something in the past twenty-five years. For East Jerusalem? Nothing! What did I do? Nothing. Sidewalks? Nothing. Cultural institutions? Not one. Yes, we installed a sewerage system for them and improved the water supply. Do you know why? Do you think it was for their good, or their welfare? Forget it! There were some cases of cholera there, and the Jews were afraid they would catch it, so we installed sewerage and a water system against cholera."*¹⁹⁸

Jerusalem's next mayor, Ehud Olmert, essentially shared the same view regarding the Municipality's Palestinian residents. During Olmert's tenure, several plans were advanced to increase the number of Jewish settlers and achieve a more 'favourable' population 'balance'. For example, a 1998 plan expanded the municipal boundaries of Jerusalem westward, so as to automatically increase the number of Jewish residents. Other planned measures included accelerating settlement building, attracting new Jewish immigrants (especially from the former Soviet Union) and restricting Palestinian development.

Population figures for the year 2000 put the total population of Jerusalem at an estimated 670 500. Jewish settlers around East Jerusalem accounted for some 200 000 of this total. Palestinian residents were estimated at 215 400.¹⁹⁹

195 Ibid. p. 33. Table 1 lists 2 394 housing units as 'unknown'. See App. No. 4, pp. 111-112 for updated figures. See also: Sarah Kaminker, 'For Arabs Only: Building Restrictions in East Jerusalem', in *Journal of Palestine Studies*, Vol. 26, No. 4 (summer 1997), pp. 5-16; and LAW, *Land and Settlement in Jerusalem* (Jerusalem: LAW, n.d.). These sources note that only one public housing project exists for Palestinians (built in 1973). They provide comparative data on such issues as housing density and housing needs – belying Israeli claims that its policy is to encourage development and provide municipal services for all city residents. The same sources note the discriminatory approach to housing density. While Jewish settlements are allowed several buildings per *dunum* and multi-story apartments are commonplace, Palestinians are restricted both in the number of houses per *dunum* and in the number of floors permitted.

196 Quoted in B'Tselem (Jan. 1997) (n. 190 above), p. 47. B'Tselem refers to similar policies inside Israel, in areas including the Northern Galilee.

197 From the Municipality's Planning Policy Section, *Development Plan for the Arab Sector* (1986), translated and quoted in *ibid.* pp. 53, 74-84.

198 From an interview in the Israeli newspaper *Maariv*, 19 Oct. 1990, quoted in B'Tselem (Jan. 1997) (n. 190 above), p. 54. In the same interview, Kollek, referring to Jerusalem's Palestinian residents, says: "They were and remain second and third-class citizens."

199 The remaining 454 000 or so are mainly Jewish residents of West Jerusalem. Population figures from *Statistical Yearbook of Jerusalem* (2001), cited in PASSIA (2003) (n. 186 above), p. 299.

6.2.1 Planning and development

Massive land expropriations, coupled with severe Israeli restrictions on the use of what little lands remain, have left Palestinian communities with hardly any room to grow. Subsection 6.3 below examines the land expropriation process in more detail. This subsection, however, looks at official obstacles placed in the way of Palestinian development and planning in Jerusalem, and the impact this has had on the housing situation.

The first step in the planning process, as based on provisions of the 1965 *Planning and Building Law*, is to obtain approval for a town-planning scheme. Such a scheme delineates which lands may be used for residential purposes. Residents must then obtain a separate permit for the actual building.

Until 1983, not a single town-planning scheme had been drawn up for Palestinian neighbourhoods in Jerusalem. As Kaminker notes: "The Municipality did not want plans that would enable the Arab neighbourhoods to grow and develop."²⁰⁰

As in other Palestinian areas, whether inside Israel or in the Occupied Territories, the Palestinian communities in Jerusalem were largely demarcated within their existing built-up areas, rather than being re-zoned to allow for expansion onto vacant lands. Eventually, the Municipality approved 13 out of a total of 19 submitted development plans. In contrast to the stance toward Jewish communities, no comprehensive Palestinian development plan was approved. Instead, each Palestinian community was considered separately and its development plan approved or rejected without looking at the bigger picture. Furthermore, Palestinians faced lengthy delays: while planning approval for *new* Jewish communities averaged around three years, it often took Palestinians ten years to obtain approval for their *existing* communities.

Despite the increasingly urgent need for expansion, no new Palestinian communities have been established since 1967. Instead, as of the year 2002, Palestinians had been restricted to living and building on a mere 8 percent of their pre-1967 lands in Jerusalem. The plans that have been approved do not reflect the real community needs but often impose a 'quota' on what structures can be built. Even within these constraints, Palestinians do not automatically get the necessary permits to build new homes – they must follow separate procedures. For example, plans submitted for Shu'fat and Beit Hanina (Palestinian communities a few kilometres north of Jerusalem city, but within the municipal boundaries) called for the building of a total of 18 000 housing units. However, the District Planning Committee rejected these plans on the basis that this number was too large. A revised plan for 10 000 units was similarly rejected. It took 13 years for Shu'fat to receive approval of its town-planning scheme. Approval was finally granted for 7 500 units, but as of 1997 none had been constructed.²⁰¹

Kaminker notes that "there are literally a hundred other discriminatory practices that ruthlessly prevent Palestinians from building homes in Jerusalem".²⁰² B'Tselem notes that in the period 1968 to 1974, for example, the Palestinian population of the Municipality grew by 24 000 but only 58 building permits were approved in the same period.²⁰³ Because of the many restrictions, even the few Palestinian residents of Jerusalem who are granted building permits have to wait a very long time for them.

Serious overcrowding and intolerable living conditions have left Palestinians with no alternative but to build without permits – which means that their homes are liable to be demolished at any time. By Israeli law, all 'illegal' structures may be demolished. In practice, Palestinians have suffered disproportionately from application of this provision. Jewish building plans are more likely to be approved in the first place. In addition, illegally constructed Jewish housing is often legalised retroactively (this is particularly common in settlements); and even where the authorities resort to demolition, the numbers are significantly smaller than is the case with Palestinians. One study reports that the 'illegal' structures that are liable to be demolished in Jewish neighbourhoods of Jerusalem are mostly porches or other unauthorised home extensions. Whole houses are rarely, if ever, demolished in such areas.²⁰⁴

200 Kaminker (1997) (n. 195 above), p. 7.

201 See LAW, (n. 195 above), p. 11.

202 Kaminker (1997) (n. 195 above), p. 12. She cites the outrageous charges for building licences (levied on Palestinians) among the numerous costs and fees that discriminate against Palestinians.

203 B'Tselem (Jan. 1997) (n. 190 above), p. 75.

204 Alternative Information Centre, *Obstacles to Peace. A Critical Tour of Jerusalem* (Information Packet) (Jerusalem: AIC, 2000). B'Tselem also reports how 'illegal' Palestinian building is routinely demolished, while illegal construction in Jewish settlements is approved and legalised retroactively (July 1999) (n. 160 above), pp. 12-13.

Responsibility for overseeing home demolitions in Jerusalem lies with the Ministry of Interior and the Local Commission on Planning and Building. Homes may be demolished on the grounds that they were built without a permit, that they were built in violation of a zoning plan, or that they pose a 'security' risk. The Alternative Information Centre reports that as of the year 2000, 10 000 Palestinian housing units in Jerusalem had been declared 'illegal' and 2 000 demolition orders had already been issued.²⁰⁵

Many Palestinian residents of Jerusalem have given up and moved to other parts of the West Bank in search of more living space. That, in turn, has placed them at risk of losing their residence status in the Municipality.

6.2.2 Permanent residence status and Jerusalem's Palestinian population

The residence issue warrants detailed examination because of the way the Israeli authorities use it as a means of population control to the disadvantage of Jerusalem's Palestinians. It is important to reiterate that the residence regulations operate in concert with many other Israeli measures designed to reduce the number of Palestinians in Jerusalem. These include housing restrictions (covered in Subsection 6.2.1 above) and land expropriation (examined in Subsection 6.3 below).

As mentioned in the first paragraph of Subsection 6.2 (above), in the aftermath of the June 1967 War, Israel conducted a census of Jerusalem's residents and established that at least 66 000 Palestinians were eligible for permanent residence status. Palestinians who happened to be outside the Municipality at that time lost their residence status – even if they owned property or businesses in Jerusalem. Their families then had to apply for 'family reunification' in order for those individuals to be able to return and legally reside in the Municipality. Approval for this was at the discretion of the Ministry of Interior.

Palestinians must satisfy specific criteria in order to qualify for 'permanent residency'. These criteria are fairly stringent and do not apply to Jews in the same way. For example, Palestinians must demonstrate that they have not acquired 'permanent residency' or citizenship elsewhere. Israeli officials maintain that these criteria are legal and have always been in effect.

The fact that Palestinian natives of Jerusalem are required to obtain 'permanent residency' in their own city in order to be able to remain there – a requirement normally imposed only on foreigners in other countries – is significant indication of the differential (and discriminatory) treatment they receive under Israeli law.

B'Tselem and another Israeli human rights organisation, HaMoked (Center for the Defence of the Individual), challenge official claims that no new measures have been introduced to deprive Palestinians of their residence status. In a 1998 study, they quote an annual report of the State Comptroller (1996):

In December 1995, a discussion was held in the Attorney General's office over whether the areas of Judea and Samaria and the Gaza Strip (hereafter – the region) should be considered "outside Israel" for the purposes of expiration of a permanent-residency permit under the Entry into Israel Regulations. Following the discussions, the legal advisor of the Ministry issued a directive to the East Jerusalem office, according to which "outside Israel" also included the region, and that, therefore, where persons who have resided in the region for more than seven years, their permanent-residency permit has expired and they should no longer be registered in the Population Registry as a resident. The directive further stated that short visits to Israel during the seven years do not break continuity in the counting period.²⁰⁶

According to the Israeli authorities, then, Palestinians who leave Jerusalem and reside elsewhere in the West Bank (for example, because they have been denied building permits, or because their spouses and/or children have been denied permanent residence status) are deemed to be residing outside of Israel and lose their Jerusalem residence status after seven years. In stark contrast, many Jews hold dual citizenship, and move and live abroad for a number of years, without jeopardising their rights to reside anywhere in Israel, including Jerusalem. Moreover, Jewish settlers who move to settlements in the West Bank face no disruption of their residence status. Among the special regulations passed to exempt Jewish settlers from the definition of residing 'outside' of Israel is Section 26(A) of the *Emergency Regulations (Judea and Samaria, Gaza region, Golan Heights, Southern Sinai – Criminal Jurisdiction and Legal Assistance) (Extension of Validity) Law, 1977*.

205 AIC, *ibid.* According to LAW, some 377 Palestinian homes were demolished in East Jerusalem between 1986 and 1998 alone, (n. 195 above), p. 15. Other sources provide different figures.

206 Quoted in HaMoked and B'Tselem (Yael Stein), *The Quiet Deportation Continues: Revocation of Residency and Denial of Social Rights of East Jerusalem Palestinians* (Jerusalem: Sept. 1998), p. 10.

Section 26(A) affirms the legal rights of Israeli citizens and Jewish settlers to continue receiving National Insurance benefits even if they move to settlements in the Occupied Territories. A 1998 amendment to the *National Insurance Law* clarifies this further by specifying that Israeli citizens moving to the Occupied Territories will continue to receive National Insurance Institute benefits "only if they move to Jewish settlements".²⁰⁷

During the first 28 years of occupation, as exit permits for Palestinians were usually valid for three years, Palestinians who went to study abroad or moved out of Jerusalem for other reasons made a point of returning before the three years expired (to avoid being denied entry altogether) and renewing their residence status. The regulations were changed in 1994 (see below in this subsection), but the Palestinians were not properly informed of this. They suddenly found that renewal of their permits within the stipulated period no longer guaranteed their residence status.

Detailed criteria regulate the registration of Palestinian residents' children. Strict provisions also regulate the acquisition of residence status by spouses of Palestinian permanent residents.²⁰⁸ The effects of these regulations on Palestinian families can be deeply disruptive. Until 1994, Palestinian men wedded to Palestinian women who were permanent residents of Jerusalem could not obtain permanent residence status. Only women married to male residents of the Municipality could acquire residence status – under 'family reunification' procedures. This meant that Palestinian women were often compelled to join their spouses elsewhere in the West Bank and risked losing their own residence status in Jerusalem.

Changes to the law in 1994 caused a huge backlog and years of delay in the registration of spouses, forcing families either to live apart or to move to the West Bank until their applications were processed. The temporary permits that used to be issued in such cases were discontinued. As a result, families that wished to go on living together had to relocate. Having done so, they discovered that the law had turned against them in another sense: permanent residents of Jerusalem who had fulfilled the legal requirements in every other way now found that they had to demonstrate that their 'centre of life' was in the Municipality, otherwise loss of their residence status was inevitable. Until 1997, Palestinians who had lost their permanent residence status in Jerusalem had no right to appeal the decision. Some appeals have been heard since that year, though very few; furthermore, the Ministry of Interior has adopted the stance that because these cases involve 'expiration' rather than 'revocation' of permits, the appeals must be rejected.

Complicating the process further, the burden of proof rests entirely upon Palestinians to demonstrate that their 'centre of life' is in Jerusalem. This 'revised' requirement, finally made public in 1996 (after close to 600 Palestinians – suddenly and without warning – were informed that their residence status had expired), was applied retroactively. Those Palestinians who had adhered carefully to the old regulations to preserve their residence status now discovered that they were disqualified by definition under the new interpretation of the law. They had been led to believe that they could live or study elsewhere for up to seven years providing they returned at intervals of less than the designated three years to renew their permit. Suddenly, living outside of Jerusalem for seven years was being interpreted as proof that their 'centre of life' was elsewhere, and they lost their residence status.²⁰⁹

Even under the most favourable circumstances, when Palestinians have not left the Municipality but have continued to live and work there, the process of maintaining residence status is extremely onerous. The law mandates that any application for any service or license in Jerusalem at any time (including repeated or renewal applications) requires the Palestinian concerned to submit a host of documents to prove his or her 'centre of life'. If there is the slightest delay, inconsistency, or inability to produce all the requisite documents, the applicant's residence status is liable to be revoked. A sample letter from the Ministry of Interior lists nine such required items, including:

207 Ibid. p. 28. The Emergency Regulations referred to here were the first legal mechanisms used by Israel to discriminate between the status of settlers and Palestinian residents in the Occupied Territories. Others, reviewed in Section 5, include certain Military Orders authorising the extension of key Israeli laws to the settlements. By restricting the application of the National Insurance Law to settlements in the Occupied Territories in this manner, Israel is also, by definition, discriminating against Palestinians with Israeli citizenship who occasionally move to live in Arab communities in the West Bank.

208 According to Physicians for Human Rights, as of the mid-1990s perhaps as many as 10 000 Palestinian children had not been registered – affecting their eligibility for social services; see HaMoked and B'Tselem (Yael Stein), *The Quiet Deportation: Revocation of Residency of East Jerusalem Palestinians* (Jerusalem: Jan. 1997), p. 27. In their 1998 follow-up report, HaMoked and B'Tselem state that details of this changed policy remained unknown; (Sept. 1998) (n. 206 above), p. 9.

209 HaMoked and B'Tselem compare data on expiration of residence status over various years, noting the escalation in this process following adoption of these new procedures. In 1987, for example, there were 23 cases of 'expired' residence status, compared to 96 in 1995, 689 in 1996, 606 in 1997 (with a further 500 files under review) and an initial 346 cases in 1998 (as of August). See (Sept. 1998) (n. 206 above), p. 11. The Alternative Information Centre reports that between 1996 and 1999, 2 200 identity cards were confiscated from Palestinians in Jerusalem, affecting some 8 800 people; see (2000) (n. 204 above).

- A contract of purchase/lease of an apartment by the applicant since the date of marriage;
- Bills in the applicant's name, related to the residence since the date of marriage;
- Confirmation of receipt of National Insurance payments;
- Confirmation of receipt of medical services;
- Confirmation of place of work; and
- Details of periods the applicant and any other person summoned have spent inside and outside of Israel.

In principle, permanent residents of Jerusalem are eligible for a host of social benefits. However, Palestinians are discriminated against in this sphere as well. They are often denied essential services such as health and national insurance until the agencies concerned have established their legal status beyond a shadow of a doubt. The National Insurance Institute even regards a move from one location to another within Jerusalem as grounds for re-establishing whether the Palestinian in question has legitimate residence status in the city. Hence, the applicant is placed in a 'Catch-22' situation by being asked to provide documents verifying receipt of services and benefits that are themselves not provided until the application is approved. The abovementioned Ministry of Interior letter listing the required documents ends with a warning that failure to provide the requisite documents within three months of the date marked on the letter will result in cancellation of the application for 'family reunification'.²¹⁰

As of the end of 1997, close to 7 500 requests for family reunification had not yet been processed. New procedures adopted in that year specify that permanent residence status would be granted in a 'graded' manner to those whose applications for family reunification had already been approved - in each case, this meant a delay of five years and three months after the initial approval.

In 1997, the Israeli Minister of Interior stated the 'problem' thus:

The flow of Arabs from the West Bank into Jerusalem is part of the struggle the Palestinians are conducting against Israel regarding the future of the city, and taking the Jerusalem identity cards of Palestinians who hold them illegally is our response to this act instigated by the Palestinians.²¹¹

HaMoked and B'Tselem - both of which are respected Israeli human rights organisations - refer to Israel's treatment of Jerusalem's Palestinians as 'quiet deportation':

The quiet deportation is a direct continuation of Israel's overall policy in east Jerusalem since 1967, whose goal is to preserve a permanent majority of Jews in the city so that Israel's sovereignty in East Jerusalem cannot be challenged.²¹²

Discriminatory policies against Palestinians concerning their residence status and housing rights in Jerusalem are applied as Jewish settlement building continues to encroach further into West Bank territory. All around Jerusalem, settlements such as Ma'ale Adumim (which lies seven kilometres to the east of Jerusalem) are expanding. The area under Israeli control now extends far beyond the expanded municipal borders, into what is known as 'Metropolitan Jerusalem'. At current rates of growth, this area may soon cover as much as 40 percent of the West Bank and further impinge on the rights of Palestinian residents of the city.

210 The complete list of documents required to establish one's 'centre of life', taken from this letter, is translated and reproduced in HaMoked and B'Tselem (Jan. 1997) (n. 208 above), p. 36. For more on the operation of these processes, see (Sept. 1998) (n. 206 above), which includes a response from the Ministry of Interior regarding HaMoked and B'Tselem's first report. Israeli officials again insist that they do not 'revoke' Palestinian residence permits; rather that these naturally 'expire' when the provisions of the law are not met. Government officials further claim that since these cases involve 'automatic expiration' of residence status, they are under no obligation to explain the law (as would apply in cases of deliberate revocation).

211 From *Haaretz*, 17 Apr. 1997, quoted in HaMoked and B'Tselem (Sept. 1998) (n. 206 above), p. 7.

212 HaMoked and B'Tselem (Jan. 1997) (n. 208 above), p. 33; see also LAW (n. 195 above). Following completion of the draft version of this study, the Israeli Knesset passed the *Nationality and Entry into Israel (Temporary Order) Law 2003* on 31 July 2003. This law largely prohibits Palestinian residents of the Occupied Territories from acquiring Israeli citizenship through marriage to Israelis, and prohibits acquisition of such citizenship on the basis of family reunification (including reunification with children born to legal Israeli residents). The law also provides that Palestinian residents of the Occupied Territories are restricting in, or prevented from, acquiring even temporary permits to reside in Israel (including Jerusalem). These and other restrictions do not apply to Jewish settlers in the Occupied Territories. For an analysis of the impact of this law, see B'Tselem and HaMoked (Yael Stein, ed.), *Forbidden Families: Family Unification and Child Registration in East Jerusalem*, (Jerusalem: B'Tselem and HaMoked, Jan. 2004).

6.3 Land expropriation

“Every area of the city that is not settled by Jews is in danger of being detached from Israel and transferred to Arab control. Therefore, the administrative decision regarding the area of municipal jurisdiction must be translated into practice by building in all parts of that area, beginning with its remotest sections.”²¹³

Some analysts have noted that plans for the ‘reunification’ of East and West Jerusalem under Israeli control predate the occupation. Sarah Kaminker, a city planner in Jerusalem and a member of the Municipal Council from 1988-1993, recalls her first encounters with such a Master Plan around 1966. This plan, she maintains, specified details such as road networks to link the two parts of the city.²¹⁴

Master Plans for Jerusalem dating back to 1967 and 1968 focused on steps needed to erase the ‘Green Line’ and to realise the ‘reunification’ of the city under Israeli rule. To achieve these goals, and within only a few weeks of occupation, Israel had expropriated lands from 28 surrounding villages (see Subsection 6.1 above) and extended its law over an expanded Jerusalem. By 1968 it had also established the settlements of Ramot Eshkol, Givat Shapira and a few others. Within the Old City, Israel destroyed the ancient Mughrabi Quarter and expelled its 600 or more Palestinian inhabitants. This, along with subsequent demolitions in the area, created space at the Wailing Wall and paved the way for Jewish settlements on nearby sites.

Subsequent Master Plans reflected changing imperatives. Israel moved from the initial consolidation of its claim over Jerusalem as its permanent capital to the expansion of the municipal boundaries deep into the West Bank. Four massive Jewish settlements were built to the north and south of the city: Ramot, Neve Ya’acov, East Talpiot and Gilo. A fifth, Pisgat Ze’ev, followed later. The establishment of these settlements in the years following the June 1967 War was accompanied by the construction of a vast road network that significantly fragmented Palestinian areas, especially those to the north of the city.

In subsequent years, and particularly during the Oslo ‘peace process’, Israel accelerated its imposition of control over Jerusalem and surrounding areas with plans for new settlements and expansion of existing ones. These included locating Jewish settlements in the heart of Arab neighbourhoods in the city. This move has been supported by a number of settlement groups, such as the *Ateret Cohanim*, which has been active since the 1970s. This group and others, whose goal is to displace and replace Palestinians in the heart of the city, have reportedly received generous donations from American Jewish financiers. Aided by the Israel Lands Administration, these groups have been able to acquire significant amounts of property. They have sometimes resorted to direct harassment, intimidation and violence to cause Palestinians to leave their homes - for example, in the East Jerusalem neighbourhood of Silwan. By 1998, an estimated 1 000 Jewish settlers lived in the midst of the Muslim Quarter of the Old City.

From ‘Municipal’ Jerusalem, to ‘Greater’ Jerusalem, and then on to ‘Metropolitan’ Jerusalem - master plans for which extend to 2010 and beyond - Israel has proceeded inexorably with its settlement- and road-building campaign. In the process, it has created a virtual *fait accompli* of irreversible and non-negotiable Israeli control

6.3.1 Expropriation of land for ‘public purposes’ in Jerusalem

Central to these Jewish expansionist plans for Jerusalem was the acquisition of land. Israel accomplished this by means of various legal mechanisms similar to those used elsewhere within Israel (see Subsection 4.3.3.3) and, to some extent, within the rest of the Occupied Territories (see Subsection 5.4 above).

The most widely utilised method of land acquisition in Jerusalem was the expropriation of lands for ‘public purposes’. Lands so acquired would then be turned over to Jewish colonisation. Repeatedly, this method of land confiscation has been shown to be discriminatory: Palestinians have been consistently excluded from the benefits of building on such lands; they are not even deemed part of the ‘public’ whom such development is designed to serve. This is corroborated by the fact that

213 From *Local Town Planning Scheme for Jerusalem - 1978: Explanatory Remarks for the Discussion by the District Planning and Building Committee*; translated and quoted in B’Tselem (Jan. 1997) (n. 190 above), p. 50.

214 Kaminker’s official responsibilities for planning in Jerusalem lend credibility to her claims; (1997) (n. 195 above), pp. 5-16.

many of the expropriations for 'urgent' public purposes occurred in the early years of occupation, though the Israelis did not actually use the lands in question until much later. Thus, Palestinian landowners and residents of villages and towns who could have used these lands to alleviate their own housing shortages were strangled in their development. They were powerless to stop their lands being taken over and held 'in reserve' for Jewish settlement expansion.²¹⁵

The available data corroborates this observation. Of the 70 000 *dunum* (70 km²) of land annexed into Jerusalem between 1967 and 1991, over one-third – approximately 23 500 *dunum* (23.5 km²) – was expropriated on the basis of the 1943 *Land (Acquisition for Public Purposes) Ordinance*. By 1999, this figure had risen to 24 500 *dunum* (24.5 km²); it continues to rise. Much of this land was in fact privately owned by Palestinians who, despite being unable to complete the land registration process, did possess official documents proving their ownership.²¹⁶

Of the more than 24.5 km² of land expropriated for 'public purposes' and annexed into Jerusalem to date, more than one-third has been turned over to Jewish colonisation. As of 1997, approval for neighbourhood development plans had been granted in respect of only half (about 23 km²) of the estimated 46 km² still owned by Palestinians in these areas. Only about one-third (approximately 7.5 km²) of this remaining Palestinian land for which planning approval had been granted was designated for 'residential' areas. In most cases, these areas were already densely inhabited and there was little room for growth. The other two-thirds have been designated for 'public' use – and have thus effectively been placed off limits to Palestinian development. Kaminker, who provides these figures, notes that in Jewish areas planning approval is usually granted for 60 percent residential use and 40 percent public use.²¹⁷

For the most part, Palestinian communities do not benefit from 'public use', even on their own remaining lands, which are still liable to be confiscated for the expansion of Jewish settlements. Over 40 percent of the land designated as 'public' that belongs to Palestinian villages is placed in a special category that is designed to preserve 'open views on the landscape'. This category has affected lands in several villages. For example, 42 percent of Sur Baher and almost 70 percent of Jebel Mukabir are so designated. While such lands are ostensibly off limits to both Palestinian and Jewish developers, this has not deterred Israel from redesignating these lands at a later date and then expropriating them for Jewish colonisation. This is what happened with the establishment of Rekhesh Shu'afat and Har Homa, for example. As a consequence of all this, Palestinians living in the Jerusalem area were left with less than 10 percent of their pre-1967 lands. By 2002, this area had shrunk to less than 8 percent.

6.3.2 Jewish settlements in Jerusalem

By the late 1970s, twelve Jewish settlements had been built on these expropriated lands. By 2002, their combined population had exceeded 175 000. Several of these settlements (Ramot Eshkol, Ramot, East Talpiot, and Ma'ale Dafna) are contiguous with Jewish areas of West Jerusalem. The remainder are strategically placed to separate and constrain Palestinian communities in the West Bank and to prevent the development of Palestinian communities within the Jerusalem area. For example, to the north of the city, the Palestinian village of Shu'afat is cut off by the settlement of French Hill. Issawiyeh is similarly choked off both by French Hill within Jerusalem and the mushrooming area of the E-1 plan linking the settlement of Ma'ale Adumim to Jerusalem (see discussion of E-1 in Subsection 6.3.3 below).

Another case in point is the recently completed settlement of Har Homa near Bethlehem on the hill known to Palestinians as Jebel Abu-Ghuneim. Built on lands expropriated for 'public purposes' from residents of the nearby villages of Umm Tuba, Sur Baher and Beit Sahour, Har Homa was established in an area dominated completely and on all sides by Palestinian villages and towns. It was designed to disrupt Palestinian territorial contiguity in the area and to cut off Palestinian communities around Jerusalem from the rest of the West Bank, especially Bethlehem. Har Homa would also provide a base

215 B'Tselem reviews Supreme Court decisions on land expropriated for 'public purposes'. It reports that, for the most part, such expropriations were not challenged. The justices apparently concurred that the 'development and settlement of Jerusalem' is a legitimate public purpose; see (Jan. 1997) (n. 190 above), pp. 64-71.

216 Israeli officials, when confronted with these facts, respond by claiming that land is requisitioned for 'public purposes' from Jews and Arabs alike. Indeed, a small percentage of Jews also owned lands in these areas, as did both the Islamic *Waqf* and the Jordanian government. Nevertheless, the vast majority of landowners affected by these expropriations were Palestinian.

217 Kaminker (1997) (n. 195 above), p. 9.

for establishing territorial contiguity between existing Jewish settlements such as Gilo and other planned settlements in 'Metropolitan Jerusalem', and to link them all to each other and to Israel.²¹⁸

Table 10, below, summarizes data on Jewish areas and settlements established on land expropriated for 'public purposes' in Jerusalem.

Table 10: Jewish areas/ settlements in Jerusalem built on expropriated Palestinian lands

Date of expropriation	Jewish area/settlement (year established)	Palestinian village/town	Area expropriated (km ²)
Jan. 1968	French Hill/Givat Shapira (1968)	Shu'fat, Issawayieh	3.345
	Mount Scopus (1968) ⁽¹⁾	Shu'fat, Issawayieh, Al-Tur	
	Ramat Eshkol (1968)	Lifta	
	Maalot Dafna (1973) ⁽²⁾	Sheik Jarrah	0.485
			Total 3.830
Apr. 1968	Neve Ya'acov (1972)	Hizma, Beit Hanina	0.765
	Old City (Jewish Quarter) (1968)	Old City	0.116
			Total: 0.881
Aug. 1970	Neve Ya'acov (1972)	Hizma, Beit Hanina	0.470
	Ramot (1973)	Beit Ikhsa, Lifta, etc.	4.840
	Rekhes Shu'afat (1990) ⁽³⁾	Shu'fat	
	East Talpiot (1973)	Jebel Mukabir, Sur Baher	2.240
	Gilo (1971)	Beit Jala, Beit Safafa, Sharafat etc.	2.700
	Atarot (industrial zone) (1970)	Qalandia, Beit Hanina, etc.	1.200
	Gai Ben Hinom (public area)		0.130
	Jaffa Gate (public area)		0.100
	Ramat Rahel ⁽⁴⁾	n.a	0.600
		Total: 12.280	
Mar. 1980	Pisgat Ze'ev (1985)	Beit Hanina, Hizma	4.400
July 1982	Atarot (industrial zone) (1970)	Qalandia, Beit Hanina	0.137
May 1991	Har Homa (1991)	Umm Tuba, Sur Baher, Beit Sahour	1.850
			Total: 23.378

²¹⁸ Although some parts of Jebel Abu Ghuneim may well have been Jewish-owned, the bulk was indisputably owned by Palestinians. Palestinian owners filed a lawsuit with the Israeli Supreme Court. They argued that expropriations for 'public purposes' invariably meant that Jews became the sole beneficiaries of the process of the 'public' being served. They claimed that not a single expropriation of Palestinian land for 'public purposes' had ever resulted in Palestinians themselves benefiting from this process. The Supreme Court rejected the appeal on the basis that it was still too early to ascertain what public would be served. As with all other settlements built on lands expropriated for 'public purposes', Har Homa is an exclusively Jewish community.

Notes:

Adapted from Table No. 6, 'Summary of Land Expropriations for Public Purposes under the Lands Ordinance', B'Tselem (Eitan Felner), *A Policy of Discrimination. Land Expropriation, Planning and Building in East Jerusalem* (Jan. 1997), p. 56; B'Tselem (Yael Stein, ed.), *Land Grab. Israel's Settlement Policy in the West Bank* (Jerusalem: B'Tselem, May 2002), pp. 102-114; LAW - Palestinian Society for the Protection of Human Rights and the Environment, *Land and Settlement in Jerusalem* (Jerusalem, LAW, n.d.) pp. 8-9, 30-34; and Palestinian Society for the Study of International Affairs, *Diary 2003* (Jerusalem: PASSIA, 2003), p. 304. LAW's data on lands expropriated in each category are slightly higher, adding a little over 1000 *dunum* (1.0 km²) to the totals above.

- (1) Between 1948 and 1967, Mt. Scopus was an Israeli demilitarised enclave within the West Bank, separated from the surrounding area by a no-man's land and a Jordanian demilitarised zone. Not included in this table are the settlements of Pisgat Omer (est. 1987) near Pisgat Ze'ev (on lands expropriated from Shu'fat, Anata and others) and the settlement of Giv'at Hamatos (est. 1991) on lands expropriated from Beit Safafa and Beit Jala. Also not included are additional expropriations around Gilo and other areas that bring the total land expropriated as of 2002 to around 24.5 km².
- (2) Other sources do not include Maalot Dafna. Apparently, this settlement is located close to Ramot Eshkol.
- (3) Sources differ on the date of establishment of Rekhesh Shu'fat (as either 1990 or 1994).
- (4) Maps show that Ramat Rahel lies to the southwest of the city, mostly within West Jerusalem, and is connected to, and overlaps with, the settlement of Givat Hamatos (established in the area annexed immediately after 1967). For this reason, Ramat Rahel is not usually included in lists of East Jerusalem settlements.

The information in *Table 10*, above, relates only to expropriated Palestinian village and town lands that were actually used for Jewish settlements. Some settlements were not built immediately after expropriation; some confiscated lands were held 'in reserve' for settlement expansion. The village of Issawiyeh, for example, lost 8 km² of its original 10 km² of land through expropriation, but not all of this was transformed into a built-up settlement area. Shu'fat similarly lost lands to the settlement of Rekhesh Shu'fat, established in 1990.

Sources put the number of Jewish settlements in the Municipality of Jerusalem at between 11 and 15, all established within the area of 70 km² delineated by the post-1967 boundaries. Settlements generally cited as lying within the Municipality are: Neve Ya'acov, French Hill/Givat Shapira, Pisgat Ze'ev (and Pisgat Omer) Ramat Eshkol, Ramot, Rekhesh Shu'fat, East Talpiot, Gilo, Har Homa, Old City (Jewish Quarter)/Silwan and Givat Hamatos. Other sources add the settlements of Givat Hamivtar, Maalot Dafna and Mt. Scopus, as well as the industrial area of Atarot. The reason for variation between the sources is unclear.

These dozen or so settlements form an 'inner' ring, completely encircling Jerusalem and lying within an 'outer' ring of 'satellite' settlements. The Municipality and these two rings together form the area known as 'Greater Jerusalem', which stretches far into the West Bank in all directions. All these settlements, about 25 of them in total, are linked to the municipal areas and to Israel proper by an intricate web of new roads.

The development of 'Greater Jerusalem' was planned in or around 1983. Roughly speaking, there are four blocs of settlements: five or six major settlements to the northwest; a northeast wedge of six or seven settlements; Ma'ale Adumim and another five or six settlements to the east; and to the south, Betar Illit, Efrat and perhaps nine or ten other settlements.

Pivotal to the expansion and consolidation of 'Greater Jerusalem' is the gradual proliferation of smaller clusters of settlements connecting the major settlements of Ma'ale Adumim, Betar Illit, Efrat, Har Adar and Givat Ze'ev. Many of the settlements in the smaller clusters lie within the boundaries of two West Bank regional councils: Mate Benyamin and Gush Etzion. The overall picture is of a vast, uninterrupted network of Jewish settlements interspersed with Israeli military bases, industrial zones and other 'outposts' that serve to broaden the total Israeli-controlled area around Jerusalem.

'Greater Jerusalem' now extends northward to the edge of Ramallah, southward to the edge of Bethlehem, and eastward almost to the edge of Jericho.

Beyond 'Greater Jerusalem' lie vast expanses of lands that are being developed to form 'Metropolitan Jerusalem'. Once completed, this area will include both municipal and 'Greater' Jerusalem, including all their 'reserve' lands. It will encompass the Palestinian city of Ramallah in the north and that of Bethlehem in the south. To the east, this area will extend almost to the Dead Sea. Key to the development of 'Metropolitan Jerusalem' is the expansion of smaller settlements, including those linking Har Homa and Gilo, and the establishment of a combined industrial, tourist and settlement-building zone known as 'E-1'. This area will seamlessly link Ma'ale Adumim to Jerusalem. Work on this venture accelerated during the early 1990s, at the onset of the Oslo 'peace process'.

'Metropolitan Jerusalem' is expected to cover a staggering 40 percent of the West Bank. The fact that at least two major Palestinian cities will be incorporated into this immense area suggests that key Palestinian zones will remain under a permanent Israeli 'matrix of control',²¹⁹ regardless of the outcome of final status negotiations.

The combined effect of numerous settlements encircling Jerusalem and vast areas of 'reserve lands' (some of which overlap with Jerusalem) being under the control of Jewish regional councils is to irreversibly institutionalise the separation of Jerusalem from the rest of the West Bank and to achieve its full integration into Israel. Israeli Jerusalem's physical contours engulf and strangle outlying Palestinian communities; furthermore, they form a central west-east axis, extending from Jerusalem to the Jordan River, that drives a permanent wedge between the northern and the southern West Bank.

Table 11, below, provides additional data on the settlements surrounding Jerusalem.

Table 11: Jewish settlements surrounding Jerusalem

	Regional council (Main local councils)	Estimated no. of settlements	Estimated built-up land area (Land held 'in reserve') (km ²)
Municipality of Jerusalem		11-14	70.0
'Greater Jerusalem' (1)	Mate Benyamin (Giv'at Ze'ev, Har Hadar, Psagot, Beit El, Ma'ale Adumim)	≥ 14	129.4 (220.0)
	Gush Etzion (Betar Illit, Efrat)	≥ 11	
'Metropolitan Jerusalem' (2)	Mate Benyamin Gush Etzion	n/a	440.0 ⁽³⁾
<p>Notes: Compiled from various sources, including B'Tselem (Yael Stein, ed.), <i>Land Grab. Israel's Settlement Policy in the West Bank</i> (Jerusalem: B'Tselem, 2002), p. 114. (1) Settlements in regional councils of the West Bank whose areas of jurisdiction overlap with 'Greater Jerusalem'. (2) Over 90 km² of land is under the jurisdiction of the two regional councils - Mate Benyamin and Gush Etzion. These are held 'in reserve' for the expansion of Jewish settlements in 'Metropolitan Jerusalem'. (3) Sources differ on the extent of this area, depending on whether West Jerusalem is included in the total (estimated in some sources at 25%).</p>			

6.3.3 'Metropolitan Jerusalem': Ma'ale Adumim and the E-1 Plan

During the 'Oslo era', Israel accelerated its imposition of control over an expanded Jerusalem. This process, often referred to as 'Judaisation', is designed to create a *fait accompli* for maintaining the city and its environs under permanent Israeli rule to pre-empt final status negotiations.

The ongoing expansion of the massive settlement of Ma'ale Adumim on the outskirts of Jericho illustrates this process well. Founded in 1975, and now housing more than 26 000 settlers on about 43.5 km² of land, Ma'ale Adumim is one of three Jewish 'municipalities' in the West Bank. It was initially established on lands that had been owned by Arab residents of five nearby villages, including Abu Dis, Anata and Issawiyeh. In addition, the Israelis confiscated grazing lands and dwelling sites from two Bedouin tribes and forcibly evicted them from the area. Most of the land for Ma'ale Adumim was expropriated by declaring it 'State land'.²²⁰

219 Jeff Halper, head of the Israeli Committee Against House Demolitions (ICAHD), uses this term to depict expanding Israeli control over the West Bank, particularly areas around Jerusalem. He argues that - regardless of final status discussions - settlement expansion, road construction, the development of 'Metropolitan Jerusalem', and other developments of the past few years, have essentially placed the whole region under Israeli control and domination. See: Jeff Halper, 'Dismantling the Matrix of Control', in *News from Within*, Vol. 15, No. 9 (Oct. 1999), pp. 38-40; id., 'The 94 Percent Solution: A Matrix of Control', *Middle East Report*, No. 216 (autumn 2000), pp. 15-20; and AIC (2000) (n. 204 above). See also: B'Tselem (May 2002) (n. 84 above), p. 114; and LAW (n. 195 above), p. 28.

220 Pliya Albeck, attorney and former head of the Civil Department in the State Attorney's Office, played a key role in the acquisition of 'State land'. She is quoted as saying in 1985 that declarations of 'State lands' were examined for "any area that was required for the purposes of establishing a Jewish settlement or for adding to a settlement"; see B'Tselem (July 1999) (n. 160 above), p. 9. This B'Tselem study also gives details of the displaced Bedouin.

Current plans envisage Ma'ale Adumim expanding to 45 000-60 000 settlers on some 53 km² of land by 2010. The settlement would thus encroach upon the remaining lands of surrounding Palestinian villages. As discussed in Subsection 6.3.1 above, the Israeli authorities have already adopted various legal mechanisms to restrict Palestinian development in those areas. They have declared land reserves surrounding Arab villages as 'green' areas, or otherwise circumscribed their use. They have restricted zoning areas of Palestinian villages and towns to within the existing boundaries, and outlawed all building outside these areas without a permit. In 2002-2003, additional lands were annexed into Ma'ale Adumim and other settlements, ostensibly to set up 'security' areas. All these areas have become available for future expansion.²²¹

The E-1 Plan, news of which first emerged in 1997, demonstrates that Ma'ale Adumim is crucial to the realisation of 'Metropolitan Jerusalem'. As far as is now known, the plan calls for the annexation of lands from five Palestinian villages: Abu Dis, Anata, El-Ezariyeh, At-Tor and Issawiyeh. Indeed, some of these lands have already been expropriated. They are key to the development of a broad swathe of some 13 km², regarded as the 'missing piece' between Ma'ale Adumim and Jerusalem.²²²

Implementation of the E-1 Plan began in 1999. In addition to housing units, the area will accommodate several major industrial and business enterprises, hotels, sports facilities and other services – all exclusively for Jewish Israelis and tourists. Under the plan, Ma'ale Adumim is to be a hub of the major road networks running throughout the West Bank, and a nexus linking Jewish settlements to each other and to Israel via Jerusalem.

The realisation of the E-1 Plan will effectively choke off any development of the surrounding Palestinian communities, which will become increasingly fragmented and isolated from other Palestinian areas. Even more significantly, the development and expansion of Ma'ale Adumim and the implementation of the E-1 Plan will complete the splitting of the West Bank into two isolated halves, and permanently preclude territorial contiguity or sovereignty for any emerging 'independent' Palestinian entity.

Officials of the Municipality of Ma'ale Adumim confirm that: "The political objective in establishing the town was settlement of the area east of Israel's capital along the Jerusalem-Jericho road."²²³

6.4 Summary

The expansion and encirclement of Jerusalem has proceeded through several carefully planned stages. The first was the creation of 'Greater Jerusalem', with the initial inner ring of settlements surrounding the city. The 1982 plan for the even larger 'Metropolitan Jerusalem' called for the building of a second, outer ring of settlements around the city.

In effect, Israel had already firmly established control over an expanded Jerusalem well before the Oslo 'peace process' was conceived of, let alone initiated. The confiscation of lands in Jabal Abu Ghuneim – between Bethlehem and Beit Sahour – in the mid-1990s and the completion of the Jewish settlement of Har Homa on the same site by 2001 accomplished the encirclement of the city, closing the last remaining land-gap between the Jerusalem area and the rest of the West Bank. Accompanying the building of this and other settlements was the creation of two tunnel systems and a network of 'by-pass' roads surrounding the city. These roads link outlying settlements into Jerusalem and into Israel.

The implementation of the E-1 Plan will effectively set the seal on Israel's control of Jerusalem and create an uninterrupted Israeli/Jewish corridor all the way from Tel Aviv to Amman.

221 For a case study on home demolition in the Palestinian village of Issawiyeh in relation to plans to expand Jewish areas around Jerusalem, see Land and Water Establishment (LAWE), *Home Demolition and the Control of Jerusalem. Case Study of al-Issawiya Village* (Jerusalem: LAWE, June 1995).

222 See: AIC (2000) (n. 204 above); and PASSIA (Aug. 2002) (n. 173 above).

223 Cited in B'Tselem (July 1999) (n. 160 above), p. 39. Israeli officials maintained that the development of the region would serve Palestinians and Israeli alike. B'Tselem provides convincing evidence to dispute this.

SECTION 7

**Land, colonisation and housing during the 'Oslo era'
(1993-2000)**

The Oslo Accords were the latest in a long series of attempts – dating back to the Balfour Declaration of 1917 – to offer the Palestinians civil, religious and narrow political rights instead of complete national independence. The Oslo Accords were also an extension of the 1978 Camp David Accords between Israel and Egypt that had similarly called for a 'self-governing authority' to be established in the Occupied West Bank and Gaza Strip. Under the Oslo Accords, this authority was to be established within a political framework left intentionally vague as far as the contours of a final settlement were concerned.

Oslo differed from earlier peace initiatives in at least one respect: for the first time, the PLO, which is recognised as the legitimate representative of the Palestinian people, signed an agreement that formalised a departure from international law. However, during final status negotiations in 2000-2001 (see Subsection 7.1 below), in which the parties failed to reach an agreement, international law re-emerged as an important component of the PLO's negotiation strategy.

At the time, the Oslo Accords were hailed as a major political breakthrough. It is less known that certain provisions of the agreements made it possible for Israel to aggressively pursue its policy of land acquisition, settlement building, and expansion of the areas of Jerusalem and environs under its control.

7.1 Main provisions of the Oslo Accords

Israel and the Palestinians officially launched the Oslo 'peace process' by signing the Declaration of Principles on 13 September 1993. A series of bilateral agreements followed, the last of which was the Sharm El-Sheikh Memorandum of 4 September 1999.

The main body of agreements signed during this period includes:

- *The Declaration of Principles, 13 September 1993*
- *The Protocol on Economic Relations between the Government of the State of Israel and the PLO, representing the Palestinian people, 29 April 1994*
- *The Agreement on the Gaza Strip and Jericho Area, 4 May 1994*
- *The Agreement on the Preparatory Transfer of Powers and Responsibilities, 29 August 1994*
- *The Israeli-Palestinian Interim Agreements on the West Bank and the Gaza Strip, 28 September 1995*
- *The Protocol Concerning Redeployment in Hebron, 15 January 1997*
- *The Wye (River) Memorandum, 23 October 1998*
- *The Sharm El-Sheik Memorandum, 4 September 1999.*

What all these agreements have in common is that they focus on 'interim' issues. These include the creation of the Palestinian Authority, the redeployment of Israeli forces, security functions, and the definition of self-rule areas. The two sides intentionally omitted highly sensitive 'final status' issues including settlements, refugees, Jerusalem, security, borders and water. The provisions of these agreements made no reference whatsoever to such issues, which were put aside for later negotiation.²²⁴

In July 2000, Israeli Prime Minister Ehud Barak and Palestinian Chairman Yasser Arafat met at Camp David in the US to begin tackling the 'final status' issues. Barak's proposals were based on the premise that Israel would annex at least three large settlement blocks in the West Bank (accommodating close to 80 percent of the settlers) and retain sovereignty over East Jerusalem. Israel would also maintain a strong presence in strategic areas, particularly those along the Jordan River. The Palestinian 'state' envisaged in this process would not have territorial contiguity. Except for an insignificant number of family reunifications, Israel would not allow the Palestinian refugees to return to the homes and villages from which they had fled or been expelled in 1948. Barak also insisted that Israel would not accept responsibility for what had happened to the Palestinians in 1948. Although Israel apparently agreed that refugees in Lebanon could perhaps be

224 For the complete Oslo documents, see Israeli Ministry of Foreign Affairs, <http://www.israel-mfa.gov.il>. See also: *The Journal of Palestine Studies*, Vol. 23, No. 1 (autumn 1993); Vol. 24, No. 2 (winter 1995); Vol. 25, No. 2 (winter 1996); Vol. 26, No. 3 (spring 1997); Vol. 28, No. 2 (winter 1999); and Vol. 29, No. 2 (winter 2000). For data and maps, see: The Foundation for Middle East Peace (FMEP), *Report on Israeli Settlement in the Occupied Territories*, <http://www.fmep.org>; and The Applied Research Institute of Jerusalem (ARIJ), *A Survey of Jewish Colonies in the West Bank* (Nov. 2000), <http://www.arj.org/paleye/colony-survey/index.htm>. For analyses of the Oslo accords, see: Burhan Dajani, 'The September 1993 Israeli-PLO Documents: A Textual Analysis', *The Journal of Palestine Studies*, Vol. 23, No. 3 (spring 1994), pp. 5-23; Joel Singer, 'The Declaration of Principles on Interim Self-Government Arrangements: Some Legal Aspects', *Justice* (Feb. 1994); and id., 'The West Bank and Gaza Strip: Phase Two', *Justice* (Dec. 1995).

resettled in the emerging Palestinian 'state', the vast majority in other host countries would have to be resettled within those countries or abroad. At Camp David, Barak insisted that the Palestinians sign this agreement and pursue no further claims against Israel.

Hardly surprisingly, these negotiations ended in failure. The second *Intifada* erupted shortly afterwards, in September 2000. Although follow-up meetings conducted in Taba in January 2001 reportedly led to some breakthroughs, these talks were eventually broken off and never resumed. In February 2001, Ariel Sharon was elected Prime Minister. Soon after, Israel embarked upon an aggressive military campaign to invade and 're-occupy' major Palestinian self-rule areas. Many of the much-vaunted 'achievements' of Oslo, particularly Israeli military redeployment out of Palestinian areas and the establishment of Palestinian self-rule, were dismantled or reversed. By 2003, Israel once again exercised complete, direct and unchallenged control over the entire area from the Mediterranean to the Jordan River. The Oslo 'peace process' was dead.²²⁵

To dispel the many popular misconceptions regarding the Oslo 'peace process', several points need to be clarified:

- None of the Oslo Accords referred to Israel as an 'occupying power'. Nor did they specify that Israel would withdraw totally from all areas occupied in 1967. Instead, various agreements referred to the 'redeployment' of Israeli forces from specified areas.
- The Oslo Accords did not specify a 'two-state' solution as the final outcome of negotiations. There was no mention of a viable sovereign Palestinian state co-existing alongside Israel. Instead, and despite reference to United Nations Security Council Resolutions 242 and 338 as the framework for (most of) the agreements, each party had enough leeway to interpret these resolutions as they saw fit.
- The Oslo Accords did not frame a final solution to the Israeli-Palestinian conflict within the body of international law accumulated over the roughly 50 years of conflict; that is, mainly the relevant UN Security Council and General Assembly resolutions, as well as provisions of the Fourth Geneva Convention. Instead, the only two international resolutions referred to were UN Security Council Resolutions 242 and 338. UN resolutions relating to the right of refugees to return, the illegality of Jewish settlements, the denunciation of Israel's unilateral annexation of Jerusalem, the right of Palestinian self-determination, and so on, were all ignored.
- The Oslo Accords did not commit Israel to a complete freeze on settlement building in the Occupied Territories. Instead, and contrary to popular belief, the agreements permitted Israel to continue with settlement building, particularly to accommodate 'natural increase' and 'natural expansion'.
- The Oslo Accords did not require Israel to rescind the ultimate jurisdiction and control of the Israeli Ministry of Defence over all the Occupied Territories. Instead, all Military Orders issued since the occupation began in 1967 remained the prevailing law of the land. This issue was specifically addressed in the 1995 Interim Agreements that set up the Oslo map with its Areas 'A', 'B' and 'C'.
- The Oslo Accords neither referred to nor recognised Jerusalem as an integral part of the rest of the West Bank subject to negotiation. The provisions of the Interim Agreements did not apply to annexed East Jerusalem. As a result, Israel could pursue its settlement- and road-building activities undeterred and continue to consolidate its control over the city and the surrounding area.
- The Oslo Accords did not restrain Israel in its attempts to create new *faits accomplis* (or 'facts on the ground') during the negotiation process. Just as with the establishment of the Civilian Administration in 1981, Israel relegated or transferred certain powers and responsibilities to the Palestinian Authority, while retaining all 'residual' powers. The separate status for settlers and settlements, for example, remained intact and jurisdiction over them continued to be exercised by Israel, not the Palestinian Authority. These and other provisions essentially allowed Israel to take advantage of areas and powers remaining under its purview to continue with its campaign of colonisation.

With the eruption of the second *Intifada* in September 2000, the tumultuous events on the ground swept away what little remained of the Oslo 'peace process'. By then, the underlying Oslo principles had already become manifest as physical and geographical realities weighted heavily in Israel's favour.

225 For more information and analyses of the Camp David and Taba meetings, see references in our *Bibliography*.

7.2 Establishing 'facts on the ground': 1993 to the second *Intifada*

At any early stage in the Oslo 'peace process', Israeli Prime Minister Yitzhak Rabin's government did initially issue Military Orders to limit settlement building to pre-existing planned areas.²²⁶

This did not constitute the total settlement freeze that the Palestinians had assumed was mandated in the Oslo Accords. The Palestinians cite, in particular, Article XXXI (8) of the Interim Agreements, which states: "The two Parties view the West Bank and Gaza Strip as a single territorial unit, the integrity and status of which will be preserved during the interim period." Similarly, Article XXXI (7) notes: "Neither side shall initiate or take any step that will change the status of the West Bank and Gaza Strip pending the outcome of the permanent status negotiations."

Israel takes a different view. Joel Singer, former Israeli legal advisor to the Ministry of Foreign Affairs, claims that these articles were inserted to safeguard against two eventualities: firstly, to prevent Israel from unilaterally annexing the Occupied Territories during the interim period; secondly, to prevent the Palestinian Authority from unilaterally declaring statehood during the same period. These articles, apparently, were never intended to restrict settlement building.²²⁷

In spite of periodic settlement freezes, Israel has maintained its right to accommodate 'natural growth'. Israel defines this growth not only as natural increases through marriages and births, but also the 'voluntary' migration of Jews to settlements in the Occupied Territories. Several new settlements were established in the 'Oslo era' to accommodate such 'natural growth'. Indeed, settlement building accelerated to such a degree that the number of settlers in the West Bank almost doubled during that era.

In Jerusalem, which Israel regards as part of its own territory rather than part of the West Bank, restrictions on land acquisition and settlement building do not apply. Israel has proceeded unchallenged with its annexation of sizeable amounts of West Bank land in this area.

During the 'Oslo era' (1993-2000), the number of settlers in Jerusalem rose from 146 800 to 173 000 – an increase of 18 percent. Comparable figures for West Bank settlers over the same period show a massive 91-percent increase – from 100 500 to 191 600 – while the number of housing units in West Bank settlements (excluding Jerusalem) rose by 54 percent. Also during the 'Oslo era', Israel confiscated approximately 90 km² of Palestinian land in the Occupied Territories for the construction of over 400 km of settler-only 'by-pass' roads.²²⁸

Table 12, below, summarises the division of West Bank lands as of September 2000.

Table 12: Division and control of West Bank areas under Oslo Accords (pre-2000 *Intifada*)

Area	Area (km ²)	Percentage of West Bank (excl. E. Jerusalem) (by area)	Percentage of West Bank (incl. E. Jerusalem) (by area)
'A'	1 008	18.2%	17.8%
'B'	1 207	21.8%	21.3%
'C' (1)	3 323	60.0%	58.6%
Total area (excl E. Jerusalem)	5 538	100.0%	97.7%
Total area E. Jerusalem (2)	129	2.33%	2.28%
Total area West Bank	5 667	–	100.0%
Total area under Israeli control (Area 'C' and annexed E. Jerusalem)	3 452	–	60.9%

226 See Aronson's discussion of Military Order 1325 of 27 Jan. 1993 (1994) (n. 108 above), p.15.

227 See Singer (1995) (n. 224 above).

228 Figures on settlers and housing are from B'Tselem, *Land Grab: Israel's Settlement Policy in the West Bank* (n. 84 above), <http://www.btselem.org>, pp. 16-18. The figure on the length of by-pass roads is from LAWE, *By-Pass Road Construction in the West Bank* (1996) (n. 146 above). The figure on the area of land confiscated for their construction is from Applied Research Institute Jerusalem (ARIJ), *Undermining Peace: Israel's Unilateral Segregation Plans in the Palestinian Territories*, <http://www.arij.org/paley/Segregation-Wall>, p. 11.

Notes:

From Table 8, 'West Bank According to Oslo Accords', and Table 9, 'Areas of the Settlements, by Region', in B'Tselem (Yael Stein, ed.), *Land Grab. Israel's Settlement Policy in the West Bank* (Jerusalem, B'Tselem, 2002), pp. 93, 116; and Ch. 4, Table 3, 'Land distribution in the West Bank as defined by Israel, Aug. 2000', in Leila Farsakh, *Palestinian Labour Migration and the Redefinition of Boundaries between Israel and the West Bank and Gaza Strip: Land, Labour and Structural Change, 1967-2000*, Ph.D. Thesis in Economics (London: School of Oriental and African Studies, University of London, 2002), pp.15-16 (Farsakh's figure for Area 'A' is slightly lower, at 17.7%).

- (1) Farsakh gives the breakdown of Area 'C' as follows: nature reserves (5.9%), Israeli military bases (0.7%), 'closed areas' (17.7%), Israeli built-up areas (2.7%).
- (2) Combined area of Municipal and 'Greater Jerusalem' – approx. 129.4 km² (2.3% of the West Bank). Does not include 90.6 km² of land held 'in reserve'.

Under the 1995 Interim Agreements, the West Bank lands would be divided into three areas: 'A', 'B' and 'C', as shown in *Table 12*, above. Area 'A' (initially set at only three percent of the West Bank) would be placed under the full control of the Palestinian Authority. It comprised the eight major towns of Jericho (already transferred to Palestinian control under earlier agreements), Ramallah, Bethlehem, Jenin, Qalqilya, Tulkarm, Nablus and Hebron. Hebron itself would be divided into one area under Palestinian Authority control and another under Israeli control. Area 'B' would be placed under joint Israeli/Palestinian security control and Palestinian civilian control. Area 'C' would remain under full Israeli control. The division of the Gaza Strip was somewhat different, with a number of colour-coded areas denoting various control configurations.

The calculation of West Bank land categories in percentages is often distorted by the omission of annexed East Jerusalem from the data: 100% thus represents the land area of the West Bank excluding East Jerusalem. This is misleading and conforms to the official Israeli stance that its 'unified capital' is all of Jerusalem. *Table 12*, above, clarifies this issue by showing the effects on the percentages of excluding or including annexed East Jerusalem. This is critical to understanding the territorial division under the Oslo Accords, as well as the projected land distribution stemming from Prime Minister Barak's proposals of July 2000.

Under the terms of the Oslo Accords, and particularly the provisions of both the 1998 Wye Memorandum and the 1999 Sharm El-Sheikh Agreements, lands in Area 'C' were to be gradually converted into the 'A' and 'B' categories and thus transferred to Palestinian control. This process was never completed because the 'peace process' broke down.

By 2002, Israel was in direct control of over 60 percent of the West Bank. The number of Jewish settlements in the Occupied Territories exceeded 200; these accommodated over 400 000 Jewish settlers, nearly half of them living in and around Jerusalem. In the Gaza Strip, some 7 000 settlers controlled at least 31 percent of the land.

7.3 Summary

The following are key aspects of the major changes that took place during the 'Oslo era' (1993 to 2000):

Extending control and 'closure'

Israel actually used the 'Oslo era' to extend its occupation of and control over the West Bank and the Gaza Strip, as well as to consolidate and make permanent the 'general closure' of Israel to Palestinians from the Occupied Territories. Palestinians who lacked permits were prohibited from entering Jerusalem and Israel. 'Internal closures' within the Occupied Territories were also increased, preventing Palestinians from leaving their towns or villages or travelling through the area. These restrictions had severe effects on various segments of the Palestinian population, including those seeking legitimate residence in Jerusalem, those trying to get to workplaces or schools in different areas, and those seeking to cultivate and live off their lands. Along with other measures, the 'closure' system created a patchwork of over 64 isolated and totally surrounded canton-like communities in the West Bank alone.

Building settlements

Israel took advantage of certain provisions in the Oslo Accords to accelerate construction of Jewish settlements. The land areas available to Palestinians were drastically reduced. By dividing the West Bank into three areas, the Accords facilitated this process. Area 'C' (initially, under the Oslo Accords, about 70 percent of the West Bank; later reduced to around 60 percent) remained under total Israeli control. To a large extent, this area overlapped with parts of the West Bank already under the jurisdiction and control of Jewish regional and local councils. These included lands that various maps and Master Plans pre-dating the launching of the Oslo 'peace process' had allocated as permanent parts of Israel. During the 'Oslo era', it became increasingly commonplace for Israeli forces to demolish the homes and raze the lands of Palestinians, especially in Area 'C' and in equivalent Israeli-controlled parts of the Gaza Strip.

Building road networks

Israel embarked on a massive campaign of road building. It expropriated large amounts of Palestinian land for this purpose and, in the process, further fragmented Palestinian communities. Bridges, tunnels and other structures connected a tight network of by-pass roads linking settlements to each other and to Israel.

Consolidating control over Jerusalem

Israel consolidated its hold on an expanded East Jerusalem by completing the ring of settlements and roads surrounding the 'Greater Jerusalem' area. It continued to move forward with plans for the development of an expanded 'Metropolitan Jerusalem' reaching far into the West Bank.

Restricting Palestinian achievements under Oslo

Israel made such things as 'redeployment' of its armed forces from Palestinian areas conditional upon Palestinian performance, particularly with respect to 'security'. Throughout the 'Oslo era', Israel was seeking a cooperative Palestinian leadership that would assume 'functional' responsibility for the Arab population of the Occupied Territories, while leaving 'territorial' responsibilities to Israel.

Circumventing international law

Israel took advantage of the fact that the negotiations and agreements were not framed within international law. For example, Israel secured an undertaking from the Palestinians that the status of the Jewish settlements would remain intact. This has had the effect of legitimising, if not legalising, their existence. Israel also refused to deal with the rights of refugees and disregarded complaints about the continuing annexation of Jerusalem.

SECTION 8

**Summary and conclusion: the second *Intifada*
and beyond**

We conclude this study by summarising a number of key developments that have taken place in the Occupied Territories since the second *Intifada* erupted in September 2000, including the construction of Israel's 'Separation Barrier' and the escalation of home demolitions. We assess the impact of these developments on the Arab population of the Occupied Territories in terms of land and property issues. We also refer briefly to developments inside Israel; in particular, the continuing campaign of forced displacement affecting the Negev Bedouin community.

In the spring of 2002, Israel 're-occupied' Area 'A' (except for Jericho and parts of Hebron), re-imposing direct military control over 'self-rule' areas. It set up 'buffer zones' and new 'security' areas, and began construction of its 'Separation Barrier' (or 'Security Fence' – actually a massive reinforced concrete wall). In carrying out these actions, Israel has violated one of the key tenets of the Oslo Accords; namely, that nothing be done by either side to alter the 'status' of the Occupied Territories.

Although Israel did not declare *de jure* annexation of lands for these purposes, construction of the Wall has already transformed the West Bank landscape. The Wall inside the 'Green Line' in the northern West Bank has placed some of the area's most fertile lands out of reach to Palestinian villagers.

Israel designed its 'buffer zone' plan, implemented in the spring of 2002, to completely separate and isolate major Palestinian cities. It required that Palestinians who wished to leave and return to these areas obtain special permits. These would only be valid for one month and for movement during certain hours of the day. The Israeli authorities imposed separate restrictions on trucks and lorries moving supplies in and out of Palestinian areas, requiring them to unload and reload their cargo each time they exit or enter areas controlled by the Palestinian Authority. Implementation of this plan also divided the West Bank into three 'security' areas; each completely isolated from the others. In dozens of areas, the plan confined Palestinian communities to what were essentially ghettos.

8.1 Israel's 'Security Fence'

On 23 June 2002, Israel announced that it was planning to build, parallel to and inside the 'Green Line' (see our *Glossary*), a 'Separation Barrier' (more commonly and rather euphemistically referred to as the 'Security Fence', though Palestinian and Israeli human rights organisations prefer to describe it as 'the (Apartheid) Wall'). At a total cost estimated to be somewhere between US\$ 1.0 billion and US\$ 4.7 billion, with a total length of 660-730 km and a height of 8 m, the Wall would be three times as long and twice as high as the Berlin Wall. It would run roughly north-south through the West Bank – entirely within occupied areas. Israel announced that it could complete the Wall within a year or so. (Israel later announced that it would build a parallel 'security fence' in the eastern West Bank, along the Jordan River. This plan has since been postponed.)

In most areas, the distance of the Wall from the 'Green Line' would be about eight kilometres; in some places, however, the Wall would penetrate as much as 22 km into the West Bank. In particular, the Wall would run deeper into the West Bank around Jerusalem, where Israel might actually build two walls: an inner one encircling Israel's municipal boundaries in the city; an outer one surrounding major blocs of Jewish settlements. Along the whole length of the Wall, guard towers would be set up at 300-metre intervals, complete with barbed wire or electrified fences, two-metre trenches, sensors, cameras and security roads. Once the Wall was completed, it was estimated, more than 16 percent of the West Bank would lie to its westward side – in effect, unilaterally and illegally annexed into Israel. This area to the west of the Wall would include some 66 Jewish settlements (54 in the West Bank and 12 in East Jerusalem) with a total settler population of over 322 000, who would be automatically and fully incorporated into Israel. Reports issued in the spring of 2003 indicated that the Wall would encroach even further into the West Bank than had originally been assumed, and take in more settlements than had been projected.

Initially, it was estimated that perhaps as many as 385 000 Palestinians would find themselves living in the legal no-man's land created by the Wall, either as non-Israeli citizens living to the west of the Wall, or as West Bank citizens cut off from their lands and/or homes lying westward of the Wall, and/or cut off from the rest of the West Bank territory as a result of the Wall's planned route. The estimated number of Palestinians affected in these ways is constantly fluctuating as Israel adjusts its plans to suit its needs. Indeed, as many as 860 000 West Bank Palestinians may be affected by the construction of the Wall, and well over 45 percent of the total West Bank territory may be annexed *de facto* into Israel. One thing is certain, though: for the most part, Palestinians will be cut off from their most fertile agricultural lands as these are confiscated or destroyed to make way for the Wall. The Israeli army has announced the issue of 'special

permits' to such Palestinians, allowing them to cultivate their lands west of the Wall, or to enter and leave through the Wall should they be penned in on the Israeli side, as the case may be.²²⁹

Israel has issued notices to Palestinians living in dozens of villages in the targeted areas, informing them of impending land confiscations. Many of these notices have been in the form of broad Military Orders to 'seize' lands. According to various sources, Israel's Military Commander in the West Bank issues these orders. They are renewable and unlimited and reflect Israel's intention to continue land confiscations as needed until 31 December 2005.²³⁰

As construction of the Wall has proceeded, Palestinians have complained of plans changing without notice, lands additional to those identified in the orders being confiscated, homes and stores being demolished without notice, agricultural lands and olive groves being razed, and valuable crops being destroyed. The Israeli Supreme Court has rejected all Palestinian appeals to suspend land confiscations and construction of the Wall.

Israel claims that the Wall is essential for its security. As discussed in Subsection 5.1.3 above, the Supreme Court has consistently refused to entertain petitions from Palestinians in cases where 'security' is invoked. The State's response, according to LAW (The Palestinian Society for the Protection of Human Rights and the Environment - Jerusalem), is to stress that the existence of the Wall also serves Palestinian interests. By preventing 'terrorist infiltration', the Wall would provide safety and freedom of movement to the rest of the population. LAW reminds us that Israel has advanced the same arguments over the years to defend land expropriations for the building of Jewish-only 'by-pass' roads. In respect of the latter, Israel assured the Palestinians that guaranteeing that Jewish settlers were safe to move around the Occupied Territories would minimise the army presence in the area.²³¹

According to LAW and other sources, only Palestinian land – most of it privately owned – is being confiscated for the building of the Wall. Land occupied by Jews is unaffected – as would have been the case if the Wall had exactly followed the path of the 'Green Line'. The confiscation, destruction and *de facto* annexation of Palestinian lands into Israel is in direct contravention of international law.

By July 2003, Israel had completed the first phase of the Wall, around the towns of Qalqilya, Tulkarm and Jenin in the northern West Bank. Construction of this section of the Wall alone – estimated to be around 145 km long – entailed the 'annexation' of some 3 percent of the total West Bank land. The Wall has dramatically affected Qalqilya, Tulkarm and Jenin, as well as the surrounding villages, whose total population of some 500 000 people have lost about 60 percent of their prime agricultural lands. As of late 2003, an estimated 121 500 *dunum* (121.5 km²) of land had already been confiscated. In some areas, not one but two walls have been constructed. One is the main 'security' wall, while the other surrounds and isolates a number of towns and villages within the West Bank. For example, the town of Qalqilya and a handful of nearby small villages have been enclosed on three sides, leaving only one entrance for their 48 000 inhabitants. In the process, Qalqilya is reported to have lost at least 15 percent of its municipal lands and over 50 percent of its agricultural lands. This will have an incalculable impact on Palestinians throughout the West Bank because this area, described as the 'fruit basket' of Palestine, was critical to Palestinian self-sufficiency, supplying fruits, vegetables and olives to the whole area.

229 For more information on the Wall and its consequences for West Bank Palestinians, see: PENGON (the Palestinian Environmental NGOs Network), <http://www.pengon.org>; Stop the Wall (the grassroots Palestinian 'anti-apartheid-wall' campaign), <http://www.stophthewall.org>; LAW (2002) (n. 137 above); Isabelle Humphries, 'Building a Wall, Sealing the Occupation', *MERIP Press Information Note 107* (29 Sept. 2002); MIFTAH, *The Separation and Expansion Wall* (2003), <http://www.miftah.org>; B'Tselem, *Behind The Barrier: Human Rights Violations As a Result of Israel's Separation Barrier* (Apr. 2003), http://www.btselem.org/Download/2003_Behind_The_Barrier_Eng.doc; Report of the Mission to the Humanitarian and Emergency Policy Group (HEPG) of the Local Aid Coordination Committee (LACC), *The Impact of Israel's Separation Barrier on Affected West Bank Communities*, (4 May 2003), <http://www.reliefweb.int/w/rwb.nsf/vID/29F7516E5E08750385256D1D00699A70?OpenDocument>, and <http://www.reliefweb.int/library/documents/2003/hepglacc-opt-04may.pdf>; *Question of the Violation of Human Rights in the Occupied Arab Territories, Including Palestine*, Report of the Special Rapporteur of the Commission on Human Rights, John Dugard, on the situation of human rights in the Palestinian territories occupied by Israel since 1967, E/CN.4/2004/6/Add. 1, 27 Feb. 2004; and B'Tselem, *Statistics on the Separation Barrier* (updated March 2004), http://www.btselem.org/English/Separation_Barrier/Statistics.asp
See also: map of a completed portion of the Wall in the northern West Bank, http://www.btselem.org/Images/Maps/Fence_Map_2003_Eng.pdf; and <http://gush-shalom.org/thewall/index.html>

230 See LAW (2002) (n. 137 above). The report refers to a series of initial Military Orders issued in this respect, cited as MO 17/2002T, MO 18/2002T, MO 20/2002T, MO 21/2002T and MO 31/2002T.

231 See LAW (2002) (n. 137 above). As previously discussed, the Government views Israeli settlers not as illegal colonisers, but as members of the 'public', whose interests must be preserved and protected.

Furthermore, the town of Qalqilya lies on the main Western Aquifer, which supplies 51 percent of the West Bank's water resources. The Wall, once completed, will effectively annex most of these resources into Israel, including up to 14 water wells in Qalqilya and some 30 percent of the town's water resources.²³²

In building the Wall, the Israeli authorities have destroyed dozens of Palestinian homes, shops and other structures. As of February 2003, in the small village of Nazlat Issa (population 2262), some 62 buildings and shops had been destroyed and dozens more were facing impending demolition. Nazlat Issa and other targeted villages are located in Area 'C', in which Israel has stepped up its demolition campaigns. In another example, in December 2002, the tiny village of Al-Dabaa (population 250) in the Qalqilya district was targeted in a Military Order to demolish the entire village. This was to clear a 50-metre-wide swathe of land for construction of the Wall in that area. Not since 1948 had an entire Palestinian village been demolished. Two months earlier, unrelenting settler harassment and attacks forced all 150 inhabitants of the village of Yanoun, near Nablus, to flee their village. The villagers later returned under the escort and protection of Israeli and international peace activists.²³³ The same pattern was being repeated in other villages in the area, including Jayyous. More and more residents saw their agricultural lands razed or confiscated, their fruit and olive trees destroyed, and they and their families trapped behind the ever-expanding Wall.

As of early 2003, maps and plans for the construction of the Wall around and to the south of Jerusalem were unavailable. However, it was estimated that completion of these sections of the Wall would result in the annexation of at least an additional seven percent of the West Bank (mainly around East Jerusalem). Subsequent reports indicate that a double wall is to surround Jerusalem and that the Government of Israel has given the go-ahead for this construction. The so-called 'Enveloping Jerusalem Plan' involves constructing a 54-kilometre wall around designated areas of Metropolitan Jerusalem. This would also encompass the area's main Jewish settlements.²³⁴

Israel has confiscated lands from private Palestinian owners in this area on the basis of the 1949 *Emergency Regulations* for this purpose. In one case, four residents of the village of Kfur Aqab near Jerusalem filed a petition to challenge the expropriations. According to LAW, whose lawyers filed the appeal on behalf of the Palestinians concerned, the State's response centred on the argument that "the right of Israeli citizens to life exceeded the right of property ownership, and that the wall is a security measure". Despite the facts that these Palestinians carry Jerusalem identity cards and the Wall would threaten their own lives and livelihood, their appeal was denied.²³⁵

Elsewhere in the Occupied Territories, there have been further expropriations in the divided city of Hebron. On 29 November 2000, the Israeli authorities issued military decree No. 61/02T to expropriate over 61 parcels of privately owned Palestinian land (estimated at 8.2 *dunum*, or 0.82 hectare). Citing 'urgent military need', these lands were declared confiscated to build a 'safe passage' for Jewish settlers between the settlement of Kiryat 'Arba and Jewish settlements inside the city. The construction of a 730-metre route - 6-12 metres wide and with a 2-metre high wall - would entail the demolition of dozens of Palestinian buildings. Among these are structures of special historical and archaeological value that date back to the thirteenth century AD. In early December 2002, Israel issued orders for the demolition of the first 15 of these buildings, giving the Palestinians only 48 hours to appeal. In all, as many as 103 buildings may be liable to demolition. This would forcibly displace hundreds of Palestinians and their families. Israel would also raze their valuable agricultural lands.²³⁶

232 See LAW (2002) (n. 137 above).

233 For information on Al-Dabaa, see 'Palestinian Village Faces Annihilation', *Washington Report on Middle East Affairs* (Urgent Press Release, 14 Jan. 2003). For more on Yanoun, see Jonathan Cook, 'Alone With the Settlers', *Al-Ahram* (21-27 Nov. 2002). See also: PENGON (the Palestinian Environmental NGOs Network), <http://www.pengon.org>; and Stop the Wall (the grassroots Palestinian 'anti-apartheid-wall' campaign), <http://www.stophthewall.org>

234 See: LAW (2002) (n. 137 above); and Humphries (2002) (n. 229 above).

235 See LAW, *Appeal to temporarily halt construction of Apartheid Wall denied*, information bulletin (19 Dec. 2002).

236 See: Aluf Ben and Gideon Alon, 'PM demands "quick" changes for Jewish control', *Haaretz* (18 Nov. 2002); Chris McGreal, 'Israel Accused of Hebron Land Grab', *The Guardian* (3 Dec. 2002); Esther Zandberg, 'Pernicious Promenade', *Haaretz* (12 Dec. 2002); PLO Negotiations Support Unit, *Home Demolitions in the Name of Security* (Dec. 2002), <http://www.nad-plo.org>; and Alternative Information Centre (AIC), *AIC Fact Sheet on Hebron* (16 Dec. 2002). The Palestinian population of the H2 area of Hebron is usually estimated at between 30 000 and 40 000, and their interests have long been being threatened by Jewish settlers. Some 500 Jewish settlers live in the midst of Hebron. An estimated 6 500 settlers also reside in the settlement of Kiryat 'Arba to the east of the city.

8.2 Land confiscations and home demolitions

Elsewhere in the Occupied Territories, and particularly in Area 'C', Israel has continued to confiscate massive amounts of land on 'military' or 'security' grounds. The parts most affected include the northern and southern Gaza Strip, as well as certain areas around Jerusalem. Along with land confiscations, Israel has continued to destroy agricultural lands and has demolished hundreds of homes, buildings, shops and other Palestinian structures throughout the Occupied Territories. In many parts of the Occupied West Bank and Gaza Strip, Palestinian towns and villages have been transformed into ghetto communities, surrounded by walls or fences, checkpoints, ditches and other barriers

Home demolitions, however, are not limited to the Occupied Territories. In the spring of 2003, inside Israel, there was a spate of home demolitions in several Palestinian villages and in Palestinian quarters of cities including Lod, Jaffa and Ramla.

Furthermore, in the Negev, tens of thousands of Bedouins living in what Israel refers to as 'unrecognised villages' have come under renewed siege. Israel has announced plans to remove all Bedouin from these communities, resettle them in 'recognised' townships and build new Jewish settlements on the vacated sites. Construction on the first of the fourteen planned settlements began in 2003. The Israeli authorities claim that an amended law concerning 'public' land would authorise them to evict the Bedouin on the grounds that they are 'trespassers' – on lands where they have lived for decades.

The proposed amendment removes a requirement in the old law to individually identify and name those designated as trespassers in relation to specific property. It would allow the relevant authorities to press ahead with eviction without having to verify information relating to the identity and property of each individual in question, and to do so retroactively, based on any 'trespassing' that has occurred over the past three years.²³⁷

The ultimate goal, under a new five-year Government programme that will cost about US\$ 1.75 billion, is to remove the remaining 60 000-70 000 Bedouin – all of them Israeli citizens – from Negev lands on which they have resided for over 50 years and to concentrate them into three Government-approved townships. Supplementing the 'legal' measures to facilitate the removal of the Bedouin, Israel has resorted to direct action to force them to leave. In several well-documented instances, their cultivated lands were sprayed with toxic chemicals, destroying the crops.²³⁸

The programme to evict the Bedouin has been accompanied by increased home demolitions. Between May and July 2002, Israel demolished some 62 Bedouin homes in at least three of the 'unrecognised' villages. Tens of thousands of homes remain at risk.

8.3 Israel's 'security map' and prospects for a final settlement

In June 2002, Prime Minister Ariel Sharon presented Israel's 'security map'. This plan entails retention of an additional 22 percent of the Jordan Valley for Israel's 'long-term' security needs. It also involves permanent Israeli control over 'Metropolitan Jerusalem', as well as an Israeli-controlled zone, 5 to 20 km wide, running alongside the 'Green Line'. Major Palestinian areas will remain encircled by Jewish settlements and 'security areas'.²³⁹

Although Israel accepted, albeit with reservations, US President George Bush's 'Road Map' for peace in the Middle East, in Sharon's view, a Palestinian state would cover no more than 40 percent of the West Bank:

The second phase of President Bush's sequence proposes the establishment of a Palestinian state with borders yet to be finalized, and which will overlap with territories A and B, except for essential security zones. This Palestinian state will

237 Although this law is generally known as the 'Eviction of Trespassers' law, no official English title is available. The Minister of Justice submitted the law for consideration in June 2002. Information on this law and its implications are available from The Regional Council for the Unrecognised Villages of the Palestinian Bedouin in the Negev (RCUV), Alert 22, *Sharon's \$1.75 Billion Land and Unrecognised Villages Elimination Plan - Until 2007* (Jan. 2003); and *id.*, Press Release 5, *Regional Council Condemns the demolition of Mosque in the Unrecognised Village of Tel Al-Mileh; Views this Operation as the beginning of the Implementation of Sharon's new 5-Year plan for the Unrecognised Villages* (Feb. 2003).

238 For example, in Feb. 2002, Israel was reported to have destroyed 12 km² of grain crops in the Negev using this method; see BADIL Resource Centre, *Israel Destroys Crops in 'Unrecognised' Bedouin Village*, Press Release, 28 Feb. 2002. Another round of spraying occurred in Apr. 2003.

239 For information on Sharon's 1997 plan, see The Foundation for Middle East Peace (FMEP), 'Map of National Interest', *Report on Israeli Settlement in the Occupied Territories* (May-June 2002).

be completely demilitarised. It will be allowed to maintain lightly armed police and interior forces to ensure civil order. Israel will continue to control all entries and exits to the Palestinian state, will command its airspace, and not allow it to form alliances with Israel's enemies.²⁴⁰

8.4 'Transfer' revisited in current Israeli/Zionist thinking

Israel resurrected the idea of 'transfer' following its capture of the West Bank and Gaza Strip in the June 1967 War. In the aftermath, over 300 000 Palestinians were expelled or forced to flee from these newly occupied areas. In 'secret' meetings at the time, the Israeli cabinet debated the 'demographic' problem facing them in the Occupied Territories. These officials toyed with the idea of demolishing refugee camps and resettling the population in the Sinai, or in Syria and Iraq. At that time, according to some accounts, the Government of Israel finally opted for less direct measures and formed a special secret unit charged with 'encouraging' Palestinians to leave.²⁴¹

By the late 1990s, while Israeli-Palestinian negotiations were proceeding and still some months before the eruption of the second *Intifada*, Israelis were once again debating the merits of 'transfer'. This notion, far from being restricted to a fringe element in Israel, was seriously considered by the upper echelons of Israel's political and academic community and their supporters abroad. As in previous decades, the concept was couched in 'humanitarian' terms - it was to be for the welfare of the Palestinians.

These ideas were explored at a major annual policy conference, held in December 2000 at the Interdisciplinary Centre in Herzilya, Israel. Entitled 'The Balance of National Strength and Security in Israel', this conference was attended by high-ranking political, defence and academic figures. The document on policy directions that emerged from the conference did not explicitly mention 'transfer'. It nevertheless noted:

"It will be necessary to find some place for the resettlement outside the State of Israel (perhaps to the east of the Jordan) if the Palestinian population of the territories does not curb its rate of increase."²⁴²

Asked about whether the document had espoused 'transfer', Uzi Arad (former political advisor to Israeli Prime Minister Benjamin Netanyahu and a participant at the conference), responded:

The Palestinians have made a decision that they want the highest rate of natural population growth in the world, but they don't have the means to support it. They are all crowded together in a tiny area. So what should those who are really interested in their welfare do? Leaving them in the Gaza Strip means sentencing them to a life of misery. If you object to moving them elsewhere only because it looks like transfer, you are basically confining them to a concentration camp. Should a humanitarian solution be turned down only because of what it looks like to some people?²⁴³

240 See Sharon's 4 Dec. 2002 speech concerning Israeli policy in the Occupied Territories, reprinted in id., *Report on Israeli Settlement in the Occupied Territories* (Jan.-Feb. 2003). Sharon envisages a subsequent third phase that will determine the "final status of the Palestinian state and fix its permanent borders." For Sharon, there will be no progress from one stage to another until the Palestinian Authority is changed and Palestinians restore 'quiet' and ensure 'coexistence'. Israel's provisional acceptance of the proposed 'Road Map' (to establish a Palestinian state by 2005) is predicated on these understandings.

241 This unit reportedly facilitated the emigration of Palestinians, especially to countries in Latin and South America, helping them with visas, funding and other aid. See Yossi Melman and Dan Raviv, 'Expelling Palestinians; It Isn't a new Idea, and It Isn't Just Kahana's', *The Washington Post* (7 Feb. 1988). According to the authors, this unit folded after three years. Over the years, other reports have surfaced about Jewish groups in Israel that have played a role in facilitating Palestinian emigration from the country.

242 Quoted in Yair Sheleg, 'A very moving scenario', *Haaretz* (23 Mar. 2001).

243 Quoted in ibid. For information on discussions regarding 'transfer'; see: 'American Proposals to Transfer Lebanon's Palestinians', *Middle East Intelligence Bulletin*, Jan. 2000; Special Document, 'The Herzilya Conference on the Balance of National Strength and Security in Israel', *Journal of Palestine Studies*, Vol. 31, No. 1 (autumn 2001), pp. 50-61; Terry Rempel, 'Of war and population transfer', *BADIL Resource Centre for Palestinian Residency and Refugee Rights* (16 Oct. 2002), <http://www.palestinereport.org>; and Gamla, *The Logistics of Transfer*, http://www.gamla.org/ill_english/article/2002/july/b1.htm. Gamla is an organisation reportedly financed by Jews overseas, including in the U.S. This article refers to an 'ethnically homogeneous state' for Jews in all of historical Palestine and advocates the transfer of all Palestinians, including citizens of the State, to Iraq, Saudi Arabia or elsewhere. The article portrays this as the 'most moral choice'.

8.5 Summary

Excluding the numerous new 'outposts' - which, by 2003, numbered between 60 and 100, if not more - over 49 new Jewish settlements were built between 1994 and 2000 alone. A number of these settlements were built around Jerusalem and along the 'Green Line'.

Between 1993 and 2002, Israel confiscated over 240 km² of Palestinian land. In the four years since the eruption of the second *Intifada* in September 2000, Israel also uprooted or destroyed an estimated 1 034 852 trees (including fruit and olive trees) and demolished over 4 000 Palestinian homes - affecting well over 95 000 Palestinians. Close to 1 500 of these homes were destroyed in the Rafah area of the Gaza Strip alone, affecting some 15 000 people.²⁴⁴

What is so remarkable about all these developments, from negotiations during the 'Oslo era' to recent Israeli actions in the Occupied Territories, is that they have produced exactly the results envisioned in Israeli/Zionist plans laid decades earlier. The Allon Plan (see Subsection 5.3.1 above) mapped settlement building with a view to retaining 40 percent of the West Bank under permanent Israeli control. Under the later Sharon Plan (see Subsection 5.3.3 above), the Drobless Plan (see Subsection 5.3.4 above) and others, Israel accelerated settlement building around heavily populated Palestinian cities in the West Bank and in other areas, with the aim of establishing irreversible 'facts on the ground' in advance of a final settlement.

Table 13, below, summarises the results of land and colonisation policies in the Occupied Territories as of the year 2002.

Table 13: Summary of data on land and settlements in the Occupied Territories (including Jerusalem), year 2002

<p>No. of settlements in the West Bank (area = 5 670 km²): 130-223 (1) No. of settlements in the Gaza Strip (area = 365 km²): 16-20 No. of settlements in East Jerusalem: 11-14</p> <p>Total settler population in the West Bank: approx. 219 000 (2) Total settler population in the Gaza Strip: approx. 7 000 Total settler population in East Jerusalem: estimated 175 000-185 000</p> <p>Palestinian population in the West Bank: over 2.1 million (in 650 localities, including an estimated 200 000 in East Jerusalem) Palestinian population in the Gaza Strip: 1.2 million (in 40 localities)</p> <p>No. of registered refugees and camps in the West Bank: 626 500 in 19 camps (3) No. of registered refugees and camps in the Gaza Strip: 879 000 in 8 camps</p>
<p>Notes:</p> <p>(1) The higher figure includes new settlements and 'outposts' in the West Bank as of mid-2002; see Applied Research Institute - Jerusalem, June 8, 2002; http://www.arij.org; see also Foundation for Middle East Peace (FMEP), <i>Report on Israeli Settlement in the Occupied Territories</i>, Nov.-Dec. 2002, which lists names and locations of 108 new settlements and outposts in the West Bank. Over 53 are located outside settlement-planning boundaries.</p> <p>(2) Estimate of Israeli Ministry of Interior (July 2002), in Palestinian Academic Society for the Study of International Affairs (PASSIA), <i>Diary 2003</i> (Jerusalem: PASSIA, 2003), p. 271.</p> <p>(3) Figures for refugees, from UNRWA as of June 2002; including total of registered refugees inside and outside camps. Some 458 025 refugees reside outside camps in the West Bank. In the Gaza Strip, this figure is close to 410 900; see: http://www.un.org/unrwa/refugees/me.html#TOP</p>

244 Land confiscations between Sept. 2000 and May 2003 are estimated at more than 848 km². The Palestinian Ministry of Agriculture estimates that some 749 000 trees were bulldozed between Sept. 2000 and Jan. 2003; *PALDEV Digest*, 23 Feb. 2003 (listserv). See also: *Tree-planting, New Means to Grab Palestinian Land for Settlements*, International Press Center (IPC), 30 July 2004, http://www.ipc.gov.ps/ipc_e/ipc_e-1/e_News/news2004/2004_07/177.html. For more on Rafah, see: *Statement by Special Rapporteur on Adequate Housing Regarding House Demolitions in Occupied Palestinian Territories*, United Nations Press Release, 6 Nov. 2003, <http://www.unhchr.ch>; and UN Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), *UNRWA completes its demolition assessment of Operation Rainbow*, Press Release No. HQ/G/16/2004, 26 May 2004.

8.6 Final conclusions

This study documents the transformation of land and property in the area historically known as Palestine. It focuses on the creation of a 'legal' system through which the Zionist movement, and later Israel, acquired lands and property from Palestinians in the area. In this process, 'legal' means have consistently worked alongside military and political means.

During the first few decades of the twentieth century, when the fledgling Zionist movement was still vulnerable, the Zionist leadership sought the backing and protection of the British. The British Mandate provided an opportunity to introduce changes to Ottoman law to facilitate Jewish land acquisition and colonisation in Palestine. At the same time, the British provided a 'superpower' protection for this developing strategy.

Following its creation as a modern state in 1948, Israel designed its own 'legal' framework within which the application of the law could be enforced with the pressure of a strong military. Following the 1967 occupation of the West Bank and Gaza Strip, Israel used its powers to 'amend' existing law to provide 'legal' cover for its take-over and colonisation throughout the remaining parts of historical Palestine.

Military law and the use of powerful and decisive military action to enforce it have entrenched an irreversible Jewish colonial presence in the Occupied Territories. Israel has once again been relying on a major superpower to protect and shield it politically in the international arena. This has been the function of the United States. US support for Israel during the more than five decades since the creation of the 'Jewish State' in 1948 is a topic that merits separate, in-depth analysis and is therefore not dealt with in this study. The US endorsed Israel's unique and self-serving interpretation of its obligations under the Oslo Accords. The US also sided with Israel in blaming the Palestinians for the failure of the Camp David negotiations in 2000. It also continued to send Israel massive amounts of aid, which have totalled at least US\$ 90 billion over the past five or six decades.²⁴⁵ These funds enabled Israel to proceed with settlement building, even as it continued to 'negotiate' with Palestinians; they were also used, directly or indirectly, to finance Israel's progressive annexation of Jerusalem and environs and its colonisation of the remaining parts of the West Bank and Gaza Strip.

Furthermore, Israel has relied on the unstinting and seemingly unshakeable support of the US to shield it from Palestinian complaints and international censure.

Since the draft version of this study was completed in the spring of 2003, Israel has continued with its efforts to affect the contours of a final settlement. New settlements have been established, considerable areas of Rafah in the southern Gaza Strip have been completely destroyed, and whatever remained of a 'peace process' has come to a complete standstill. Meanwhile, Phase Two of the Wall is well underway.²⁴⁶ In 2004, Israel proposed to unilaterally disengage from the Gaza Strip, in return for U.S. recognition of its 'right' to colonise and eventually annex lands in the West Bank. The U.S. did indeed extend such a guarantee.

In the last few years, Israel has once again backed the application of its law with the use of military force to acquire the remaining Palestinian lands and property. This has earned it censure and disapproval in the international community. Israel has violated dozens of international laws, conventions and resolutions over the last decades (see Appendix 3). Despite violations of international law, Israeli activities continue undeterred. What little remains of Palestine is disappearing in front of our eyes: Israel is erasing it from the map.

245 Calculations of total US aid to Israel can be found in selected issues of the *Washington Report on Middle East Affairs*, <http://www.wrmea.com>; for example, Shirl McArthur, 'A Conservative Tally of Total Direct U.S. Aid to Israel: \$97.5 Billion - and Counting', *Washington Report on Middle East Affairs* (May 2003), <http://www.wrmea.com/archives/may03/0305032.html>, p. 32; see also Richard Curtis, 'U.S. Aid to Israel: The Subject No One Mentions', *The Link*, Vol. 30, Issue 4 (Sept.-Oct. 1997). For more information, see Council for the National Interest (CNI), <http://www.cnionline.org>

246 Increased concern about the impact of Israel's Wall on Palestinians prompted the international community to debate the legality of building such a wall within internationally recognised occupied territories. On 9 July 2004, the International Court of Justice (ICJ) issued an important advisory opinion on the matter, concluding that Israel's construction of the Wall inside occupied areas was illegal, as was the confiscation and destruction of Palestinian lands for this purpose. The ICJ opinion stated that reparations should be made to Palestinians who had lost their lands to the Wall, and that sections of the Wall inside the Occupied Territories should be removed. For the complete text of the ICJ advisory opinion, see ICJ, 'Legal Consequences of a Construction of a Wall in the Occupied Palestinian Territory', 9 July 2004, <http://domino.un.org/UNISPAL.NSF/85255e950050831085255e95004fa9c3/b59ecb7f4c73bdbc85256eeb004f6d20!OpenDocument>. For an analysis of the ICJ ruling, see Susan Akram and John Quigley, *The International Court of Justice Advisory Opinion on the Legality of Israel's Wall in the Occupied Palestinian Territories: Legal Analysis and Potential Consequences* (Washington, DC: The Palestine Center and the Jerusalem Fund, Sept. 2004).

APPENDICES

Appendix 1

1-a The Balfour declaration

Dear Lord Rothschild,

I have much pleasure in conveying to you on behalf of His Majesty's Government, the following declaration of sympathy with Jewish Zionist aspirations which has been submitted to, and approved by, the Cabinet

"His Majesty's Government view with favour the establishment in Palestine of a national home for the Jewish people, and will use their best endeavours to facilitate the achievement of this object, it being clearly understood that nothing shall be done which may prejudice the civil and religious rights of the existing non-Jewish communities in Palestine, or the rights and political status enjoyed by Jews in any other country."

I should be grateful if you would bring this declaration to the knowledge of the Zionist Federation.

Note: Arthur James Balfour, Foreign Secretary (and former Prime Minister) of Britain, personally conveyed the decision in a letter addressed to Lord Rothschild on 2 November 1917. Reproduced in Abu Lughod (ed.), p. 60.

1-b Ordinances enacted by the Palestine Government (British Mandate) modifying Ottoman land legislation

Note: The following chronological list includes amendments where available (in parenthesis):

- Cadastral Survey Ordinance, 1920
- Correction of Land Registers Ordinance, 1920 (Amendments, 1921, 1922, 1926)
- Land Transfer Ordinance, 1920 (Amendments, 1921 and 1940)
- Mahlul Land Ordinance, 1920,1929
- Mortgage Law Ordinance, 1920
- Antiquities Ordinance, 1920
- Woods and Forests Ordinance, 1920
- Town Planning Ordinance, 1921
- Land (Mewat) Ordinance, 1921
- Land Courts Ordinance, 1921, 1929
- Sand Drift Ordinance, 1922
- Land Valuers Ordinance, 1922
- Succession Ordinance, 1923
- Expropriation of Land Ordinance, 1924 (1926), 1932
- Plant Protection Ordinance, 1924
- Tithes (Reduction) Ordinance, 1925
- Land Surveyors Ordinance, 1925
- Mining Ordinance, 1925, 1933
- Forest Ordinance, 1925
- Road (Width and Alignment) Ordinance, 1926
- Public Lands Ordinance, 1926 (Amendment 1942)
- Land (Settlement of Title) Ordinance, 1928
- Land Law (Amendment) Ordinance, 1933
- Land Disputes (Possession) Ordinance (1932)
- Cultivators (Protection) Ordinance, 1933
- Law of Execution Further Provisions Ordinance, 1936
- Town Planning Ordinance, 1936
- Safeguarding of Public Water Supplies Ordinance, 1937
- Water Survey Ordinance, 1938
- Urban Property Tax Ordinance, 1940
- Drainage (Surface Water) Ordinance, 1940
- Flooding and Soil Erosion (Prevention) Ordinance, 1941
- Rural Property Tax Ordinance, 1942
- Land (Acquisition for Public Purposes) Ordinance, 1943 (1946)

Sources: Government of Palestine, *Supplement to Survey of Palestine. Notes Completed for the Information of the United Nations Special Committee on Palestine, June 1947*. Reprinted in Full with Permission from Her Majesty's Stationary Office by the Institute for Palestine Studies, Washington, D.C., 1991; *Palestine Gazette* (selected years); and Norman Bentwich, *Legislation of Palestine 1918-1925, Including Orders-in-Council, Ordinances, Public Notices, Proclamations, Regulations, etc.* Alexandria: Printed for the Government of Palestine by Whitehead Morris, Ltd., 1926.

Appendix 2

Laws of the State of Israel: land, property and other selected laws (1948-1989)

Note: The following list is chronological:

- *Proclamation, 5708-1948*
- *Emergency Regulations (Security Zones) Law, 5708-1948*
- *Emergency Regulations (Absentees' Property) Law, 5709-1948*
- *Emergency Regulations (Requisition of Property) Law, 5709-1948*
- *Law and Administration Ordinance, 5708-1948*
- *Law and Administration (Amendment) Ordinance, 5708-1948*
- *Abandoned Areas Ordinance, 5708-1948*
- *Law and Administration (Further Provisions) Ordinance, 5708-1948*
- *General Agricultural Council Ordinance, 5708-1948*
- *Area of Jurisdiction and Powers Ordinance, 5708-1948*
- *Emergency Regulations (Cultivation of Wastelands) Law, 5709-1948*
- *Land Registers (Amendment) Ordinance, 5709-1948*
- *Municipal Corporations (Amendment) Ordinance, 5709-1948*
- *Emergency Regulations (Cultivation of Wastelands) (Extension of Validity) Law, 5709-1949*
- *Antiquities (Amendment) Ordinance, 5709-1949*
- *Jerusalem Military Government (Validation of Acts) Ordinance, 5709-1949*
- *Law and Administration Ordinance (Amendment) Law, 5709-1949*
- *Emergency Regulations (Absentees' Property) (Extension of Validity) Law, 5709-1949*
- *Emergency Regulations (Absentees' Property) (Extension of Validity) (No. 2) Law, 5709-1949*
- *Emergency Regulations (Requisition of Property) (Extension of Validity) Law, 5709- 1949*
- *Emergency Regulations (Requisition of Property) (Extension of Validity) (No. 2) Law, 5709- 1949*
- *Emergency Regulations (Requisition of Property) (Extension of Validity) (No. 3) Law, 5709- 1949*
- *Emergency Regulations (Security Zones)(Extension of Validity) Law, 5709-1949*
- *Emergency Regulations (Security Zones)(Extension of Validity)(No. 2) Law, 5709-1949*
- *Emergency Land Requisition (Regulation) Law, 5710-1949*
- *Emergency Regulations (Absentees' Property) (Extension of Validity) Law, 5710-1949*
- *Emergency Regulations (Absentees' Property) (Extension of Validity) (No. 2) Law, 5710-1950*
- *Emergency Regulations (Absentees' Property) (Extension of Validity) (No. 3) Law, 5710-1950*
- *Absentees Property Law, 5710-1950*
- *Emergency Regulations (Land Requisition - Accommodation of State Institutions in Jerusalem) Law, 5710-1950*
- *Emergency Regulations (Land Requisition - Accommodation of State Institutions in Jerusalem) (Continuance in Force of Orders) Law, 5710-1950*
- *Law of Return, 5710-1950*
- *Development Authority (Transfer of Property) Law, 5710-1950*
- *Emergency Regulations (Security Zones)(Extension of Validity) Law, 5710-1950*
- *Emergency Regulations (Cultivation of Wastelands)(Amendment) Law, 5710-1950*
- *Emergency Regulations (Security Zones)(Extension of Validity) Law, 5711-1951*
- *State Property Law, 5711-1951*
- *Absentees' Property (Amendment) Law, 5711-1951*
- *Roads and Railways (Defence and Development) Ordinance (Amendment) Law, 5711-1951*
- *Emergency Regulations (Security Zones)(Extension of Validity) Law, 5712-1951*
- *Nationality Law, 5712-1952*
- *Emergency Land Requisition (Regulation) (Amendment) Law, 5712-1952*
- *Entry into Israel Law, 5712-1952*
- *World Zionist Organisation-Jewish Agency (Status) Law, 5713-1952*
- *Emergency Regulations (Security Zones)(Extension of Validity) Law, 5713-1952*
- *Cultivators (Protection) Ordinance (Amendment) Law, 5713-1953*
- *Land Acquisition (Validation of Acts and Compensation) Law, 5713-1953*
- *Candidates for Agricultural Settlement Law, 5713-1953*
- *Keren Kayemet Le-Israel Law, 5714-1953*

- *Emergency Regulations (Security Zones)(Extension of Validity) Law, 5714-1953*
- *Emergency Land Requisition (Regulation) (Amendment) Law, 5714-1953*
- *Rural Property Tax Ordinance (Amendment) Law, 5714-1954*
- *Prevention of Infiltration (Offences and Jurisdiction) Law, 5714-1954*
- *Law of Return (Amendment) Law, 5714-1954*
- *Town Planning Ordinance (Amendment) Law, 5714-1954*
- *Emergency Regulations (Security Zones)(Extension of Validity) Law, 5715-1954*
- *Tenants' Protection (New Buildings) Law, 5715-1954*
- *Water Drillings (Control) Law, 5715-1954*
- *Land Requisition Regulation (Temporary Provision) Law, 5715-1955*
- *Tenants' Protection Law, 5716-1955*
- *Rural Property Tax (Amendment) Law, 5715-1955*
- *Emergency Regulations (Security Zones)(Extension of Validity) Law, 5716-1955*
- *Keren Hayesod Law, 5716-1956*
- *Absentees' Property (Amendment) Law, 5716-1956*
- *Plant Protection Law, 5716-1956*
- *Emergency Regulations (Security Zones)(Extension of Validity) Law, 5717-1956*
- *Land Requisition Regulation (Temporary Provision) (Amendment) Law, 5717-1957*
- *Drainage and Flood Control Law, 5718-1957*
- *Emergency Regulations (Security Zones)(Extension of Validity) Law, 5718-1957*
- *Nationality (Amendment) Law, 5718-1958*
- *Absentees' Property (Eviction) Law, 5718-1958*
- *Prescription Law, 5718-1958*
- *Emergency Regulations (Security Zones)(Extension of Validity) Law, 5719-1958*
- *Town Planning Ordinance (Amendment) Law, 5719-1959*
- *Water Law, 5719-1959*
- *Leasing of Land (Temporary Provision) Law, 5719-1959*
- *Vegetable Production and Marketing Board Law, 5719-1959*
- *Water (Amendment) Law, 5720-1960*
- *Emergency Regulations (Security Zones)(Extension of Validity) Law, 5720-1960*
- *Land (Settlement of Title) Ordinance (Amendment) Law, 5720-1960*
- *Basic Law: Israel Lands, 5720-1960*
- *Israel Lands Law, 5720-1960*
- *Israel Lands Administration Law, 5720-1960*
- *Land Law Amendment (Conversion of Matruka) Law, 5720-1960*
- *Property Tax and Compensation Fund Law, 5721-1961*
- *Emergency Regulations (Security Zones)(Extension of Validity) Law, 5722-1962*
- *Water Drilling (Control) (Amendment) Law, 5721-1962*
- *Vegetable Production and Marketing Board (Amendment) Law, 5722-1962*
- *Land Values Law, 5722-1962*
- *Emergency Regulations (Security Zones)(Extension of Validity) Law, 5723-1962*
- *National Parks and Nature Reserves Law, 5723-1963*
- *Land Appreciation Tax Law, 5723-1963*
- *Emergency Regulations (Security Zones)(Extension of Validity) Law, 5724-1963*
- *Tenants' Protection (Public Institutions) Law, 5724-1964*
- *Public Housing Projects (Registration) (Temporary Provision) Law, 5724-1964*
- *Drainage and Flood Control (Amendment No. 4) Law, 5724-1964*
- *Property Tax and Compensation Fund (Amendment) Law, 5724-1964*
- *Acquisition for Public Purposes (Amendment of Provisions) Law, 5724-1964*
- *National Parks and Nature Reserves (Amendment) Law, 5724-1964*
- *Land Appreciation Tax (Amendment) Law, 5725-1965*
- *Absentees' Property (Amendment No. 3) (Release and Use of Endowment Property) Law, 5725-1965*
- *Prescription (Amendment) Law, 5725-1965*
- *Streams and Springs Authority Law, 5725-1965*
- *Water (Amendment No. 4) Law, 5725-1965*
- *Planning and Building Law, 5725-1965*
- *Rehabilitation Zones (Reconstruction and Evacuation) Law, 5725-1965*

- *Roads and Railways (Defence and Development) Ordinance (Amendment) (No. 3) Law, 5726-1966*
- *Emergency Regulations (Security Zones)(Extension of Validity) Law, 5726-1966*
- *Association of Towns (Amendment) Law, 5726-1966*
- *Plant and Plant Products (Control of Exports) (Amendment) Law, 5726-1966*
- *Plant Protection (Amendment) Law, 5726-1966*
- *Emergency Regulations (Cultivation of Waste Lands) (Amendment) Law, 5726-1966*
- *Land (Settlement of Title) Ordinance (Amendment No. 3) Law, 5727-1966*
- *Planning and Building (Amendment) Law, 5727-1966*
- *Property Tax and Compensation Fund (Amendment No. 3) Law, 5727-1966*
- *Law and Administration Ordinance (Amendment No. 11) Law, 5727-1967*
- *Agricultural Settlement (Restrictions in Use of Agricultural Land and of Water) Law, 5727-1967*
- *Absentees' Property (Amendment No. 5) (Increase of Payments to Absentees Dependents and to Absentees) Law, 5727-1967*
- *Absentees' Property (Amendment N.4) (Release and Use of Property of Evangelical Episcopal Church) Law, 5727-1967*
- *Municipalities Ordinance (New Version) 5727-1967 (First Schedule describes municipal boundaries)*
- *Obsolete Enactments (Repeal) Law, 5728-1967 (repeals sections of British ordinances concerning land tax, tithe (amendment) and tithe (commutation) ordinances*
- *Emergency Regulations (Security Zones)(Extension of Validity) Law, 5728-1967*
- *Property Tax and Compensation Fund (Temporary Provision) Law, 5728-1968*
- *Property Tax and Compensation Fund (Amendment No. 4) Law, 5728-1968*
- *Municipalities Ordinance (Amendment No. 8) (Abolition of Property Rate) Law, 5728-1968*
- *Municipalities Ordinance (Amendment No. 2) (Amendment) Law, 5728-1968*
- *National Parks and Public Reserves (Amendment No. 2) Law, 5728-1968*
- *Plants and Plant Products (Control of Exports) (Amendment No. 2) Law, 5728-1968*
- *Nationality (Amendment No. 2) Law, 5728-1968*
- *Legal and Administrative Matters (Regulation) Law, 5728-1968*
- *Emergency Regulations (Areas Held by the Defence Army of Israel - Criminal Jurisdiction and Legal Assistance) (Extension of Validity) Law, 5729-1968*
- *Law and Administration Ordinance (Amendment No. 12) Law, 5729-1969*
- *Acquisition of Land for Public Purposes (Amendment of Provisions) (Amendment) Law, 5729-1969*
- *Property Tax and Compensation Fund (Amendment No. 5) Law, 5729-1969*
- *Planning and Building (Amendment No. 3) Law, 5729-1969*
- *Land (Settlement of Title) Ordinance (New Version), 5729-1969*
- *Land Law, 5729-1969*
- *Property Tax and Compensation Fund (Amendment No. 6) Law, 5730-1969*
- *Emergency Regulations (Security Zones)(Extension of Validity) Law, 5730-1970*
- *Emergency Regulations (Areas Held by the Defence Army of Israel - Criminal Jurisdiction and Legal Assistance) (Extension of Validity) Law, 5730-1970*
- *Property Tax and Compensation Fund (Amendment No. 5) (Amendment) Law, 5730-1970*
- *Law of Return (Amendment No. 2) Law, 5730-1970*
- *Plant Protection (Amendment No. 2) Law, 5730-1970*
- *Property Tax and Compensation Fund (Amendment No. 7) Law, 5730-1970*
- *Legal and Administrative Matters (Regulation) Law, 5730-1970*
- *Emergency Regulations (Areas Held by the Defence Army of Israel - Criminal Jurisdiction and Legal Assistance) (Extension of Validity) Law, 5731-1970*
- *Property Tax and Compensation Fund (Amendment No. 5) (Amendment No. 2) Law, 5731-1971*
- *Land Appreciation Tax (Amendment No. 4) Law, 5731-1971*
- *Nationality (Amendment No. 3) Law Courts (Amendment No. 4) Law, 5731-1971*
- *Movable Property Law, 5731-1971*
- *Water (Amendment No. 5) Law, 5732-1971*
- *Emergency Regulations (Areas Held by the Defence Army of Israel - Criminal Jurisdiction and Legal Assistance) (Extension of Validity) Law, 5732-1971*
- *Emergency Regulations (Security Zones)(Extension of Validity) Law, 5732-1971*
- *Antiquities Ordinance (Amendment No. 2) Law, 5732-1972*
- *Law and Administration Ordinance (Amendment No. 14) Law, 5732-1972*
- *Property Tax and Compensation Fund (Amendment No. 8) Law, 5732-1972*
- *Tenants' Protection Law (Consolidated Version) 5732-1972*

- *Land (Amendment No. 2) Law, 5733-1972*
- *Emergency Regulations (Areas Held by the Defence Army of Israel - Criminal Jurisdiction and Legal Assistance) (Extension of Validity) Law, 5733-1972*
- *State Property (Amendment No. 3) Law, 5733-1973*
- *Absentees' Property (Compensation) Law, 5733-1973*
- *Legal and Administrative Matters (Regulation) (Amendment) Law, 5733-1973*
- *Planning and Building (Amendment No. 4) Law, 5733-1973*
- *Bedouin Control Ordinance (Repeal) Law, 5733-1973 (Repeals Bedouin Control Ordinance of 1942)*
- *Fruit and Vegetable Products Manufacture and Export Boards Law, 5733-1973*
- *Fruit Production and Marketing Board Law, 5733-1973*
- *Emergency Regulations (Areas Held by the Defence Army of Israel - Criminal Jurisdiction and Legal Assistance) (Continuance in Force) Law, 5734-1974*
- *Property Tax and Compensation Fund (Amendment No. 9) Law, 5734-1974*
- *Property Tax and Compensation Fund (Amendment No. 8) (Amendment) Law, 5734-1974*
- *Military Cemeteries (Temporary Provisions) Law, 5734-1974*
- *Land (Amendment No. 3) Law, 5734-1974*
- *Land Appreciation Tax (Amendment No. 5) Law, 5735-1974*
- *Law and Administration Ordinance (Amendment No. 15) Law, 5735-1974*
- *Olim (Accommodation in Rented Dwellings) Law, 5735-1974*
- *National Parks and Nature Reserves (Amendment No. 3) Law, 5735-1974*
- *National Parks and Nature Reserves (Amendment No. 4) Law, 5735-1975*
- *Land Appreciation Tax (Amendment No. 6) Law, 5735-1975*
- *Land (Amendment No. 4) Law, 5735-1975*
- *Emergency Regulations (Areas Held by the Defence Army of Israel - Criminal Jurisdiction and Legal Assistance) (Amendment) Law, 5735-1975*
- *World Zionist Organisation-Jewish Agency for Israel (Status) (Amendment) Law, 5736-1975*
- *Vegetable Production and Marketing Board (Amendment No. 2) Law, 5736-1976*
- *Municipalities Ordinance (Amendment No. 19) Law, 5736-1976*
- *Sale (Apartments) (Assurance of Investment of Persons Acquiring Apartments) (Amendment) Law, 5736-1976*
- *Water (Amendment No. 6) Law, 5736-1976*
- *Municipalities Ordinance (Amendment No. 20) Law, 5736-1976*
- *Emergency Regulations (Areas Held by the Defence Army of Israel - Criminal Jurisdiction and Legal Assistance) (Continuance in Force) Law, 5736-1976*
- *Property Tax and Compensation Fund (Amendment No. 12) Law, 5736-1976*
- *Mikve Yisrael (Agricultural School) Law, 5736-1976*
- *Absentees' Property (Compensation) (Amendment) Law, 5736-1976*
- *Planning and Building (Amendment No. 6) Law, 5736-1976*
- *Planning and Building (Amendment No. 7) Law, 5736-1976*
- *Land Appreciation Tax (Transitional Provisions) Law, 5736-1976*
- *Planning and Building (Temporary Provisions) Law, 5737-1976*
- *Acquisition for Public Purposes (Amendment of Provisions) (Amendment No. 2) Law, 5737-1977*
- *Land (Amendment No. 5) Law, 5737-1977*
- *Land Appreciation Tax (Transitional Provisions) (Amendment and Extension of Validity) Law, 5737-1977*
- *Planning and Building (Amendment No. 8) Law, 5738-1977*
- *Emergency Regulations (Judea and Samaria, Gaza region, Golan Heights, Southern Sinai - Criminal Jurisdiction and Legal Assistance) (Extension of Validity) Law, 5738-1977 (note change in title from earlier versions of this law)*
- *Antiquities Law, 5738-1978*
- *Acquisition for Public Purposes (Amendment of Provisions) (Amendment No. 3) Law, 5738-1978*
- *Land (Amendment No. 6) Law, 5738-1978*
- *Planning and Building (Amendment No. 9) Law, 5738-1978*
- *Land Appreciation Tax (Transitional Provisions) (Extension of Validity) Law, 5738-1978*
- *Planning and Building (Amendment No. 10) Law, 5739-1978*
- *Land (Amendment No. 7) Law, 5739-1978*
- *Property Tax and Compensation Fund (Temporary Provisions) Law, 5739-1979*
- *Property Tax and Compensation Fund (Amendment No. 14) Law, 5739-1979*
- *Land Transactions (Observance of Sabbatical Year) Law, 5739-1979*
- *Nationality (Amendment No. 4) Law, 5740-1980*

- *Negev Land Acquisition (Peace Treaty with Egypt) Law, 5740-1980*
- *Public Housing Projects (Registration) (Temporary Provision) (Amendment No. 2) Law, 5742-1981*
- *Planning and Building (Amendment No. 12) Law, 5741-1980*
- *Public Land (Removal of Squatters) Law, 5741-1981*
- *Acquisition for Public Purposes (Amendment of Provisions) (Amendment No. 4) Law, 5741-1981*
- *Planning and Building (Amendment No. 18) Law, 5741-1981*
- *Emergency Regulations (Judea and Samaria, Gaza Region, Golan Heights, Sinai and Southern Sinai - Criminal Jurisdiction and Legal Assistance) (Amendment and Extension of Validity) Law, 5742-1981*
- *Absentees' Property (Compensation) (Amendment No. 2) Law, 5742-1982*
- *Emergency Regulations (Judea and Samaria, Gaza Region, Golan Heights, Sinai and Southern Sinai - Criminal Jurisdiction and Legal Assistance) (Amendment and Extension of Validity) Law, 5743-1983 (December 31, 1983)**
- *Acquisition for Public Purposes (Amendment of Provisions) (Amendment No. 4) (Amendment) Law, 5742-1982*
- *Planning and Building (Amendment No. 20) law, 5743-1982*
- *Acquisition for Public Purposes (Amendment of Provisions) (Amendment No. 5) (Amendment) Law, 5744-1984*
- *Land (Amendment No. 9) Law, 5744-1984*
- *Land Appreciation Tax (Amendment No. 15) Law, 5744-1984*
- *Entry into Israel (Amendment No. 4) Law, 5745-1985*
- *Absentees' Property (Compensation) (Amendment No. 3) Law, 5746-1985*
- *Acquisition for Public Purposes (Amendment No. 6) Law, 5746-1985*
- *Emergency Regulations (Judea and Samaria and Gaza Region - Criminal Jurisdiction and Legal Assistance) (Amendment and Extension of Validity) Law, 5746-1985*
- *Planning and Building (Amendment No. 22) Law, 5746-1986*
- *Planning and Building (Amendment No. 23) Law, 5746-1986*
- *Planning and Building (Amendment No. 24) Law, 5746-1986*
- *Planning and Building (Amendment No. 25) Law, 5746-1987*
- *Local Authorities (Temporary Use of Vacant Lots) Law, 5747-1987*
- *Emergency Regulations (Judea and Samaria and Gaza Zone - Criminal Jurisdiction and Legal Assistance) (Amendment and Extension of Validity) Law, 5748-1987*
- *Galilee Law, 5748-1987*
- *Nationality (Amendment No. 5) Law, 5748-1987*
- *Lands Law (Amendment No. 10) Law, 5748-1987*
- *Lands Law (Amendment No. 11) Law, 5748-1988*
- *Acquisition for Public Purposes (Amendment of Provisions) (Amendment No. 7) Law, 5748-1988*
- *Agricultural Control Authority Law, 5748-1988*
- *Negev (Amendment No. 2) Law, 5748-1988*
- *Development Towns and Development Zones Law, 5748-1988*
- *Development Towns and Development Zones (Amendment) Law, 5748-1988*
- *Jerusalem Development Authority Law, 5748-1988*
- *National Parks, Nature Reserves and National Sites (Amendment No. 7) Law, 5748-1988*
- *Planning and Building (Amendment No. 26) Law, 5748-1988*
- *Planning and Building (Amendment No. 26) (Amendment) Law, 5749-1989*
- *Planning and Building (Amendment No. 27) Law, 5749-1989*
- *Property Tax and Compensation Fund (Amendment No. 20) Law, 5749-1989*
- *Property Tax and Compensation Fund (Amendment No. 21) Law, 5749-1989*

According to some sources, this law was enacted in 1984.

Sources: *Laws of the State of Israel*. Jerusalem: Published by the Government Printer. (Vols. 1-43). (Vol. 15 n/a); *Laws of the State of Israel (New Version)*, Vol. 1 (up to Dec 31, 1967) and Vol. 2 (up to 31 Dec. 1973). Jerusalem: Published by the Government Printer, Sivan Press Ltd. See also Joseph Badi (ed.), *Fundamental Laws of the State of Israel*. New York: Twayne Publishers, 1961. List does not include Military Orders issues for the Occupied Territories. For update on Israeli laws since 1989, see Zvi H. Preisler (ed.). *Legislation in the State of Israel*. 5 vols. Jerusalem: Ketuvim Publishers, 2001 (Hebrew).

Appendix 3

3-a International laws, conventions and treaties (selected)

Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War, Geneva, 12 Aug. 1949 (excerpts)

Art. 1. The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances.

Art. 6. The present Convention shall apply from the outset of any conflict or occupation mentioned in Article 2.

In the territory of Parties to the conflict, the application of the present Convention shall cease on the general close of military operations.

In the case of occupied territory, the application of the present Convention shall cease one year after the general close of military operations; however, the Occupying Power shall be bound, for the duration of the occupation, to the extent that such Power exercises the functions of government in such territory, by the provisions of the following Articles of the present Convention: 1 to 12, 27, 29 to 34, 47, 49, 51, 52, 53, 59, 61 to 77, 143.

Protected persons whose release, repatriation or re-establishment may take place after such dates shall meanwhile continue to benefit by the present Convention.

Art. 26. Each Party to the conflict shall facilitate enquiries made by members of families dispersed owing to the war, with the object of renewing contact with one another and of meeting, if possible. It shall encourage, in particular, the work of organizations engaged on this task provided they are acceptable to it and conform to its security regulations.

Art. 27. Protected persons are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity.

Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault.

Without prejudice to the provisions relating to their state of health, age and sex, all protected persons shall be treated with the same consideration by the Party to the conflict in whose power they are, without any adverse distinction based, in particular, on race, religion or political opinion.

However, the Parties to the conflict may take such measures of control and security in regard to protected persons as may be necessary as a result of the war.

Art. 33. No protected person may be punished for an offence he or she has not personally committed.

Collective penalties and likewise all measures of intimidation or of terrorism are prohibited.

Pillage is prohibited.

Reprisals against protected persons and their property are prohibited.

Art. 47. Protected persons who are in occupied territory shall not be deprived, in any case or in any manner whatsoever, of the benefits of the present Convention by any change introduced, as the result of the occupation of a territory, into the institutions or government of the said territory, nor by any agreement concluded between the authorities of the occupied territories and the Occupying Power, nor by any annexation by the latter of the whole or part of the occupied territory.

Art. 49. Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive.

Nevertheless, the Occupying Power may undertake total or partial evacuation of a given area if the security of the population or imperative military reasons so demand. Such evacuations may not involve the displacement of protected persons outside the bounds of the occupied territory except when for material reasons it is impossible to avoid such displacement. Persons thus evacuated shall be transferred back to their homes as soon as hostilities in the area in question have ceased.

The Occupying Power undertaking such transfers or evacuations shall ensure, to the greatest practicable extent, that proper accommodation is provided to receive the protected persons, that the removals are effected in satisfactory conditions of hygiene, health, safety and nutrition, and that members of the same family are not separated.

The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies.

Art. 53. Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations.

Art. 64. The penal laws of the occupied territory shall remain in force, with the exception that they may be repealed or suspended by the Occupying Power in cases where they constitute a threat to its security or an obstacle to the application of the present Convention.

Subject to the latter consideration and to the necessity for ensuring the effective administration of justice, the tribunals of the occupied territory shall continue to function in respect of all offences covered by the said laws.

The Occupying Power may, however, subject the population of the occupied territory to provisions which are essential to enable the Occupying Power to fulfil its obligations under the present Convention, to maintain the orderly government of the territory, and to ensure the security of the Occupying Power, of the members and property of the occupying forces or administration, and likewise of the establishments and lines of communication used by them.

Art. 147. Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the present Convention: wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health, unlawful deportation or transfer or unlawful confinement of a protected person, compelling a protected person to serve in the forces of a hostile Power, or wilfully depriving a protected person of the rights of fair and regular trial prescribed in the present Convention, taking of hostages and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.

Art. 154. In the relations between the Powers who are bound by the Hague Conventions respecting the Laws and Customs of War on Land, whether that of 29 July 1899, or that of 18 October 1907, and who are parties to the present Convention, this last Convention shall be supplementary to Sections II and III of the Regulations annexed to the above-mentioned Conventions of The Hague.

Note: The full text can be found at <http://www.icrc.org>

Protocol Additional to the Geneva Conventions of 12 Aug. 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977 (excerpts)

Art 54 (2). It is prohibited to attack, destroy, remove or render useless objects indispensable to the survival of the civilian population, such as food-stuffs, agricultural areas for the production of food-stuffs, crops, livestock, drinking water installations and supplies and irrigation works, for the specific purpose of denying them for their sustenance value to the civilian population or to the adverse Party, whatever the motive, whether in order to starve out civilians, to cause them to move away, or for any other motive.

Note: The full text can be found at:

<http://www.icrc.org/ihl.nsf/7c4d08d9b287a42141256739003e636b/f6c8b9fee14a77fdc125641e0052b079?OpenDocument>

Convention (IV) respecting the Laws and Customs of War on Land, and its annex: Regulations concerning the Laws and Customs of War on Land. The Hague, 18 Oct. 1907 (excerpts)

Art. 23. In addition to the prohibitions provided by special Conventions, it is especially forbidden:

(g) To destroy or seize the enemy's property, unless such destruction or seizure be imperatively demanded by the necessities of war;

Art. 43. The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country.

Art. 45. It is forbidden to compel the inhabitants of occupied territory to swear allegiance to the hostile Power.

Art. 46. Family honour and rights, the lives of persons, and private property, as well as religious convictions and practice, must be respected.

Private property cannot be confiscated.

Art. 52. Requisitions in kind and services shall not be demanded from municipalities or inhabitants except for the needs of the army of occupation. They shall be in proportion to the resources of the country, and of such a nature as not to involve the inhabitants in the obligation of taking part in military operations against their own country.

Such requisitions and services shall only be demanded on the authority of the commander in the locality occupied.

Contributions in kind shall as far as possible be paid for in cash; if not, a receipt shall be given and the payment of the amount due shall be made as soon as possible.

Art. 55. The occupying State shall be regarded only as administrator and usufructuary of public buildings, real estate, forests, and agricultural estates belonging to the hostile State, and situated in the occupied country. It must safeguard the capital of these properties, and administer them in accordance with the rules of usufruct.

Art 56. The property of municipalities, that of institutions dedicated to religion, charity and education, the arts and sciences, even when State property, shall be treated as private property.

All seizure of, destruction or wilful damage done to institutions of this character, historic monuments, works of art and science, is forbidden, and should be made the subject of legal proceedings.

Art. 53. An army of occupation can only take possession of cash, funds, and realizable securities which are strictly the property of the State, depots of arms, means of transport, stores and supplies, and, generally, all movable property belonging to the State which may be used for military operations.

All appliances, whether on land, at sea, or in the air, adapted for the transmission of news, or for the transport of persons or things, exclusive of cases governed by naval law, depots of arms, and, generally, all kinds of munitions of war, may be seized, even if they belong to private individuals, but must be restored and compensation fixed when peace is made.

Note: The full text can be found at:

<http://www.helpicrc.org/ihl.nsf/385ec082b509e76c41256739003e636d/1d1726425f6955aec125641e0038bfd6?OpenDocument>

Universal Declaration of Human Rights

Adopted and proclaimed by General Assembly resolution 217 A (III) of 10 Dec. 1948 (excerpts)

Art. 2. 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. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Art. 13:

1. Everyone has the right to freedom of movement and residence within the borders of each state.
2. Everyone has the right to leave any country, including his own, and to return to his country.

Art. 17:

1. Everyone has the right to own property alone as well as in association with others.
2. No one shall be arbitrarily deprived of his property.

Art. 25. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

Note: The full text can be found at: <http://www.un.org/Overview/rights.html>

International Covenant on Economic, Social and Cultural Rights

Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 Dec. 1966

Entered into force 3 Jan. 1976, in accordance with Art. 27 (excerpts)

Art. 1:

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

Art. 11:

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

Note: Ratified by Israel. The full text can be found at: http://www.unhchr.ch/html/menu3/b/a_ceschr.htm

International Covenant on Civil and Political Rights

Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 Dec. 1966

Entered into force 23 Mar. 1976, in accordance with Art. 49 (excerpts)

Art. 12:

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.
2. Everyone shall be free to leave any country, including his own.
3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.
4. No one shall be arbitrarily deprived of the right to enter his own country.

Art. 13. An alien lawfully in the territory of a State Party to the present Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority.

Art. 17:

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.
2. Everyone has the right to the protection of the law against such interference or attacks.

Art. 26. All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Note: Ratified by Israel. The full text can be found at: http://www.unhcr.ch/html/menu3/b/a_ccpr.htm

International Convention on the Elimination of All Forms of Racial Discrimination

Adopted and opened for signature and ratification by General Assembly resolution 2106 (XX) of 21 Dec. 1965

Entered into force 4 Jan. 1969, in accordance with Art. 19 (excerpts)

Art. 2:

1. States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, to this end:
 - (a) Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation;
 - (b) Each State Party undertakes not to sponsor, defend or support racial discrimination by any persons or organizations;
 - (c) Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists;
 - (d) Each State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization;
 - (e) Each State Party undertakes to encourage, where appropriate, integrationist multiracial organizations and movements and other means of eliminating barriers between races, and to discourage anything which tends to strengthen racial division.
2. States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved.

Art. 4. States Parties condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to,

or acts of, such discrimination and, to this end, with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of this Convention, inter alia:

- (a) Shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof;
- (b) Shall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law;
- (c) Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.

Art. 5. In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:
General comment on its implementation

- (a) The right to equal treatment before the tribunals and all other organs administering justice;
- (b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution;
- (c) Political rights, in particular the right to participate in elections-to vote and to stand for election-on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service;
- (d) Other civil rights, in particular:
 - (i) The right to freedom of movement and residence within the border of the State;
 - (ii) The right to leave any country, including one's own, and to return to one's country;
 - (iii) The right to nationality;
 - (iv) The right to marriage and choice of spouse;
 - (v) The right to own property alone as well as in association with others;
 - (vi) The right to inherit;
 - (vii) The right to freedom of thought, conscience and religion;
 - (viii) The right to freedom of opinion and expression;
 - (ix) The right to freedom of peaceful assembly and association;
- (e) Economic, social and cultural rights, in particular:
 - (i) The rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration;
 - (ii) The right to form and join trade unions;
 - (iii) The right to housing;
 - (iv) The right to public health, medical care, social security and social services;
 - (v) The right to education and training;
 - (vi) The right to equal participation in cultural activities;
- (f) The right of access to any place or service intended for use by the general public, such as transport hotels, restaurants, cafes, theatres and parks.

Note: Ratified by Israel. For the full text, go to: http://www.unhchr.ch/html/menu3/b/d_icerd.htm

International Convention on the Suppression and Punishment of the Crime of Apartheid

Adopted and opened for signature, ratification by General Assembly resolution 3068 (XXVIII) of 30 Nov. 1973

Entered into force 18 July 1976, in accordance with Art. XV (excerpts)

Art. I:

1. The States Parties to the present Convention declare that apartheid is a crime against humanity and that inhuman acts resulting from the policies and practices of apartheid and similar policies and practices of racial segregation and discrimination, as defined in article II of the Convention, are crimes violating the principles of international law, in particular the purposes and principles of the Charter of the United Nations, and constituting a serious threat to international peace and security.
2. The States Parties to the present Convention declare criminal those organizations, institutions and individuals committing the crime of apartheid.

Art. II. For the purpose of the present Convention, the term "the crime of apartheid", which shall include similar policies and practices of racial segregation and discrimination as practised in southern Africa, shall apply to the following 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:

- (a) Denial to a member or members of a racial group or groups of the right to life and liberty of person:
 - (i) By murder of members of a racial group or groups;
 - (ii) By the infliction upon the members of a racial group or groups of serious bodily or mental harm, by the infringement of their freedom or dignity, or by subjecting them to torture or to cruel, inhuman or degrading treatment or punishment;
 - (iii) By arbitrary arrest and illegal imprisonment of the members of a racial group or groups;
- (b) Deliberate imposition on a racial group or groups of living conditions calculated to cause its or their physical destruction in whole or in part;
- (c) Any legislative measures and other 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 work, the right to form recognized trade unions, the right to education, the right to leave and to return to their country, the right to a nationality, the right to freedom of movement and residence, the right to freedom of opinion and expression, and the right to freedom of peaceful assembly and association;
- (d) Any measures including legislative measures, designed to divide the population along racial lines by the creation of separate reserves and ghettos for the members of a racial group or groups, the prohibition of mixed marriages among members of various racial groups, the expropriation of landed property belonging to a racial group or groups or to members thereof;
- (e) Exploitation of the labour of the members of a racial group or groups, in particular by submitting them to forced labour;
- (f) Persecution of organizations and persons, by depriving them of fundamental rights and freedoms, because they oppose apartheid.

Art. III. International criminal responsibility shall apply, irrespective of the motive involved, to individuals, members of organizations and institutions and representatives of the State, whether residing in the territory of the State in which the acts are perpetrated or in some other State, whenever they:

- (a) Commit, participate in, directly incite or conspire in the commission of the acts mentioned in article II of the present Convention;
- (b) Directly abet, encourage or co-operate in the commission of the crime of apartheid.

Art. V. Persons charged with the acts enumerated in article II of the present Convention may be tried by a competent tribunal of any State Party to the Convention which may acquire jurisdiction over the person of the accused or by an international penal tribunal having jurisdiction with respect to those States Parties which shall have accepted its jurisdiction.

Art. VI. The States Parties to the present Convention undertake to accept and carry out in accordance with the Charter of the United Nations the decisions taken by the Security Council aimed at the prevention, suppression and punishment of the crime of apartheid, and to co-operate in the implementation of decisions adopted by other competent organs of the United Nations with a view to achieving the purposes of the Convention.

Art. X:

1. The States Parties to the present Convention empower the Commission on Human Rights:
 - (a) To request United Nations organs, when transmitting copies of petitions under article 15 of the International Convention on the Elimination of All Forms of Racial Discrimination, to draw its attention to complaints concerning acts which are enumerated in article II of the present Convention;
 - (b) To prepare, on the basis of reports from competent organs of the United Nations and periodic reports from States Parties to the present Convention, a list of individuals, organizations, institutions and representatives of States which are alleged to be responsible for the crimes enumerated in article II of the Convention, as well as those against whom legal proceedings have been undertaken by States Parties to the Convention;
 - (c) To request information from the competent United Nations organs concerning measures taken by the authorities responsible for the administration of Trust and Non-Self-Governing Territories, and all other Territories to which General Assembly resolution 1514 (XV) of 14 December 1960 applies, with regard to such individuals alleged to be responsible for crimes under article II of the Convention who are believed to be under their territorial and administrative jurisdiction.
2. Pending the achievement of the objectives of the Declaration on the Granting of Independence to Colonial Countries and Peoples, contained in General Assembly resolution 1514 (XV), the provisions of the present Convention shall in no way limit the right of petition granted to those peoples by other international instruments or by the United Nations and its specialized agencies.

Note: For the full text including obligations of States Parties, go to: <http://www.unhchr.ch/html/menu3/b/11.htm>

UN Committee on Economic, Social and Cultural Rights: Israel. 31/08/2001. E/C.12/1/Add. 69 (Concluding Observations/Comments)

Consideration of reports submitted by States Parties under Arts. 16 and 17 of the Covenant

Concluding observations of the Committee on Economic, Social and Cultural Rights (excerpts)

1. At its 39th meeting, held on 17 August 2001, the Committee considered the additional information (E/1989/5/Add. 14) submitted by the State party in response to the request made by the Committee in its concluding observations (E/C.12/1/Add. 27, para. 32) adopted at its nineteenth session in 1998 with respect to the initial report of Israel on the implementation of the Covenant (E/1990/5/Add. 39) and adopted, at its 47th meeting, held on 23 August 2001, the following concluding observations.
2. In paragraph 32 of its concluding observations on the initial report of Israel, the Committee requested the State party "to provide additional information on the realization of economic, social and cultural rights in the occupied territories, in order to complete the State party's initial report and thereby ensure full compliance with its reporting obligations". The Committee requested that the additional information be submitted in time for its twenty-fourth session in November/December 2000.

3. In a note verbale dated 3 November 2000, the Permanent Mission of Israel to the United Nations Office at Geneva informed the Committee that the additional information would be included in the State party's second periodic report, which the State party planned to submit no later than March 2001.
4. In a letter dated 1 December 2000 to the Permanent Representative of Israel (E/2001/22-E/C.12/2000/21, annex X), the Chairperson of the Committee reminded the State party that the Committee had called for the additional information to be submitted in time for the twenty-fourth session and emphasized that some of the additional information concerning the occupied territories had been requested "in order to complete the State party's initial report and thereby ensure full compliance with its reporting obligations". Since the additional information formed part of the State party's initial report, it should be submitted, and would be considered, separately from the State party's second periodic report.
5. The Chairperson urged the State party to submit by 1 March 2001 up-to-date information on the realization of economic, social and cultural rights in the occupied territories, giving particular attention to the issues that were identified in the concluding observations, as well as those mentioned in the letter. The Committee scheduled its consideration of the additional information for the afternoon of 4 May 2001 and invited the State party to participate in the discussion.
6. The additional information was received on 20 April 2001, too late for it to be translated into the working languages of the Committee, as required by rule 24 of its rules of procedure, for the twenty-fifth session. Consequently, the consideration of the additional information had to be postponed again to the Committee's extraordinary session in August 2001. The State party was informed of the deferral in a letter dated 11 May 2001.
7. At its twenty-fifth session, the Committee invoked rule 64 of its rules of procedure, which provides that the Committee may make suggestions and recommendations of a general nature on the basis of its consideration of reports submitted by States parties and reports submitted by specialized agencies, in order to assist the Economic and Social Council to take action in pursuance of articles 21 and 22 of the Covenant. Accordingly, the Chairperson addressed a letter (E/2001/77) dated 11 May 2001 to the President of the Council, enclosing a copy of a letter of the same date addressed to the State party citing alleged violations of the Covenant which had been brought to the Committee's attention.
8. In a note verbale dated 14 August 2001, the Permanent Mission of Israel to the United Nations Office at Geneva informed the Committee that owing to complications concerning preparations for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance scheduled to take place in Durban, South Africa, the delegation of the State party would be unable to travel to Geneva to attend the Committee's extraordinary session. The State party also informed the Committee that it had submitted its second periodic report and requested that the additional information previously submitted to the Committee be considered together with the second periodic report at a future session of the Committee.
9. At its 39th meeting, on 17 August 2001, a representative of the Government of Israel read a statement before the Committee, but declined to participate in the consideration of the additional information that was scheduled for that meeting. The Committee therefore decided to proceed with the consideration of the additional information in accordance with the decision taken at its twenty-fifth session.
10. The Committee noted that the additional information submitted by the State party did not include information on the realization of economic, social and cultural rights in the occupied territories, except in relation to East Jerusalem. In the absence of such information in relation to the other occupied territories, and in accordance with its procedure concerning reports that had not been submitted or were overdue, which the Committee had begun to apply at its ninth session, the Committee proceeded to discuss the situation in the occupied territories. This would complete the consideration of the State party's initial report.
11. The Committee deplores the State party's refusal to report on the occupied territories and the State party's position that the Covenant does not apply to "areas that are not subject to its sovereign territory and jurisdiction". The Committee's views on this issue have already been firmly expressed in its previous concluding observations (E/C.12/1/Add. 27). The Committee notes the statement of the State party in paragraph 5 of the additional information it submitted to the Committee, that powers and responsibilities "continue to be exercised by Israel in the West Bank and Gaza Strip" according to agreements reached with the Palestinians.

12. The Committee rejects the State party's assertion regarding the distinction between human rights and humanitarian law under international law to support its argument that the Committee's mandate "cannot relate to events in the Gaza Strip and West Bank". The Committee reminds the State party that even during armed conflict, fundamental human rights must be respected and that basic economic, social and cultural rights as part of the minimum standards of human rights are guaranteed under customary international law and are also prescribed by international humanitarian law.
13. The Committee expresses its deep concern about the State party's continuing gross violations of economic, social and cultural rights in the occupied territories, especially the severe measures adopted by the State party to restrict the movement of civilians between points within and outside the occupied territories, severing their access to food, water, health care, education and work. The Committee is particularly concerned that on frequent occasions, the State party's closure policy has prevented civilians from reaching medical services and that emergency situations have ended at times in death at checkpoints.

The Committee is alarmed over reports that the Israeli security forces have turned back supply missions of the International Committee of the Red Cross and the United Nations Relief and Works Agency for Palestine Refugees in the Near East attempting to deliver food, water and medical relief to affected areas.

14. The Committee continues to be concerned that the State party's Law of Return denies indigenous Palestinian refugees the right to return to their homes and properties.
15. The Committee urges the State party to exercise its powers and responsibilities to put an end to the violence, the loss of human lives and the restrictions imposed on the movement of civilians between points within and outside the occupied territories. In this regard, the Committee urges the State party to implement without delay its obligations under the Covenant and to desist from decisions and measures resulting in violations of the economic, social and cultural rights of the population living in the occupied territories. The Committee expresses its firm conviction that the implementation of the International Covenant on Economic, Social and Cultural Rights can play a vital role in procuring a lasting peace in Israel and Palestine.
16. The Committee reiterates its request that the State party provide information on the realization of economic, social and cultural rights in all occupied territories. This information should be submitted in time for it to be considered together with the State party's second periodic report, which is tentatively scheduled for the thirtieth session of the Committee in April/May 2003. The rest of the information already submitted will be considered together with the second periodic report.

Note: The full text can be found at: [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/E.C.12.1.ADD.69.En?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/E.C.12.1.ADD.69.En?Opendocument)

United Nations Committee on Economic, Social and Cultural Rights: Israel. 04/12/98. E/C.12/1/Add. 27 (Concluding Observations/ Comments) (excerpts)

Land and people

8. The Committee notes with concern that the Government's written and oral reports included statistics indicating the enjoyment of the rights enshrined in the Covenant by Israeli settlers in the occupied territories but that the Palestinian population within the same jurisdictional areas were excluded from both the report and the protection of the Covenant. The Committee is of the view that the State's obligations under the Covenant apply to all territories and populations under its effective control. The Committee therefore regrets that the State party was not prepared to provide adequate information in relation to the occupied territories.

Discrimination

10. The Committee expresses concern that excessive emphasis upon the State as a "Jewish State" encourages discrimination and accords a second-class status to its non-Jewish citizens. The Committee notes with concern that the Government of Israel does not accord equal rights to its Arab citizens, although they comprise over 19 per cent of the total population. This discriminatory attitude is apparent in the lower standard of living of Israeli Arabs as a result, inter alia, of lack of access to housing, water, electricity and health care and their lower level of education. The Committee also notes with concern that despite the fact that the Arabic language has official status in law, it is not given equal importance in practice.

11. The Committee notes with grave concern that the Status Law of 1952 authorizes the World Zionist Organization/ Jewish Agency and its subsidiaries, including the Jewish National Fund, to control most of the land in Israel, since these institutions are chartered to benefit Jews exclusively. Despite the fact that the institutions are chartered under private law, the State of Israel nevertheless has a decisive influence on their policies and thus remains responsible for their activities. A State party cannot divest itself of its obligations under the Covenant by privatizing governmental functions. The Committee takes the view that large-scale and systematic confiscation of Palestinian land and property by the State and the transfer of that property to these agencies constitute an institutionalized form of discrimination because these agencies by definition would deny the use of these properties to non-Jews. Thus, these practices constitute a breach of Israel's obligations under the Covenant.
12. The Committee notes with deep concern the situation of the Jahalin Bedouin families who were forcibly evicted from their ancestral lands to make way for the expansion of the Ma'aleh Adumim and Kedar settlements. The Committee deplores the manner in which the Government of Israel has housed these families – in steel container vans in a garbage dump in Abu Dis in subhuman living conditions. The Committee regrets that instead of providing assurances that this matter will be resolved, the State party has insisted that it can only be solved through litigation.
13. The Committee notes with concern that the Law of Return, which allows any Jew from anywhere in the world to immigrate and thereby virtually automatically enjoy residence and obtain citizenship in Israel, discriminates against Palestinians in the diaspora upon whom the Government of Israel has imposed restrictive requirements which make it almost impossible to return to their land of birth.

Closure

17. The Committee regrets that the Government of Israel has maintained “general closures” continuously since 1993, thereby restricting and controlling the movement of people and goods between Israel and the West Bank and the Gaza Strip, between Jerusalem and the West Bank and between the West Bank and the Gaza Strip. The Committee notes with concern that these restrictions apply only to Palestinians and not to Jewish Israeli citizens. The Committee is of the view that closures have cut off Palestinians from their own land and resources, resulting in widespread violations of their economic, social and cultural rights, including in particular those contained in article 1 (2) of the Covenant.
18. The Committee notes with grave concern the severe consequences of closure on the Palestinian population. Closures have prevented access to health care, first and foremost during medical emergencies, which at times have tragically ended in death at checkpoints and elsewhere. Workers from the occupied territories are prevented from reaching their workplaces, depriving them of income and livelihood and the enjoyment of their rights under the Covenant. Poverty and lack of food aggravated by closures particularly affect children, pregnant women and the elderly who are most vulnerable to malnutrition.
19. The Committee is concerned at the forcible separation of Palestinian families because of closures and the refusal of Israeli authorities to allow students in Gaza to return to their universities in the West Bank.

Permanent residency law

20. The Committee expresses its concern at the effect of the directive of the Ministry of the Interior, according to which Palestinians may lose their right to live in the city if they cannot prove that East Jerusalem has been their “centre of life” for the past seven years. The Committee also regrets a serious lack of transparency in the application of the directive, as indicated by numerous reports. The Committee notes with concern that this policy is being applied retroactively both to Palestinians who live abroad and to those who live in the West Bank or in nearby Jerusalem suburbs, but not to Israeli Jews or to foreign Jews who are permanent residents of East Jerusalem. This system has resulted in, inter alia, the separation of Arab families and the denial of their right to social services and health care, including maternity care for Arab women, which are privileges linked to residency status in Jerusalem. The Committee is deeply concerned that the implementation of a quota system for the reunification of Palestinian families affected by this residency law involves long delays and does not meet the needs of all divided families. Similarly, the granting of residency status is often a long process and, as a result, many children are separated from at least one of their parents and spouses are not able to live together.

Land use and housing

21. The Committee is deeply concerned about the adverse impact of the growing exclusion faced by Palestinians in East Jerusalem from the enjoyment of their economic, social and cultural rights. The Committee is also concerned over

the continued Israeli policies of building settlements to expand the boundaries of East Jerusalem and of transferring Jewish residents into East Jerusalem with the result that they now outnumber the Palestinian residents.

22. The Committee deplores the continuing practices of the Government of Israel of home demolitions, land confiscations and restrictions on family reunification and residency rights, and its adoption of policies which result in substandard housing and living conditions, including extreme overcrowding and lack of services, of Palestinians in East Jerusalem, in particular in the old city.
23. The Committee notes with concern the situation of Arab neighbourhoods in mixed cities such as Jaffa and Lod which have deteriorated into virtual slums because of Israel's excessively restrictive system of granting government permits without which it is illegal to undertake any kind of structural repair or renovation.
24. The Committee notes that despite State party's obligation under article 11 of the Covenant, the Government of Israel continues to expropriate Palestinian lands and resources for the expansion of Israeli settlements. Thousands of dunams (hectares) of land in the West Bank have recently been confiscated to build 20 new bypass roads which cut West Bank towns off from outlying villages and farmlands. The consequence - if not the motivation - is the fragmentation and isolation of the Palestinian communities and facilitation of the expansion of illegal settlements. The Committee also notes with concern that while the Government annually diverts millions of cubic metres of water from the West Bank's Eastern Aquifer Basin, the annual per capita consumption allocation for Palestinians is only 125 cubic metres while settlers are allocated 1,000 cubic metres per capita.
25. The Committee expresses its concern over the plight of an estimated 200,000 uprooted "present absentees", Palestinian Arab citizens of Israel most of whom were forced to leave their villages during the 1948 war on the understanding that they would be allowed by the Government of Israel to return after the war. Although a few have been given back their property, the vast majority continue to be displaced and dispossessed within the State because their lands were confiscated and not returned to them.

Unrecognized villages

26. The Committee notes with deep concern that a significant proportion of Palestinian Arab citizens of Israel continue to live in unrecognized villages without access to water, electricity, sanitation and roads. Such an existence has caused extreme difficulties for the villagers in regard to their access to health care, education and employment opportunities. In addition, these villagers are continuously threatened with demolition of their home and confiscation of their land. The Committee regrets the inordinate delay in the provision of essential services to even the few villages that have been recognized. In this connection, the Committee takes note that while Jewish settlements are constructed on a regular basis, no new Arab villages have been built in the Galilee.
27. The Committee regrets that the Regional Master Plan for the Northern District of Israel and the Plan for the Negev have projected a future where there is little place for Arab citizens of Israel whose needs arising from natural demographic growth are largely ignored.
28. The Committee expresses its grave concern about the situation of the Bedouin Palestinians settled in Israel. The number of Bedouins living below the poverty line, their living and housing conditions, their levels of malnutrition, unemployment and infant mortality are all significantly higher than the national averages. They have no access to water, electricity and sanitation and are subjected on a regular basis to land confiscations, house demolitions, fines for building "illegally", destruction of agricultural fields and trees, and systematic harassment and persecution by the Green Patrol. The Committee notes in particular that the Government's policy of settling Bedouins in seven "townships" has caused high levels of unemployment and loss of livelihood.

Note: The full text can be found at: [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/E.C.12.1.Add.27.En?OpenDocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/E.C.12.1.Add.27.En?OpenDocument)

3-b UN Security Council resolutions (selected)

Note: Below is a list and summary of key UN Security Council resolutions relating to the Israeli/Palestinian Conflict (1946-2004). Summaries are provided for key resolutions on Jerusalem, land and settlements, and the applicability of the Fourth Geneva Convention. Omitted are resolutions pertaining to Israel's invasions of Lebanon, attacks on Jordan and other resolutions on the general Israeli/Arab conflict. Some early resolutions concerning the Palestine question are also omitted. For the complete text of UN Security Council resolutions pertaining to the Question of Palestine, information on voting records, as well as information on vetoed draft resolutions; go to: <http://domino.un.org/UNISPAL.NSF/vCouncilRes>
For information on other SC resolutions relating to the Middle East conflict, go to: <http://www.un.org/documents/scres.htm>

19/05/2004	S/RES/1544: Demolition of homes in Rafah
19/11/2003	S/RES/1515: Mideast situation/Palestine question/Endorsement of Quartet Road Map
24/09/2002	S/RES/1435: Mideast situation/Palestine question - demand for cessation of violence reiterated/Israel to withdraw from Palestinian cities/PA to meet its expressed commitment
19/04/2002	S/RES/1405: Humanitarian situation in the OPT - Urgency of access of humanitarian organizations emphasized/Lift restrictions on Jenin/SecGen's fact-finding team on Jenin
04/04/2002	S/RES/1403: Mideast situation/Palestine question/Implement S/Res/1402/"Quartet" efforts
30/03/2002	S/RES/1402: Mideast situation/Palestine question - Cease-fire, withdrawal of Israeli troops from Palestinian cities called for
12/03/2002	S/RES/1397: Mideast situation/Palestine question - Two-States, Israel and Palestine, vision affirmed
07/10/2000	S/RES/1322: Palestine question - Excessive use of force against Palestinians condemned/Israel to abide by Fourth Geneva Convention/Inquiry efforts welcomed
28/09/1996	S/RES/1073: Situation in the OPT/Jerusalem tunnel - Calls for the protection of Palestinian civilians, resumption of peace negotiations
18/03/1994	S/RES/904: Hebron - Measures to guarantee protection/Efforts to invigorate peace process
18/12/1992	S/RES/799: Deportations - Occupying Power's deportation of some 400 Palestinian civilians condemned/call for immediate return
06/01/1992	S/RES/726: Strongly condemned deportations of Palestinians from "Palestinian Territories - including Jerusalem"
24/05/1991	S/RES/694: Deplored deportations of Palestinians/called to ensure safe and immediate return - Israel in violation of the Fourth Geneva Convention
20/12/1990	S/RES/681: Situation in the OPT/Israeli resumption of deportations deplored /Protection efforts/ Fourth Geneva Convention meeting, measures/UN monitoring
24/10/1990	S/RES/673: Situation in the OPT/Deplored Israel's refusal to comply fully with S/RES/672 (1990)
12/10/1990	S/RES/672: Jerusalem/Al-Haram al-Shareef incidents/Israel condemned for violence - SecGen to send mission
30/08/1989	S/RES/641: Deportations - Continuing deportation by the occupying Power of Palestinian civilians deplored
06/07/1989	S/RES/636: Deportations/deeply regretted - Israel to desist from deporting other Palestinian civilians
25/04/1988	S/RES/611: Mideast situation/Assassination of PLO official Khalil El-Wazir in Tunisia by Israel
14/01/1988	S/RES/608: Deportations/Deeply regretted that Israeli defied UN - Israel to rescind the order to deport Palestinian civilians
05/01/1988	S/RES/607: Deportations - Israel to refrain from deporting any Palestinian civilians/abide by Fourth Geneva Conventions
22/12/1987	S/RES/605: Situation in the OPT, OATs/Occupying Power's human rights violations strongly deplored/SecGen's recommendations on protection requested
08/12/1986	S/RES/592: Situation in the OPT, OATs/Strongly deplored killing of students at Bir Zeit University by Israeli troops - Israel to abide by Fourth Geneva Convention
04/10/1985	S/RES/573: Attack on PLO HQ - Armed aggression perpetrated by Israel condemned
19/12/1980	S/RES/484: Situation in the OPT/Expulsions - Imperative to readmit two Palestinian mayors
20/08/1980	S/RES/478: Jerusalem/ Censured Israel in strongest terms for its claim to Jerusalem in its Basic Law/refusal censured/ Measures null and void/ Obstruction to peace/Diplomatic missions to be withdrawn
30/06/1980	S/RES/476: Jerusalem/ /Concern over Knesset steps/ Israel's claims to Jerusalem are "null and void"/Necessity to end occupation/Israel to abide by SecCo resns
05/06/1980	S/RES/471: Situation in the OPT/Settlements/Expressed deep concern at Israel's failure to abide by Fourth Geneva Convention/ States not to provide settlements with assistance, need to end the prolonged occupation
20/05/1980	S/RES/469: Expulsions of Palestinian officials/Strongly deplored Israel's failure to observe Council's order not to deport Palestinians/rescind these illegal measures
08/05/1980	S/RES/468: Expulsions of Palestinian officials - Called on Israel to rescind these illegal measures and facilitate their return

01/03/1980 S/RES/465: Israeli settlements/Fourth Geneva Convention – Establishment of settlements to cease, no legal validity/asked member states not to assist Israel's settlement programme

20/07/1979 S/RES/452: Israeli settlements/Fourth Geneva Convention – Establishment of settlements to cease, including Jerusalem/no legal validity

22/03/1979 S/RES/446: Israeli settlements – Deplores failure of Israel to abide by SecCo resolutions 237 and 252/end Israeli settlements/not to transfer own population/ settlements serious obstruction to peace/called on Israel to abide by Geneva Conventions/Commission to be appointed

15/12/1973 S/RES/344: Mideast Peace Conference (Geneva) under S/RES/338

22/10/1973 S/RES/338: Mideast situation/Call for cease-fire/Implementation of S/RES/242 (1967) in all its parts/ Negotiations to start

25/09/1971 S/RES/298: Jerusalem/Deplored Israel's change of status/Israel to rescind measures which may change the status of the City/"every legislative and administrative act enacted by Israel to change the status of Jerusalem" is "absolutely invalid".

15/09/1969 S/RES/271: Holy places/Al-Aqsa arson damage – Condemns Israel's failure to comply with UN resolutions on Jerusalem/Israel scrupulously to observe the Geneva Conventions, military occupation law

03/07/1969 S/RES/267: Jerusalem – Censured Israel/Israel to rescind all measures taken which may tend to change the status of the City/Security Council to reconvene

27/09/1968 S/RES/259: Situation in the OATs/Safety, welfare and security of the inhabitants/Requests to dispatch a Special Representative/deplored Israel's refusal to accept UN mission to probe occupation

18/09/1968 S/RES/258: Mideast situation/Peaceful settlement/Res. 242/Special Representation

21/05/1968 S/RES/252: Jerusalem – Israel's legislative and administrative measures invalid/Israel to rescind all such measures/end expropriation of property

02/05/1968 S/RES/251: Deplored military parade in Jerusalem/declared invalid Israel's act to unify Jerusalem as its capital

27/04/1968 S/RES/250: Refrain from holding military parade in Jerusalem

24/03/1968 S/RES/248: Mideast situation – SecCo condemns Israel's military action on Karameh in Jordan

22/11/1967 S/RES/242: Mideast situation – Inadmissibility of acquisition of territory by war/ Withdrawal of Israel/Refugee problem/ Special Representative

14/06/1967 S/RES/237: Mideast situation/Displaced persons/Return of inhabitants displaced from homes in 1967 war/ Respect for inalienable human rights/Humanitarian questions

25/11/1966 S/RES/228: Mideast situation/Large-scale military action in Hebron area – censured Israel for attack on Samu'

11/04/1961 S/RES/162 – S/4788: Mideast situation/Jordan – urged Israel to comply with UN resolutions

22/01/1958 S/RES/127 – S/3942: Mideast situation/Jerusalem/Government House and no-man's zone in Jerusalem

29/03/1955 S/RES/106 – S/3378: Mideast situation/Egypt – condemned Israel for raid on Gaza

24/11/1953 S/RES/101 – S/3139/Rev.2: Situation in the OPT/Attack on Qibya – SecCo censures Israel's action, requests Jordan to prevent crossings

01/09/1951 S/RES/95 – S/2322: Hostilities/Suez Canal/Return of permanent peace in Palestine

18/05/1951 S/RES/93 – S/2157: Mideast situation/Return to permanent peace in Palestine – Israel, Syria to observe Armistice Agreement

17/11/1950 S/RES/89 – S/1907: Mideast situation/Expulsion of Palestine Arabs/Return of permanent peace in Palestine

11/08/1949 S/RES/73 – S/1376, II: Armistice Agreements/SecCo truce superseded/Acting Mediator relieved of resp./UNTSO

11/08/1949 S/RES/72 – S/1376, I: Tribute to Count Folke Bernadotte/Mediators/Armistice agreements

04/03/1949 S/RES/69 – S/1277: Israel membership in the UN

29/12/1948 S/RES/66 – S/1169: Situation in Palestine/Conciliation Commission to be established without delay

16/11/1948 S/RES/62 – S/1080: Situation in Palestine – Armistice to be established for permanent peace in Palestine

04/11/1948 S/RES/61 – S/1070: Situation in Palestine – SecCo calls for withdrawal of forces, truce lines/Appoints Committee of the Council

19/10/1948 S/RES/59 – S/1045: Situation in Palestine/Assassinations report, difficulties encountered in truce supervision

18/09/1948 S/RES/57: Peace-seeking mission in Palestine/Death of the UN Mediator in Palestine, Count Folke Bernadotte

19/08/1948 S/RES/56 – S/983: Situation in Palestine/Truce violations

15/07/1948 S/RES/54 – S/902: Situation in Palestine – SecCo determines that the situation is a threat to the peace

07/07/1948 S/RES/53 – S/875: Situation in Palestine/Prolongation of the truce

29/05/1948 S/RES/50 – S/801: Hostilities in Palestine/Military observers – SecCo calls for cease-fire orders for a period of four weeks, gives instructions to supervise observance (no vote on text as whole).

22/05/1948 S/RES/49 – S/773: Situation in Palestine/Cease-fire order/Truce Commission/Jerusalem

23/04/1948 S/RES/48 – S/727: Situation in Palestine – Establishment of Truce Commission

17/04/1948	S/RES/46 O S/723: Situation in Palestine - President's efforts to arrange a truce between Arabs and Jews in Palestine
01/04/1948	S/RES/44 - S/714, II: Situation in Palestine/SecCo consultations on A/RES/181 (II) - SecCo requests GA special session
01/04/1948	S/RES/43-S/714/I: Violence and disorder in Palestine/Calls to all armed groups to cease acts of violence
05/03/1948	S/RES/42 - S/691: Problem of security in Palestine - SecCo appeals to all to prevent or reduce disorders
29/08/1946	S/RES/8: Application for membership of Transjordan - SecCo debate, no recommendation to GA - Resolution

Selected UN Security Council resolutions on Jerusalem (summaries)

1. SC Resolution 49 (1948) of 22 May 1948

Adopted at the 302nd meeting by 8 votes to none, with 3 abstentions (Syria, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics).

Calls upon all Governments and authorities "to abstain from any hostile military action in Palestine and to that end to issue a cease-fire order to their military and paramilitary forces" to become effective within thirty-six hours. Calls on the Truce Commission and other parties "to give the highest priority to the negotiation and maintenance of a truce in the City of Jerusalem".

2. SC Resolution 50 (1948) of 29 May 1948

Adopted at 310th meeting. (Draft was voted on in parts, no vote was taken on text as a whole.)

Urges all Governments and authorities concerned "to take every possible precaution for the protection of the Holy Places and of the City of Jerusalem, including access to all shrines and sanctuaries for the purpose of worship by those who have an established right to visit and worship at them". Urges parties concerned to cooperate with UN Mediator. "Decides that if the present resolution is rejected by either party or by both, or if, having been accepted, it is subsequently repudiated or violated, the situation in Palestine will be reconsidered with a view to action under Chapter VII of the Charter of the United Nations."

3. SC Resolution 54 (1948) of 15 July 1948

Adopted at the 338th meeting by 7 votes to 1 (Syria), with 3 abstentions (Argentina, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics).

"Determines that the situation in Palestine constitutes a threat to the peace", based on Article 39 of the Charter of the United Nations. Orders parties concerned, "to desist from further military action and to this end to issue cease-fire orders to their military and paramilitary forces". States failure to comply by parties concerned resolution "would demonstrate the existence of a breach of the peace within the meaning of Article 39 of the Charter requiring immediate consideration by the Security Council with a view to such further action under Chapter VII of the Charter as may be decided upon by the Council".

"Orders as a matter of special and urgent necessity an immediate and unconditional cease-fire in the City of Jerusalem" and instructs the Truce Commission to take necessary for implementing a cease-fire. The UN Mediator is instructed "to continue his efforts to bring about the demilitarization of the City of Jerusalem, without prejudice to the future political status of Jerusalem, and to assure the protection of an access to the Holy Places, religious buildings and sites in Palestine," and to supervise observance of the truce.

4. SC Resolution 127 (1958) of 22 Jan. 1958

Adopted at 810th meeting - unanimously.

"Directs the Chief of Staff of the United Nations Truce Supervision Organization in Palestine to regulate activities within the zone subject to such arrangements as may be made pursuant to the provisions of the General Armistice Agreement and pursuant to paragraph 3 below, bearing in mind ownership of property there, it being understood that, unless otherwise mutually agreed, Israelis should not be allowed to use Arab-owned properties and Arabs should not be allowed to use Israeli-owned properties.

"Directs the Chief of Staff to conduct a survey of property records with a view to determining property ownership in the zone.

"Endorses a recommendation by the Chief of Staff, that, "In order to create an atmosphere which would be more conducive to fruitful discussion, activities in the zone, such as those initiated by Israelis on 21 July 1957, should be suspended until such time as the survey has been completed and provisions made for the regulation of activities in the zone.

Calls on the Israeli and Jordanian parties to co-operate and to "prevent all forces referred to in article III of the Agreement from passing over the armistice demarcation lines and to remove or destroy all their respective military facilities and installations in the zone".

5. SC Resolution 250 (1968) of 27 Apr. 1968

Adopted unanimously at the 1417th meeting.

Considering that the holding of a military parade in Jerusalem will aggravate tensions in the area and have an adverse effect on a peaceful settlement of the problems in the area,

Calls on Israel "to refrain from holding the military parade in Jerusalem which is contemplated for 2 May 1968".

6. SC Resolution 251 (1968) of 2 May 1968

Adopted unanimously at 1420th meeting.

"Deeply deplores the holding by Israel of the military parade in Jerusalem on 2 May 1968 in disregard of the unanimous decision adopted by the Council on 27 April 1968."

7. SC Resolution 252 (1968) of 21 May 1968

Adopted at 1426th meeting (13-0-2) (2 abstentions were Canada, US).

Notes Israeli measures contravening resolutions, and reaffirms "that acquisition of territory by military conquest is inadmissible". It "Deplores the failure of Israel to comply with the General Assembly resolutions mentioned above", and considers that "all legislative and administrative measures and actions taken by Israel, including expropriation of land and properties thereon, which tend to change the legal status of Jerusalem are invalid and cannot change that status". Calls upon Israel "to rescind all such measures already taken and to desist forthwith from taking any further action which tends to change the status of Jerusalem".

8. SC Resolution 267 (1969) of 3 July 1969

Adopted unanimously at 1485th meeting.

Reaffirms the principle that "acquisition of territory by military conquest is inadmissible," and reaffirms resolution 252 (1968). It "Deplores the failure of Israel to show any regard for the resolutions of the General Assembly and the Security Council mentioned above," and "censures in the strongest terms" measures taken by Israel to change the status of Jerusalem. It also confirms "all legislative and administrative measures and actions taken by Israel which purport to alter the status of Jerusalem, including expropriation of land and properties thereon, are invalid and cannot change that status" and calls on Israel to "rescind forthwith all measures taken by it which may tend to change the status of the City of Jerusalem, and in future to refrain from all actions likely to have such an effect".

It requests Israel to inform the Security Council without delay of its intentions regarding the implementation of the provisions of this resolution. "In the event of a negative response or no response from Israel, the Security Council shall reconvene without delay to consider what further action should be taken in this matter."

9. SC Resolution 271 (1969) of 15 Sept. 1969

Adopted at 1512th meeting (11-0-4) (4 abstentions were Colombia, Finland, Paraguay, US).

"Grieved at the extensive damage caused by arson to the Holy Al-Aqsa Mosque in Jerusalem on 21 August 1969 under the military occupation of Israel" and reaffirming the principle that "acquisition of territory by military conquest is inadmissible", the resolution affirms prior resolutions 252 (1968) and 267 (1969), and "Recognizes that any act of destruction or profanation of the Holy Places, religious buildings and sites in Jerusalem or any encouragement of, or connivance at, any such act may seriously endanger international peace and security." It "Determines that the execrable act of desecration and profanation of the Holy Al-Aqsa Mosque emphasizes the immediate necessity of Israel's desisting from acting in violation of the aforesaid resolutions and rescinding forthwith all measures and actions taken by it designed to alter the status of Jerusalem" and calls on Israel to "scrupulously to observe the provisions of the Geneva Conventions and other international law regarding military occupation" and "to refrain from causing any hindrance to the discharge of the established functions of the Supreme Moslem Council of Jerusalem, including any co-operation that Council may desire from countries with predominantly Moslem population and from Moslem communities in relation to its plans for the maintenance and repair of the Islamic Holy Places in Jerusalem".

It condemns Israel for failing to comply with the previous resolutions and calls upon it to implement these resolutions, and warns that in case of negative response, the SC will reconvene to consider further action on the matter.

10. SC Resolution 298 (1971) of 25 Sept. 1971

Adopted at 1582nd meeting (14-0-1)(1 abstention was Syria)

"Deplores the failure of Israel to respect the previous resolutions adopted by the United Nations concerning measures and actions by Israel purporting to affect the status of the City of Jerusalem.

"Confirms in the clearest possible terms that all legislative and administrative actions taken by Israel to change the status of the City of Jerusalem, including expropriation of land and properties, transfer of populations and legislation aimed at the incorporation of the occupied section, are totally invalid and cannot change that status."

It "urgently" calls on Israel "to rescind all previous measures and actions and to take no further steps in the occupied section of Jerusalem which may purport to change the status of the City or which would prejudice the rights of the inhabitants and the interests of the international community or a just and lasting peace".

11. SC Resolution 476 (1980) of 30 June 1980

Adopted at 2242nd meeting (14-0-1) (1 abstention was US)

Recalls the Fourth Geneva Convention of 12 August 1949 relative to the Protection of Civilian Persons in Time of War and deplores Israel for its persistence in "changing the physical character, demographic composition, institutional structure and the status of the Holy City of Jerusalem". It expresses grave concern at the "legislative steps initiated in the Israeli Knesset with the aim of changing the character and status of the Holy City of Jerusalem," and reaffirms "the overriding necessity to end the prolonged occupation of Arab territories occupied by Israel since 1967, including Jerusalem".

It "strongly deplores" Israel's continued refusal as an occupying power to comply with the relevant UN SC and GA resolutions and reconfirms "that all legislative and administrative measures and actions taken by Israel, the occupying Power, which purport to alter the character and status of the Holy City of Jerusalem have no legal validity and constitute a flagrant violation of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War and also constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East".

"Reiterates that all such measures which have altered the geographic, demographic and historical character and status of the Holy City of Jerusalem are null and void and must be rescinded in compliance with the relevant resolutions of the Security Council;

It calls on Israel "to abide by this and previous Security Council resolutions and to desist forthwith from persisting in the policy and measures affecting the character and status of the Holy city of Jerusalem". It reaffirms "its determination in the

event of non-compliance by Israel with this resolution, to examine practical ways and means in accordance with relevant provisions of the Charter of the United Nations to secure the full implementation of this resolution".

12. SC Resolution 478 (1980) of 20 Aug. 1980

Adopted at 2245th meeting (14-0-1) (1 abstention was US).

Censures "in the strongest terms the enactment by Israel of the "basic law" on Jerusalem and the refusal to comply with relevant Security Council resolutions" and "Affirms that the enactment of the "basic law" by Israel constitutes a violation of international law and does not affect the continued application of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, in the Palestinian and other Arab territories occupied since June 1967, including Jerusalem." It determines that "all legislative and administrative measures and actions taken by Israel, the occupying Power, which have altered or purport to alter the character and status of the Holy City of Jerusalem, and in particular the recent "basic law" on Jerusalem, are null and void and must be rescinded forthwith".

It affirms this action is a serious obstruction to achieving a comprehensive, just and lasting peace and decides not to recognize the "basic law" and such Israel actions that "seek to alter the character and status of Jerusalem". It calls upon all member states to accept this decision and asks that states "that have established diplomatic missions at Jerusalem to withdraw such missions from the Holy City".

13. SC Resolution 672 (1990) of 12 Oct. 1990

Adopted unanimously at 2948th meeting.

Reaffirms resolutions 242 (1967) and 338 (1973) as the bases for a just and lasting peace "through an active negotiating process which takes into account the right to security for all States in the region, including Israel, as well as the legitimate political rights of the Palestinian people". "Expresses alarm at the violence which took place on 8 October at the Al Haram al Shareef and other Holy Places of Jerusalem resulting in over twenty Palestinian deaths and to the injury of more than one hundred and fifty people, including Palestinian civilians and innocent worshippers," and "Condemns especially the acts of violence committed by the Israeli security forces resulting in injuries and loss of human life." It calls on Israel "to abide scrupulously by its legal obligations and responsibilities under the Fourth Geneva Convention, which is applicable to all the territories occupied by Israel since 1967". It requests dispatching a mission to the area

14. SC Resolution 1073 (1996) of 28 Sept. 1996

Adopted at 3698th meeting (14-0-1) (1 abstention was US).

Expresses "deep concern about the tragic events in Jerusalem and the areas of Nablus, Ramallah, Bethlehem and the Gaza Strip, which resulted in a high number of deaths and injuries among the Palestinian civilians, and concerned also about the clashes between the Israeli army and the Palestinian police and the casualties on both sides".

Also expresses concern about the difficulties in the peace process and the effect of the deteriorating situation, including "its impact on the living conditions of the Palestinian people". Expresses concern "about developments at the Holy Places of Jerusalem" and calls for the "immediate cessation and reversal of all acts which have resulted in the aggravation of the situation, and which have negative implications for the Middle East peace process". "Calls for the safety and protection of Palestinian civilians to be ensured."

Selected UN Security Council resolutions on settlements (summaries)

1. C Resolution 446 (1979) of 22 Mar. 1979

Adopted at 2134th meeting (12-0-3) (3 abstentions were Norway, UK, US).

"Determines that the policy and practices of Israel in establishing settlements in the Palestinian and other Arab territories occupied since 1967 have no legal validity and constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East."

It "strongly deplores" Israel's failure of Israel to abide by prior Security Council resolutions 237 (1967) of 14 June 1967, 252 (1968) of 21 May 1968 and 298 (1971) of 25 September 1971, and relevant GA resolutions.

It once again calls on Israel to "abide scrupulously" by the 1949 Fourth Geneva Convention and to "rescind its previous measures and to desist from taking any action which would result in changing the legal status and geographical nature and materially affecting the demographic composition of the Arab territories occupied since 1967, including Jerusalem, and, in particular, not to transfer parts of its own civilian population into the occupied Arab territories".

It establishes a Commission to examine the situation concerning settlements and to reconvene in July 1979 to review the situation in the light of the findings of the Commission.

2. SC Resolution 452 (1979) of 20 July 1979

Adopted at 2159th meeting (14-0-1) (1 abstention was US).

It strongly deplores Israel's lack of cooperation with the Commission formed and considers that Israel's policy of establishing settlements in the occupied territories "has no legal validity and constitutes a violation of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949".

It expresses deep concern over Israeli practices of settlement building in these territories (including Jerusalem) and with its consequences for the local Arab and Palestinian population. It emphasizes the need to confront the "issue of the existing settlements and the need to consider measures to safeguard the impartial protection of property seized".

It reiterates special concern regarding Jerusalem and reconfirms pertinent Security Council resolutions concerning the city, including "the need to protect and preserve the unique spiritual and religious dimension of the Holy Places".

It calls on Israel "to cease, on an urgent basis, the establishment, construction and planning of settlements in the Arab territories occupied since 1967, including Jerusalem".

3. SC Resolution 465 (1980) of 1 Mar. 1980

Adopted unanimously at 2203rd meeting - unanimously.

It strongly deplores Israel's refusal to cooperate with the Commission and regrets Israel's "formal rejection of resolutions 446 (1979) and 452 (1979)". It once again affirms the applicability of the Fourth Geneva Convention to the occupied territories, including Jerusalem, and deplores Israel's decision "to officially support Israeli settlement in the Palestinian and other Arab territories occupied since 1967".

"Taking into account the need to consider measures for the impartial protection of private and public land and property, and water resources" and noting Jerusalem's specific status and "the need for protection and preservation of the unique spiritual and religious dimension of the Holy Places in the city", it notes "the grave consequences which the settlement policy is bound to have on any attempt to reach a comprehensive, just and lasting peace in the Middle East".

It calls upon the Government of Israel in particular to cooperate with the Commission, and "strongly deplores" Israel's decision "to prohibit the free travel of Mayor Fahd Qawasmeh in order to appear before the Security Council, and requests Israel to permit his free travel to the United Nations headquarters for that purpose".

"Determines that all measures taken by Israel to change the physical character, demographic composition, institutional structure or status of the Palestinian and other Arab territories occupied since 1967, including Jerusalem, or any part thereof, have no legal validity and that Israel's policy and practices of settling parts of its population and new immigrants in those territories constitute a flagrant violation of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War and also constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East."

"Strongly deplores the continuation and persistence of Israel in pursuing those policies and practices and calls upon the Government and people of Israel to rescind those measures, to dismantle the existing settlements and in particular to cease, on an urgent basis, the establishment, construction and planning of settlements in the Arab territories occupied since 1967, including Jerusalem."

It calls upon “all States not to provide Israel with any assistance” that would be used specifically in settlements in the occupied territories, and requests the Commission to continue to examine the situation and “to investigate the reported serious depletion of natural resources, particularly the water resources, with a view to ensuring the protection of those important natural resources of the territories under occupation, and to keep under close scrutiny the implementation of the present resolution”.

4. SC Resolution 471 (1980) of 5 June 1980

Adopted at 2226th meeting (14-0-1) (1 abstention was US).

“Recalling once again the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and in particular article 27, which reads,

“Protected persons are entitled, in all circumstances, to respect for their persons... They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof ...”,

Reaffirming the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War to the Arab territories occupied by Israel since 1967, including Jerusalem,

Recalling also its resolutions 468 (1980) and 469 (1980),

Reaffirming its resolution 465 (1980), by which the Security Council determined “that all measures taken by Israel to change the physical character, demographic composition, institutional structure or status of the Palestinian and other Arab territories occupied since 1967, including Jerusalem, or any part thereof have no legal validity and that Israel’s policy and practices of settling parts of its population and new immigrants in those territories constitute a flagrant violation of the Geneva Convention relative to the Protection of Civilian Persons in Time of War and also constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East” and strongly deplored the “continuation and persistence of Israel in pursuing those policies and practices”,

Shocked by the assassination attempts against the Mayors of Nablus, Ramallah and Al Bireh,

Deeply concerned that the Jewish settlers in the occupied Arab territories are allowed to carry arms, thus enabling them to perpetrate crimes against the civilian Arab population,

1. Condemns the assassination attempts against the Mayors of Nablus, Ramallah and Al Bireh and calls for the immediate apprehension and prosecution of the perpetrators of these crimes;
2. Expresses deep concern that Israel, as the occupying Power, has failed to provide adequate protection to the civilian population in the occupied territories in conformity with the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War;
3. Calls upon the Government of Israel to provide the victims with adequate compensation for the damages suffered as a result of these crimes;
4. Calls again upon the government of Israel to respect and to comply with the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, as well as with the relevant resolutions of the Security Council;
5. Calls once again upon all States not to provide Israel with any assistance to be used specifically in connexion with settlements in the occupied territories;
6. Reaffirms the overriding necessity to end the prolonged occupation of Arab territories occupied by Israel since 1967, including Jerusalem.

5. SC Resolution 904 (1994) of 18 Mar. 1994

Adopted at 3351st meeting – unanimously. (Draft was voted on in parts, with the US abstaining on two paragraphs of preamble. No vote was taken on the text as a whole.)

“Shocked by the appalling massacre committed against Palestinian worshippers in the Mosque of Ibrahim in Hebron on 25 February 1994, during the holy month of Ramadan,

Gravely concerned by the consequent Palestinian casualties in the occupied Palestinian territory as a result of the massacre, which underlines the need to provide protection and security for the Palestinian people,

Determined to overcome the adverse impact of the massacre on the peace process currently under way,

Noting with satisfaction the efforts undertaken to guarantee the smooth proceeding of the peace process, and calling upon all concerned to continue their efforts to this end,

Noting the condemnation of this massacre by the entire international community,

Reaffirming its relevant resolutions, which affirmed the applicability of the fourth Geneva Convention of 12 August 1949 5/ to the territories occupied by Israel in June 1967, including Jerusalem, and the Israeli responsibilities thereunder,

1. Strongly condemns the massacre in Hebron and its aftermath which took the lives of more than fifty Palestinian civilians and injured several hundred others;
2. Calls upon Israel, the occupying Power, to continue to take and implement measures, including, inter alia, confiscation of arms, with the aim of preventing illegal acts of violence by Israeli settlers;
3. Calls for measures to be taken to guarantee the safety and protection of the Palestinian civilians throughout the occupied territory, including, inter alia, a temporary international or foreign presence, which was provided for in the Declaration of Principles on Interim Self-Government Arrangements, signed by the Government of Israel and the Palestine Liberation Organization at Washington, D.C. on 13 September 1993, 6/ within the context of the ongoing peace process;
4. Requests the co-sponsors of the peace process, the United States of America and the Russian Federation, to continue their efforts to invigorate the peace process and to undertake the necessary support for the implementation of the above-mentioned measures;
5. Reaffirms its support for the peace process currently under way and calls for the implementation of the Declaration of Principles without delay.

Selected UN Security Council resolutions affirming applicability of the Fourth Geneva Conventions (summaries)

1. SC Resolution 237 (1967) of 14 June 1967

Adopted unanimously at 1361st meeting.

Considering that obligations of all parties under the Geneva Convention relative to the Treatment of Prisoners of War of 12 August 1949, it calls on the Government of Israel “to ensure the safety, welfare and security of the inhabitants of the areas where military operations have taken place and to facilitate the return of those inhabitants who have fled the areas since the outbreak of hostilities”. It recommends that the Governments concerned scrupulously respect the humanitarian principles concerning the treatment of prisoners of war and the protection of civilian persons in time of war contained in the Geneva Conventions of 12 August 1949.

2. SC Resolution 259 (1968) of 27 Sept. 1968

Adopted at 1454th meeting (12-0-3) (3 abstentions were Canada, Denmark, US).

Deplores the "delay in the implementation of resolution 237 (1967) because of the conditions still being set by Israel for receiving a Special Representative of the Secretary-General," and requests the Secretary-General urgently dispatch a Special Representative to the occupied territories to report on the implementation of resolution 237 (1967).

"Requests the Government of Israel to receive the Special Representative of the Secretary-General, to co-operate with him and to facilitate his work."

3. SC Resolution 271 (1969) of 15 Sept. 1969

Adopted at 1512th meeting (11-0-4) (4 abstentions were Colombia, Finland, Paraguay, US).

Expressing grief at damage caused by arson to the Al-Aqsa Mosque in Jerusalem on 21 August 1969, and reaffirming relevant resolutions and the "established principle that acquisition of territory by military conquest is inadmissible", it "calls upon Israel scrupulously to observe the provisions of the Geneva Conventions" and "international law governing military occupation and to refrain from causing any hindrance to the discharge of the established functions of the Supreme Moslem Council of Jerusalem".

Condemns Israel's failure to comply with previous resolutions.

4. SC Resolution 446 (1979) of 22 Mar. 1979

Adopted at 2134th meeting (12-0-3) (3 abstentions were Norway, UK, US).

"Affirming once more that the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949" is applicable to the Arab territories occupied by Israel since 1967, including Jerusalem", it "Determines that the policy and practices of Israel in establishing settlements in the Palestinian and other Arab territories occupied since 1967 have no legal validity and constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East." It strongly deplores Israel's failure to abide by Security Council resolutions 237 (1967) of 14 June 1967, 252 (1968) of 21 May 1968 and 298 (1971) of 25 September 1971 and relevant UN General Assembly resolutions.

"Calls once more upon Israel, as the occupying Power, to abide scrupulously by the 1949 Fourth Geneva Convention, to rescind its previous measures and to desist from taking any action which would result in changing the legal status and geographical nature and materially affecting the demographic composition of the Arab territories occupied since 1967, including Jerusalem, and, in particular, not to transfer parts of its own civilian population into the occupied Arab territories."

5. SC Resolution 452 (1979) of 20 July 1979

Adopted at 2159th meeting (14-0-1) (1 abstention was US).

Strongly deplores Israel's lack of cooperation with commission to examine settlements and considers that Israel's policy of establishing settlements in the occupied territories "has no legal validity and constitutes a violation of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949".

Is deeply concerned with the consequences of the settlements policy for the local Arab and Palestinian population, and emphasizes the need to safeguard the "impartial protection of property seized". Expresses particular concern over the situation in Jerusalem and consequences of the settlement policy to reach a peaceful solution in the Middle East.

"Calls upon the Government and people of Israel to cease, on an urgent basis, the establishment, construction and planning of settlements in the Arab territories occupied since 1967, including Jerusalem."

6. SC Resolution 465 (1980) of 1 Mar. 1980

Adopted unanimously at 2203rd meeting.

Strongly deplores Israel's refusal to cooperate with the Commission on settlements and affirms that "the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 is applicable to the Arab territories occupied by Israel since 1967, including Jerusalem". It deplores Israel's decision to "officially support Israeli settlement in the Palestinian and other Arab territories occupied since 1967".

Expresses deep concern at the consequences of Israeli settlements for the local Palestinian population and "the need to consider measures for the impartial protection of private and public land and property, and water resources". Expresses particular concern over the need to protect and preservation of the special status of Jerusalem. Calls on Israel to abide by relevant resolutions and "determines that all measures taken by Israel to change the physical character, demographic composition, institutional structure or status of the Palestinian and other Arab territories occupied since 1967, including Jerusalem, or any part thereof, have no legal validity and that Israel's policy and practices of settling parts of its population and new immigrants in those territories constitute a flagrant violation of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War and also constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East".

"Strongly deplores the continuation and persistence of Israel in pursuing those policies and practices and calls upon the Government and people of Israel to rescind those measures, to dismantle the existing settlements and in particular to cease, on an urgent basis, the establishment, construction and planning of settlements in the Arab territories occupied since 1967, including Jerusalem." Also calls upon states not to provide any assistance to Israel that could be used in connection with settlements in the occupied territories.

7. SC Resolution 468 (1980) of 8 May 1980

Adopted at 2221st meeting (14-0-1) (1 abstention was US).

"Recalling the Geneva Convention of 1949,

Deeply concerned at the expulsion by the Israeli military occupation authorities of the Mayors of Hebron and Halhoul and of the Sharia Judge of Hebron,

Calls upon the Government of Israel as occupying Power to rescind these illegal measures and to facilitate the immediate return of the expelled Palestinian leaders so that they can resume the functions for which they were elected and appointed."

8. SC Resolution 469 (1980) of 20 May 1980

Adopted at 2223rd meeting (14-0-1) (1 abstention was US).

"Having considered the report by the Secretary-General under Security Council resolution 468 (1980) of 13 May 1980 (S/13938),

Recalling the Fourth Geneva Convention of 1949 and in particular article 1, which reads "The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances," and article 49, which reads "Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive;"

1. Strongly deplores the failure of the Government of Israel to implement Security Council resolution 468 (1980) of 8 May 1980;
2. Calls again upon the Government of Israel, as occupying Power, to rescind the illegal measures taken by the Israeli military occupation authorities in expelling the Mayors of Hebron and Halhoul and the Sharia Judge of Hebron, and to facilitate the immediate return of the expelled Palestinian leaders, so that they can resume their functions for which they were elected and appointed;

9. SC Resolution 471 (1980) of 5 June 1980

Adopted at 2226th meeting (14-0-1) (1 abstention was US).

"Recalling once again the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and in particular article 27, which reads,

"Protected persons are entitled, in all circumstances, to respect for their persons... They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof ... ",

Reaffirming the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War to the Arab territories occupied by Israel since 1967, including Jerusalem,

Recalling also its resolutions 468 (1980) and 469 (1980),

Reaffirming its resolution 465 (1980), by which the Security Council determined "that all measures taken by Israel to change the physical character, demographic composition, institutional structure or status of the Palestinian and other Arab territories occupied since 1967, including Jerusalem, or any part thereof have no legal validity and that Israel's policy and practices of settling parts of its population and new immigrants in those territories constitute a flagrant violation of the Geneva Convention relative to the Protection of Civilian Persons in Time of War and also constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East" and strongly deplored the "continuation and persistence of Israel in pursuing those policies and practices",

Shocked by the assassination attempts against the Mayors of Nablus, Ramallah and Al Bireh,

Deeply concerned that the Jewish settlers in the occupied Arab territories are allowed to carry arms, thus enabling them to perpetrate crimes against the civilian Arab population,

1. Condemns the assassination attempts against the Mayors of Nablus, Ramallah and Al Bireh and calls for the immediate apprehension and prosecution of the perpetrators of these crimes;
2. Expresses deep concern that Israel, as the occupying Power, has failed to provide adequate protection to the civilian population in the occupied territories in conformity with the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War;
3. Calls upon the Government of Israel to provide the victims with adequate compensation for the damages suffered as a result of these crimes;
4. Calls again upon the government of Israel to respect and to comply with the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, as well as with the relevant resolutions of the Security Council;
5. Calls once again upon all States not to provide Israel with any assistance to be used specifically in connexion with settlements in the occupied territories;
6. Reaffirms the overriding necessity to end the prolonged occupation of Arab territories occupied by Israel since 1967, including Jerusalem;

10. SC Resolution 476 (1980) of 30 June 1980

Adopted at 2242nd meeting (14-0-1) (1 abstention was US)

Reaffirms the inadmissibility of acquisition of territory by force, and notes the need for protection and preservation of "the unique spiritual and religious dimension of the Holy Places in the city". Noting earlier relevant SC resolutions and recalling the Fourth Geneva Convention, it deplores Israel's persistence "in changing the physical character, demographic composition, institutional structure and the status of the Holy City of Jerusalem" and expresses grave concern at "the legislative steps initiated in the Israeli Knesset with the aim of changing the character and status of the Holy City of Jerusalem".

“Reaffirms the overriding necessity to end the prolonged occupation of Arab territories occupied by Israel since 1967, including Jerusalem” and “strongly deplores continued Israeli refusal to comply with relevant resolutions of the Security Council and the General Assembly”. It reconfirms that “all legislative and administrative measures and actions taken by Israel, the occupying Power, which purport to alter the character and status of the Holy City of Jerusalem have no legal validity and constitute a flagrant violation of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War and also constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East”.

It reiterates that all measures that alter the geographical, demographic and historical status of Jerusalem “are null and void and must be rescinded” in compliance with relevant resolutions of the Security Council.

In case of Israeli non-compliance, affirms determination to secure implementation of this resolution

11. SC Resolution 478 (1980) of 20 Aug. 1980

Adopted at 2245th meeting (14-0-1) (1 abstention was US).

Reaffirms inadmissibility of acquisition of territory by force, and expresses deep concern at Israel’s enactment of its “basic law” regarding Jerusalem. It notes Israeli non-compliance with resolution 476 (1980), and reaffirms determination secure Israel’s full implementation.

It “censures in the strongest terms” Israel’s enactment of the “basic law” on Jerusalem and its refusal to comply with relevant Security Council resolutions.

“Affirms that the enactment of the “basic law” by Israel constitutes a violation of international law and does not affect the continued application of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, in the Palestinian and other Arab territories occupied since June 1967, including Jerusalem.”

It determines that all such legislative and administrative measures and actions taken by Israel that change the status of Jerusalem “are null and void and must be rescinded forthwith”.

“Decides not to recognize the “basic law” and such other actions by Israel that, as a result of this law, seek to alter the character and status of Jerusalem,” and calls on member states not to accept this decision and to withdraw diplomatic missions from Jerusalem.

12. SC Resolution 484 (1980) of 19 Dec. 1980

Adopted unanimously at 2260th meeting.

Expresses grave concern over Israel’s expulsion of the mayors of Hebron and Halhoul, and reaffirms the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War to the Occupied Territories. It “calls upon Israel, the occupying Power, to adhere to the provisions of the Convention” and “declares it imperative that the Mayor of Hebron and the Mayor of Halhoul be enabled to return to their homes and resume their responsibilities”.

13. SC Resolution 592 (1986) of 8 Dec. 1986

Adopted at 2727th meeting (14-0-1) (1 abstention was US).

Reaffirms the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War “to the Palestinian and other Arab territories occupied by Israel since 1967, including Jerusalem” and strongly “deplores the opening of fire by the Israeli army resulting in the death and the wounding of defenceless students”.

It calls on Israel “to abide immediately and scrupulously by the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949” and to release people detained as a result of events at Bir Zeit University “in violation of the above-mentioned Geneva Convention”.

14. SC Resolution 605 (1987) of 22 Dec. 1987

Adopted at 2777th meeting (14-0-1) (1 abstention was US).

"Bearing in mind the inalienable rights of all peoples recognized by the Charter of the United Nations and proclaimed by the Universal Declaration of Human Rights,

Recalling its relevant resolutions on the situation in the Palestinian and other Arab territories, occupied by Israel since 1967, including Jerusalem, and including its resolutions 446 (1979), 465 (1980), 497 (1981) and 592 (1986),

Recalling also the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949,

Gravely concerned and alarmed by the deteriorating situation in the Palestinian and other Arab territories occupied by Israel since 1967, including Jerusalem,

Taking into account the need to consider measures for the impartial protection of the Palestinian civilian population under Israeli occupation,

Considering that the current policies and practices of Israel, the occupying Power, in the occupied territories are bound to have grave consequences for the endeavours to achieve comprehensive, just and lasting peace in the Middle East,

1. Strongly deplores those policies and practices of Israel, the occupying Power, which violate the human rights of the Palestinian people in the occupied territories, and in particular the opening of fire by the Israeli army, resulting in the killing and wounding of defenceless Palestinian civilians;
2. Reaffirms that the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, is applicable to the Palestinian and other Arab territories occupied by Israel since 1967, including Jerusalem;
3. Calls once again upon Israel, the occupying Power, to abide immediately and scrupulously by the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and to desist forthwith from its policies and practices that are in violation of the provisions of the Convention."

Finally, requests the Secretary-General to examine the situation in the Occupied Territories and submit a report by 20 January 1988 "containing his recommendations on ways and means for ensuring the safety and protection of the Palestinian civilians under Israeli occupation".

15. SC Resolution 607 (1988) of 5 Jan. 1988

Adopted unanimously at 2780th meeting.

"Having been apprised of the decision of Israel, the occupying Power, to "continue the deportation" of Palestinian civilians in the occupied territories,

Recalling the Geneva Convention relative to the protection of civilian persons in time of war, of 12 August 1949, and in particular articles 47 and 49 of same,

Reaffirms once again that the Geneva Convention relative to the protection of civilian persons in time of war, of 12 August 1949, is applicable to Palestinian and other Arab territories, occupied by Israel since 1967, including Jerusalem," and

"Calls upon Israel to refrain from deporting any Palestinian civilians from the occupied territories," and strongly request Israel abide by its obligations under the Convention.

16. SC Resolution 608 (1988) of 14 Jan. 1988

Adopted at 2781st meeting (14-0-1) (1 abstention was US).

Expresses "deep regret" over Israeli deportation of Palestinian civilians and calls on Israel "to rescind the order to deport Palestinian civilians and to ensure the safe and immediate return to the occupied Palestinian territories of those already deported".

Requests that Israel "desist forthwith from deporting any other Palestinian civilians from the occupied territories".

17. SC Resolution 636 (1989) of 6 July 1989

Adopted at 2870th meeting (14-0-1) (1 abstention was US).

Noting that Israel is again in defiance of resolutions demanding an end to deportations, expressing concern over the situation in the Occupied Territories and the deportation of eight Palestinian civilians on 29 June 1989, and recalling in particular articles 47 and 49 of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, it expresses deep regret concerning Israeli actions to deport Palestinian civilians and calls on Israel "to ensure the safe and immediate return to the occupied Palestinian territories of those deported and to desist forthwith from deporting any other Palestinian civilians".

"Reaffirms that the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, is applicable to the Palestinian territories, occupied by Israel since 1967, including Jerusalem, and to the other occupied Arab territories."

18. SC Resolution 641 (1989) of 30 Aug. 1989

Adopted at 2883rd meeting (14-0-1) (1 abstention was US).

Notes Israeli defiance of earlier resolutions concerning deportations in deporting five Palestinian civilians on 27 August 1989 and recalls the applicability of the Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War to the Occupied Territories, in particular articles 47 and 49; deplores "the continuing deportation by Israel, the occupying Power, of Palestinian civilians". Calls on Israel "to ensure the safe and immediate return to the occupied Palestinian territories of those deported and to desist forthwith from deporting any other Palestinian civilians".

19. SC Resolution 672 (1990) of 12 Oct. 1990

Adopted unanimously at 2948th meeting.

Reaffirms resolutions 242 (1967) and 338 (1973) as the bases of a just peace that takes into account the security of Israel and "the legitimate political rights of the Palestinian people," expresses alarm at violence at the Haram al Shareef and elsewhere in Jerusalem on 8 October that resulted in over twenty Palestinian deaths, and the injury of more than 150 people, including Palestinian civilians.

"Condemns especially the acts of violence committed by the Israeli security forces resulting in injuries and loss of human life," and calls on Israel "to abide scrupulously by its legal obligations and responsibilities under the Fourth Geneva Convention, which is applicable to all the territories occupied by Israel since 1967."

Calls for sending a mission to examine the situation.

20. SC Resolution 673 (1990) of 24 Oct. 1990

Adopted unanimously at 2949th meeting.

Expresses alarm at Israel's rejection of Security Council resolution 672 (1990) and its refusal to accept the UN mission. It deplores Israel's refusal to receive the mission and urges Israel to comply.

21. SC Resolution 681 (1990) of 20 Dec. 1990

Adopted at 2970th meeting.

Reaffirms the inadmissibility of the acquisition of territory by war, as based on resolution 242 (1967), and having examined the UN report on ways to ensure the safety and protection of the Palestinian civilians under Israeli occupation, it expresses grave concern over the dangerous deterioration of the situation in the occupied Palestinian territories occupied (including Jerusalem).

It recalls earlier resolutions 607 (1988), of 5 January 1988, 608 (1988), of 14 January 1988, 636 (1989) of July 1989, and expresses alarm at Israel's decision to deport four Palestinians from the occupied territories "in contravention of its obligations under the Fourth Geneva Convention, of 1949".

"Deplores the decision by the Government of Israel, the occupying Power, to resume deportations of Palestinian civilians in the occupied territories" and urges the Israeli government "to accept de jure applicability of the Fourth Geneva Convention of 1949, to all the territories occupied by Israel since 1967, and to abide scrupulously by the provisions of the said Convention". Also calls on the high contracting parties to the Fourth Geneva Convention of 1949 "to ensure respect by Israel, the occupying Power, for its obligations under the Convention in accordance with article 1 thereof".

It requests the Secretary-General, in co-operation with the International Committee of the Red Cross, to pursue the idea of convening a meeting of the high contracting parties to the Fourth Geneva Convention and "to discuss possible measures that might be taken by them under the Convention and for this purpose to invite these parties to submit their views on how the idea could contribute to the goals of the Convention, as well as on other relevant matters, and to report thereon to the Council".

It also requests the Secretary-General "to monitor and observe the situation regarding Palestinian civilians under Israeli occupation, making new efforts in this regard on an urgent basis, and to utilize and designate or draw upon the United Nations and other personnel and resources present there, in the area and elsewhere, needed to accomplish this task and to keep the Security Council regularly informed". It further requests the Secretary-General to submit a progress reports to the Security Council every four months.

22. SC Resolution 694 (1991) of 24 May 1991

Adopted unanimously at 2989th meeting.

"Having learned with deep concern and consternation that Israel has, in violation of its obligations under the Fourth Geneva Convention of 1949, and acting in opposition to relevant Security Council resolutions, and to the detriment of efforts to achieve a comprehensive, just and lasting peace in the Middle East, deported four Palestinian civilians on 18 May 1991,

1. Declares that the action of the Israeli authorities of deporting four Palestinians on 18 May is in violation of the Fourth Geneva Convention of 1949, which is applicable to all the Palestinian territories occupied by Israel since 1967, including Jerusalem;
2. Deplores this action and reiterates that Israel, the occupying Power, refrain from deporting any Palestinian civilian from the occupied territories and ensure the safe and immediate return of all those deported."

23. SC Resolution 726 (1992) of 6 Jan. 1992

Adopted unanimously at 3026th meeting.

Strongly condemns the Israeli decision of Israel to resume deportations of Palestinian civilians, and the deportation of 12 civilians. Reaffirms the applicability of the Fourth Geneva Convention to the Israeli-occupied territories, including Jerusalem.

Requests that Israel refrain from deporting Palestinian civilians from the occupied territories and that it "ensure the safe and immediate return to the occupied territories of all those deported".

24. SC Resolution 799 (1992) of 18 Dec. 1992

Adopted unanimously at 3151st meeting.

"Having learned with deep concern that Israel, the occupying Power, in contravention of its obligations under the Fourth Geneva Convention of 1949, deported to Lebanon on 17 December 1992, hundreds of Palestinian civilians from the territories occupied by Israel since 1967, including Jerusalem,

1. Strongly condemns the action taken by Israel, the occupying Power, to deport hundreds of Palestinian civilians, and expresses its firm opposition to any such deportation by Israel;
2. Reaffirms the applicability of the Fourth Geneva Convention of 12 August 1949 to all the Palestinian territories occupied by Israel since 1967, including Jerusalem, and affirms that deportation of civilians constitutes a contravention of its obligations under the Convention;
3. Reaffirms also the independence, sovereignty and territorial integrity of Lebanon;
4. Demands that Israel, the occupying Power, ensure the safe and immediate return to the occupied territories of all those deported;
5. Requests the Secretary-General to consider dispatching a representative to the area to follow up with the Israeli Government with regard to this serious situation and to report to the Security Council;
6. Decides to keep the matter actively under review.

25. SC Resolution 904 (1994) of 18 Mar. 1994

Adopted at 3351st meeting – unanimously. (Draft was voted on in parts, with the US abstaining on two paragraphs of preamble. No vote was taken on the text as a whole.)

"Shocked by the appalling massacre committed against Palestinian worshippers in the Mosque of Ibrahim in Hebron on 25 February 1994, during the holy month of Ramadan,

Gravely concerned by the consequent Palestinian casualties in the occupied Palestinian territory as a result of the massacre, which underlines the need to provide protection and security for the Palestinian people,

Determined to overcome the adverse impact of the massacre on the peace process currently under way,

Noting with satisfaction the efforts undertaken to guarantee the smooth proceeding of the peace process, and calling upon all concerned to continue their efforts to this end,

Noting the condemnation of this massacre by the entire international community,

Reaffirming its relevant resolutions, which affirmed the applicability of the fourth Geneva Convention of 12 August 1949 5/ to the territories occupied by Israel in June 1967, including Jerusalem, and the Israeli responsibilities thereunder,

1. Strongly condemns the massacre in Hebron and its aftermath which took the lives of more than fifty Palestinian civilians and injured several hundred others;
2. Calls upon Israel, the occupying Power, to continue to take and implement measures, including, inter alia, confiscation of arms, with the aim of preventing illegal acts of violence by Israeli settlers;
3. Calls for measures to be taken to guarantee the safety and protection of the Palestinian civilians throughout the occupied territory, including, inter alia, a temporary international or foreign presence, which was provided for in the Declaration of Principles on Interim Self-Government Arrangements, signed by the Government of Israel and the Palestine Liberation Organization at Washington, D.C. on 13 September 1993, 6/ within the context of the ongoing peace process;

4. Requests the co-sponsors of the peace process, the United States of America and the Russian Federation, to continue their efforts to invigorate the peace process and to undertake the necessary support for the implementation of the above-mentioned measures;
5. Reaffirms its support for the peace process currently under way and calls for the implementation of the Declaration of Principles without delay.

26. SC Resolution 1073 (1966) of 28 Sept. 1996 (see above)

Adopted with 14 votes in favour, none against and 1 abstention (United States)

Expressing deep concern about the events in Jerusalem, Nablus, Ramallah, Bethlehem and the Gaza Strip, which led to a high number of deaths and injuries among Palestinian civilians, and concerned about clashes between the Israeli army and the Palestinian police and the casualties on both sides, it expresses concern on the peace process and the impact of events on the living conditions of Palestinians.

It calls for "the immediate cessation and reversal of all acts which have resulted in the aggravation of the situation, and which have negative implications for the Middle East peace process," and for ensuring the safety and protection of Palestinian civilians.

27. SC Resolution 1322 (2000) of 7 Oct. 2000

Adopted by the Security Council at its 4205th meeting on 7 Oct. 2000.

Expresses deep concern over events since 28 September 2000, and the numerous deaths and injuries, "mostly among Palestinians"; "deplores the provocation carried out at Al-Haram Al-Sharif in Jerusalem on 28 September 2000, and the subsequent violence there and at other Holy Places, as well as in other areas throughout the territories occupied by Israel since 1967, resulting in over 80 Palestinian deaths and many other casualties"; and "condemns acts of violence, especially the excessive use of force against Palestinians, resulting in injury and loss of human life". It calls on Israel "to abide scrupulously by its legal obligations and its responsibilities under the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War".

28. SC Resolution 1405 (2002) of 19 Apr. 2002

Adopted unanimously by the Security Council at its 4516th meeting.

Reaffirms earlier resolutions 242 (1967) of 22 November 1967, 338 (1973) of 22 October 1973, 1397 (2002) of 12 March 2002, 1402 (2002) of 30 March 2002, 1403 (2002) of 4 April 2002, and express concern over "the dire humanitarian situation of the Palestinian civilian population, in particular reports from the Jenin refugee camp of an unknown number of deaths and destruction".

Calls for "the lifting of restrictions imposed, in particular in Jenin, on the operations of humanitarian organizations, including the International Committee of the Red Cross and United Nations Relief and Works Agency for Palestine Refugees in the Near East,

Stressing the need for all concerned to ensure the safety of civilians, and to respect the universally accepted norms of international humanitarian law,

1. Emphasizes the urgency of access of medical and humanitarian organizations to the Palestinian civilian population;
2. Welcomes the initiative of the Secretary-General to develop accurate information regarding recent events in the Jenin refugee camp through a fact-finding team and requests him to keep the Security Council informed."

29. SC Resolution 1435 (2002) of 24 Sept. 2002

Adopted by the Security Council at its 4614th meeting.

Reaffirms resolutions 242 (1967) of 22 November 1967, 338 (1973) of 22 October 1973, 1397 (2002) of 12 March 2002, 1402 (2002) of 30 March 2002 and 1403 (2002) of 4 April 2002 and reiterates its "grave concern at the tragic and violent events that have taken place since September 2000 and the continuous deterioration of the situation".

It condemns "all terrorist attacks against any civilians, including the terrorist bombings in Israel on 18 and 19 September 2002 and in a Palestinian school in Hebron on 17 September 2002" and expresses alarm at Israel's reoccupation of Palestinian cities "as well as the severe restrictions imposed on the freedom of movement of persons and goods, and gravely concerned at the humanitarian crisis being faced by the Palestinian people".

It reiterates "the need for respect in all circumstances of international humanitarian law, including the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949,

1. Reiterates its demand for the complete cessation of all acts of violence, including all acts of terror, provocation, incitement and destruction;
2. Demands that Israel immediately cease measures in and around Ramallah including the destruction of Palestinian civilian and security infrastructure;
3. Demands also the expeditious withdrawal of the Israeli occupying forces from Palestinian cities towards the return to the positions held prior to September 2000;
4. Calls on the Palestinian Authority to meet its expressed commitment to ensure that those responsible for terrorist acts are brought to justice by it;
5. Expresses its full support for the efforts of the Quartet and calls upon the Government of Israel, the Palestinian Authority and all States in the region to cooperate with these efforts and recognizes in this context the continuing importance of the initiative endorsed at the Arab League Beirut Summit;

30. S/RES/242 (1967) 22 Nov. 1967

Adopted unanimously by the Security Council at the 1382nd meeting.

The Security Council,

Expressing its continuing concern with the grave situation in the Middle East,

Emphasizing the inadmissibility of the acquisition of territory by war and the need to work for a just and lasting peace in which every State in the area can live in security,

Emphasizing further that all Member States in their acceptance of the Charter of the United Nations have undertaken a commitment to act in accordance with Article 2 of the Charter,

1. Affirms that the fulfilment of Charter principles requires the establishment of a just and lasting peace in the Middle East which should include the application of both the following principles:
 - (i) Withdrawal of Israel armed forces from territories occupied in the recent conflict;
 - (ii) Termination of all claims or states of belligerency and respect for and acknowledgment of the sovereignty, territorial integrity and political independence of every State in the area and their right to live in peace within secure and recognized boundaries free from threats or acts of force;

2. Affirms further the necessity
 - (a) For guaranteeing freedom of navigation through international waterways in the area;
 - (b) For achieving a just settlement of the refugee problem;
 - (c) For guaranteeing the territorial inviolability and political independence of every State in the area, through measures including the establishment of demilitarized zones;
3. Requests the Secretary-General to designate a Special Representative to proceed to the Middle East to establish and maintain contacts with the States concerned in order to promote agreement and assist efforts to achieve a peaceful and accepted settlement in accordance with the provisions and principles in this resolution;
4. Requests the Secretary-General to report to the Security Council on the progress of the efforts of the Special Representative as soon as possible.

3-c UN General Assembly resolutions (selected)

Note: Below is a list and summary of key UN General Assembly resolutions relating to the Palestinian question. Well over 50 resolutions pertain to settlements alone. Resolutions concerning the right of Palestinian refugees to return to their homes and those upholding the Palestinian right to self-determination have been reaffirmed year after year. Other resolutions reject Israel's 'unification' of Jerusalem, and reaffirm the applicability of the Fourth Geneva Convention Relative to Civilian Persons in Time of War (1949) to the Palestinians in the Israeli-Occupied Territories.

Numerous General Assembly resolutions relate to the operations and financing of the UN Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), as well as general assistance to the Palestinian people. These are omitted here, as are those concerning the functions of the Department of Public Information of the Secretariat (DPI) – unless issued under other relevant resolutions. Also omitted are resolutions concerning Israel's nuclear capability, Israel's unilateral annexation of the Golan Heights, its actions in Lebanon, and others relating to the general Israeli-Arab conflict. A number of other resolutions establish various international conventions; these are largely omitted here. Also omitted are GA resolutions concerning the US as 'host country' to the UN and its obligations with regard to the PLO (which enjoys observer status at the UN).

Since the original draft of this study was completed, Israel's 'Separation Barrier' (also known as 'the Security Fence' or 'the (Apartheid) Wall') has become an important focus of debate within the UN system. On 9 July 2004, the International Court of Justice (ICJ) issued an advisory opinion regarding the status of Israel's 'Separation Barrier', entitled "Legal Consequences of a Construction of a Wall in the Occupied Palestinian Territory" (see excerpts below) The full document can be viewed at:
<http://domino.un.org/UNISPAL.NSF/85255e950050831085255e95004fa9c3/b59ecb7f4c73bdbc85256eeb004f6d20!OpenDocument>

A selection of documents associated with the topic of the Wall is included in the list below.

To avoid confusion concerning dates (UN General Assembly resolutions are not always issued in sequence), dates of resolutions cited below follow the format provided by the UNISPAL website. For a complete list of UNGA resolutions pertaining to the Question of Palestine and links to the full texts; go to: <http://domino.un.org/UNISPAL.NSF/vGARes>. For the text of other related UN General Assembly resolutions, go to: <http://www.un.org/documents/resga.htm>

Abbreviations:

CEIRPP	Committee on the Exercise of the Inalienable Rights of the Palestinian People (established by A/RES/3376 (XXX) of 10 Nov. 1975)
DPI	Department of Public Information of the Secretariat (of the UN)
DPR	Division for Palestinian Rights (est. by A/RES/32/40 (A+B) on 2 Dec. 1977)
ES	Emergency Session
ICJ	International Court of Justice
ICQP	International Conference on the Question of Palestine
LAS	League of Arab States
SpCttee	Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories (established by A/RES/2443 (XXIII) of 19 Dec. 1968)
UNCCP	United Nations Conciliation Commission for Palestine (est. by A/RES/194 (III) on 11 Dec. 1948)
UNRPR	United Nations Relief for Palestinian Refugees (Fund est. by A/RES/212 (III) on 19 Nov. 1948 – supplanted by UNRWA).
UNRWA	United Nations Relief and Works Agency (est. by A/RES/302 (IV) on 8 Dec. 1949)

31/07/2004	A/59/4 Mideast situation/Palestine question – GA request for advisory opinion on separation barrier – Report of the International Court of Justice
20/07/2004	A/ES-10/L.18/Rev.1 ICJ advisory opinion/ Separation barrier – GA 10 th emergency special session – Draft resolution/Revision
20/07/2004	A/RES/ES-10/15 ICJ advisory opinion/Separation barrier – GA 10 th emergency special session
09/07/2004	A/ES-10/273 ICJ Advisory opinion on the Legal Consequences of the Construction of a Wall in the OPT – Full text, SecGen note
09/07/2004	ICJ Advisory Opinion on the Legal Consequences of the Construction of a Wall in the OPT – ICJ document
06/05/2004	A/58/L.61/Rev.1 Status of the OPT – Draft resolution (Revision) – Adopted on 6 May 2004 as resolution 58/292

06/05/2004 A/RES/58/292
Status of the OPT

23/12/2003 A/RES/58/229
Sovereignty over natural resources in the OT

22/12/2003 A/RES/58/155
Palestinian children

22/12/2003 A/RES/58/163
Right of the Palestinian people to self-determination

09/12/2003 A/RES/58/92
Palestine refugees - Displaced persons

09/12/2003 A/RES/58/94
Palestine refugees - Refugees' properties

09/12/2003 A/RES/58/96
Israeli practices/Work of SpCtee

09/12/2003 A/RES/58/97
Israeli practices/Fourth Geneva Convention

09/12/2003 A/RES/58/98
Israeli practices/Settlements in the OTs

09/12/2003 A/RES/58/99
Israeli practices/Human rights

08/12/2003 A/ES-10/L.16
Separation barrier/ICJ advisory opinion request - GA 10th emergency special session - Draft resolution adopted

08/12/2003 A/RES/ES-10/14
Separation barrier/ICJ advisory opinion request - GA 10th emergency special session

03/12/2003 A/RES/58/18
Palestine question/CEIRPP

03/12/2003 A/RES/58/19
Palestine question/DPR

03/12/2003 A/RES/58/21
Palestine question/Peaceful settlement/Quartet efforts

03/12/2003 A/RES/58/22
Mideast situation/Jerusalem

26/11/2003 A/58/L.26/Rev.1
Palestine question/Peaceful settlement/Quartet efforts - GA draft resolution (Rev.) - adopted

24/11/2003 A/ES-10/248
Separation barrier - GA 10th emergency special session - SecGen report under A/RES/ES-10/13

21/11/2003 A/58/L.27
Mideast situation/Jerusalem - GA draft resolution - adopted

20/11/2003 A/58/L.23
Palestine question/CEIRPP - GA draft resolution - adopted

20/11/2003 A/58/L.24
Palestine question/DPR - GA draft resolution - adopted

20/11/2003 A/58/L.25
Palestine question/DPI - GA draft resolution - adopted

21/10/2003 A/RES/ES-10/13
Israeli action in the OPT - GA 10th emergency special session

20/12/2002 A/RES/57/269
Sovereignty over natural resources in the OT

18/12/2002 A/RES/57/188
Palestinian children

18/12/2002 A/RES/57/198
Right of the Palestinian people to self-determination

11/12/2002 A/RES/57/119
Palestine refugees - Displaced persons

11/12/2002 A/RES/57/122
Palestine refugees - Refugees' properties

11/12/2002 A/RES/57/124
Israeli practices/Work of SpCttee

11/12/2002 A/RES/57/125
Israeli practices/Fourth Geneva Convention

11/12/2002 A/RES/57/126
Israeli practices/Settlements in the OTs

11/12/2002 A/RES/57/127
Israeli practices/Human rights

03/12/2002 A/RES/57/110
Palestine question/Peaceful settlement

03/12/2002 A/RES/57/108
Palestine question/DPR

03/12/2002 A/RES/57/107
Palestine question/CEIRPP

16/08/2002 A/RES/55/125
Palestine refugees/Displaced persons

05/08/2002 A/RES/ES-10/11
Situation in the OPT/Jenin and other Palestinian cities

07/05/2002 A/RES/ES-10/10
Situation in the OPT/Jenin and other Palestinian cities

21/12/2001 A/RES/56/204
Sovereignty over natural resources in the OT

20/12/2001 A/RES/ES-10/8
Jerusalem/Settlements/Monitoring mechanism

20/12/2001 A/RES/ES-10/9
Jerusalem/Settlements/Fourth Geneva Convention/Protection

19/12/2001 A/RES/56/142
Right of the Palestinian people to self-determination

10/12/2001 A/RES/56/52
Palestine refugees/UNRWA/UNCCP/Assistance

10/12/2001 A/RES/56/54
Palestine refugees - Displaced persons

10/12/2001 A/RES/56/57
Palestine refugees - Refugees' properties

10/12/2001 A/RES/56/59
Israeli practices in the OPT/Work of SpCttee

10/12/2001 A/RES/56/60
Israeli practices/Fourth Geneva Convention

10/12/2001 A/RES/56/61
Israeli practices/Settlements in the OT

10/12/2001 A/RES/56/62
Israeli practices in the OPT/Human rights

03/12/2001 A/RES/56/31
Mideast situation/Jerusalem

03/12/2001 A/RES/56/33
Palestine question/CEIRPP

03/12/2001 A/RES/56/34
Palestine question/DPR

03/12/2001 A/RES/56/36
Palestine question/Peaceful settlement

20/12/2000 A/RES/55/209
Sovereignty over natural resources in the OT

08/12/2000 A/RES/55/128
Palestine refugees - Refugees' properties

08/12/2000 A/RES/55/130
Israeli practices in the OPT/Work of SpCttee

08/12/2000 A/RES/55/131
Israeli practices/Fourth Geneva Convention

08/12/2000 A/RES/55/132
Israeli practices/Settlements in the OT

08/12/2000 A/RES/55/133
Israeli practices in the OPT/Human rights

04/12/2000 A/RES/55/87
Right of the Palestinian people to self-determination

01/12/2000 A/RES/55/50
Mideast situation/Jerusalem

01/12/2000 A/RES/55/52
Palestine question/CEIRPP

01/12/2000 A/RES/55/53
Palestine question/DPR

01/12/2000 A/RES/55/55
Palestine question/Peaceful settlement

07/11/2000 A/RES/55/18
Bethlehem 2000

20/10/2000 A/RES/ES-10/7
Jerusalem/Settlements

22/12/1999 A/RES/54/230
Sovereignty over natural resources in the OT

17/12/1999 A/RES/54/152
Right of the Palestinian people to self-determination

06/12/1999 A/RES/54/71
Palestine refugees - Displaced persons

06/12/1999 A/RES/54/74
Palestine refugees - Refugees' properties

06/12/1999 A/RES/54/76
Israeli practices in the OPT

06/12/1999 A/RES/54/77
Israeli practices/Fourth Geneva Convention

06/12/1999 A/RES/54/78
Israeli practices/Settlements in the OT

06/12/1999 A/RES/54/79
Israeli practices

01/12/1999 A/RES/54/37
Mideast situation/Jerusalem

01/12/1999 A/RES/54/39
Palestine question/CEIRPP

01/12/1999 A/RES/54/40
Palestine question/DPR

01/12/1999 A/RES/54/42
Palestine question/Peaceful settlement

10/11/1999 A/RES/54/22
Bethlehem 2000

09/02/1999 A/RES/ES-10/6
Jerusalem/Settlements

15/12/1998 A/RES/53/196
Sovereignty over natural resources in the OT

09/12/1998 A/RES/53/136
Right of the Palestinian people to self-determination

03/12/1998 A/RES/53/48
Palestine refugees - Displaced persons

03/12/1998 A/RES/53/51
Palestine refugees - Refugees' properties

03/12/1998 A/RES/53/53
Israeli practices/Work of the SpCttee

03/12/1998 A/RES/53/54
Israeli practices/Fourth Geneva Convention

03/12/1998 A/RES/53/55
Israeli practices/Settlements

03/12/1998 A/RES/53/56
Israeli practices/Human rights

02/12/1998 A/RES/53/37
Mideast situation/Jerusalem

02/12/1998 A/RES/53/39
Palestine question/CEIRPP

02/12/1998 A/RES/53/40
Palestine question/DPR

02/12/1998 A/RES/53/42
Palestine question/Peaceful settlement

18/11/1998 A/RES/53/27
Bethlehem 2000

07/07/1998 A/RES/52/250
Palestine question/Participation of Palestine in the UN

17/03/1998 A/RES/ES-10/5
Jerusalem/Settlements/Fourth Geneva Convention

18/12/1997 A/RES/52/207
Sovereignty over natural resources in the OT

12/12/1997 A/RES/52/119
Principles of national sovereignty/Electoral processes

12/12/1997 A/RES/52/114
Right of the Palestinian people to self-determination

10/12/1997 A/RES/52/59
Palestine refugees - Displaced persons

10/12/1997 A/RES/52/62
Palestine refugees - Refugees' properties

10/12/1997 A/RES/52/64
Israeli practices/Work of the SpCttee

10/12/1997 A/RES/52/65
Israeli practices/Fourth Geneva Convention

10/12/1997 A/RES/52/66
Israeli practices/Settlements

10/12/1997 A/RES/52/67
Israeli practices/Human rights

09/12/1997 A/RES/52/49
Palestine question/CEIRPP

09/12/1997 A/RES/52/50
Palestine question/DPR

09/12/1997 A/RES/52/52
Palestine question/Peaceful settlement

09/12/1997 A/RES/52/53
Mideast situation/Jerusalem

13/11/1997 A/RES/ES-10/4
Jerusalem/Settlements

15/07/1997 A/RES/ES-10/3
Jerusalem/Settlements

25/04/1997 A/RES/ES-10/2
Jerusalem/Settlements

13/03/1997 A/RES/51/223
Jerusalem/Settlements

16/12/1996 A/RES/51/190
Sovereignty over natural resources in the OT

13/12/1996 A/RES/51/126
Palestine refugees - Displaced persons

13/12/1996 A/RES/51/129
Palestine refugees - Refugees' properties

13/12/1996 A/RES/51/131
Israeli practices - Work of the SpCtee (reissued)

13/12/1996 A/RES/51/132
Israeli practices/Fourth Geneva Convention (reissued)

13/12/1996 A/RES/51/133
Israeli settlements (reissued)

13/12/1996 A/RES/51/134
Israeli practices/Human rights (reissued)

12/12/1996 A/RES/51/82
Right of the Palestinian people to self-determination

04/12/1996 A/RES/51/23
Palestine question/CEIRPP

04/12/1996 A/RES/51/24
Palestine question/DPR

04/12/1996 A/RES/51/25
Palestine question/DPI programme

04/12/1996 A/RES/51/26
Palestine question/Peaceful settlement

04/12/1996 A/RES/51/27
Jerusalem

04/12/1996 A/RES/51/29
Mideast peace process

21/12/1995 A/RES/50/140
Right of the Palestinian people to self-determination

20/12/1995 A/RES/50/129
Economic and social repercussions of Israeli settlements

15/12/1995 A/RES/50/84 (A-D)
Palestine question/CEIRPP/DPR/DPI/Peaceful settlement

06/12/1995 A/RES/50/28 (A-G)
Palestine refugees - UNRWA mandate, reports

06/12/1995 A/RES/50/29 (A-D)
Israeli practices - SpCtee report

04/12/1995 A/RES/50/21
Mideast peace process

04/12/1995 A/RES/50/22 (A+B)
Mideast situation/Jerusalem/Golan

23/12/1994 A/RES/49/149
Right of the Palestinian people to self-determination

23/12/1994 A/RES/49/180
Principles of national sovereignty/Electoral processes

19/12/1994 A/RES/49/132
Economic and social repercussions of Israeli settlements

16/12/1994 A/RES/49/87 (A+B)
Mideast situation/Jerusalem/Golan

16/12/1994 A/RES/49/88
Mideast peace process

14/12/1994 A/RES/49/62 (A-D)
Palestine question/CEIRPP/DPR/DPI/Peace settlement

09/12/1994 A/RES/49/35(A-G)
Palestine refugees/UNRWA reports

09/12/1994 A/RES/49/36 (A-D)
Israeli practices - SpCttee report

21/12/1993 A/RES/48/212
Economic and social Repercussions of Israeli settlements

20/12/1993 A/RES/48/124
Principles of national sovereignty/Electoral processes

20/12/1993 A/RES/48/158 (A-D)
Palestine question/CEIRPP/DPR/DPI/Peaceful settlement/Support for Madrid peace process/Conference to Support Middle East Peace

20/12/1993 A/RES/48/94
Right of peoples to self-determination/Evolution in the Middle East peace process (Declaration of Principles)

14/12/1993 A/RES/48/58
Mideast peace process/Madrid peace conference

14/12/1993 A/RES/48/59 (A+B)
Mideast situation/Jerusalem/Golan

10/12/1993 A/RES/48/40(A-J)
Palestine refugees/UNRWA reports

10/12/1993 A/RES/48/41(A-D)
Israeli practices - SpCttee report

22/12/1992 A/RES/47/172
Economic and social repercussions of the Israeli settlements

18/12/1992 A/RES/47/130
Principles of national sovereignty/Electoral processes

16/12/1992 A/RES/47/82
Right of peoples to self-determination

14/12/1992 A/RES/47/69(A-K)
Palestine refugees/UNRWA reports

14/12/1992 A/RES/47/70 (A-G)
Israeli practices - SpCttee report

11/12/1992 A/RES/47/63 (A+B)
Mideast situation/Jerusalem/Golan

11/12/1992 A/RES/47/64(A-E)
Palestine question/CEIRPP/DPR/DPI/Convening, at a certain stage, of an Int'l Mideast Peace Conference would promote peace/Uprising (Intifadah)/SecCo measures needed to provide int'l protection/UN supervision

20/12/1991 A/RES/46/199
Adverse economic effects of Israeli settlements

19/12/1991 A/RES/46/162
Living conditions of the Palestinian people

17/12/1991 A/RES/46/130
Principles of national sovereignty/Electoral processes

16/12/1991 A/RES/46/82 (A+B)
Mideast situation/Palestine question core of conflict/Inalienable national rights/Jerusalem/Golan

16/12/1991 A/RES/46/87
Right of peoples to self-determination

11/12/1991 A/RES/46/74(A-C)
Palestine question/CEIRPP/DPR/DPI

11/12/1991 A/RES/46/75
Convening of an Int'l Mideast Peace Conference would promote peace/Madrid Peace Conference welcomed

11/12/1991 A/RES/46/76
The uprising (intifadah) of the Palestinian people/SecCo measures needed to provide int'l protection

09/12/1991 A/RES/46/46(A-K)
Palestine refugees/UNRWA reports

09/12/1991 A/RES/46/47(A-G)
Israeli practices - SpCttee report

14/12/1990 A/RES/45/130
Right of peoples to self-determination

13/12/1990 A/RES/45/83(A-C)
Mideast situation/Jerusalem/Golan/ Int'l Mideast Peace Conference under A/RES/44/42/ Preparatory committee

11/12/1990 A/RES/45/73(A-K)
Palestine refugees/UNRWA reports

11/12/1990 A/RES/45/74(A-G)
Israeli practices - SpCttee report

06/12/1990 A/RES/45/67(A-C)
Palestine question/CEIRPP/DPR/DPI

06/12/1990 A/RES/45/68
Int'l Peace Conference under UN auspices

06/12/1990 A/RES/45/69
The uprising (intifadah) of the Palestinian people/SecCo measures needed to provide international protection

28/11/1990 A/RES/45/37
Observer status of national liberation movements

19/12/1989 A/RES/44/174
Living conditions of the Palestinian people

08/12/1989 A/RES/44/47(A-K)
Palestine refugees/UNRWA reports

08/12/1989 A/RES/44/48(A-G)
Israeli practices - SpCttee report

08/12/1989 A/RES/44/79
Right of peoples to self-determination

06/12/1989 A/RES/44/41(A-C)
Palestine question/CEIRPP/DPR/DPI

06/12/1989 A/RES/44/42
Palestine question/Int'l Peace Conference under UN auspices, based on S/RES/338

04/12/1989 A/RES/44/40
Mideast situation/Int'l Peace Conference under A/RES/38/58C

06/10/1989 A/RES/44/2
The uprising (intifadah) of the Palestinian people/SecCo measures needed to provide int'l protection

20/04/1989 A/RES/43/233
Palestine question/SecCo measures needed to provide int'l protection/Nahalin

15/12/1988 A/RES/43/175
Palestine question/CEIRPP/DPR/DPI

15/12/1988 A/RES/43/176
Palestine question/National rights/Int'l Peace Conference under UN auspices, based on S/RES/338/ Preparatory cttee/ OPT UN supervision

15/12/1988 A/RES/43/177
Palestine question/Proclamation of State

09/12/1988 A/RES/43/160
Observer status of national liberation movements

08/12/1988 A/RES/43/106
Right of peoples to self-determination

06/12/1988 A/RES/43/54 (A-C)
Mideast situation/Jerusalem/Golan/Int'l Peace Conference under A/RES/38/58 C/ SecCo preparatory cttee

06/12/1988 A/RES/43/57(A-I)
Palestine refugees/UNRWA reports

06/12/1988 A/RES/43/58(A-G)
Israeli practices - SpCttee report

03/11/1988 A/RES/43/21
The uprising (intifadah) of the Palestinian people

17/12/1987 A/RES/42/210

11/12/1987 A/RES/42/190
Living conditions of the Palestinian people

11/12/1987 A/RES/42/209(A-D)
Mideast situation/Jerusalem/Golan

08/12/1987 A/RES/42/160(A-G)
Israeli practices - SpCttee report

07/12/1987 A/RES/42/95
Right of peoples to self-determination

02/12/1987 A/RES/42/66(A-D)
Palestine question/CEIRPP/DPR/DPI/Int'l Peace Conference under A/RES/38/58 C/SecCo preparatory committee

02/12/1987 A/RES/42/69
Palestine refugees/UNRWA reports

05/12/1986 A/RES/41/162(A-C)
Mideast situation/Jerusalem/Golan

04/12/1986 A/RES/41/101
Right of peoples to self-determination

03/12/1986 A/RES/41/63(A-G)
Israeli practices - SpCttee report

03/12/1986 A/RES/41/69(A-K)
Palestine refugees/UNRWA reports

02/12/1986 A/RES/41/43(A-D)
Palestine question/CEIRPP/DPR/DPI/Int'l Peace Conference under A/RES/38/58 C/SecCo preparatory cttee

17/12/1985 A/RES/40/169
Economic development projects in the OPT

17/12/1985 A/RES/40/201
Living conditions of the Palestinian people

16/12/1985 A/RES/40/161(A-G)
Israeli practices - SpCttee report

16/12/1985 A/RES/40/165(A-K)
Palestine refugees/UNRWA reports

16/12/1985 A/RES/40/168(A-C)
Mideast situation/Jerusalem/Golan

12/12/1985 A/RES/40/96(A-D)
Palestine question/CEIRPP/DPR/DPI/Int'l Peace Conference under A/RES/38/58 C

29/11/1985 A/RES/40/25
Right of peoples to self-determination

18/12/1984 A/RES/39/223
Economic development projects in the OPT

17/12/1984 A/RES/39/169
Living conditions of the Palestinian people

14/12/1984 A/RES/39/146(A-C)
Mideast situation/Jerusalem/Golan

14/12/1984 A/RES/39/95(A-H)
Israeli practices - SpCttee report

14/12/1984 A/RES/39/99(A-K)
Palestine refugees/UNRWA reports

11/12/1984 A/RES/39/49(A-D)
Palestine question/CEIRPP/DPR/DPI/Int'l Peace Conference under A/RES/38/58 C

23/11/1984 A/RES/39/17
Right of peoples to self-determination

19/12/1983 A/RES/38/144
Sovereignty over national resources in the OPT

19/12/1983 A/RES/38/166
Living conditions of the Palestinian people

19/12/1983 A/RES/38/180(A-E)
Mideast situation/Jerusalem/Golan

15/12/1983 A/RES/38/79(A-H)
Israeli practices - SpCttee report

15/12/1983 A/RES/38/83(A-K)
Palestine refugees/UNRWA reports

13/12/1983 A/RES/38/58(A-E)
Palestine question/CEIRPP/DPR/DPI/ICQP/NGOs/Call for an Int'l Peace Conference endorsed with guidelines (A/RES/38/58 C)/SecGen preparatory measures

22/11/1983 A/RES/38/17
Right of peoples to self-determination

28/10/1983 A/RES/38/6
Cooperation between UN and LAS - Requests SecGen to intensify Mideast-related efforts

20/12/1982 A/RES/37/222
Living conditions of the Palestinian people

17/12/1982 A/RES/37/135
Sovereignty over national resources in the OPT

16/12/1982 A/RES/37/120(A-K)
Palestine refugees/UNRWA reports

16/12/1982 A/RES/37/123(A-F)
Mideast situation/Jerusalem/Golan

10/12/1982 A/RES/37/86(A-E)
Palestine question/CEIRPP/DPR/ICQP

09/12/1982 A/RES/37/88(A-G)
Israeli practices - SpCttee report

03/12/1982 A/RES/37/43
Right of peoples to self-determination

24/09/1982 A/RES/ES-7/9
Palestine question/Massacre of Palestinians in Beirut

19/08/1982 A/RES/ES-7/6
Palestine question

19/08/1982 A/RES/ES-7/7
International Conference on the Question of Palestine

19/08/1982 A/RES/ES-7/8
Internat. Day of Innocent Children Victims of Aggression

26/06/1982 A/RES/ES-7/5
Palestine question/Situation in Lebanon

28/04/1982 A/RES/ES-7/4
Palestine question/Jerusalem/Dismissal of elected Palestinians

17/12/1981 A/RES/36/173
Sovereignty over national resources in the OPT

17/12/1981 A/RES/36/226 (A+B)
Mideast situation/Palestine question core of conflict/Peace indivisible/Inalienable national rights/Jerusalem/Golan

16/12/1981 A/RES/36/146(A-H)
Palestine refugees/UNRWA reports

16/12/1981 A/RES/36/147(A-G)
Israeli practices - SpCttee report

10/12/1981 A/RES/36/120(A-F)
Palestine question/CEIRPP/ICQP/CEIRPP to act as ICQP PrepCttee/ Inalienable rights in Palestine

04/12/1981 A/RES/36/73
Living conditions of the Palestinian people

28/10/1981 A/RES/36/15
Jerusalem/Excavation and transformation

28/10/1981 A/RES/36/9
Right of peoples to self-determination

16/12/1980 A/RES/35/207
Mideast situation/Inalienable national rights of the Palestinian people/Rejection of partial agreements

15/12/1980 A/RES/35/169(A-E)
Palestine question/CEIRPP/DPR/ Inalienable rights in Palestine/ Israel's "basic law" on Jerusalem censured/ SecCo measures under Chapter VII

11/12/1980 A/RES/35/122(A-F)
Israeli practices - SpCttee report

05/12/1980 A/RES/35/110
Sovereignty over national resources in the OT

05/12/1980 A/RES/35/75
Living conditions of the Palestinian people

14/11/1980 A/RES/35/35
Right of peoples to self-determination

03/11/1980 A/RES/35/13(A-F)
Palestine refugees/UNRWA reports

29/07/1980 A/RES/ES-7/2
Palestine question/CEIRPP recommendations/ Inalienable rights in Palestine

29/07/1980 A/RES/ES-7/3
Work of the CEIRPP

14/12/1979 A/RES/34/113
Living conditions of the Palestinian people

14/12/1979 A/RES/34/136
Sovereignty over national resources in the OT

12/12/1979, A/RES/34/65 (A-D)
29/11/1979 Palestine question/CEIRPP
12/12/1979 A/RES/34/90(A-C)
Israeli practices - SpCttee report

06/12/1979 A/RES/34/70
Mideast situation/Early convening of the Mideast Peace Conference (S/RES/338, 344)

23/11/1977 A/RES/34/44
Right of peoples to self determination.

23/11/1979 A/RES/34/52(A-F)
Palestine refugees/UNRWA reports

16/11/1979 A/RES/34/29
Situation in the OPT/Mayor's deportation

18/12/1978 A/RES/33/110
Living conditions of the Palestinian people

18/12/1978 A/RES/33/112(A-F)
Palestine refugees/UNRWA reports

18/12/1978 A/RES/33/113(A-C)
Israeli practices - SpCttee report

15/12/1978 A/RES/33/81
Palestine refugees/Children/Health needs

07/12/1978 A/RES/33/28(A-C)
Palestine question/CEIRPP/DPR

07/12/1978 A/RES/33/29
Mideast situation/Early convening of the Mideast Peace Conference

29/11/1978 A/RES/33/24
Right of peoples to self determination

19/12/1977 A/RES/32/161
Sovereignty over national resources in the OT

19/12/1977 A/RES/32/171
Living conditions of the Palestinian people

15/12/1977 A/RES/32/111
Palestine refugees/Children/Health needs

13/12/1977 A/RES/32/90(A-F)
Palestine refugees/UNRWA reports

13/12/1977 A/RES/32/91(A-C)
Israeli practices - SpCttee report

02/12/1977 A/RES/32/40 (A+B)
Palestine question/Establishment of a Special Unit on Palestinian Rights (DPR)

25/11/1977 A/RES/32/20
Mideast situation/Early convening of the Mideast Peace Conference under S/RES/338, joint statement of
Co-Chairmen (1 October 1977)

28/10/1977 A/RES/32/5
Israeli measures in the OT

21/12/1976 A/RES/31/186
Sovereignty over national resources in the OT

16/12/1976 A/RES/31/106(A-D)
Israeli practices - SpCttee report

16/12/1976 A/RES/31/110
Living conditions of the Palestinian people

09/12/1976 A/RES/31/61
Mideast situation/Early resumption of the Mideast Peace Conference with the participation of all the parties concerned
(S/RES/338, 344)

09/12/1976 A/RES/31/62
Mideast peace conference - Early convening of Mideast Peace Conference under S/RES/338, UN auspices called for

24/11/1976 A/RES/31/20
Palestine question/CEIRPP/Recommendations

23/11/1976 A/RES/31/15(A-E)
Palestine refugees/UNRWA reports

15/12/1975 A/RES/3525 (XXX)(A-D)
Israeli practices - SpCttee report

08/12/1975 A/RES/3419 (XXX)(A-D)
Palestine refugees/UNRWA reports

05/12/1975 A/RES/3414 (XXX)
Mideast situation/Early reconvening of the Mideast Peace Conference with the participation of all the parties concerned
(S/RES/338, 344)

10/11/1975 A/RES/3375 (XXX)
Palestine question/Mideast Peace Conference (S/RES/338, 344) - Invitation to the PLO

10/11/1975 A/RES/3376 (XXX)
Palestine question/Establishing CEIRPP/ Inalienable rights in Palestine

10/11/1975 A/RES/3379 (XXX)
Elimination of all forms of racial discrimination

17/12/1974 A/RES/3331(XXIX)(A-D)
Palestine refugees/UNRWA reports

17/12/1974 A/RES/3336(XXIX)
Sovereignty over national resources in the OT

29/11/1974 A/RES/3240(XXIX)(A-C)
Israeli practices - SpCttee report

22/11/1974 A/RES/3236 (XXIX)
Palestine question/Inalienable rights of the Palestinian people

22/11/1974 A/RES/3237 (XXIX)
Palestine question/PLO UN status

14/10/1974 A/RES/3210 (XXIX)
Invitation to the PLO

17/12/1973 A/RES/3175 (XXVIII)
Sovereignty over national resources in the OT

07/12/1973 A/RES/3089(XXVIII) A-E
Palestine refugees/UNRWA reports

07/12/1973 A/RES/3092(XXVIII) (A+B)
Israeli practices/Fourth Geneva Convention - SpCttee report

15/12/1972 A/RES/3005/(XXVII)
Israeli practices - SpCttee report

13/12/1972 A/RES/2963(XXVII) A-F
Palestine refugees/UNRWA reports

08/12/1972 A/RES/2949 (XXVII)
Mideast situation/Request for Special Representative progress report

20/12/1971 A/RES/2851 (XXVI)
Israeli practices - SpCttee report

13/12/1971 A/RES/2799 (XXVI)
Mideast situation/Efforts to reach a peace agreement

06/12/1971 A/RES/2792(XXVI) A-E
Palestine refugees/UNRWA reports

15/12/1970 A/RES/2727 (XXV)
Israeli practices - SpCttee report

08/12/1970 A/RES/2672 (XXV) A-D
Palestine refugees/UNRWA reports

30/11/1970 A/RES/2649
Right of peoples to self-determination/Struggle of peoples under colonial and alien domination by any means, Palestine

04/11/1970 A/RES/2628 (XXV)
Mideast situation/Establishment of a just and lasting peace/Respect for the rights of the Palestinians/Special Representative

11/12/1969 A/RES/2546 (XXIV)
Human rights situation in occupied territories

10/12/1969 A/RES/2535(XXIV) A-C
Palestine refugees/UNRWA reports/Inalienable rights

19/12/1968 A/RES/2443 (XXIII)
Israeli practices/Establishment of the SpCttee

19/12/1968 A/RES/2452(XXIII)(A-C)
Palestine refugees/UNRWA reports

19/12/1967 A/RES/2341(XXII) (A+B)
Palestine refugees/UNRWA reports

14/07/1967 A/RES/2254 (ES-V)
Jerusalem/Israeli measures

04/07/1967 A/RES/2252 (ES-V)
1967 war/Humanitarian assistance

04/07/1967 A/RES/2253 (ES-V)
Jerusalem/Israeli measures

17/11/1966 A/RES/2154 (XXI)
Palestine refugees/UNRWA reports

15/12/1965 A/RES/2052 (XX)
Palestine refugees/UNRWA reports

03/12/1963 A/RES/1912 (XVIII)
Palestine refugees/UNRWA reports

20/12/1962 A/RES/1856 (XVII)
Palestine refugees/UNRWA reports

20/12/1961 A/RES/1725 (XVI)
Palestine refugees/UNRWA reports

21/04/1961 A/RES/1604 (XV)
Palestine refugees/UNRWA reports

12/12/1958 A/RES/1315 (XIII)
Palestine refugees/UNRWA report/UNCCP consultations

21/08/1958 A/RES/1237 (ES-III)
Mideast situation/Jordan/Lebanon

12/12/1957 A/RES/1191 (XII)
Palestine refugees/UNRWA report/UNCCP consultations

28/02/1957 A/RES/1018 (XI)
Palestine refugees/UNRWA report/UNCCP consultations

03/12/1955 A/RES/916 (X)
Palestine refugees/UNRWA report/UNCCP consultations

04/12/1954 A/RES/818 (IX)
Palestine refugees/UNRWA report/UNCCP consultations

27/11/1953	A/RES/720(VIII) (A+B) Palestine refugees/UNRWA reports
06/11/1952	A/RES/614 (VII) Palestine refugees/UNRWA reports
26/01/1952	A/RES/512 (VI) Report of the UNCCP/Commission unable to fulfill mandate/Governments concerned have primary responsibility
26/01/1952	A/RES/513 (VI) Palestine refugees/UNRWA reports
14/12/1950	A/RES/394 (V) UNCCP/Measures for the protection of the rights, property and interests of the refugees - Refugee Office mandate
14/12/1950	A/RES/468 (V) Jerusalem/International regime/Cancellation of financing
02/12/1950	A/RES/393 (V) Palestine refugees/UNRWA assistance, reintegration fun
10/12/1949	/RES/356 (IV) Jerusalem/International regime/Financing
09/12/1949	A/RES/303 (IV) Jerusalem/International regime
08/12/1949	A/RES/302 (IV) Palestine refugees - Establishing UNRWA, Advisory Commission/UNCCP consultations, Economic Survey Mission
11/05/1949	A/RES/273 (III) Israel membership in the UN
11/12/1948	A/RES/194 (III) Palestine question/UN Mediator report/UNCCP at Jerusalem/Right of return
19/11/1948	A/RES/212 (III) Assistance to Palestine refugees/Establishing UNRPR, special fund
14/05/1948	A/RES/554 Palestine question/Future government
14/05/1948	A/RES/186 (S-2) Palestine question/Appointment, terms of reference of a UN Mediator in Palestine/End of UN Palestine Commission - GA second special session
14/05/1948	A/RES/189 (S-2) UN Palestine Commission/Appreciation of its work - GA second special session
06/05/1948	A/RES/187 (S-2) Jerusalem/Appointment of a Special Municipal Commissioner - GA second special session
29/11/1947	A/RES/181(II) (A+B) Palestine question/Future government/Partition plan/UN Palestine Commission
15/05/1947	A/RES/106 (S-1) Palestine question/Establishment of UN Special Committee on Palestine (UNSCOP) - GA first special session
15/05/1947	A/RES/107 (S-1) Palestine question/Threat or use of force - GA first special session
07/05/1947	A/RES/105 (S-1) Palestine question/Arab Higher Committee hearing - GA first special session
05/05/1947	A/RES/104 (S-1) Palestine question/Jewish Agency for Palestine hearing - GA first special session

Selected UN General Assembly resolutions on the rights of Palestinian refugees (summaries)

1. A/RES/194 (III) of 11 Dec. 1948 (established UNCCP/Right of refugees to return)

"2. Establishes a Conciliation Commission consisting of three States members of the United Nations which shall have the following functions:

(a) To assume, in so far as it considers necessary in existing circumstances, the functions given to the United Nations Mediator on Palestine by resolution 186 (S-2) of the General Assembly of 14 May 1948;

(b) To carry out the specific functions and directives given to it by the present resolution and such additional functions and directives as may be given to it by the General Assembly or by the Security Council;

(c) To undertake, upon the request of the Security Council, any of the functions now assigned to the United Nations Mediator on Palestine or to the United Nations Truce Commission by resolutions of the Security Council; upon such request to the Conciliation Commission by the Security Council with respect to all the remaining functions of the United Nations Mediator on Palestine under Security Council resolutions, the office of the Mediator shall be terminated;

5. Calls upon the Governments and authorities concerned to extend the scope of the negotiations provided for in the Security Council's resolution of 16 November 1948^{1/} and to seek agreement by negotiations conducted either with the Conciliation Commission or directly, with a view to the final settlement of all questions outstanding between them;

6. Instructs the Conciliation Commission to take steps to assist the Governments and authorities concerned to achieve a final settlement of all questions outstanding between them;

7. Resolves that the Holy Places - including Nazareth - religious buildings and sites in Palestine should be protected and free access to them assured, in accordance with existing rights and historical practice; that arrangements to this end should be under effective United Nations supervision; that the United Nations Conciliation Commission, in presenting to the fourth regular session of the General Assembly its detailed proposals for a permanent international regime for the territory of Jerusalem, should include recommendations concerning the Holy Places in that territory; that with regard to the Holy Places in the rest of Palestine the Commission should call upon the political authorities of the areas concerned to give appropriate formal guarantees as to the protection of the Holy Places and access to them; and that these undertakings should be presented to the General Assembly for approval;

8. Resolves that, in view of its association with three world religions, the Jerusalem area, including the present municipality of Jerusalem plus the surrounding villages and towns, the most eastern of which shall be Abu Dis; the most southern, Bethlehem; the most western, Ein Karim (including also the built-up area of Motsa); and the most northern, Shu'fat, should be accorded special and separate treatment from the rest of Palestine and should be placed under effective United Nations control;

Requests the Security Council to take further steps to ensure the demilitarization of Jerusalem at the earliest possible date;

Instructs the Conciliation Commission to present to the fourth regular session of the General Assembly detailed proposals for a permanent international regime for the Jerusalem area which will provide for the maximum local autonomy for distinctive groups consistent with the special international status of the Jerusalem area;

The Conciliation Commission is authorized to appoint a United Nations representative, who shall co-operate with the local authorities with respect to the interim administration of the Jerusalem area;

9. Resolves that, pending agreement on more detailed arrangements among the Governments and authorities concerned, the freest possible access to Jerusalem by road, rail or air should be accorded to all inhabitants of Palestine;

Instructs the Conciliation Commission to report immediately to the Security Council, for appropriate action by that organ, any attempt by any party to impede such access;

10. Instructs the Conciliation Commission to seek arrangements among the Governments and authorities concerned which will facilitate the economic development of the area, including arrangements for access to ports and airfields and the use of transportation and communication facilities;
11. Resolves that the refugees wishing to return to their homes and live at peace with their neighbours should be permitted to do so at the earliest practicable date, and that compensation should be paid for the property of those choosing not to return and for loss of or damage to property which, under principles of international law or in equity, should be made good by the Governments or authorities responsible;

Instructs the Conciliation Commission to facilitate the repatriation, resettlement and economic and social rehabilitation of the refugees and the payment of compensation, and to maintain close relations with the Director of the United Nations Relief for Palestine Refugees and, through him, with the appropriate organs and agencies of the United Nations;

12. Authorizes the Conciliation Commission to appoint such subsidiary bodies and to employ such technical experts, acting under its authority, as it may find necessary for the effective discharge of its functions and responsibilities under the present resolution;

The Conciliation Commission will have its official headquarters at Jerusalem. The authorities responsible for maintaining order in Jerusalem will be responsible for taking all measures necessary to ensure the security of the Commission. The Secretary-General will provide a limited number of guards to the protection of the staff and premises of the Commission;

13. Instructs the Conciliation Commission to render progress reports periodically to the Secretary-General for transmission to the Security Council and to the Members of the United Nations;
14. Calls upon all Governments and authorities concerned to co-operate with the Conciliation Commission and to take all possible steps to assist in the implementation of the present resolution;

At the 186th plenary meeting on 11 December 1948, a committee of the Assembly consisting of the five States designated in paragraph 3 of the above resolution proposed that the following three States should constitute the Conciliation Commission: France, Turkey, United States of America. The proposal of the Committee having been adopted by the General Assembly at the same meeting, the Conciliation Commission is therefore composed of the above-mentioned three States.

1/ See Official Records of the Security Council, Third Year, No. 126.

2. A/RES/2535(XXIV) B of 10 Dec. 1969

Emphasises that the Palestinian refugee problem arose from the "denial of their inalienable rights under the Charter of the United Nations and the Universal Declaration of Human Rights".

Recalls Security Council resolution 237 (1967) of 14 June 1967 and other UNGA resolutions, calling on Israel "to take effective and immediate steps for the return without delay of those inhabitants who had fled the areas since the outbreak of hostilities".

"Reaffirms the inalienable rights of the people of Palestine" and requests the UNSC "to take effective measures in accordance with the relevant provisions of the Charter of the United Nations to ensure the implementation of these resolutions".

3. A/RES/3089 B-D of 7 Dec. 1973

(B) Recalls resolution 2963 A (XXVII) of 13 December 1972 and other resolutions referred to, including resolution 194 (III) of 11 December 1948. Takes note of the annual UNRWA report covering the period from 1 July 1972 to 30 June 1973 and "notes with deep regret that repatriation or compensation of the refugees as provided for in paragraph 11 of General Assembly resolution 194 (III) has not been effected, that no substantial progress has been made in the programme endorsed by the General Assembly in paragraph 2 of resolution 513 (VI) of 26 January 1952 for the reintegration of refugees either by repatriation or resettlement and that, therefore, the situation of the refugees continues to be a matter of serious concern".

Thanks UNRWA for services provided to refugees but “notes with regret that the United Nations Conciliation Commission for Palestine has been unable to find a means of achieving progress in the implementation of paragraph 11 of General Assembly resolution 194 (III)”.

(C) Recalls Security Council resolution 237 (1967) of 14 June 1967, and earlier UNGA resolutions that call on Israel “to take effective and immediate steps for the return without delay of those inhabitants who had been displaced since the outbreak of hostilities in June 1967, and its resolutions 2792 C (XXVI) of 6 December 1971 and 2963 C (XXVII) of 13 December 1972, calling upon the Government of Israel to take immediate and effective steps for the return of the refugees concerned to the camps from which they were removed in the Gaza Strip and to provide adequate shelters for their accommodation”.

Notes that the Israeli occupation authorities “have persisted in adopting measures that obstruct the return of the displaced population to their homes and camps in the occupied territories--including changes in the physical and demographic structure of the occupied territories, by the displacement of inhabitants, the transfer of population, the destruction of towns, villages and homes, and the establishment of Israeli settlements--in violation of the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949” as well as the United Nations resolutions. Reaffirms that it “considers those measures null and void” and “deplores” Israel’s refusal to allow refugees to return and calls on Israel to “desist from all measures that obstruct the return of the displaced inhabitants, including measures affecting the physical and demographic structure of the occupied territories”.

(D) “Recognizing that the problem of the Palestine Arab refugees has arisen from the denial of their inalienable rights under the Charter of the United Nations and the Universal Declaration of Human Rights,

Recalling its resolution 2535 B (XXIV) of 10 December 1969, in which it reaffirmed the inalienable rights of the people of Palestine, and its resolutions 2649 (XXV) of 30 November 1970, 2672 C (XXV) of 8 December 1970, 2787 (XXVI) and 2792 D (XXVI) of 6 December 1971, 2955 (XXVII) of 12 December 1972 and 2963 E (XXVII) of 13 December 1972, in which it recognized, inter alia, that the people of Palestine is entitled to the right of self-determination,

Bearing in mind the principle of equal rights and self-determination enshrined in Articles 1 and 55 of the Charter and more recently reaffirmed in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations^{5/} and in the Declaration on the Strengthening of International Security,^{6/}

1. Reaffirms that the people of Palestine is entitled to equal rights and self-determination, in accordance with the Charter of the United Nations;
2. Expresses once more its grave concern that the people of Palestine has been prevented by Israel from enjoying its inalienable rights and from exercising its right to self-determination;
3. Declares that full respect for and realization of the inalienable rights of the people of Palestine, particularly its right to self-determination, are indispensable for the establishment of a just and lasting peace in the Middle East, and that the enjoyment by the Palestine Arab refugees of their right to return to their homes and property, recognized by the General Assembly in resolution 194 (III) of 11 December 1948, which has been repeatedly reaffirmed by the Assembly since that date, is indispensable for the achievement of a just settlement of the refugee problem and for the exercise by the people of Palestine of its right to self-determination.

5/ resolution 2625 (XXV), annex.

6/ Resolution 2734 (XXV).

4. A/RES/56/52 of 10 Dec. 2001 (Assistance to Palestinian Refugees)

[On the report of the Special Political and Decolonization Committee (Fourth Committee) (A/56/549)]

"Recalling its resolution 55/123 of 8 December 2000 and all its previous resolutions on the question, including resolution 194 (III) of 11 December 1948,

Taking note of the report of the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East covering the period from 1 July 2000 to 30 June 2001, 1

Stressing the importance of the Middle East peace process,

Welcoming the signature in Washington, D.C., on 13 September 1993 by the Government of the State of Israel and the Palestine Liberation Organization, the representative of the people of Palestine, of the Declaration of Principles on Interim Self-Government Arrangements 2 and the subsequent implementation agreements,

Aware that the Multilateral Working Group on Refugees of the Middle East peace process has an important role to play in the peace process,

1. Notes with regret that repatriation or compensation of the refugees, as provided for in paragraph 11 of its resolution 194 (III), has not yet been effected and that, therefore, the situation of the refugees continues to be a matter of concern;
2. Also notes with regret that the United Nations Conciliation Commission for Palestine has been unable to find a means of achieving progress in the implementation of paragraph 11 of General Assembly resolution 194 (III), and requests the Commission to exert continued efforts towards the implementation of that paragraph and to report to the Assembly as appropriate, but no later than 1 September 2002;
3. Expresses its thanks to the Commissioner-General and to all the staff of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, recognizing that the Agency is doing all it can within the limits of available resources, and also expresses its thanks to the specialized agencies and to private organizations for their valuable work in assisting refugees;
4. Notes the significant success of the Peace Implementation Programme of the Agency since the signing of the Declaration of Principles on Interim Self-Government Arrangements,^{2/} and stresses the importance that contributions to this Programme not be at the expense of the General Fund;
5. Welcomes the increased cooperation between the Agency and international and regional organizations, States and relevant agencies and non-governmental organizations, which is essential to enhancing the contributions of the Agency towards improved conditions for the refugees and thereby the social stability of the occupied territory;
6. Urges all Member States to extend and expedite aid and assistance with a view to the economic and social development of the Palestinian people and the occupied territory;
7. Reiterates its deep concern regarding the persisting critical financial situation of the Agency, as outlined in the report of the Commissioner-General;^{1/}
8. Commends the efforts of the Commissioner-General to move towards budgetary transparency and internal efficiency, and welcomes in this respect the unified budget for the biennium 2002-2003,^{3/}
9. Welcomes the consultative process between the Agency, host Governments, the Palestinian Authority and donors on management reforms;
10. Notes with profound concern that the continuing shortfall in the finances of the Agency, in particular at this time of acute crisis, has a significant negative influence on the living conditions of the Palestine refugees most in need and that it therefore has possible consequences for the peace process;

11. Expresses deep concern about the continuing problem of restrictions on the freedom of movement of Agency staff, vehicles and goods in the occupied territory, which has an adverse impact on the operational effectiveness of the Agency's programmes;
12. Calls upon all donors, as a matter of urgency, to make the most generous efforts possible to meet the anticipated needs of the Agency, including the remaining costs of moving the headquarters to Gaza, encourages contributing Governments to contribute regularly and to consider increasing their regular contributions, and urges non-contributing Governments to contribute;
13. Decides to extend the mandate of the Agency until 30 June 2005, without prejudice to the provisions of paragraph 11 of its resolution 194 (III).

1./ Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 13 and addendum (A/56/13 and Add. 1).

2./ A/48/486-S/26560, annex.

3./ Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 13, addendum (A/56/13/Add. 1).

**5. A/RES/56/57 of 10 Dec. 2001 (Refugee Properties/Revenue)
[On the report of the Special Political and Decolonization Committee (Fourth Committee) (A/56/549)]**

"Recalling its resolutions 194 (III) of 11 December 1948, 36/146 C of 16 December 1981 and all its subsequent resolutions on the question,

Taking note of the report of the Secretary-General submitted in pursuance of resolution 55/128 of 8 December 2000,^{1/}

Taking note also of the report of the United Nations Conciliation Commission for Palestine for the period from 1 September 2000 to 31 August 2001,^{2/}

Recalling that the Universal Declaration of Human Rights^{3/} and the principles of international law uphold the principle that no one shall be arbitrarily deprived of his or her property,

Recalling in particular its resolution 394 (V) of 14 December 1950, in which it directed the Conciliation Commission, in consultation with the parties concerned, to prescribe measures for the protection of the rights, property and interests of the Palestine Arab refugees,

Noting the completion of the programme of identification and evaluation of Arab property, as announced by the Conciliation Commission in its twenty-second progress report,^{4/} and the fact that the Land Office had a schedule of Arab owners and file of documents defining the location, area and other particulars of Arab property,

Recalling that, in the framework of the Middle East peace process, the Palestine Liberation Organization and the Government of Israel agreed, in the Declaration of Principles on Interim Self-Government Arrangements of 13 September 1993, 5 to commence negotiations on permanent status issues, including the important issue of the refugees,

1. Reaffirms that the Palestine Arab refugees are entitled to their property and to the income derived therefrom, in conformity with the principles of justice and equity;
2. Requests the Secretary-General to take all appropriate steps, in consultation with the United Nations Conciliation Commission for Palestine, for the protection of Arab property, assets and property rights in Israel;
3. Expresses its appreciation for the work done to preserve and modernize the existing records of the Conciliation Commission;
4. Calls once again upon Israel to render all facilities and assistance to the Secretary-General in the implementation of the present resolution;

5. Calls upon all the parties concerned to provide the Secretary-General with any pertinent information in their possession concerning Arab property, assets and property rights in Israel that would assist him in the implementation of the present resolution;
6. Urges the Palestinian and Israeli sides, as agreed between them, to deal with the important issue of Palestine refugees' properties and their revenues in the framework of the final status negotiations of the Middle East peace process;
7. Requests the Secretary-General to report to the General Assembly at its fifty-seventh session on the implementation of the present resolution.

1/ A/56/420.

2/ A/56/290, annex.

3/ Resolution 217 A (III).

4/ Official Records of the General Assembly, Nineteenth Session, Annexes, Annex No. 11, document A/5700.

Selected UN General Assembly Resolutions on Jerusalem (summaries)

1. A/RES/2253 (ES-V) of 4 July 1967

"Deeply concerned at the situation prevailing in Jerusalem as a result of the measures taken by Israel to change the status of the City,

1. Considers that these measures are invalid;
2. Calls upon Israel to rescind all measures already taken and to desist forthwith from taking any action which would alter the status of Jerusalem;
3. Requests the Secretary-General to report to the General Assembly and the Security Council on the situation and on the implementation of the present resolution not later than one week from its adoption."

2. A/RES/2254 (ES-V) of 14 July 1967

"Recalling its resolution 2253 (ES-V) of 4 July 1967,

Having received the report submitted by the Secretary-General,^{1/}

Taking note with the deepest regret and concern of the non-compliance by Israel with resolution 2253 (ES-V),

1. Deplores the failure of Israel to implement General Assembly resolution 2253 (ES-V);
2. Reiterates its call to Israel in that resolution to rescind all measures already taken and to desist forthwith from taking any action which would alter the status of Jerusalem;
3. Requests the Secretary-General to report to the Security Council and the General Assembly on the situation and on the implementation of the present resolution.

1/ A/6753. For the printed text of this document, see Official Records of the Security Council, Twenty-second Year, Supplement for July, August and September 1967, document S/8052.

3. A/RES/5/169E of 15 December 1980

Recalls and reaffirms resolutions 2253 (ES-V) of 4 July 1967 and 2254 (ES-V) of 14 July 1967 and recalls UNSC resolutions relevant to the status of Jerusalem, including resolutions 252 (1968) of 21 May 1968, 267 (1969) of 3 July 1969, 271 (1969) of 15 September 1969, 298 (1971) of 25 September 1971, 465 (1980) of 1 March 1980, 476 (1980) of 30 June 1980 and 478 (1980) of 20 August 1980.

Reaffirms the inadmissibility of the acquisition of territory by force and expresses "satisfaction at the decision taken by the States which have responded to Security Council resolution 478 (1980) and withdrawn their diplomatic representatives from the Holy City of Jerusalem".

Recalls the provisions of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War (1949) and deplores "the persistence of Israel in changing the physical character, demographic composition, institutional structure and the status of the Holy City of Jerusalem". Expresses deep concern over Israel's enactment of its "basic law" on Jerusalem and "Censures in the strongest terms the enactment by Israel of the "Basic Law" on Jerusalem." Also "Affirms that the enactment of the "Basic Law" by Israel constitutes a violation of international law and does not affect the continued application of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, in the Palestinian and other Arab territories occupied since June 1967, including Jerusalem."

Further determines that "all legislative and administrative measures and actions taken by Israel, the occupying Power, which have altered or purport to alter the character and status of the Holy City of Jerusalem, and, in particular, the recent "Basic Law" on Jerusalem and the proclamation of Jerusalem as the capital of Israel, are null and void and must be rescinded forthwith".

"Decides not to recognize that "Basic Law" and such other actions by Israel that, as a result of this law, seek to alter the character and status of Jerusalem and calls upon all States, specialized agencies and other international organizations to comply with the present resolution and other relevant resolutions and urges them not to conduct any business which is not in conformity with the provisions of the present resolution and the other relevant resolutions."

4. A/RES/57/111 of 3 Dec. 2002 (Jerusalem)

[US voted against for the first time]

"Recalling its resolution 181 (II) of 29 November 1947, in particular its provisions regarding the City of Jerusalem,

Recalling also its resolution 36/120 E of 10 December 1981 and all subsequent resolutions, including resolution 56/31 of 3 December 2001, in which it, inter alia, determined that all legislative and administrative measures and actions taken by Israel, the occupying Power, which have altered or purported to alter the character and status of the Holy City of Jerusalem, in particular the so-called "Basic Law" on Jerusalem and the proclamation of Jerusalem as the capital of Israel, were null and void and must be rescinded forthwith,

Recalling further Security Council resolutions relevant to Jerusalem, including resolution 478 (1980) of 20 August 1980, in which the Council, inter alia, decided not to recognize the "Basic Law" and called upon those States which had established diplomatic missions in Jerusalem to withdraw such missions from the Holy City,

Expressing its grave concern at any action taken by any body, governmental or non-governmental, in violation of the above-mentioned resolutions,

Reaffirming that the international community, through the United Nations, has a legitimate interest in the question of the City of Jerusalem and the protection of the unique spiritual and religious dimension of the city, as foreseen in relevant United Nations resolutions on this matter,

Having considered the report of the Secretary-General,^{1/}

1. Reiterates its determination that any actions taken by Israel to impose its laws, jurisdiction and administration on the Holy City of Jerusalem are illegal and therefore null and void and have no validity whatsoever;

2. Deplores the transfer by some States of their diplomatic missions to Jerusalem in violation of Security Council resolution 478 (1980), and calls once more upon those States to abide by the provisions of the relevant United Nations resolutions, in conformity with the Charter of the United Nations;
3. Stresses that a comprehensive, just and lasting solution to the question of the City of Jerusalem should take into account the legitimate concerns of both the Palestinian and Israeli sides and should include internationally guaranteed provisions to ensure the freedom of religion and of conscience of its inhabitants, as well as permanent, free and unhindered access to the holy places by the people of all religions and nationalities;
4. Requests the Secretary-General to report to the General Assembly at its fifty-eighth session on the implementation of the present resolution.

1/ A/57/470.

Selected UN General Assembly resolutions on settlements (summaries)

1. A/RES/2851 (XXVI) of 20 Dec. 1971 (Report of the SpCtee)

“Guided by the purposes and principles of the Charter of the United Nations,

Bearing in mind the provisions and principles of the Universal Declaration of Human Rights, as well as the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949,^{1/}

Recalling Security Council resolutions 237 (1967) of 14 June 1967 and 259 (1968) of 27 September 1968, as well as other pertinent resolutions of the United Nations,

Having considered the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories,^{2/}

Gravely concerned about the violations of the human rights of the inhabitants of the occupied territories,

Considering that the system of investigation and protection is essential for ensuring effective implementation of the international instruments, such as the aforementioned Geneva Convention of 12 August 1949, which provide for respect for human rights in armed conflict,

Noting with regret that the relevant provisions of that Convention have not been implemented by the Israeli authorities;

Recalling that, in accordance with article 1 of that Convention, the States parties have undertaken not only to respect but also to ensure respect for the Convention in all circumstances,

Noting with satisfaction that the International Committee of the Red Cross, after giving careful consideration to the question of the reinforcement of the implementation of the

Geneva Conventions of 12 August 1949,^{3/} has arrived at the conclusion that all tasks falling to a protecting Power under those Conventions could be considered humanitarian functions and that the International Committee of the Red Cross has declared itself ready to assume all the functions envisaged for protecting powers in the Conventions,^{4/}

1. Commends the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories and its members for their efforts in performing the task assigned to them;
2. Strongly calls upon Israel to rescind forthwith all measures and to desist from all policies and practices such as:
 - (a) The annexation of any part of the occupied Arab territories;
 - (b) The establishment of Israeli settlements on those territories and the transfer of parts of its civilian population into the occupied territory;

- (c) The destruction and demolition of villages, quarters and houses and the confiscation and expropriation of property;
 - (d) The evacuation, transfer, deportation and expulsion of the inhabitants of the occupied Arab territories;
 - (e) The denial of the right of the refugees and displaced persons to return to their homes;
 - (f) The ill-treatment and torture of prisoners and detainees;
 - (g) Collective punishment;
3. Calls upon the Government of Israel to permit all persons who have fled the occupied territories or have been deported or expelled there from to return to their homes;
 4. Reaffirms that all measures taken by Israel to settle the occupied territories, including occupied Jerusalem, are completely null and void;
 5. Calls upon the Government of Israel to comply fully with its obligations under the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949;
 6. Requests the Special Committee, pending the early termination of Israeli occupation of Arab territories, to continue its work and to consult as appropriate with the International Committee of the Red Cross in order to ensure the safeguarding of the welfare and human rights of the population of the occupied territories;
 7. Urges the Government of Israel to co-operate with the Special Committee and to facilitate its entry into the occupied territories in order to enable it to perform the functions entrusted to it by the General Assembly;
 8. Requests the Secretary-General to provide the Special Committee with all the necessary facilities for the continued performance of its tasks;
 9. Requests all States parties to the Geneva Convention of 12 August 1949 to do their utmost to ensure that Israel respects and fulfils its obligations under that Convention;
 10. Requests the Special Committee to report to the Secretary-General as soon as possible and whenever the need arises thereafter;
 11. Decides to include in the provisional agenda of its twenty-seventh session an item entitled "Report (or reports) of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories".

1/ United Nations, Treaty Series, vol. 75, (1950), No. 973.

2/ A/8389 and Corr. 1 and 2 and Add. 1 and Add. 2/Corr. 1 and 2.

3/ United Nations, Treaty Series, vol. 75 (1950), Nos. 970-973.

4/ See A/8389/Add. 1 and Add. 1/Corr. 1 and 2, para. 36.

2. A/RES/51/223 of 13 Mar. 1997

"Calls upon the Israeli authorities to refrain from all actions or measures, including settlement activities, which alter the facts on the ground, pre-empting the final status negotiations and have negative implications for the Middle East Peace Process.

"Calls upon Israel, the occupying power, to abide scrupulously by its legal obligations and responsibilities under the Geneva Convention Relative to the Protection of Civilian Persons in Time of War of 12 August 1949, which is applicable to all territories occupied by Israel since 1967."

Selected UN General Assembly resolutions on human rights/Fourth Geneva Conventions (summaries)

1. A/RES/2546 (XXIV) of 11 Dec. 1969

“Guided by the purposes and principles of the Charter of the United Nations,

Bearing in mind the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949^{1/} and the provisions of the Universal Declaration of Human Rights,

Recalling the humanitarian resolutions regarding the violations of human rights and fundamental freedoms in the territories occupied by Israel, especially Security Council resolutions 237 (1967) of 14 June 1967 and 259 (1968) of 27 September 1968, Commission on Human Rights resolutions 6 (XXIV) of 27 February 1968^{2/} and 6 (XXV) of 4 March 1969,^{3/} and the relevant resolutions of the International Conference on Human Rights held at Teheran in 1968, the Economic and Social Council, the United Nations Educational, Scientific and Cultural Organization and the World Health Organization,

Further recalling its resolutions 2252 (ES-V) of 4 July 1967 and 2443 (XXIII) and 2452 (XXIII) of 19 December 1968,

Concerned that the provisions of these resolutions have not been implemented by the Israeli authorities,

Gravely alarmed by fresh reports of collective punishments, mass imprisonment, indiscriminate destruction of homes and other acts of oppression against the civilian population in the Arab territories occupied by Israel,

1. Reaffirms its resolutions relating to the violations of human rights in the territories occupied by Israel;
2. Expresses its grave concern at the continuing report of violation of human rights in those territories,
3. Condemns such policies and practices as collective and area punishment, the destruction of homes and the deportation of the inhabitants of the territories occupied by Israel;
4. Urgently calls upon the Government of Israel to desist forthwith from its reported repressive practices and policies towards the civilian population in the occupied territories and to comply with its obligations under the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949, the Universal Declaration of Human Rights and the relevant resolutions adopted by the various international organizations;
5. Requests the Special Committee to investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories,^{4/} established under General Assembly resolution 2443 (XXIII) to take cognizance of the provisions of the present resolution.

1/ United Nations, Treaty Series, vol. 75 (1950), No. 973.

2/ See Official Records of the Economic and Social Council, Forty-fourth Session, Supplement No. 4, (E/4475), chapter XVIII.

3/ Ibid., Forty-sixth session, document E/4621, chapter XVIII.

2. A/RES/2727 (XXV) of 15 Dec. 1970 (first report of the Special Committee)

“Guided by the purposes and principles of the Charter of the United Nations,

Bearing in mind the provisions of the Universal Declaration of Human Rights and the provisions of the Geneva Convention relative to the Protection of Civilian persons in Time of War, of 12 August 1949,^{1/}

Recalling Security Council resolutions 237 (1967) of 14 June 1967 and 259 (1968) of 27 September 1968,

Recalling also its resolutions 2252 (ES-V) of 4 July 1967, 2443 (XXIII) and 2452 A (XXIII) of 19 December 1968, 2535 B (XXIV) of 10 December 1969 and 2672 D (XXV) of 8 December 1970,

Further recalling Commission on Human Rights resolutions 6 (XXIV) of 27 February 1968,^{2/} 6 (XXV) of 4 March 1969^{3/} and 10 (XXVI) of 23 March 1970,^{4/} the telegram of 8 March 1968 dispatched by the Commission to the Israeli authorities,^{5/} the relevant resolutions of the International Conference on Human Rights held at Teheran in 1968,^{6/} Economic and Social Council resolution 1515 (XLVIII), adopted on 28 May 1970 on the recommendation of the Commission on the Status of Women,^{7/} and the other relevant resolutions of the Economic and Social Council, the United Nations Educational, Scientific and Cultural Organization and the World Health Organization,

Having considered the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories,^{8/}

Noting with regret that the provisions of the above-mentioned resolutions have not been implemented by the Israeli authorities,

Gravely concerned for the safety, welfare and security of the inhabitants of the Arab territories under military occupation by Israel,

1. Expresses its sincere appreciation to the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories and to its members for their efforts in performing the task assigned to them;
2. Calls upon the Government of Israel immediately to implement the recommendations of the special Committee embodied in its report and to comply with its obligations under the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, the Universal Declaration of Human Rights and the relevant resolutions adopted by the various international organizations;
3. Requests the Special Committee, pending the early termination of the Israeli occupation of Arab territories, to continue its work and to consult, as appropriate, with the International Committee of the Red Cross in order to ensure the safeguarding of the human rights of the population of the occupied territories;
4. Urges the Government of Israel to receive the Special Committee, co-operate with it and facilitate its work;
5. Requests the Special Committee to report to the Secretary-General as soon as possible and whenever the need arises thereafter;
6. Requests the Secretary-General to provide the Special Committee with all the necessary facilities for the continued performance of its tasks;
7. Decides to inscribe on the provisional agenda of its twenty-sixth session an item entitled "Report (or reports) of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories".

1/ United Nations, Treaty Series, vol. 75 (1950), No. 973.

2/ See Official Records of the Economic and Social Council, Forty-fourth Session, Supplement No. 4 (E/4475), chapter XVIII.

3/ Ibid., Forty-sixth Session, document E/4621, chapter XVIII.

4/ Ibid., Forty-eighth Session, Supplement No. 5, (E/4816), chapter XXIII.

5/ Ibid., Forty-fourth Session, Supplement No. 4, (E/4475), para. 400.

6/ Final Act of the International Conference on Human Rights (United Nations publication, Sales No. E.68.XIV.2), chapter III.

7/ See Official Records of the Economic and Social Council, Forty-eighth Session, Supplement No. 6 (E/4831), chapter XIII, draft resolution VII.

8/ Official Records of the General Assembly, Twenty-fifth Session, agenda item 101, document A/8089.

3. A/RES/ES-10/8 of 20 Dec. 2001 (illegal Israeli actions in the Occupied Palestine Territories)

“Recalling its relevant resolutions,

Recalling also relevant Security Council resolutions, including resolution 1322 (2000) of 7 October 2000,

Emphasizing the need for a just, lasting and comprehensive peace in the Middle East based on Security Council resolutions 242 (1967) of 22 November 1967 and 338 (1973) of 22 October 1973 and the principle of land for peace,

Emphasizing also in that regard the essential role of the Palestinian Authority, which remains the indispensable and legitimate party for peace and needs to be preserved fully,

Expressing its grave concern at the continuation of the tragic and violent events that have taken place since September 2000,

Expressing also its grave concern at the recent dangerous deterioration of the situation and its possible impact on the region,

Emphasizing further the importance of the safety and well-being of all civilians in the whole Middle East region, and condemning in particular all acts of violence and terror resulting in the deaths and injuries among Palestinian and Israeli civilians,

Expressing its determination to contribute to ending the violence and to promoting dialogue between the Israeli and Palestinian sides,

Reiterating the need for the two sides to comply with their obligations under the existing agreements,

Also reiterating the need for Israel, the occupying Power, to abide scrupulously by its legal obligations and responsibilities under the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949,^{1/}

1. Demands the immediate cessation of all acts of violence, provocation and destruction, as well as the return to the positions and arrangements that existed prior to September 2000;
2. Condemns all acts of terror, in particular those targeting civilians;
3. Also condemns all acts of extrajudiciary executions, excessive use of force and wide destruction of properties;
4. Calls upon the two sides to start the comprehensive and immediate implementation of the recommendations made in the report of the Sharm el-Sheikh Fact-Finding Committee (Mitchell report) in a speedy manner;
5. Encourages all concerned to establish a monitoring mechanism to help the parties implement the recommendations of the report of the Fact-Finding Committee and to help to create a better situation in the Occupied Palestinian Territory;
6. Calls for the resumption of negotiations between the two sides within the Middle East peace process on its agreed basis, taking into consideration developments in previous discussions between the two sides, and urges them to reach a final agreement on all issues, on the basis of their previous agreements, with the objective of implementing Security Council resolutions 242 (1967) and 338 (1973);
7. Decides to remain seized of the matter.

^{1/} United Nations, Treaty Series, vol. 75, No. 973.

4. A/RES/ES-10/9 of 20 Dec. 2001 (illegal Israeli actions in the OPTs)

“Recalling its relevant resolutions, including resolutions of the tenth emergency special session on the situation in Occupied East Jerusalem and the rest of the Occupied Palestinian Territory,

Recalling also relevant Security Council resolutions, including resolutions 237 (1967) of 14 June 1967, 242 (1967) of 22 November 1967, 259 (1968) of 27 September 1968, 271 (1969) of 15 September 1969, 338 (1973) of 22 October 1973, 446 (1979) of 22 March 1979, 452 (1979) of 20 July 1979, 465 (1980) of 1 March 1980, 468 (1980) of 8 May 1980, 469 (1980) of 20 May 1980, 471 (1980) of 5 June 1980, 476 (1980) of 30 June 1980, 478 (1980) of 20 August 1980, 484 (1980) of 19 December 1980, 592 (1986) of 8 December 1986, 605 (1987) of 22 December 1987, 607 (1988) of 5 January 1988, 608 (1988) of 14 January 1988, 636 (1989) of 6 July 1989, 641 (1989) of 30 August 1989, 672 (1990) of 12 October 1990, 673 (1990) of 24 October 1990, 681 (1990) of 20 December 1990, 694 (1991) of 24 May 1991, 726 (1992) of 6 January 1992, 799 (1992) of 18 December 1992, 904 (1994) of 18 March 1994 and 1322 (2000) of 7 October 2000,

Taking note with appreciation of the convening of the Conference of High Contracting Parties to the Fourth Geneva Convention, on 15 July 1999, as recommended by the General Assembly in its resolution ES-10/6 of 9 February 1999, and the statement adopted by the Conference,

Taking note with appreciation also of the reconvening of the above-mentioned Conference, on 5 December 2001, and the important declaration adopted by the Conference,

Recalling relevant provisions of the Rome Statute of the International Criminal Court,^{1/}

Reaffirming the position of the international community on Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, as illegal and as an obstacle to peace,

Expressing its concern at Israeli actions taken recently against the Orient House and other Palestinian institutions in Occupied East Jerusalem as well as other illegal Israeli actions aimed at altering the status of the city and its demographic composition,

Reiterating the applicability of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949^{2/} to the Occupied Palestinian Territory, including East Jerusalem,

Stressing that the Fourth Geneva Convention, which takes fully into account imperative military necessity, has to be respected in all circumstances,

Bearing in mind the relevant provisions of the Charter of the United Nations, including Article 96 thereof,

1. Expresses its full support for the declaration adopted by the Conference of High Contracting Parties to the Fourth Geneva Convention, convened on 5 December 2001 at Geneva;
2. Calls upon all members and observers of the United Nations as well as the Organization and its agencies to observe the above-mentioned declaration;
3. Decides to adjourn the tenth emergency special session temporarily and to authorize the President of the General Assembly at its most recent session to resume its meeting upon request from Member States.

1/ A/CONF.183/9.

2/ United Nations, Treaty Series, vol. 75, No. 973.

Selected UN General Assembly resolutions on the right of Palestinians to self-determination (summaries)

1. A/RES/2649 of 30 Nov. 1970

"Emphasizing the importance of the universal realization of the right of peoples to self-determination and of the speedy granting of independence to colonial countries and peoples for the effective guarantee and observance of human rights,

Concerned that many peoples are still denied the right to self-determination and are still subject to colonial and alien domination,

Regretting that the obligations undertaken by States under the Charter of the United Nations and the decisions adopted by United Nations bodies have not proved sufficient to attain respect for the right of peoples to self-determination in all cases,

Recalling its resolution 2588 B (XXIV) of 15 December 1969 and resolution VIII adopted by the International Conference on Human Rights held at Teheran in 1968,^{1/}

Considering that it is necessary to continue the study of ways and means of ensuring international respect for the right of peoples to self-determination,

Noting the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations,^{2/} which elaborated the principle of self-determination of peoples,

Recalling its resolution 1514 (XV) of 14 December 1960 containing the Declaration on the Granting of Independence to Colonial Countries and Peoples,

Recalling its resolution 2621 (XXV) of 12 October 1970 on the programme of action for the full implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples,

1. Affirms the legitimacy of the struggle of peoples under colonial and alien domination recognized as being entitled to the right of self-determination to restore to themselves that right by any means at their disposal;
2. Recognizes the right of peoples under colonial and alien domination in the legitimate exercise of their right to self-determination to seek and receive all kinds of moral and material assistance, in accordance with the resolutions of the United Nations and the spirit of the Charter of the United Nations;
3. Calls upon all Governments that deny the right to self-determination of peoples under colonial and alien domination to recognize and observe that right in accordance with the relevant international instruments and the principles and spirit of the Charter;
4. Considers that the acquisition and retention of territory in contravention of the right of the people of that territory to self-determination is inadmissible and a gross violation of the Charter;
5. Condemns those Governments that deny the right to self-determination of peoples recognized as being entitled to it, especially of the peoples of southern Africa and Palestine;
6. Requests the Commission on Human Rights to study, at its twenty-seventh session, the implementation of the United Nations resolutions relating to the right of peoples under colonial and alien domination to self-determination, and to submit its conclusions and recommendations to the General Assembly, through the Economic and Social Council, as soon as possible.

1/ Final Act, (E.68.XIV.2), p. 9.

2/ Resolution 2625 (XXV).

2. A/RES/3236 (XXIX) of 22 Nov. 1974

“Having considered the question of Palestine,

Having heard the statement of the Palestine Liberation Organization, the representative of the Palestinian people,^{1/}

Having also heard other statements made during the debate,

Deeply concerned that no just solution to the problem of Palestine has yet been achieved and recognizing that the problem of Palestine continues to endanger international peace and security,

Recognizing that the Palestinian people is entitled to self-determination in accordance with the Charter of the United Nations,

Expressing its grave concern that the Palestinian people has been prevented from enjoying its inalienable rights, in particular its right to self-determination,

Guided by the purposes and principles of the Charter,

Recalling its relevant resolutions which affirm the right of the Palestinian people to self-determination,

1. Reaffirms the inalienable rights of the Palestinian people in Palestine, including:
 - (a) The right to self-determination without external interference;
 - (b) The right to national independence and sovereignty;
2. Reaffirms also the inalienable right of the Palestinians to return to their homes and property from which they have been displaced and uprooted, and calls for their return;
3. 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;
4. Recognizes that the Palestinian people is a principal party in the establishment of a just and lasting peace in the Middle East;
5. Further recognizes the right of the Palestinian people to regain its rights by all means in accordance with the purposes and principles of the Charter of the United Nations;
6. Appeals to all States and international organizations to extend their support to the Palestinian people in its struggle to restore its rights, in accordance with the Charter;
7. Requests the Secretary-General to establish contacts with the Palestine Liberation Organization on all matters concerning the question of Palestine;
8. Requests the Secretary-General to report to the General Assembly at its thirtieth session on the implementation of the present resolution;
9. Decides to include the item entitled "Question of Palestine" in the provisional agenda of its thirtieth session.

3. A/RES/43/177 of 15 Dec. 1988

[Recorded vote on resolution 43/177: 104-2-36 - Israel and US voted against]

"Having considered the item entitled "Question of Palestine",

Recalling its resolution 181 (II) of 29 November 1947, in which, inter alia, it called for the establishment of an Arab State and a Jewish State in Palestine,

Mindful of the special responsibility of the United Nations to achieve a just solution to the question of Palestine,

Aware of the proclamation of the State of Palestine by the Palestine National Council in line with General Assembly resolution 181 (II) and in exercise of the inalienable rights of the Palestinian people,

Affirming the urgent need to achieve a just and comprehensive settlement in the Middle East which, inter alia, provides for peaceful coexistence for all States in the region,

Recalling its resolution 3237 (XXIX) of 22 November 1974 on the observer status for the Palestine Liberation Organization and subsequent relevant resolutions,

1. Acknowledges the proclamation of the State of Palestine by the Palestine National Council on 15 November 1988;
2. Affirms the need to enable the Palestinian people to exercise their sovereignty over their territory occupied since 1967;
3. Decides that, effective as of 15 December 1988, the designation "Palestine" should be used in place of the designation "Palestine Liberation Organization" in the United Nations system, without prejudice to the observer status and functions of the Palestine Liberation Organization within the United Nations system, in conformity with relevant United Nations resolutions and practice;
4. Requests the Secretary-General to take the necessary action to implement the present resolution.

UN General Assembly A/RES/3379 (XXX) of 10 Nov. 1975

Resolution adopted by the General Assembly

[on the report of the Third Committee (A/10320)] 3379 (XXX). Elimination of all forms of racial discrimination.

The General Assembly,

Recalling its resolution 1904 (XVIII) of 20 November 1963, proclaiming the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, and in particular its affirmation that "any doctrine of racial differentiation or superiority is scientifically false, morally condemnable, socially unjust and dangerous" and its expression of alarm at "the manifestations of racial discrimination still in evidence in some areas in the world, some of which are imposed by certain Governments by means of legislative, administrative or other measures",

Recalling also that, in its resolution 3151 G (XXVIII) of 14 December 1973, the General Assembly condemned, inter alia, the unholy alliance between South African racism and zionism,

Taking note of the Declaration of Mexico on the Equality of Women and Their Contribution to Development and Peace,^{1/} proclaimed by the World Conference of the International Women's Year, held at Mexico City from 19 June to 2 July 1975, which promulgated the principle that "international co-operation and peace require the achievement of national liberation and independence, the elimination of colonialism and neo-colonialism, foreign occupation, zionism, apartheid and racial discrimination in all its forms, as well as the recognition of the dignity of peoples and their right to self-determination",

Taking note also of resolution 77 (XII) adopted by the Assembly of Heads of State and Government of the Organization of African Unity at its twelfth ordinary session,^{2/} held at Kampala from 28 July to 1 August 1975, which considered "that the racist regime in occupied Palestine and the racist regimes in Zimbabwe and South Africa have a common imperialist origin, forming a whole and having the same racist structure and being organically linked in their policy aimed at repression of the dignity and integrity of the human being",

Taking note also of the Political Declaration and Strategy to Strengthen International Peace and Security and to Intensify Solidarity and Mutual Assistance among Non-Aligned Countries,^{3/} adopted at the Conference of Ministers for Foreign Affairs of Non-Aligned Countries held at Lima from 25 to 30 August 1975, which most severely condemned zionism as a threat to world peace and security and called upon all countries to oppose this racism and imperialist ideology,

Determines that zionism is a form of racism and racial discrimination.

1/ E/5725, part one, sect. I.

2/ See A/10297, annex II.

3/ A/10217 and Corr.1, annex, p. 3.

A vote was taken by roll call.

Draft resolution III was adopted by 72 votes to 35, with 32 abstentions (resolution 3379 (XXX)).

72-35-32 (roll-call)

This resolution was rescinded following the "peace process".

3-d HS/C/RES/13/6 - A/46/8 of 8 May 1991

[Report of the Commission on Human Settlements (HSC) on the Work of its Tenth Session: Housing conditions of the Palestinian people in the occupied territories*]

The Commission on Human Settlements,

Recalling the relevant General Assembly resolutions on the Question of Palestine, in particular, resolution 42/190 dated 11 December 1987 on the living conditions of the Palestinian people in the occupied Palestinian territories,

Recalling also General Assembly resolution 40/170 dated 17 December 1985 concerning the provision of assistance to the Palestinian people,

Recalling also Security Council resolution 465/1980 and the remaining United Nations resolutions that view the Israeli settlement policies as illegitimate and a serious obstacle for the peace process,

Noting with satisfaction the report of the Executive Director on housing requirements for the Palestinian people, p/

1. Reiterates its resolution 12/11 of 2 May 1989, and requests the Executive Director of the United Nations Centre for Human Settlements (Habitat) to intensify efforts to follow up those paragraphs of the resolution that have not been implemented yet and submit a report to the Commission at its fourteenth session;
2. Condemns the Israeli refusal of the dispatch of a fact-finding mission from the United Nations Centre for Human Settlements (Habitat) to the occupied Palestinian territories to investigate the housing conditions of the Palestinian people, that had been endorsed by the Commission during its twelfth session;
3. Reaffirms the right of the Palestinian people to implement its national shelter strategy within the context of the Global Strategy for Shelter to the Year 2000;
4. Condemns strongly the continuation of the establishment of Israeli settlements in the Palestinian territories and the housing of new settlers in them;
5. Requests the Secretary-General, in consultation with the Executive Director and in cooperation with the Palestine Liberation Organization, to devise a plan for the implementation of a shelter strategy for the Palestinian people to the year 2000, as contained in the report of the Executive Director on the housing requirements of the Palestinian people, together with the provision of necessary funds;
6. Further requests the Executive Director to report to the Commission on the implementation of this resolution at its fourteenth session.

* Adopted by 21 votes to 1, with 15 abstentions. Against: United States of America.
p/HS/C/13/2/Add. 1

3-e International Court of Justice, advisory opinion, 'Legal consequences of the construction of a wall in the Occupied Palestinian Territory', July 2004 (excerpts)

Note: For the sake of clarity, the following paragraphs are presented in an order slightly different to that in which they appear in the document from which they are excerpted.

"The Court, ...

* *

Replies in the following manner to the question put by the General Assembly:

[The question: "What are the legal consequences arising from the construction of the wall being built by Israel, the occupying Power, in the Occupied Palestinian Territory, including in and around East Jerusalem, as described in the report of the Secretary-General, considering the rules and principles of international law, including the Fourth Geneva Convention of 1949, and relevant Security Council and General Assembly resolutions?"]

A. By fourteen votes to one,

The construction of the wall being built by Israel, the occupying Power, in the Occupied Palestinian Territory, including in and around East Jerusalem, and its associated régime, are contrary to international law;

* *

B. By fourteen votes to one,

Israel is under an obligation to terminate its breaches of international law; it is under an obligation to cease forthwith the works of construction of the wall being built in the Occupied Palestinian Territory, including in and around East Jerusalem, to dismantle forthwith the structure therein situated, and to repeal or render ineffective forthwith all legislative and regulatory acts relating thereto, in accordance with paragraph 151 of this Opinion;

* *

C. By fourteen votes to one,

Israel is under an obligation to make reparation for all damage caused by the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem;

* *

D. By thirteen votes to two,

All States are under an obligation not to recognize the illegal situation resulting from the construction of the wall and not to render aid or assistance in maintaining the situation created by such construction; all States parties to the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 have in addition the obligation, while respecting the United Nations Charter and international law, to ensure compliance by Israel with international humanitarian law as embodied in that Convention;

* *

E. By fourteen votes to one,

The United Nations, and especially the General Assembly and the Security Council, should consider what further action is required to bring to an end the illegal situation resulting from the construction of the wall and the associated régime, taking due account of the present Advisory Opinion.

* *

138. The Court has thus concluded that the construction of the wall constitutes action not in conformity with various international legal obligations incumbent upon Israel. However, Annex I to the report of the Secretary-General states that, according to Israel: "the construction of the Barrier is consistent with Article 51 of the Charter of the United Nations, its inherent right to self-defence and Security Council resolutions 1368 (2001) and 1373 (2001)". More specifically, Israel's Permanent Representative to the United Nations asserted in the General Assembly on 20 October 2003 that "the fence is a measure wholly consistent with the right of States to self-defence enshrined in Article 51 of the Charter"; the Security Council resolutions referred to, he continued, "have clearly recognized the right of States to use force in self-defence against terrorist attacks", and therefore surely recognize the right to use non-forcible measures to that end (A/ES-10/PV.21, p. 6).

139. Under the terms of Article 51 of the Charter of the United Nations:

"Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security."

Article 51 of the Charter thus recognizes the existence of an inherent right of self-defence in the case of armed attack by one State against another State. However, Israel does not claim that the attacks against it are imputable to a foreign State.

The Court also notes that Israel exercises control in the Occupied Palestinian Territory and that, as Israel itself states, the threat which it regards as justifying the construction of the wall originates within, and not outside, that territory. The situation is thus different from that contemplated by Security Council resolutions 1368 (2001) and 1373 (2001), and therefore Israel could not in any event invoke those resolutions in support of its claim to be exercising a right of self-defence.

Consequently, the Court concludes that Article 51 of the Charter has no relevance in this case.

140. The Court has, however, considered whether Israel could rely on a state of necessity which would preclude the wrongfulness of the construction of the wall. In this regard the Court is bound to note that some of the conventions at issue in the present instance include qualifying clauses of the rights guaranteed or provisions for derogation (see paragraphs 135 and 136 above). Since those treaties already address considerations of this kind within their own provisions, it might be asked whether a state of necessity as recognized in customary international law could be invoked with regard to those treaties as a ground for precluding the wrongfulness of the measures or decisions being challenged. However, the Court will not need to consider that question. As the Court observed in the case concerning the *Gabíkovo-Nagymaros Project (Hungary/Slovakia)*, "the state of necessity is a ground recognized by customary international law" that "can only be accepted on an exceptional basis"; it "can only be invoked under certain strictly defined conditions which must be cumulatively satisfied; and the State concerned is not the sole judge of whether those conditions have been met" (*I.C.J. Reports 1997*, p. 40, para. 51). One of those conditions was stated by the Court in terms used by the International Law Commission, in a text which in its present form requires that the act being challenged be "the only way for the State to safeguard an essential interest against a grave and imminent peril" (Article 25 of the International Law Commission's Articles on Responsibility of States for Internationally Wrongful Acts; see also former Article 33 of the Draft Articles on the International Responsibility of States, with slightly different wording in the English text). In the light of the material before it, the Court is not convinced that the construction of the wall along the route chosen was the only means to safeguard the interests of Israel against the peril which it has invoked as justification for that construction.

141. The fact remains that Israel has to face numerous indiscriminate and deadly acts of violence against its civilian population. It has the right, and indeed the duty, to respond in order to protect the life of its citizens. The measures taken are bound nonetheless to remain in conformity with applicable international law.

142. In conclusion, the Court considers that Israel cannot rely on a right of self-defence or on a state of necessity in order to preclude the wrongfulness of the construction of the wall resulting from the considerations mentioned in paragraphs 122 and 137 above. The Court accordingly finds that the construction of the wall, and its associated régime, are contrary to international law.

* *

143. The Court having concluded that, by the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem, and by adopting its associated régime, Israel has violated various international obligations

incumbent upon it (see paragraphs 114-137 above), it must now, in order to reply to the question posed by the General Assembly, examine the consequences of those violations.

* *

145. As regards the legal consequences for Israel, it was contended that Israel has, first, a legal obligation to bring the illegal situation to an end by ceasing forthwith the construction of the wall in the Occupied Palestinian Territory, and to give appropriate assurances and guarantees of non-repetition.

It was argued that, secondly, Israel is under a legal obligation to make reparation for the damage arising from its unlawful conduct. It was submitted that such reparation should first of all take the form of restitution, namely demolition of those portions of the wall constructed in the Occupied Palestinian Territory and annulment of the legal acts associated with its construction and the restoration of property requisitioned or expropriated for that purpose; reparation should also include appropriate compensation for individuals whose homes or agricultural holdings have been destroyed.

It was further contended that Israel is under a continuing duty to comply with all of the international obligations violated by it as a result of the construction of the wall in the Occupied Palestinian Territory and of the associated régime. It was also argued that, under the terms of the Fourth Geneva Convention, Israel is under an obligation to search for and bring before its courts persons alleged to have committed, or to have ordered to be committed, grave breaches of international humanitarian law flowing from the planning, construction and use of the wall.

146. As regards the legal consequences for States other than Israel, it was contended before the Court that all States are under an obligation not to recognize the illegal situation arising from the construction of the wall, not to render aid or assistance in maintaining that situation and to co-operate with a view to putting an end to the alleged violations and to ensuring that reparation will be made therefor.

Certain participants in the proceedings further contended that the States parties to the Fourth Geneva Convention are obliged to take measures to ensure compliance with the Convention and that, inasmuch as the construction and maintenance of the wall in the Occupied Palestinian Territory constitutes grave breaches of that Convention, the States parties to that Convention are under an obligation to prosecute or extradite the authors of such breaches. It was further observed that "the United Nations Security Council should consider flagrant and systematic violation of international law norm[s] and principles by Israel, particularly . . . international humanitarian law, and take all necessary measures to put an end [to] these violations", and that the Security Council and the General Assembly must take due account of the advisory opinion to be given by the Court.

* *

147. Since the Court has concluded that the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem, and its associated régime, are contrary to various of Israel's international obligations, it follows that the responsibility of that State is engaged under international law.

148. The Court will now examine the legal consequences resulting from the violations of international law by Israel by distinguishing between, on the one hand, those arising for Israel and, on the other, those arising for other States and, where appropriate, for the United Nations. The Court will begin by examining the legal consequences of those violations for Israel.

* *

149. The Court notes that Israel is first obliged to comply with the international obligations it has breached by the construction of the wall in the Occupied Palestinian Territory (see paragraphs 114-137 above). Consequently, 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. Furthermore, it must ensure freedom of access to the Holy Places that came under its control following the 1967 War (see paragraph 129 above).

150. The Court observes that Israel also has an obligation to put an end to the violation of its international obligations flowing from the construction of the wall in the Occupied Palestinian Territory. The obligation of a State responsible for an internationally wrongful act to put an end to that act is well established in general international law, and the Court has on a number of occasions confirmed the existence of that obligation (*Military and Paramilitary Activities in and against*

Nicaragua (Nicaragua v. United States of America), Merits, Judgment, I.C.J. Reports 1986, p. 149; *United States Diplomatic and Consular Staff in Tehran, Judgment, I.C.J. Reports 1980*, p. 44, para. 95; *Haya de la Torre, Judgment, I.C.J. Reports 1951*, p. 82).

151. Israel accordingly has the obligation to cease forthwith the works of construction of the wall being built by it in the Occupied Palestinian Territory, including in and around East Jerusalem. Moreover, in view of the Court's finding (see paragraph 143 above) that Israel's violations of its international obligations stem from the construction of the wall and from its associated régime, cessation of those violations entails the dismantling forthwith of those parts of that structure situated within the Occupied Palestinian Territory, including in and around East Jerusalem. All legislative and regulatory acts adopted with a view to its construction, and to the establishment of its associated régime, must forthwith be repealed or rendered ineffective, except in so far as such acts, by providing for compensation or other forms of reparation for the Palestinian population, may continue to be relevant for compliance by Israel with the obligations referred to in paragraph 153 below.

152. Moreover, given that the construction of the wall in the Occupied Palestinian Territory has, *inter alia*, entailed the requisition and destruction of homes, businesses and agricultural holdings, the Court finds further that Israel has the obligation to make reparation for the damage caused to all the natural or legal persons concerned. The Court would recall that the essential forms of reparation in customary law were laid down by the Permanent Court of International Justice in the following terms:

"The essential principle contained in the actual notion of an illegal act - a principle which seems to be established by international practice and in particular by the decisions of arbitral tribunals - is that reparation must, as far as possible, wipe out all the consequences of the illegal act and reestablish the situation which would, in all probability, have existed if that act had not been committed. Restitution in kind, or, if this is not possible, payment of a sum corresponding to the value which a restitution in kind would bear; the award, if need be, of damages for loss sustained which would not be covered by restitution in kind or payment in place of it - such are the principles which should serve to determine the amount of compensation due for an act contrary to international law."

(*Factory at Chorzów, Merits, Judgment No. 13, 1928, P.C.I.J., Series A, No. 17*, p. 47.)

153. Israel is accordingly under an obligation to return the land, orchards, olive groves and other immovable property seized from any natural or legal person for purposes of construction of the wall in the Occupied Palestinian Territory. In the event that such restitution should prove to be materially impossible, Israel has an obligation to compensate the persons in question for the damage suffered. The Court considers that Israel also has an obligation to compensate, in accordance with the applicable rules of international law, all natural or legal persons having suffered any form of material damage as a result of the wall's construction.

* *

154. The Court will now consider the legal consequences of the internationally wrongful acts flowing from Israel's construction of the wall as regards other States.

155. The Court would observe that the obligations violated by Israel include certain obligations *erga omnes*. As the Court indicated in the Barcelona Traction case, such obligations are by their very nature "the concern of all States" and, "In view of the importance of the rights involved, all States can be held to have a legal interest in their protection." (Barcelona Traction, Light and Power Company, Limited, Second Phase, Judgment, I.C.J. Reports 1970, p. 32, para. 33.) The obligations *erga omnes* violated by Israel are the obligation to respect the right of the Palestinian people to self-determination, and certain of its obligations under international humanitarian law.

156. As regards the first of these, the Court has already observed (paragraph 88 above) that in the *East Timor* case, it described as "irreproachable" the assertion that "the right of peoples to self-determination, as it evolved from the Charter and from United Nations practice, has an *erga omnes* character" (*I.C.J. Reports 1995*, p. 102, para. 29). The Court would also recall that under the terms of General Assembly resolution 2625 (XXV), already mentioned above (see paragraph 88),

"Every State has the duty to promote, through joint and separate action, realization of the principle of equal rights and self-determination of peoples, in accordance with the provisions of the Charter, and to render assistance to the United Nations in carrying out the responsibilities entrusted to it by the Charter regarding the implementation of the principle"

157. With regard to international humanitarian law, the Court recalls that in its Advisory Opinion on the *Legality of the Threat or Use of Nuclear Weapons*, it stated that "a great many rules of humanitarian law applicable in armed conflict are so fundamental to the respect of the human person and 'elementary considerations of humanity' . . .", that they are "to be observed by all States whether or not they have ratified the conventions that contain them, because they constitute intransgressible principles of international customary law" (*I.C.J. Reports 1996 (I)*, p. 257, para. 79). In the Court's view, these rules incorporate obligations which are essentially of an *erga omnes* character.

158. The Court would also emphasize that Article 1 of the Fourth Geneva Convention, a provision common to the four Geneva Conventions, provides that "The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances." It follows from that provision that every State party to that Convention, whether or not it is a party to a specific conflict, is under an obligation to ensure that the requirements of the instruments in question are complied with.

159. Given the character and the importance of the rights and obligations involved, the Court is of the view that all States are under an obligation not to recognize the illegal situation resulting from the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem. They are also under an obligation not to render aid or assistance in maintaining the situation created by such construction. It is also for all States, while respecting the United Nations Charter and international law, to see to it that any impediment, resulting from the construction of the wall, to the exercise by the Palestinian people of its right to self-determination is brought to an end. In addition, all the States parties to the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 are under an obligation, while respecting the United Nations Charter and international law, to ensure compliance by Israel with international humanitarian law as embodied in that Convention.

160. Finally, the Court is of the view that the United Nations, and especially the General Assembly and the Security Council, should consider what further action is required to bring to an end the illegal situation resulting from the construction of the wall and the associated régime, taking due account of the present Advisory Opinion.

* *

161. The Court, being concerned to lend its support to the purposes and principles laid down in the United Nations Charter, in particular the maintenance of international peace and security and the peaceful settlement of disputes, would emphasize the urgent necessity for the United Nations as a whole to redouble its efforts to bring the Israeli-Palestinian conflict, which continues to pose a threat to international peace and security, to a speedy conclusion, thereby establishing a just and lasting peace in the region.

162. The Court has reached the conclusion that the construction of the wall by Israel in the Occupied Palestinian Territory is contrary to international law and has stated the legal consequences that are to be drawn from that illegality. The Court considers itself bound to add that this construction must be placed in a more general context. Since 1947, the year when General Assembly resolution 181 (II) was adopted and the Mandate for Palestine was terminated, there has been a succession of armed conflicts, acts of indiscriminate violence and repressive measures on the former mandated territory. The Court would emphasize that both Israel and Palestine are under an obligation scrupulously to observe the rules of international humanitarian law, one of the paramount purposes of which is to protect civilian life. Illegal actions and unilateral decisions have been taken on all sides, whereas, in the Court's view, this tragic situation can be brought to an end only through implementation in good faith of all relevant Security Council resolutions, in particular resolutions 242 (1967) and 338 (1973). The "Roadmap" approved by Security Council resolution 1515 (2003) represents the most recent of efforts to initiate negotiations to this end. The Court considers that it has a duty to draw the attention of the General Assembly, to which the present Opinion is addressed, to the need for these efforts to be encouraged with a view to achieving as soon as possible, on the basis of international law, a negotiated solution to the outstanding problems and the establishment of a Palestinian State, existing side by side with Israel and its other neighbours, with peace and security for all in the region.

GLOSSARY

Glossary of terms

Dunum (or *dunam*): Unit of land area commonly used in Palestine. 1 (metric) *dunum* = 0.001 km² = 1 000 m² = 0.1 hectare = 0.247 acre = 0.000386 square mile.

Green Line: After the cessation of hostilities between Arab countries and Israel in 1948, an armistice agreement was signed in 1949. The agreement delineated the borders of each party and designated the 'no man's land' between them according to the location of their respective armies. The agreed line demarcated the borders between Israel and the West Bank and Gaza Strip as recognised by the international community. Although the line later became known as the 'Green Line', its proper name is the '1949 Armistice Line'. Note that Israel has not formally defined its borders on these two fronts.

Gush Emunim: 'Bloc of the Faithful'; a right-wing settler movement established in 1974 that claimed 'Judea and Samaria' as the biblical land of the Jewish people. They became very successful in obtaining support from the Government of Israel for their colonial initiatives in the occupied areas, including East Jerusalem.

Haganah: Nucleus of Israel's armed forces. It emerged from guard units created early in the 1900s in Mandate Palestine.

Histadrut: Early Jewish federation of workers, later Israel's trade union federation.

Intifada: Palestinian uprising against Israeli occupation. The first *Intifada* lasted roughly from 1988 to the early 1990s. The second *Intifada* erupted in September 2000.

Jewish Agency (JA): Executive branch and main settlement body of the **World Zionist Organisation**.

Jewish National Fund (JNF) (or 'Keren Kayemet Le-Israel Limited'): Established by the **World Zionist Organisation** in the early 1900s to purchase and develop lands in Palestine. Subsidiary companies of the JNF operated in the Occupied Territories, especially in Jerusalem. Lands purchased by the JNF become the property of the Jewish people.

Mahlul: Ottoman law designated this as a category of lands that are 'vacant' or neglected because of non-cultivation (for example, heirs fail to cultivate the land). This land is then at the disposition of the state, but individuals do have the right to registration.

Matruka: Ottoman law designated this as a category of lands that are 'withdrawn' from private use. Such land is available for 'public' use, for example, constructing public roads. It includes lands that may be allocated for general use by the inhabitants of a village or town (for example, pastures). Should the 'public' use be terminated, this land reverts back to its original designation.

Mewat: Ottoman law designated this as a category of lands that are 'dead', i.e. not under cultivation. These are usually vacant lands such as upland or rocky areas, which are neither possessed by title deed nor assigned for any 'public' use. Ottoman law contained a precise definition for such lands as those which "lie at such distance from a village or town from which a loud human voice cannot make itself heard at the nearest point where there are inhabited places, that is a mile and a half, or about a half-hour distance from such". Not all lands at such a distance are necessarily *Mewat*, they can be **Miri** as well.

Miri: (Lit., 'belonging to the Emir'.) Ottoman law designated this as a category of lands that are possessed by the State and can nevertheless be held and cultivated by private individuals. Such lands are normally granted by the State to persons who have worked them for 15 consecutive years and who thus obtain the right of occupation or of tenure. The grant is in perpetuity, unless cultivation ceases for three consecutive years (in which case the land in question may revert to the State), and such lands may be passed on to familial heirs.

Mukhtar: A traditional Arab tribal or village elder. Under Israeli rule, a *mukhtar* is appointed by the Israeli authorities rather than elected or appointed by members of his own community.

Mulk: Ottoman law defined this as a category of lands that are completely privately owned.

Musha'a: Ottoman law designated this as a category of lands that are held under customary joint or communal ownership by villagers and are cultivated by them. Such lands would be partitioned among members and occasionally redistributed.

Oslo era (1993-2000): The period during which Israel and the Palestinians (the latter represented by the PLO) were engaged in the 'Oslo peace process'. It began in 1993 with secret bilateral meetings in Oslo, Norway, leading to the signing later that year of the Declaration of Principles on Palestinian Self-Rule. The two sides agreed to mutual recognition and the gradual hand-over of governing functions in the West Bank and Gaza Strip to a Palestinian Authority. In the meantime, Israel and the Palestinians were to negotiate a permanent peace treaty on the final status of these Occupied Territories. The Oslo peace process came to a virtual halt following the eruption of the second *Intifada* in September 2000 and the subsequent election of Ariel Sharon as Israeli prime minister in February 2001.

Village League: A unit of political administration created by virtue of Military Order in 1978. Following the establishment of a Civilian Administration in 1981, Israel anticipated the Village Leagues would assume responsibility for managing the daily affairs of Palestinians, while leaving the occupation intact. The majority of the Palestinian people regarded these leagues as collaborationist and rejected them.

Waqf: Refers to the philanthropic Islamic endowment of lands and property.

West/East Jerusalem: These terms are commonly used to describe the Israeli and Arab Palestinian sectors of the city, which were captured by Israel and Jordan, respectively, in the 1948 War. Under the 1947 UN Partition Plan, Jerusalem was to be under international jurisdiction, administered as a *corpus separatum* (separate entity) and form part neither of the 'Arab State' nor of the 'Jewish State'. Israel occupied the eastern portion of the city in the 1967 War and later 'annexed' it. Under international law, however, East Jerusalem is defined as part of the Israeli Occupied Territories. It should be noted that nearly 500 000 Palestinian refugees originate in the western neighbourhoods of the city and more than 200 000 Jewish settlers currently live in the eastern neighbourhoods.

World Zionist Organisation (WZO): Body established before the British Mandate to advance aims of the Zionist movement in Palestine. With the **Jewish Agency**, the settlement body of the WZO, it is responsible for overall planning and policies regarding Jewish colonisation and immigration to Israel and the Occupied Territories. The WZO/JA work in close collaboration with the Government of Israel.

YESHA: The Association of Jewish settlers in the Occupied Territories.

Zionism: The modern political movement for reconstituting a Jewish national state in Palestine. The rise of the Zionist movement in the late 19th century was influenced by nationalist currents in Europe, as well as by the secularisation of Jewish life in Eastern Europe, which led many assimilated Jewish intellectuals to seek a new basis for a Jewish national life. One such individual was Theodor Herzl, a Viennese journalist who wrote *The Jewish State* (1896), calling for the formation of a Jewish nation state as a solution to the Diaspora and to anti-Semitism. In 1897 Herzl called the first World Zionist Congress at Basel, which brought together diverse proto-Zionist groups into one movement. The meeting helped found Zionist organisations in most countries with large Jewish populations.

The first issue to split the Zionist movement was whether Palestine was essential to a Jewish state. A majority of the delegates to the 1903 congress felt that it was essential and rejected the British offer of a homeland in Uganda. The opposition, the Territorialists led by Israel Zangwill, withdrew on the grounds that an immediate refuge for persecuted Jews was needed. Within the Zionist movement a broad range of perspectives developed, ranging from a synthesis of nationalism with traditional Jewish Orthodoxy (in the Mizrahi movement, founded 1902) to various combinations of Zionism with utopian and Marxist socialism.

After Herzl's death, the Zionist movement came under the leadership of Chaim Weizmann, who sought to reconcile the 'practical' wing of the movement, which sought to further Jewish settlement in Palestine, and its 'political' wing, which stressed the establishment of a Jewish state. Weizmann obtained few concessions from the Turkish sultan, who ruled Palestine; however, in 1917, Great Britain, then at war with Turkey, issued the Balfour Declaration, which promised to help establish a national home for the Jewish people in Palestine.

Source: *The Columbia Electronic Encyclopedia*, Sixth Edition (New York: Columbia University Press, 2003), <http://www.cc.columbia.edu/cu/cup/>

Central to Zionist thought is the concept of the Land of Israel as the historical birthplace of the Jewish people and the belief that Jewish life elsewhere is a life of exile.

The core of the Zionist idea appears in Israel's Declaration of Independence (14 May 1948), which states, *inter alia*, that:

The Land of Israel was the birthplace of the Jewish people. Here their spiritual, religious and political identity was shaped. Here they first attained to statehood, created cultural values of national and universal significance and gave to the world the eternal Book of Books.

After being forcibly exiled from their land, the people kept faith with it throughout their dispersion and never ceased to pray and hope for their return to it and for the restoration in it of their political freedom.

Source: Israeli Ministry of Foreign Affairs, <http://www.mfa.gov.il/MFA/Facts+About+Israel/State/ZIONISM-+Background.htm>

Zionism as a concept has supporters amongst not only Jews, but Christians as well. Zionism has been considered as a form of racism by the United Nations, an issue that re-emerged during the World Conference on Racism in Durban in 2002.

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This comprehensive study of more than a century of Jewish-Zionist and, later, Israeli actions to acquire lands and property in Palestine/Israel fills a noticeable gap in the available literature. It ranges from the inception of the Zionist movement in the late 19th century, when the groundwork was laid for Jewish colonisation and land acquisition in Palestine, through changes to Ottoman law that facilitated Jewish land acquisition under the British Mandate, and the development of a highly complex legal system within Israel since its creation in 1948, to the situation following the 1967 capture by Israeli armed forces of the West Bank - including 'East Jerusalem' - and the Gaza Strip. In the latter period, the study covers key developments during the 'Oslo Era', which began in 1993 and ended with the eruption of the second *Intifada* in 2000, as well as Israel's subsequent construction of 'the Wall', the dramatic escalation of home demolitions, and the ongoing forced displacement of the Negev Bedouin people.

The main focus is the methodical process underlying the Zionist conquest of Palestine and the dispossession and displacement of its indigenous Arab inhabitants, in particular legal instruments and policies relating to colonisation and land acquisition. This process is measured against the standards of relevant international treaties and agreements. Specifically, Israel's discriminatory policies towards Palestinians are shown to constitute violations of key UN resolutions adopted by the international community over the past several decades.

This study is intended as a resource for anyone interested in research, education, communication, advocacy or policy-making on the issues covered. It can be used as a reference for UN agencies, as well as legal experts and human rights advocates. Activists and CBOs can use it in their organising efforts; NGOs may find it useful in their lobbying efforts. The study can also be used as an advocacy and lobbying tool by Palestinians themselves or by others interested in launching public inquiries, legal actions or other initiatives to protest or redress Israel's violations of international humanitarian and human rights laws. Hopefully, in the not-too-distant future, this study may prove valuable in resolving legal claims to land and property in the event of a final political settlement between Israel and the Palestinians.

The Centre on Housing Rights and Evictions (COHRE) is an independent, international, non-governmental human rights organisation committed to ensuring the full enjoyment of the human right to adequate housing for everyone, everywhere. For over ten years, COHRE has sought practical solutions to the problems of homelessness, inadequate housing and living conditions, as well as related violations of economic, social and cultural rights, especially the right to housing.



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BADIL ("bad-EEL") is the Arabic word for 'alternative'. BADIL Resource Center for Palestinian Residency and Refugee Rights is an independent, Palestinian, non-governmental organisation established to support the development of a popular lobby for the rights of Palestinian refugees and internally displaced people through professional research and partnership-based community initiatives. For more than seven years, BADIL has contributed to the search for durable solutions for Palestinian refugees and displaced persons through research, advocacy, and support of community participation.

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