

perspectives

Issue 12
August 2017

POLITICAL ANALYSES AND COMMENTARY

Middle East & North Africa

50 Years of Occupation, 50 Years of Resilience

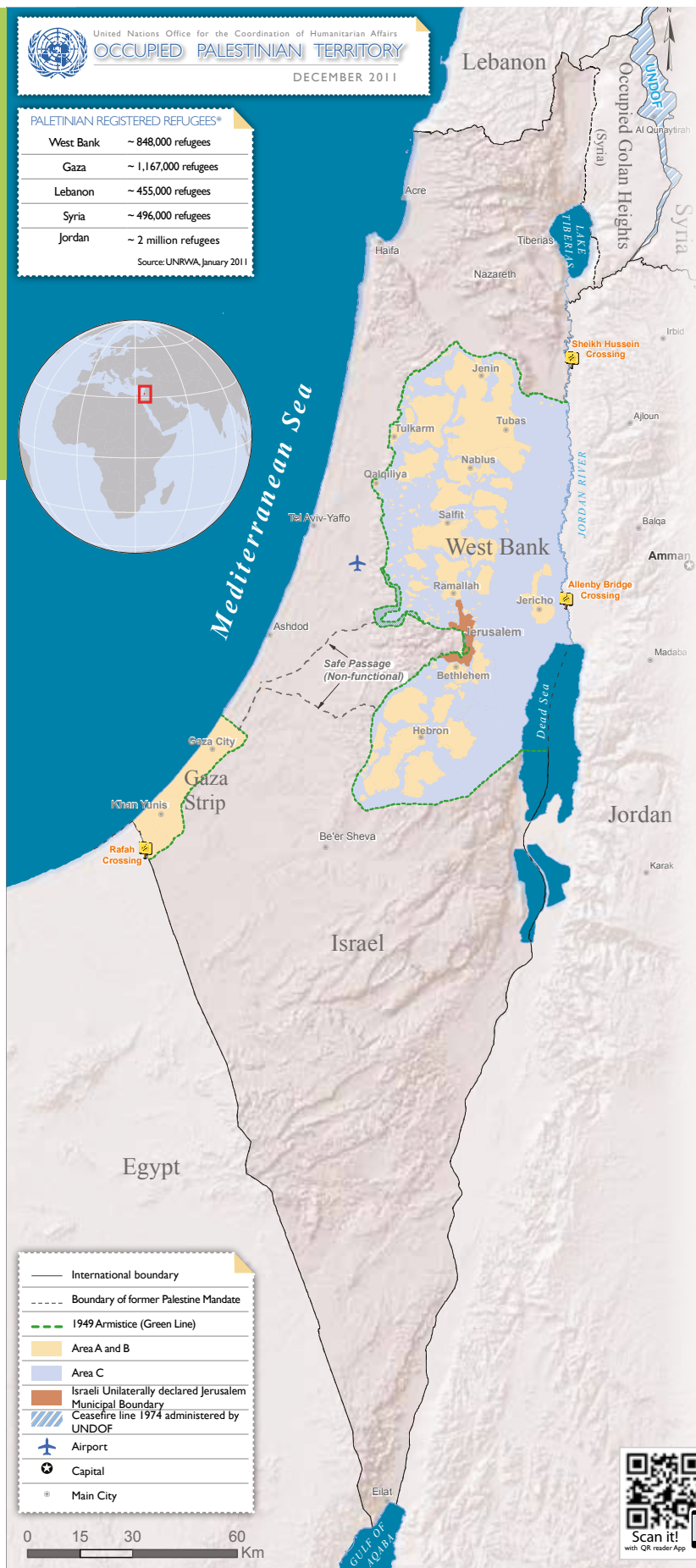


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Palestinian civilians living in the occupied Palestinian territory (oPt) continue to bear the brunt of ongoing conflict and Israeli occupation. A lack of respect for international humanitarian and human rights law has resulted in a protection crisis with serious and negative humanitarian consequences.

In the Gaza Strip, Israel continues to impose a land, sea and air blockade that has significantly undermined livelihoods, seriously diminished the quality of, and access to, basic services, and which amounts to collective punishment of the population of the Gaza Strip.

In the West Bank, East Jerusalem is isolated from the rest of the West Bank. Communities in Area C face a range of pressures, including demolitions, settler violence, and movement and access restrictions, that make meeting basic needs increasingly difficult and threaten Palestinian presence in the area. Bedouin and herder communities are particularly vulnerable. Unlawful Israeli settlement activity lies at the heart of many of the humanitarian difficulties facing Palestinians in the West Bank.

Overall, the lack of accountability for violations of human rights and humanitarian law, along with a failure to effectively enforce the rule of law when it comes to attacks on Palestinians and their property by Israeli military forces or Israeli settlers, has created a climate of impunity that contributes to further violence.

Key Facts on the oPt



4.2 million Palestinians live in the oPt, with 2.5 million in the West Bank and 1.6 million in the Gaza Strip.



Nearly 44% of the oPt population are refugees and nearly 50% is below the age of 18.*



38% of the population of the Gaza Strip and **18.3%** of the West Bank live in poverty.



33% of the population of the oPt is food insecure.



28% unemployment rate in the Gaza Strip and **20%** in the West Bank



73 litres/capita/day (l/c/d) is the average water consumption in the West Bank and **80-90 l/c/d** in the Gaza Strip, below the WHO standard of 100 l/c/d.



5.8 persons is the average Palestinian household size in the oPt.



500,000 Israeli settlers live in 150 settlements and 100 outposts in the West Bank, in contravention of international law.

The oPt population is only 38% of the global Palestinian population, projected at 11.2 million people, approximately 44% of which are refugees registered with the UN. Outside the oPt, 1.4 million Palestinians live in Israel, 5 million live in Arab countries and 640,000 in other parts of the world.

*Source: PCBS



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DISCLAIMER: The designations employed and the presentation of material on this map do not imply the expression of any opinion whatsoever on the part of the Secretariat of the United Nations concerning the legal status of any country, territory, city or area or of its authorities, or concerning the delimitation of its frontiers or boundaries. Reproduction and/or use of this material is only permitted with express reference to "United Nations OCHA oPt" as the source.

Editorial

This year marks 50 years of occupation – a significant period, not only for Palestinians living inside historical Palestine, but indeed first and foremost for them. It means an accumulation of 50 years of dispossession, displacement and oppression, 50 years under threat of being evicted, of losing their fields, springs, orchards and homes. 50 years without political and civil rights, without a future for themselves and their offspring. 50 years of despair and shattered hopes.

During the six days of the June 1967 war Israeli troops took control of the West Bank from Jordan, the Gaza Strip and the Sinai desert from Egypt, and the Golan Heights from Syria. Israel continues to hold most of these territories and refuses to consider relinquishing them. On the contrary, even in 1967 Israel began to change the social and demographic fabric of the conquered territories and to appropriate its land and natural resources. Immediately after the war the Mughrabi neighborhood in the Old City of Jerusalem was destroyed and its inhabitants displaced to make room for a wide plaza in front of the Western Wall. Very soon after this the first Israeli settlements were established, at first in the newly occupied eastern parts of Jerusalem, then later in the occupied West Bank and the Gaza Strip. Jerusalem, considered by the 1947 UN partition plan to be a “corpus separatum” where people of all nations and faiths should enjoy rights, was annexed and incorporated into Israel and declared its undivided and eternal capital. The Palestinian inhabitants were granted only very limited rights and insecure residency status in their own home.

In 1993, through the Oslo Peace process, Israel and the PLO recognized each other, Palestinians were granted limited autonomy in parts of the occupied territories and the Palestinian National Authority was formed under the leadership of PLO head Yasser Arafat. A Palestinian state beside Israel seemed within reach. But instead of giving Palestinians more freedom and withdrawing gradually from the occupied territory, Israel entrenched the occupation, multiplied the number of settlers, erected checkpoints and barriers and divided the West Bank and Gaza into separate parts. Palestinians responded with attacks on Israeli civilians and military personnel. Israeli reprisals were vicious, merciless and often

disproportionate. The peace process collapsed and the occupation grew ever more oppressive.

Meanwhile 50 years have passed. Generations have grown up in Palestine without knowing freedom, stability, democratic participation and economic prosperity.

In this issue of Perspectives we provide a glimpse on life under occupation during these 50 years through a collection of articles, pictures, infographics, maps and a graphic novel.

Issam Younis, the general director of the Gaza-based Al Mezan Center for Human Rights outlines what these 50 years of prolonged occupation mean from a legal point of view and how International Law has been breached. Legal expert Dr. Susan Power, from the Ramallah-based human rights organization, Al- Haq, follows with an account on how Israel is colonizing the economic space of Palestine.

Senior diplomat Majed Bamy, founder and current head of the International Law and Treaties Department at the Ministry of Foreign Affairs, directs his attention to current questions: Where are Palestinians headed? What kind of state do they want? How do they try to reach their goals? Political scientist Daniel Meier, member of the research team of the EUBORDERSCAPES program, writes on the dire situation of Palestinian refugees in Lebanon. Mahmoud Muna, co-owner of the famous Educational Bookshop in East Jerusalem, takes a look at Palestinian culture in Jerusalem and Rula Abu Dhou, researcher and lecturer at Birzeit University in Ramallah, writes about the struggle of female Palestinian prisoners. The editor of this issue of Perspectives, Carol Khoury, will test your knowledge on 50 years of occupation with her Quiz – and no answers provided. Infographics were provided by the team of the Jordanian satirical magazine Al-Hudood. The centerfold photos depict the 1967 war and its immediate aftermath.

Bettina Marx

Bente Scheller

Dorothea Rischewski

Heike Loeschmann

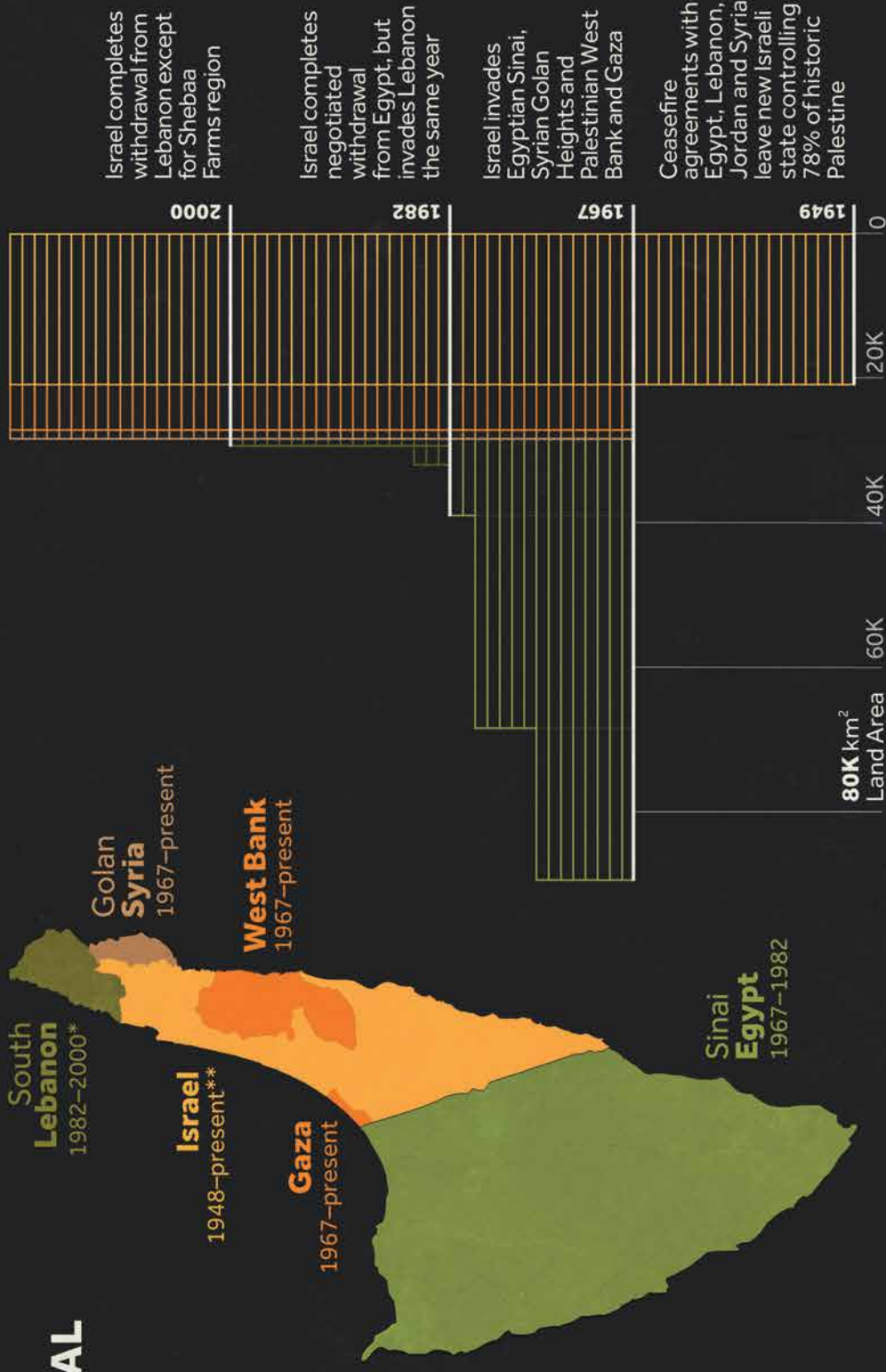
A HISTORY OF OCCUPATION

ISRAELI TERRITORIAL CONTROL

In its short history, the State of Israel has not only occupied Palestinian land, but also the sovereign territory of 3 of its 4 neighboring countries. Today, Israel continues to occupy land in Syria, Lebanon, and Palestine.

*Israel continues to occupy the Shebaa Farms region of South Lebanon.

**The State of Israel was established on Palestinian land, displacing 700,000 indigenous people.



VP DATA SKETCH

SOURCES bit.ly/vp-occupied JUNE 2017 • [f](https://www.facebook.com/visualizingpalestine) [t](https://www.tumblr.com/visualizingpalestine) [i](https://www.instagram.com/visualizingpalestine) [y](https://www.youtube.com/visualizingpalestine)

50 years of Prolonged Occupation

By Issam Younis

On June 5, 2017, the Israeli occupation of Palestinian territories marked 50 years of what has become an indefinite and unpredictable presence. At 50 years, it is the longest among the occupations in modern history. During this period, the Palestinian territories have witnessed systematic violations of the rule of international law: the occupation has given itself far-reaching legislative and administrative powers which it has used to alter the geography and demography of the Palestinian territories. They go far beyond those foreseen by the law of occupation which puts focus on preserving the character of occupied territory until the soon-to-come point of ending the occupation comes. It has therefore been able to create new facts on the ground that can never achieve either security or peace and that violate the legal rules that govern relations between the occupying power and the civilian population and their property, laws that stable nations have recognized for a very long time.

Immediately after Israel occupied the Palestinian territories on June 5, 1967, the international community and the International Committee of the Red Cross considered the territories as occupied, and recognized Israel as a belligerent occupying power as per international law. The Fourth Geneva Convention of 12 August 1949 Relative to the Protection of Civilian Persons in Time of War (Geneva Convention IV) applies in this case, and Israel is legally bound to enforce the provisions of this convention and others that are relevant. Nevertheless, while Israel recognizes that The Hague Convention of 1907 is part of Customary International Law, it

persistently refuses to acknowledge that the Palestinian territories are in fact occupied, and that the Geneva Convention IV is applicable.

Israel promotes a number of pretences to justify this contention: one is that the land was not taken from its rightful sovereign owners, as both Egypt and Jordan ruled the Gaza Strip and the West Bank including Jerusalem, respectively, at the time, were not the rightful sovereigns. A second pretence is that these territories were occupied in a unique manner, as they were occupied in a defensive war and not an offensive one, in addition to the long-term nature of the occupation and emerging practical problems that would render these provisions useless.¹

Based on these two claims, among others, Israel refuses to recognize the applicability of the Geneva Convention IV in the occupied Palestinian territories. This position violates the provisions of the Geneva Convention IV, Article 2, which states:

In addition to the provisions which shall be implemented in peace-time, the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them.²

The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance. Although one of the Powers in conflict may

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¹ See Raja Shehadeh, *Occupier's Law, Israel and the West Bank*, Institute for Palestine Studies and Kuwait University, Beirut, 1990, p. 5–7.

² Diakonia, *The applicability of IHL in the Occupied Palestinian Territories*. <https://www.diakonia.se/en/IHL/occupied-Palestinian-Territory/IL--oPT/Applicability-of-IHL-in-the-oPT/>



*"Philadelphia Corridor" in Rafah, Gaza Strip, on the border with Egypt, 2007. Israel destroyed houses on the border and enlarged the corridor, a military road between Gaza and Egypt, in order to create a buffer zone and to stop the building of tunnels under the border.
Courtesy of Bettina Marx*

not be a party to the present Convention, the Powers who are parties thereto shall remain bound by it in their mutual relations. They shall furthermore be bound by the Convention in relation to the said Power, if the latter accepts and applies the provisions thereof.³

This article stresses that the Geneva Convention IV must be enforced in all cases, because the essence of it is to provide protection to civilians living under occupation, regardless of the manner in which these territories fell into the grip of the opponent, whether in defensive or offensive war, whether they were taken from its sovereign rulers or not, and whether it was total or partial occupation. The main purpose of the article is to provide protection to civilians and their property as soon as they become occupied. The applicability of the Geneva Convention IV was reaffirmed repeatedly in UN General Assembly resolutions, in the International Justice Court advisory opinion in 2004 on the segregation wall and in Security Council resolutions, most recently Resolution 2334, which was adopted in December 2016, on ceasing settlement activity, which states:

Reaffirming the obligation of 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, and recalling the advisory opinion rendered on 9 July 2004 by the International Court of Justice.⁴

Israel claims that, although it does not acknowledge the applicability of the law de jure, it does acknowledge it de facto, by applying its humanitarian aspects. Obviously, the Geneva Convention IV is a humanitarian treaty that seeks to provide protection to civilians and their property, and preserve the character of the occupied territory during the expectedly short-term occupation. The question here is: are the annexation of Jerusalem by the occupying power, the confiscation of publicly and privately owned lands and the building of settlements, with transfer of populations opposite way; i.e. Palestinians out and Jewish Israeli in, and the construction of the separation barrier and the

closure and blockade imposed on Gaza for 11 years, part of the humanitarian principles that Israel applies?⁵

The practical definition of occupation is that it involves a temporary nature, and that the occupation power is prohibited from annexing occupied territory or parts of it, which is reaffirmed by international law: the occupier only has administrative powers in occupied territory, but does not have any sovereignty rights over them. This was confirmed repeatedly in the case of Palestine by international legal institutions, UN bodies and other organizations that have also reaffirmed the applicability of basic conventions in international law, especially after Israel began building settlements, annexed Jerusalem and enforced Israeli law there in 1980.⁶

50 years on: violations and lack of protection

Israel has been violating International Humanitarian Law and International Human Rights Law since it occupied the Palestinian territories in 1967: it demolished tens of thousands of Palestinian homes and properties, displaced whole communities and confiscated large swathes of land in a gradually implemented move to change the geographical features of the occupied territories. The new reality was only possible to achieve through a complex set of laws that favor one set of the population over the other; the guiding principle simply being as few Palestinians as possible and as many Israelis as possible on the land.

Israel's policy in building and expanding settlements in the occupied Palestinian territories, which is undoubtedly illegal under international law, is considered to be a grave violation of the Geneva Convention IV, which specifically prohibits the transfer of the occupying power's civilian population into the occupied territory, and is one of the main factors behind the wide range of human rights violations. Israel also controls most of the natural resources in these territories, such as water, minerals and agricultural land, which it allocates to its own interests and gives incentives to the

³ <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/INTRO/380>

⁴ <http://www.un.org/webcast/pdfs/SRES2334-2016.pdf>

⁵ See, International Court of Justice Reports Of Judgments, Advisory Opinion and Orders, On the Legal Consequences of the construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion of 9 July 2004, pp. 41 – 44, <http://www.icj-cij.org/files/case-related/131/131-20040709-ADV-01-00-EN.pdf>

⁶ Ian Scobbie, "International law and prolonged occupation of Palestine", a paper presented to the United Nations Roundtable on Legal Aspects of the Question of Palestine, The Hague, 20-22 May 2015, p. 1. See also UN resolution No. 476/ 1980, which condemns Israel's annexation of Jerusalem, considers it void and without legal value and demands ending the long-term occupation of the Palestinian territories.

Dozens of men, most of them injured in the 2014 Israeli war on Gaza, roll off the starting line in the Persistence Marathon, Gaza City. The adaptive sports event was organized by the al-Salam Association for Disabled People. 29 November 2016. Mahmud Hams/AFP/Getty Images, via Institute for Palestine Studies.



estimated 600,000 Israeli settlers in the West Bank and East Jerusalem.⁷ International law prohibits the exhaustion of natural resources in occupied territory if it is not directed to the benefit and wellbeing of the civilian population under the occupation.

The building of settlements contravenes international laws that prohibit the occupying power from making permanent alterations in occupied territories. Privileges and economic incentives given directly to citizens or local Jewish authorities to increase the residents' quality of life are among the tools used for this purpose.⁸

While Israel controls urban planning in most of the occupied territories and refuses to issue building permits for Palestinians, it also demolishes Palestinian homes, under the pretext of failing to produce the required permits, or as punishment. It also imposes very strict limitations that prevent Palestinians residing in Jerusalem from acquiring building permits in the city. This is also the case in 60% of West Bank territories that falls under exclusive Israeli control, known as Area C.⁹ Between January and November 2016, Israeli forces demolished

925 residential buildings and Palestinian establishments in the West Bank (including East Jerusalem). Most were demolished for lacking a building permit, displacing 1,347 people, mainly women and children.¹⁰

Israel has also erected a long and winding separation barrier in the form of a fence or a wall, which swallows up to 46% of the West Bank area. While it is described as a "security barrier", 85% of the fence/wall is located within the West Bank, and only 15% on the border or in Israel, where it should be built. The erection of this wall/fence restricts Palestinians' access to their property, land and services, which has had serious social and economic consequences that contribute to the increase in poverty and number of people living in poverty in the West Bank and occupied Jerusalem.¹¹

On the other hand, Israel subsidizes security, administration, housing, education and healthcare services to settlers in the West Bank and Jerusalem. It paves separate roads for them that Palestinians are prohibited to use, and facilitates the issuance of building permits and the establishment of associations and organizations that reinforce Jewish

⁷ The occupation forces deny Palestinians their water rights; the Palestinians share of water aquifer did not exceed 15% compared to 85% for the Israelis. The Palestinian's share of the coastal aquifer basin was only 18%, while the Israeli's share was 82%, in a clear violation of Article 55 of the regulations annexed to The Hague Convention, which commits the Occupying State to administer the occupied lands in accordance with the rules of usufruct, a legal term referring to the right of one individual to use and enjoy the property of another, provided its substance is neither impaired nor altered.

⁸ <http://www.btselem.org/arabic/settlements>

⁹ These procedures violate Article (53) of the Geneva Convention, which prohibits the Occupying Power from destroying any 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, except where such destruction is rendered absolutely necessary by military operations.

¹⁰ Human Rights Watch, World Report 2016, Israeli/ Palestine Events of 2016. <https://www.hrw.org/world-report/2016>

¹¹ <http://www.aljazeera.net/encyclopedia/citiesandregions/2014/11/21/%D8%AC%D8%AF%D8%A7%D8%B1-%D8%A7%D9%84%D9%81%D8%B5%D9%84-%D8%A7%D9%84%D8%A5%D8%B3%D8%B1%D8%A7%D8%A6%D9%8A%D9%84%D9%8A>



Lights glow at the Ashkelon power station in Israel, seen from the nearby beach in Gaza City. Extended power cuts are a daily fact of life in Gaza. 10 June 2016. Christopher Furlong/Getty Images, via Institute for Palestine Studies.

Israeli presence in the occupied territories. Furthermore, it launches multimillion dollar economic projects in the settlements located in occupied territories, and exports settlement products to the world worth hundreds of millions of dollars every year.¹²

Although the West Bank is an occupied area, and not part of Israel's sovereign territories, Israel enforces its law on settlements and settlers. Consequently, settlers enjoy all the rights enjoyed by citizens of a democratic state, and by Israeli citizens who live in Israel. On the other hand, Palestinians continue to live under a military-judiciary regime that systematically violates their rights and prevents them from having a real influence in developing policies regarding the space they occupy. Increasingly, the Israeli Knesset has been legislating for Palestinians under Israeli occupation, as Israeli law is applied to individuals from Gaza and in East Jerusalem, and the regularization law regulates land allocation in the West Bank completely in favour of Israeli settlers.¹³ This way, a parliament elected by Israeli citizens is legislating for Palestinians who live under the control and occupation of Israel.

Regarding the Gaza Strip with its two million inhabitants, Israeli forces continue to isolate this narrow strip of land on the Mediterranean shore from the West Bank through imposing a

comprehensive closure and a naval blockade. The closure policy affects their daily life and harms civilians in far-reaching ways. It has destroyed a once vibrant economy, and pushed education, healthcare and public health services backward. The closure regime imposes strict restrictions on the movement of persons and goods. Along with the closure, a buffer zone regime is enforced along the border and in the sea, restricting civilian access to the sea for fishing and to arable land for agriculture. Power cuts and restrictions on construction materials that are crucial for the maintenance of water and sanitation infrastructure forced Palestinians to dump billions of litres of untreated sewage into the sea, which seeps into the only aquifer in Gaza.

The Israeli forces restrict humanitarian access, even to those it recognizes as "humanitarian cases"; such as patients. Prominent businessmen, a category Israel frequently declared would be allowed to move, have also been held back by changing closure policy. In the first half of 2016, an average of 500 Palestinians passed through the Erez crossing daily, compared to an average of 24,000 crossing daily in the year 2000. The average exported volume of goods in the first ten months of 2016 was 158 trucks per month, which is only 15% of the 1,964 trucks monthly before the closure was imposed in June 2007.¹⁴ Tens of thousands of households lost their livelihoods and became dependent

¹² The Israeli government approved the commencement of building more than 1000 new residential units in West Bank settlements in the first half of 2016, an increase of 17% in comparison with the same period in 2015, according to the Palestinian Central Bureau of Statistics. Recently, the Israeli government announced plans to build thousands of new housing units in the current settlements, in addition to building two new settlements in the occupied West Bank. For more information visit: <http://www.pcbs.gov.ps/site/512/default.aspx?lang=en&ItemID=1769>, and <http://www.btselem.org/settlements>

¹³ see "JOINT PRESS RELEASE: 17 West Bank Palestinian municipalities, 3 human rights groups petition Israeli Supreme Court against Settlements Law," 10 February 2017, available online at <http://mezan.org/en/post/21791>.

¹⁴ Human Rights Watch, World Report 2016, Israeli/ Palestine Events of 2016 <https://www.hrw.org/world-report/2016>

on aid to survive. This accelerated economic and social problems, as conservative statistics put unemployment in Gaza at 41.7%,¹⁵ with women and youth disproportionately affected. The poverty level was estimated at 38.8%.¹⁶ Consequently, the number of households depending on humanitarian aid continues to hover around 80% of the households in the Strip.¹⁷

Protection and prolonged occupation

The main purpose of the law of occupation is to protect the civilian population; who are the potential victims of occupation, and to ensure that those falling in the grip of a belligerent power are treated humanely. The law is also meant to ensure that the occupation does not have a free hand in imposing its repressive measures; and thus, obliges it to strike a balance between the humanitarian considerations of the civilian population and the military necessity of the occupying power. It also prohibits the occupying power from making any one-sided permanent alteration in the economic and legal regimes, or in the political regime in the occupied territories in general, that would sustain sovereign rights over it, awaiting the restoration of sovereignty by re-establishing self-determination, which is an inalienable right for all peoples under the contemporary international order.

What is unique about the Israeli occupation is that it is prolonged, surpassing its 50-year mark in June 2017. It strives forcefully and systematically to annex land and entrench itself to create new realities that Israel hopes would not be undone. To this end, significant alterations in the legal regime, regulations and procedures have been enforced in a clear violation of the rules of international law, which strictly confine such actions to military necessities related to the security of the armed forces and the interest and welfare of civilians, who are supposed to be protected when living under occupation.

Treaty law makes almost no reference to long-term occupation; this case is not mentioned in any of the main conventions that govern occupation, and the issue was seldom discussed by experts of law prior to the Israeli occupation becoming clearly prolonged. Professor Ian Scobbie argues that the recurring idea among commentators and experts on the law of military occupation is that the regulations annexed to The Hague Convention 1907 and Fourth Geneva Convention assume that the duration of the occupation shall be limited, and those who drafted these conventions did not imagine that it could last for decades, and it is often said that the provisions of these conventions are not suitable to regulate long-term occupation.¹⁸

Long-term occupation requires a stricter system to protect civilians and their property and to restrict the authorities of the occupying power. This was noted in the 1958 Commentary to the Fourth Geneva Convention:

Furthermore, two cases of an occupation being prolonged after the cessation of hostilities can be envisaged. When the Occupying Power is victorious, the territory will obviously be freed before one year has passed; on the other hand, if the Occupying Power is victorious, the occupation may last more than a year, but as hostilities have ceased, stringent measures against the civilian population will no longer be justified.¹⁹

Israel, as an occupying power, has been systematically violating the rules of international law for over 50 years now. Interestingly, Israel considers that its occupation, being long-term, is of a unique nature; however, in a sense to justify failing to uphold the Geneva Convention IV and to relieve itself from abiding by its provisions. Conversely, this should stress the importance of enforcing the rules of International law, especially providing protection for civilians and implementing the Geneva Convention IV. This was pointed out in Article 3/b in Protocol 1 additional to the Geneva Convention IV, which states:

15 Palestinian Central Bureau of Statistics. Palestine in Numbers. Ramallah – Palestine.

16 The poverty rate was calculated based on the Household Expenditure and Consumption Survey 2011.

Developments and changes occurred on the security, economic and social aspects, which indicates that poverty rates are much higher than this percentage. This is also confirmed by UNRWA's data which indicates that 80% of the population depends on UNRWA's aid for their food.

17 From 2000 until 2017, occupation forces killed 7,348 Palestinians in the Gaza Strip, including 549 women and 1,708 children, and partially or completely demolished 53508 houses, destroyed 3,906 commercial or industrial establishments, 20,141 public establishments, and destroyed thousands of dunums of agricultural lands. Statistics and documentation from al Mezan Center for Human Rights.

18 Ian Scobbie, *ibid*, pp. 2-3.

19 <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/COM/380-600009?OpenDocument>



*In Gaza, cousins paddle a boat entirely constructed of scrap metal and recycled plastic bottles. The 13-foot vessel, which took three months to build, was improvised by five friends confined by the Israeli siege of the territory.
18 April 2015, Mohammed Abed/AFP/Getty Images, via Institute for Palestine Studies.*

The application of the Conventions and of this Protocol shall cease, in the territory of Parties to the conflict...and in the case of occupied territories, on the termination of the occupation...

Without room for doubt, the Geneva Convention IV and other relevant law is applicable to occupied territories as long as the occupation has not been terminated. The fact that Israel did not ratify this Protocol does not change it,²⁰ since it is considered customary law applicable to all states.

Israel's conduct over 50 years in the occupied Palestinian territories represents grave violations of the rule of international law, sometimes rising to the level of war crimes. Given the continuation of these practices without effective access to justice, Palestinian civilians living under occupation must enjoy international protection according to the rules of international law, as a step towards terminating occupation. This point was reaffirmed by Security Council Resolution 467/ 1980 on the annexation of Jerusalem, which states that the Security Council "[r]eaffirms the overriding necessity for ending the prolonged occupation of Arab territories occupied by Israel since 1967, including Jerusalem".²¹

Given Israel's failure to provide such protection, the onus on the international community, and especially the High Contracting Parties to the Geneva Convention IV, Article 1, is clearly two-fold: to respect the convention, and to ensure respect of the conventions. This obligation stands regardless of the circumstances,

especially when a third state violates these rules. The long-term Israeli occupation significantly altered the geographic features and demographic composition of the occupied territories, which could represent a real threat to international peace and security. Avoiding such a threat was, no doubt, one of the goals of the international community after World War II when it agreed to the Geneva Law; including Geneva Convention IV.²² Without effective enforcement of international law, we are left with the bleak alternative: another 50 years of occupation, more violence and more instability.

Translated from Arabic

²⁰ Protocol (1) Addition to Geneva Convention IV on 12/8/1949 regarding the protection of victims of international armed conflicts. <https://www.icrc.org/ara/resources/documents/misc/5ntccf.htm>

²¹ [http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/476\(1980\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/476(1980))

²² Article 1, which is a common article in all Geneva Conventions states: "The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances."

50 YEARS of Unimplemented Security Council Resolutions

25 Security Council resolutions condemn or criticize Israel for its actions in the occupied Palestinian territory, for non-compliance with Security Council resolutions, and for violations of international law.

East Jerusalem

- 1 Resolution 252 (1968) rejected the annexation of East Jerusalem by Israel and deplored the **failure of Israel to comply with General Assembly resolutions**.
- 2 Resolutions 250 and 251 (1968), condemned the Israeli military parade in Jerusalem.
- 3 Resolutions 267 (1969), 298 (1971) and 446 (1979) condemned Israel's **failure to comply with previous resolutions** on East Jerusalem.
- 4 Resolution 476 (1980) and 478 (1980) deplored and censured in the strongest terms Israeli non-compliance with resolutions of the Security Council and General Assembly and reaffirmed the invalidity of all Israeli measures to change the legal status of Jerusalem.

Settlements

- Resolution 446 (1979), strongly deplored Israeli non-compliance with previous resolutions and determined "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".
- Resolution 452 (1979), the Council called 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".
- Resolutions, including 465 (1980) called upon "all States not to provide Israel with any assistance to be used specifically in connexion [sic] with settlements in the occupied territories".
- Resolution 2334 (2016) condemned Israeli practices in the occupied territory, particularly the construction and expansion of settlements.

Israel's treatment of the Palestinians

- Resolutions 468 (1980), 469 (1980), 484 (1980), 608 (1988), 641 (1989), 694 (1991) and 799 (1992) requested Israel **not to expel or deport Palestinians** from the territory occupied since 1967, affirmed the **illegality of the expulsion** of Palestinian civilians by Israel from the occupied territory and demanded that Israel ensure the return of all those deported.
- 1435 (2002) demanded that Israel **cease the destruction of Palestinian infrastructure**.
- 471 (1980), 592 (1986), 605 (1987), 672 (1990), 1322 (2000) and 1544 (2004), deplored and condemned Israel's killing of Palestinian civilians and the **excessive use of force against them**, and called upon Israel to abide by the Fourth Geneva Convention and guarantee the safety and protection of the Palestinian civilians.

Israel's Degrees of Economic Control over the Occupied Palestinian Territory: Colonizing the Economic Space

By Susan Power

I. Introduction

Following the 1967 six-day war, Israel occupied the Palestinian Territory (the West Bank including East Jerusalem and the Gaza Strip) and immediately promulgated a number of military orders designed to control and exploit Palestinian natural resources and redirect profits by routing sales through Israel for the benefit of Israel's home economy.¹ The occupation has inherent annexationist characteristics, as Israel has deliberately anchored the economy of the Occupied Palestinian Territory (OPT) for Israel's economic gain.² In this respect the occupation is a *sui generis* (more akin to an economic annexation of territory as distinct from a traditional belligerent occupation), deepening the OPT's dependency on Israel even as Israel depletes the non-renewable national resources of the OPT and systematically targets and cripples sectors of the Palestinian economy—a strategy most evident in the creation of three separate zones and degrees of control between the West Bank, East Jerusalem and Gaza. Furthermore, by fostering Palestinian economic dependence Israel has created a captive market for Israeli exports.³

In 2016, a United Nations Conference on Trade and Development (UNCTAD) report indicated

that the Palestinian economy “might reach twice its current size” should the occupation end.⁴ This paper examines the policies and practices of Israel in establishing economic dominance over (and sabotaging) the economy of the OPT. Moreover, it posits that the deliberate economic de-development of the OPT violates international humanitarian law.⁵ In doing so, it examines two main areas of economic control: (1) International agreements such as the Paris Protocol which entrench Israel's unlawful occupation policies under international humanitarian law and (2) Exploitative practices relating to natural resources. Further, this paper suggests that excessive and deliberate economic sabotage may amount to the war crime of pillage and may incur both individual and state responsibility.

II. Economic Controls on the Occupied Territory

Palestine remains shackled to Israel's economy and unable to develop, in part, due to the Paris Protocol, which was concluded following the establishment of the Palestinian National Council in 1994. The Paris Protocol effectively created a quasi-customs union and placed legal restrictions on the Palestinian policy space.⁶

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1 Military Order 158

2 Markaz al-Kuds li-al-I'lam wa-al-Ittisal. Israeli obstacles to economic development in the occupied Palestinian territories (The Centre, Jerusalem, 1994)

3 United Nations Conference on Trade and Development, Report on UNCTAD Assistance to the Palestinian People: Developments in the Economy of the Occupied Palestinian Territory (28 September 2016) 9 <http://unctad.org/meetings/en/SessionalDocuments/tdb63d3_en.pdf>

4 UNCTAD, Report on UNCTAD Assistance to the Palestinian People: Developments in the Economy of the Occupied Palestinian Territory (1 September 2016) 1.

5 See generally, Sara Roy, The Gaza Strip, The Political Economy of De-development (Institute for Palestinian Studies, 1995).

6 United Nations Conference on Trade and Development, Report on UNCTAD Assistance to the Palestinian People: Developments in the Economy of the Occupied Palestinian Territory (28 September 2016) 9 <http://unctad.org/meetings/en/SessionalDocuments/tdb63d3_en.pdf>



*Israeli soldiers in Shuhada Street, Hebron, Old City,
November 2013.
Courtesy of Bettina Marx.*

Critically, in providing a legal basis for the exceptional economic policies of the belligerent occupier, the protocol far exceeded the limited economic parameters of the Hague Regulations. Israel has used this economic control as yet another weapon with which to prosecute its war against the Palestinians. For example, Israel's stated policy goal in Gaza was to decrease the economy, "to the brink of collapse with quite pushing it over the edge".⁷ In 2010, the Palestinian Ministry of National Economy estimated the cost of the occupation to the economy at approximately USD 6.6 billion. This section will examine certain aspects of the economic controls Israel established over the OPT, which will further be examined for their compatibility with Hague law (see Section IV).

A. Free Movement and Trade

A critical component of economic development is free movement and trade. Palestine's export market is connected to Israel's, which absorbs 80 per cent of Palestinian exports. In order to develop economically it is necessary to diversify and enter new markets. However movement and goods are heavily restricted by Israel's policies and practices in Gaza and the West

Bank including East Jerusalem, thus crippling economic development. In 2016, the Office of the Middle East Quartet (comprising the UN, the US, the EU and Russia) reported that "Palestinian imports were valued at USD 5.1 billion and exports were valued at USD 929 million. This 5:1 ratio of imports to exports, which is consistent with the 2015 figures, is unsustainable."⁸

The Paris Protocol provides for the "imports [of goods] from the rest of the world" into Palestine. While this provision should have opened up Palestine directly to the international market, in effect these goods are imported into Palestine by Israeli companies and "labelled as destined for clearance by the Palestinian Authority".⁹ This two-step process ensures that Israel maintains control over all Palestinian imports. In addition, under this so-called "customs union" Israel enjoys unrestricted access to the Palestinian market while Palestinian exports are subject to restrictions leading to major structural deformations in the Palestinian economy.¹⁰ Roy argues that this "externalisation" has facilitated the integration of the Palestinian economy into, "modern, technologically higher-developed Israeli economic structures".¹¹

7 'Cashless in Gaza?' (3 November 2008) <http://www.wikileaks.org/plusd/cables/08TELAVIV2447_a.html#efmAgJAjaBHcBKahhttp://www.haaretz.com/news/diplomacy-defense/wikileaks-israel-aimed-to-keep-gaza-economy-on-brink-of-collapse-1.335354> accessed 9 May 2015. "Requests by Palestinian banks to transfer shekels into Gaza are ultimately approved, partially approved, or denied by the National Security Council (NSC), an organ of the Israeli security establishment, not by the Bank of Israel (BOI). As part of their overall embargo plan against Gaza, Israeli officials have confirmed to econoffs on multiple occasions that they intend to keep the Gazan economy on the brink of collapse without quite pushing it over the edge."; Before the imposition of the blockade of Gaza, approximately 18% of clearance revenues derived from imports destined for Gaza. However this has since reduced to 4-5% deriving mainly from petroleum excises. U. Kock, H. Qassis

8 Office of the Quartet, Movement and Trade <<http://www.quartetrep.org/page.php?id=5d64bcy6120636Y5d64bc>>

9 UNCTAD, The Palestinian Economy: Macroeconomic and Trade Policy Making under Occupation (2012) 11.

10 Ibid, 5.

11 Sabine Hofmann, Palestinian Economy – From Asymmetrical Dependency to Regional Cooperation (2010) <<https://www.boell.de/en/2010/03/08/palestinian-economy-asymmetrical-dependency-regional-cooperation>>



*Closure, Hebron Old City, March 2006.
Courtesy of Bettina Marx.*

B. VAT, Taxes and Revenues

Article VI (3) to Annex V of the Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip provided for the levy and collection of VAT, purchase taxes and indirect taxes on production. Significantly, the agreement pegs the Palestinian VAT rate to the Israeli rate, stating that, “the Palestinian VAT rate shall not be lower than 2% below the Israeli VAT rate”. Israel controls the VAT and customs revenue stream that account for two-thirds of the PA’s working budget.¹² Israel’s collection of clearance revenues has resulted in fiscal losses for the PA. According to the World Bank, there are quantified losses of USD 285 million, or 2.2 per cent of Palestinian GDP. Thus, “incomplete implementation of the Paris Protocol results from tax leakages on bilateral trade with Israel in addition to the undervaluation of Palestinian imports from third countries.”¹³ Fiscal leakages stem from indirect imports where, “Palestinian fiscal revenue [is] destined for the PA but retained by Israel instead.”¹⁴ Israel routinely suspends the transfer of revenues to the PA for punitive purposes, directly impacting and

devastating Palestine’s public sector. Israel uses this money to reimburse Israeli supply companies.¹⁵

III. Assimilating Palestine’s Natural Resources

After the 1967 war, Israel occupied the West Bank, the Gaza Strip and East Jerusalem, and established military control over the territory through Military Order No. 2 (“Proclamation Regarding Regulation of Administration and Law”). Paragraph 2 provided that the law existing in the region prior to June 7 1967 would remain in force, on condition that it did not contradict the proclamations or other military orders of the Israel Defense Forces administration.¹⁶ The order effectively suspended the public administrative system then in force and concentrated all competence in the hands of the area commander.¹⁷ Subsequently, a series of military orders were promulgated which radically altered the administration of natural resources in the West Bank and placed them under military control.¹⁸

¹² Rami Nasrallah, “Narratives and Key Moments” in Joel Peters and David Newman, *Routledge Handbook on the Israeli-Palestinian Conflict* (Routledge, 2013) 66.

¹³ World Bank, *Economic Monitoring and the Ad Hoc Liaison Committee* (19 April 2016) 5 < <http://documents.worldbank.org/curated/en/780371468179658043/pdf/104808-WP-v1-2nd-revision-PUBLIC-AHLC-report-April-19-2016.pdf> >

¹⁴ Mark Tran, “Palestinian Authority Loses \$300m in Trade Taxes a Year to Israel” *The Guardian* (3 September 2013).

¹⁵ Al-Haq, *Annexing Energy: Exploiting and Preventing the Development of Oil and Gas in the Occupied Palestinian Territory* (August 2015) 26.

¹⁶ Raja Shehadeh, *From Occupation to Interim Accords and the Palestinian Territories* (Kluwer Law International, 1997) 85.

¹⁷ *Ibid.*

¹⁸ Order Concerning the Investment of Natural Resources (West Bank) (No. 389), 1970, Order Concerning the Law on Regulation of the Affairs of Natural Resources (West Bank) (No 457), 1971, Order Concerning Law on Regulation of the Affairs of Natural Resources (Amendment) (West Bank) (No 1110), 1984. Published in *Proclamations, Orders and Appointments* (Israeli Occupation, West Bank) Issue No. 66, 17/09/1984 at page 55. (This Order amended Order No. (457) relating to licensing and permits, for water and irrigation projects).

On 19 June 1970, Israel issued its Order Concerning the Investment of Natural Resources (West Bank) (Military Order No. 389), vesting governance of the natural resources sector in the West Bank to the “competent authority”, which meant a person appointed by the military commander.¹⁹ The competent authority had the right to issue mining rights to any person or corporate entity holding a certificate of discovery under Jordanian law²⁰ and the right to revoke any mining rights previously issued in the public interest.²¹ Paragraph 3 of this order allowed the competent authority to furnish, “any of its power—in writing—to any person”, thereby facilitating a potential institutional transformation of the natural resources sector.²²

Following the implementation of these military orders, the administration of the natural resource sector in the OPT was broken up and absorbed into the Israeli Civil Administration. The regulation of the energy sector was further fragmented with competence for marketing, pricing and ownership divided among various government departments²³ and the Civil Administration established as, “the body responsible for the implementation of government policy in Judea and Samaria and bettering these areas in civil matters in accordance with the guidelines set by the government and in coordination with ministries, the IDF and the security forces”.²⁴ In this way, competence over natural resources was transferred from the military commander to the Israeli government and its ministries. This arrangement has continued beyond the Oslo Accords, as the Civil Administration currently has authority for zoning, construction and infrastructure in Area C.²⁵ This transferal of competence over natural resources from Palestinian to Israeli state control goes further than the laws of occupation intended, where the regulation of natural resources is confined to the immediate competence of the military commander.



A. Gas and Petroleum

*At night in Jerusalem Old City,
February 2014.
Courtesy of Bettina Marx.*

Israel has prevented the development of Palestine’s lucrative gas resources in the Gaza Marine and Noa fields off the Palestinian coast. Israel prevents Palestinian access to the gas reserves by enforcing a naval closure further than 6 nautical miles off the Palestinian coast. The Palestine Investment Fund has indicated that the development of Palestine’s gas fields alone would provide an additional USD 8

19 Formerly under the control of the Natural Resources Authority, Board of Directors of the Natural Resources Authority, Chairman and Deputy Chairman of the Natural Resources Authority, Chairman of the Personnel Bureau, the Prime Minister and the King. Article 2, The Israeli Defence Army, Order No. (389), Order Concerning the Investment of Natural Resources; Article 43, 46, Law No. (37) of 1966, The Provisional Law on Regulation of the Affairs of Natural Resources (21 May 1966)

20 Article 42(1), Law No. (37) of 1966, The Provisional Law on Regulation of the Affairs of Natural Resources

21 Article 42(2)(b), Law No. (37) of 1966, The Provisional Law on Regulation of the Affairs of Natural Resources

22 Article 3, Order No. (389) Order Concerning the Investment of Natural Resources (19 June 1970)

23 Petroleum Commissioner, the Petroleum Unit, the Petroleum Unit, the Ministry of Energy and Water Resources, the Antitrust Authority, the Ministry of Environmental Protection, the Ministry of Finance, the Inter-Ministerial Prices Committee and the Planning Authorities; U. S Chamber of Commerce, U.S-Israel Business Initiative, Recommendations for Advancing U.S-Israel Cooperation in Energy Exploration and Production (May 2013) 7. At <http://www.usisraelbusiness.com/files/2013/05/Energy-Recommendations.pdf> (last accessed 22 January 2014)

24 Coordination of Government Activities in the Territories, Civil Administration in Judea and Samaria, <http://www.cogat.idf.il/1279-en/Cogat.aspx> accessed 26 August 2014

25 Coordination of Government Activities in the Territories, Civil Administration in Judea and Samaria, <http://www.cogat.idf.il/1279-en/Cogat.aspx> accessed 26 August 2014

billion to the economy.²⁶ This substantial revenue contribution would mean economic independence for the Palestinian Territory and remove its heavy reliance on international aid.²⁷

B. Water

Following the six-day war, Israel issued a number of military orders designed to gain permanent access to Palestinian water resources and strategic control over surface water, underground aquifers beneath the West Bank and all freshwater resources. On 15 August, 1967, Israel promulgated Military Order No. 92, declaring all water as public property and prohibiting Palestinian construction of new water infrastructures, while on 19 December, 1968, Israel adopted Military Order No. 291 transferring control of Palestine's water resources to the military commander.²⁸ In 1982 Israel established Mekorot, an Israeli state-owned water company which operates and controls the supply of water in the OPT, engineering water supply shortages as part of Israel's battery of social control measures in the territories.²⁹ To achieve this aim Israel also ensured that Palestinian villages would not be connected to a water infrastructure, a situation that continues in Palestinian villages to this day.³⁰ Under the terms of the military order a permit is required to drill new wells, and this permission is routinely denied.³¹ This has burdened the Palestinian population with unprecedented economic costs: losses are incurred through lack of control over water resources and Palestinians are further exploited and subject to ad hoc

inflated costs of Israeli-supplied water.³² The cost to the Palestinian economy has been calculated at USD 1,903,082 or 23.4 per cent of GDP.³³

C. Quarries

Shortly after the occupation in 1967, Israel leased quarries on Palestinian land in the OPT to Israeli private parties for commercial gain. Military Order No. 59 ("Order on Government Property", issued in 1969) facilitated the transfer of public properties to the commander of the IDF. Israel acquired the land and issued concessions for quarrying to Israeli parties throughout the 1970s.³⁴

While Israel liberally grants quarry licenses to Israeli settlement enterprises, Palestinian-owned quarries in the West Bank are directly targeted and shut down. In 2016, the IDF confiscated quarrying equipment in raids on some three-dozen Palestinian licensed quarries in Beit Fajar.³⁵ According to Israel's National Outline Plan for Mining and Quarrying for the Construction and Paving Industry, it is estimated that the Palestinian sector will exhaust 65.1 billion tons of non-renewable quarried material over the next 30 years.³⁶ According to UNCTAD, should Palestinians be granted access to quarrying resources currently held under Israeli military control it would, "double the size of the Palestinian stone mining and quarrying industry", and potentially add between 2 and 3.5 per cent (between USD 241 million and USD 413 million) to GDP.³⁷

26 Palestine Investment Fund, Palestine's Oil and Gas Resources, Prospects and Challenges < <http://www.pif.ps/page.php?id=85bcy34236Y85bc> >

27 Al-Haq, *Annexing Energy: Exploiting and Preventing the Development of Oil and Gas in the Occupied Palestinian Territory* (2015) 7.

28 Permanent Mission of Palestine to the United Nations, Paper on the Situation of Water in the Occupied Palestinian Territory, including East Jerusalem (New York, 22 March 2010) < <http://www.un.org/ga/president/64/thematic/water/Palestine.pdf> >

29 B'Tselem, *Disputed Waters: Israel's Responsibility for the water Shortage in the Occupied Territories* (Information Sheet, 1998); Human Rights Watch, *Separate and Unequal, Israel's Discriminatory Treatment of Palestinians in the Occupied Palestinian Territories* (19 December 2010) < <https://www.hrw.org/report/2010/12/19/separate-and-unequal/israels-discriminatory-treatment-palestinians-occupied> >; Amira Hass, "Israel Admits Cutting West Bank Water Supply but Blames Palestinian Authority" *Haaretz* (21 June 2016) < <http://www.haaretz.com/israel-news/1.726132> >

30 Gross and Sofer, *International Underground Water Reserves* 44-54. See also H. Gvirtzman, "Groundwater Allocation in Judea and Samaria," in H. Shuval and J. Isaac (eds.), *Water and Peace in the Middle East* (Amsterdam: Elsevier, 1994).

31 S. Elmusa, *Water Conflict* (Washington: Institute for Palestine Studies, 1997) 86.

32 Palestinian Ministry of National Economy, ARIJ, *The Economic Costs of the Israeli Occupation for the Occupied Palestinian Territory* (September 2011) 5

33 *Ibid* at 6.

34 Yesh Din, *Volunteers for Human Rights v Major General Gadi Shamni, Commander of IDF forces on the West Bank, Petition for an order Nisi and an Interim Injunction*, Israeli High Court of Justice, Para 23

35 Mohammed Daraghme, *Future of Palestinian town bleak after Israel shuts quarries*, Associated Press (21 April 2016)

36 HCJ 2164/09 Yesh Din – *Volunteers for Human Rights v IDF Commander of Forces in the West Bank* (9 December 2009)

37 UNCTAD, *Report on UNCTAD assistance to the Palestinian people: Developments in the economy of the Occupied Palestinian Territory* (7 July 2014) para. 47 < http://unctad.org/meetings/en/SessionalDocuments/tdb61d3_en.pdf >

D. Dead Sea

Israel has expropriated public and private Palestinian land, designating it “state land” and assimilating it into the Israeli state portfolio for settlements, a practice which has been upheld by the Israeli High Court and seen Palestinians dispossessed of some 900,000 dunums (222,395 acres) of land for illegal settlements.³⁸ Part of this so-called “state land” includes the Dead Sea, which Israel exploits for lucrative minerals. The bromine industry is particularly valuable as the Dead Sea accounts for 73 percent of the global bromine output.³⁹ Israel has issued mining licenses over Palestinian land to companies such as Ahava Dead Sea Laboratories, which is 44.5 per cent owned by the Mitzpe Shalem and Kalia settlements.⁴⁰ The annual production by Israel of Dead Sea minerals amounts to USD 2,782 per metric ton for bromine, USD 483 per metric ton for potash and USD 2,700 per metric ton for magnesium.⁴¹ It is estimated that the Palestinian economy is deprived of USD 918 million per year from the harvesting of Dead Sea minerals.

E. Agricultural and Fishing

Israel’s occupation policies have devastated Palestine’s closely linked agricultural and fishing industries. For example, one of the main markets for Gaza’s catch is the West Bank,⁴² but Israel routinely prevents trade between the two areas as part of its divide and conquer strategy.⁴³ In 2015, a Report of the Ad Hoc Liaison Committee of the Office of the Quartet Representative stated that, “movement and access restrictions, both physical and regulatory, hinder economic development in the West Bank and the Gaza Strip and affect nearly all aspects of Palestinian life.”⁴⁴ Israel controls over 60 per cent of land in Area C in the West Bank and most of this is removed from Palestinian possession via planning and zoning measures, which

categorise land as “nature reserves”, “closed military zones”, “archaeological zones” or “state land”.⁴⁵ Similarly, Israel has closed access beyond 6 nautical miles (nm) restricting the Gazan maritime fishing, recreational and economic zone in violation of the 20 nm access provided for under the 1995 Israeli-Palestinian Interim Agreement. In this vein, the UNSCO Q/4 2016 Report documented a 24.8 per cent contraction in the real value added in agriculture, forestry and fishing.⁴⁶

IV. Limits on the Legal Regulation of the Economic Life of the Occupied Territory

A. Violations of the Economic Provisions of International Humanitarian Law

The legal framework underpinning Israel’s occupation of the OPT is international humanitarian law, (the Hague Regulations and Fourth Geneva Convention and relevant customary provisions of the First Additional Protocol), international human rights law and customary international law. The most important laws are the laws of occupation, which operate as the *lex specialis*. Notably, the Hague Regulations provide a mini-constitution for the belligerent occupier’s governance of occupied territory, strictly limiting the occupier’s ability to interrupt the economic life of the occupied territory.⁴⁷ Under Article 43 of the Hague Regulations the belligerent occupier has the obligations to maintain intact the status quo ante bellum of the territory.

As such, regulation of the economic life of the occupied territory continues as before and the occupier is prevented from substantially

38 HCJ 390/79, Dweikat v Government of Israel, 34 PD 11; Al-Haq, Pillage of the Dead Sea: Israel’s Unlawful Exploitation of Natural Resources in the Occupied Palestinian Territory (2012) 14.

39 World Bank Study, Area C and the Future of the Palestinian Economy (2014) 3

40 Al-Haq, Pillage of the Dead Sea: Israel’s Unlawful Exploitation of Natural Resources in the Occupied Palestinian Territory (2012) 8.

41 Applied Research Institute Jerusalem, The Economic Cost of the Israeli Occupation of the Occupied Palestinian Territories (2015) 30 <http://www.arij.org/files/arijadmin/2016/The_Economic_Cost_of_the_Israeli_occupation_Report_upd.pdf>

42 Mel Frykberg, Fishing and Framing in Gaza is a Deadly Business (8 June 2015) <<http://reliefweb.int/report/occupied-palestinian-territory/fishing-and-farming-gaza-deadly-business>>ew

43 Gaza Gateway, The Tale of a Fish from Gaza (Gisha) <<http://gisha.org/en-blog/2014/11/17/the-tale-of-a-fish-from-gaza/>>

44 Ibid

45 UNOHCHR, ‘Special Focus: Restricting Space: The Planning Regime Applied by Israel in Area C of the West Bank’ (December 2009) 2 <https://www.ochaopt.org/documents/special_focus_area_c_demolitions_december_2009.pdf>

46 UNSCO, UNSCO Socio-Economic Report: Overview of the Palestinian Economy in Q4/2016 <<http://www.unsco.org/Documents/Special/UNSCO%20Socio-Economic%20Report%20Q4%202016.pdf>>

47 David Kretzmer, “The Law of Belligerent Occupation in the Supreme Court of Israel” 94(885) International Review of the Red Cross (2012) 9.

transforming the economic structure of the occupied territory.⁴⁸ For example, the radical transformation of the Iraqi economy during the US/UK belligerent occupation required a Security Council mandate.⁴⁹ Although minor alterations are permitted for the benefit of the occupied population and to provide for the humanitarian guarantees inherent in the Fourth Geneva Convention, these are very much positive obligations within the already-operating economic system of the occupied territory.⁵⁰ This would permit, for example, projects such as the Palestinian Economic Initiative within an ongoing and prolonged belligerent occupation; more problematically, it fails to address the vexed issues of termination of occupation or the annexation of occupied territory.

On the other hand, out of regard for the “benefit of the occupied population” the belligerent occupier is strictly prohibited from destroying the economy of the occupied territory. According to Iain Scobbie, “occupation is not a license for unbridled economic exploitation.”⁵¹ Consequently the Hague Regulations strictly limit the belligerent occupiers’ intervention in the economic life of the occupied state. For instance, the Hague Regulations prohibit excessive requisitions, usufruct and contributions. Additionally, the Military Tribunal at Nuremberg strictly limited the belligerent occupants relationship with the economy of the occupied territory finding:

[that] the economic subsistence of the belligerently occupied territory must not be taken over by the occupant or put to the service of his war effort – always with the proviso that there are exemptions from this rule, which are strictly limited to the needs of the army of occupation in so far as such needs do not exceed the economic strength of the occupied territory.⁵²

Exceptions to this principal, such as military operations and the “needs of the army of occupation”, are clearly laid out in the Hague Regulations, which do not allow the occupier to use the national or natural resources of the occupied territory beyond the confines of these “needs”.⁵³ As such, moveable and immoveable public property under the control of the belligerent occupant is subject to protection. Public moveable property can only be used for “military operations”. Public immoveable property may be administered according to the terms of usufruct and subject to the proviso that the capital of the property is safeguarded for the future return of the rightful owner.⁵⁴ Exploiting the economy of the occupied state beyond these parameters for the benefit of the occupant’s home economy is strictly prohibited.⁵⁵

Similarly, the provision of taxes are governed by Article 48 of the Hague Regulations which requires that the occupier collect taxes, “in accordance with the rules of assessment and incidence in force”, and limits the collection to the terms of pre-war legislation, a restriction that is mentioned in both Article 49 and Article 51.⁵⁶ In respect of the seizure of tax revenues, the occupier is strictly limited in how he directs the revenues, being obliged to use them, “to defray the expenses of the occupied population to the same extent as the legitimate [authority] was bound”.⁵⁷ Directing those revenues to Israel’s home economy is a serious violation of Article 48.⁵⁸

Nor can the representatives of the occupied state agree to override the minimum humanitarian safeguards contained in Hague and Geneva law. The Fourth Geneva Convention (GCIV), which is supplementary to the Hague Regulations, prevents representatives of the occupied population from entering into special agreements with the belligerent occupier that

48 ICRC, Expert Meeting: Occupation and Other Forms of Administration of Foreign Territory (2012) 5.

49 SC/RES/1483 (2003).

50 Article 64, Fourth Geneva Convention (1949); See generally, Susan Power, *The 2003-2004 Occupation of Iraq: Between Social Transformation and Transformative Belligerent Occupation* 19(2) *Journal of Conflict and Security Law* (2014).

51 Iain Scobbie, ‘Issues of Implementation’ in Stephen Bowen, *Human Rights, Self-Determination and Political Change in the Occupied Palestinian Territories* (Martinus Nijhoff Publishers, 1997) 228.

52 United States, Military Tribunal at Nuremberg, Krupp Case, Judgment, 30 June 1948.

53 Prosecutor v Jean-Pierre Bemba Gombo, (21 March 2016) ICC-01/05-01/08, p. 61, para. 123 < https://www.icc-cpi.int/CourtRecords/CR2016_02238.PDF >

54 Article 53, Hague Regulations (1907); Article 55 Hague Regulations (1907).

55 N.V. DE BATAAFSCHE PETROLEUM MAATSCHAPPIJ & ORS; Grilli v. Administration of State Railways, Court of Cassation 1961, 20 I.L.R 429, 430; Colomi v. Ministry of War (1950) Ann. Dig. 419 (No. 139) (Court of Cassation, Italy, 1950) at 421.

V. THE WAR DAMAGE COMMISSION 22 Malayan Law Journal 155 (1956) Court Of Appeal, Singapore, April 13, 1956 Whyatt, C.J., Mathew, C.J., And Whitton, J.

< <https://Casebook.Icrc.Org/Case-Study/Singapore-Bataafsche-Petroleum-V-War-Damage-Commission> >

56 United States, Military Tribunal at Nuremberg, Krupp Case, Judgment, 30 June 1948.

57 Al-Haq, *Israel’s Retaliatory Seizure of Tax: A War Crime to Punish Palestinian ICC Membership* (2015) 7.

58 Ibid 8.

In Hebron, owner Yasir al-Hirbawi checks his looms at the Hirbawi Textile Factory where the last locally-produced Palestinian kaffiyehs are woven. 10 March 2015, Hazem Bader/AFP/Getty Images, via Institute for Palestine Studies.



would usurp their humanitarian guarantees.⁵⁹ For example, Article 47 of GCIV states that protected persons, “shall not be deprived of the benefits of the present Convention by any change introduced...nor by any agreement concluded between the authorities of the occupied territories and the Occupying Power.”⁶⁰

B Pillage and the Systematic Economic Exploitation of Occupied Territory

The systematic destruction of the occupied territory’s economy may be prosecuted as pillage. Notably, it is a violation of international law giving rise to both state and individual criminal responsibility.⁶¹

Pillage is a war crime within the jurisdiction of the International Criminal Court incurring individual criminal responsibility.⁶² In the Prosecutor v Delalic case, the International Criminal Tribunal

for the former Yugoslavia (ICTY) considered that there were two strands to the crime of pillage, firstly theft of property for personal gain (usually by soldiers), and secondly, “the organized seizure of property undertaken within the framework of a systematic economic exploitation of occupied territory.”⁶³ The latter is widely regarded as the Nuremberg strand of the crime, which evolved in response to the deliberate destruction of the economies of occupied territory throughout Europe during World War II.⁶⁴ According to the Prosecution in Krauch, the crime of spoliation or pillage had a double aspect:

It is broadly asserted that the crime of spoliation is a ‘crime against the country concerned in that it disrupts the economy, alienates its industry from its inherent purpose, makes it subservient to the interest of the occupying power, and interferes with the natural connection between the spoliated industry and the local economy.’⁶⁵

⁵⁹ Article 154 Fourth Geneva Convention (1949); Article 7 – 8 Fourth Geneva Convention (1949).

⁶⁰ Article 47, Geneva Convention Relative to the Protection of Civilian Persons in Time of War, August 12, 1949.

⁶¹ See for state responsibility, Case Concerning Armed Activities on the Democratic Republic of Congo (Democratic Republic of Congo v Uganda) ICJ Reports 168 (19 December 2005).

⁶² The Statute of the International Criminal Court provides for the war crime of pillage in Article 8(2)(b)(xvi) and Article 8(2)(e)(v) for acts of “pillaging of a town or place, even when taken by assault” in armed conflicts of an international and non-international character.

⁶³ Prosecutor v Delalic, Judgment, IT-96-21-T (16 November 1998).

⁵⁹⁰. In this connection, it is to be observed that the prohibition against the unjustified appropriation of public and private enemy property is general in scope, and extends both to acts of looting committed by individual soldiers for their private gain, and to the organized seizure of property undertaken within the framework of a systematic economic exploitation of occupied territory. Contrary to the submissions of the Defence, the fact that it was acts of the latter category which were made the subject of prosecutions before the International Military Tribunal at Nürnberg and in the subsequent proceedings before the Nürnberg Military Tribunals does not demonstrate the absence of individual criminal liability under international law for individual acts of pillage committed by perpetrators motivated by personal greed. In contrast, when seen in a historical perspective, it is clear that the prohibition against pillage was directed precisely against violations of the latter kind. Consistent with this view, isolated instances of theft of personal property of modest value were treated as war crimes in a number of trials before French Military Tribunals following the Second World War. Commenting upon this fact, the United Nations War Crimes Commission correctly described such offences as “war crimes of the more traditional type”.

⁶⁴ Re Krupp and Others, United States Military Tribunal at Nuremberg, June 30, 1948, Annual Digest and Reports of Public International Law Cases Year 1948, (London Butterworth & Co. (Publishers), Ltd., 1953), p. 620, Case No. 214.

⁶⁵ Case No. 57, The I.G Farben Trial, Trial of Karl Krauch and Twenty Two Others, United States Military Tribunal Nuremberg (14th August 1947 – 29th July 1948) 46.



Fruits and vegetables market in Ramallah and El-Bireh. November 2016. Courtesy of Ultrapol Ultrasawt.

Initially it was thought that, under the Rome Statue, the public direction of the pillaged property for the benefit of the occupying state would not come under the remit of Article 8 pillage, given that the Elements of Crimes required a *dolus specialis* for the property to have a “private or personal use”.⁶⁶ However this has since been resolved by courts ruling in Prosecutor v Katanga case which considers that pillage includes not only organized and systematic appropriation, but also acts of appropriation committed by combatants in their own interest.⁶⁷ The ICC in the Prosecutor v Bemba case further expanded on the *dolus specialis* for ‘personal and private use’ broadening it to include an assessment of the nature, location and purpose of the property and indicating that this may include property not acquired for a military objective.⁶⁸

territory by exploiting its national and natural resources. This exploitation is not a symptom of military occupation but rather its intended aim. Importantly, there is some precedent established for the destruction of economies being prosecuted as the war crime of pillage at Nuremberg. While Israel has attempted to maintain its continued exploitation through international agreements such as the Paris Protocol, these agreements are considered void to the extent that they override the intrinsic humanitarian guarantees of Hague and Geneva law.⁶⁹

V. Conclusion

Since 1967, Israel has used a broad arsenal of economic and commercial measures to subjugate the Palestinian economy and exploit it for the benefit of Israel’s home economy. In this regard, Israel’s policies and plans to fragment and assimilate the Palestinian economy represent an important pillar of its colonisation of the OPT. It is within this climate of economic and commercial control that the belligerent occupier is able to systematically cripple the economy of the occupied

66 Prosecutor v Jean-Pierre Bemba Gombo (21 March 2016), ICC-01/05-01/08 < https://www.icc-cpi.int/CourtRecords/CR2016_02238.PDF>

67 Prosecutor v Germaine Katanga, ICC-01/04-01/07 (7 March 2014) para. 905 < https://www.icc-cpi.int/CourtRecords/CR2015_04025.PDF>

68 Prosecutor v Jean-Pierre Bemba Gombo, (21 March 2016) ICC-01/05-01/08, p. 62, para. 125 < https://www.icc-cpi.int/CourtRecords/CR2016_02238.PDF> Although API has an additional criteria of ‘use’, the Court did not include ‘use’ into the assessment.

69 Article 53, Vienna Convention on the Law of Treaties (1969).



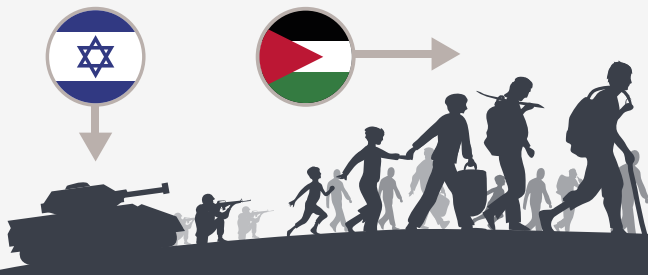
The Israeli Occupation and its Settlements: Taking the Land, Removing the People

The presence and continued expansion of Israeli settlements lie at the root of a broad spectrum of human rights violations and violations of international law in the West Bank. The policies, for example, amount to population transfer that violate the Fourth Geneva Convention.

1. CONSTRUCTION FOR ISRAELIS, DEMOLITION FOR PALESTINIANS

- **49,000** Palestinian structures (including 30,000 homes) were demolished since 1967.
- In May 2017, one Palestinian bedouin village (Al-Araqib) was demolished for the **113th** time since 2010 and for the 5th time this year. There are **119** unauthorized settlements (outposts), built on Palestinian lands with **10,000** settlers.
- One third of outposts either retroactively authorised or being authorised.
- The Regularization Law, which is meant to "regulate" the status of these outposts, retroactively legalizes some **4,000** settler houses built illegally in the West Bank.
- **91%** of Palestinian applications for construction in Area C were rejected by Israeli authorities in the first half of 2016.

2. POPULATION DISPLACEMENT: ISRAELIS IN, PALESTINIANS OUT



• Number of settlers in the occupied territory:

from **0** in 1967
to **241,500** inhabitants in 1992,
to **617,291** in end of 2015

- Since 1967, Israel has de facto expelled more than

250,000

Palestinians from Palestine.

3. LAND CONFISCATION FROM PALESTINIANS:



40%

of the West Bank area has been converted to State Land by Israeli occupation



Total of Palestinian Cultivated Land dropped in half

from **1,921,970** dunums in 1994
to **1,034,901** in 2011

Sources: • The Israeli Committee Against Home Demolitions (ICAHD)
• Palestinian Central Bureau of Statistics (PCBS)
• Yesh Din

• United Nations Economic and Social Commission for Western Asia (ESCWA)
• United Nations Office of Coordination of Humanitarian Affairs (OCHA)

الحقوق
لجميع الفلسطينيين

Palestine's Resurrection, from Recognition to Freedom

By Majed Bamya

Palestine disappeared from the world maps while its people were forcibly displaced within Palestine and around the world. In 1948, almost 70 years ago, the Palestinian people endured a catastrophe with everlasting and ongoing consequences, the Nakba. Two thirds of our people became refugees and most of our land was taken away from us. At that point it seemed that the Palestinian people were pushed out of geography and maybe even out of history.

But a few years later, the Palestinian Liberation Organization is established in 1964 and the Palestinian factions take hold of the body that is destined to represent the Palestinian people.

Yasser Arafat stated during that period, "We succeeded to transform refugees into freedom fighters." He became together with his kuffiyeh a symbol of the struggle for freedom across the world. The Palestinian people found hope that they would once again be the masters of their own fate. Since its inception, the PLO understood that the international front would be of critical importance for success, especially after the PLO was forced to leave Lebanon to Tunisia in the aftermath of the 1982 war, far away from Palestine's borders, rendering military resistance almost impossible. It led several battles on that international front throughout the last five decades, many still ongoing today, and Palestinian diplomacy has had its share of loss and sacrifice. Indeed, Palestinian diplomacy has the specificity of having dozens of martyrs, as several of its representatives were assassinated by Israel because they were establishing relations with influential countries and defending Palestinian rights across the world, or were killed because they were establishing contacts to achieve peace.

The battles led by Palestinian diplomacy can be summed up under four headings:

- the battle for recognition of our existence, our representation and our State
- the battle for recognition of the Palestinian people's rights, including to self-determination
- the battle against the Israeli occupation and its violations of these rights
- the battle for just and lasting peace

It is important to acknowledge from the outset the significant role played by other liberation movements and friendly states in the achievement of these objectives. It is also important to recall and recognize the extremely valuable contribution of Palestinian civil society organizations, the solidarity movement, international NGOs and institutions, as well as conscientious figures around the world in these ongoing battles.

Recognition of our existence, representation and our State

The Zionist ideology flourished using a key slogan: a land with no people for a people with no land. It decided to ignore the 1.2 million Palestinians who were living on their land and who were aspiring and fighting to ensure, like all other nations under colonial rule, that one day the British occupation would end and they would have their independent State. Little did they know that instead, another State would be built on the ruins of their own. This negation of Palestinian existence and of our legitimate claim to historical or mandatory Palestine remains an open wound. The UN General Assembly voted on partitioning our land without ever consulting

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In Abasan, east of Khan Yunis, a boy stands on a rooftop overlooking tents erected alongside the rubble of homes destroyed in Israel's summer 2014 offensive on Gaza. 28 January 2015. Said Khatib/AFP/Getty Images, via Institute for Palestine Studies.

the Palestinian people, blatantly violating their right to self-determination, in breach of international law.

The first fundamental and indispensable step towards liberation was recognition. This was achieved by the PLO on the world stage through the United Nations General Assembly Resolution 3237 in 1974 granting the PLO observer status within the UN. In 1980, the European Community adopted the Venice declaration and underlined that the Palestinian people, "which is conscious of existing as such," and the PLO will have to be associated with the negotiations. A few years later, the US itself opened a dialogue with the PLO. And with the launch of the peace process in Madrid, while the PLO was not formally associated with the negotiations, the Palestinian delegation was by all counts a PLO delegation. The Oslo agreements secretly negotiated with Israel were signed by the PLO. Unfortunately, while the PLO recognized Israel, Israel only recognized the PLO through exchange of letters between Arafat and Rabin, and not the State of Palestine that was declared independent in 1988.

The PLO had declared Palestinian independence in Algiers in 1988 as a powerful act and bold move towards an independent State and was immediately recognized by more than 80 countries around the world¹, more than Israel at the time. This battle was led both in multilateral fora and bilaterally with virtually each and every State on earth. However this effort was put on hold after the Oslo accords. It took ten years before it was resumed. Palestine sought and achieved a new wave of recognitions

by States as of 2010, a wave that culminated with the adoption of UN General Assembly resolution 67/19 in 2012 which granted the State of Palestine observer status in the UN. This newly acquired status allowed the State of Palestine to join over 50 international treaties and conventions.

Recognition of the State of Palestine is not only an important contribution to salvaging the Two-States solution based on the 1967 borders, it is a duty in view of the international responsibility in the Palestinian tragedy. It makes no sense to support the Two-States solution based on the 1967 borders and continue to refuse to recognize the State of Palestine at a time where its very existence is threatened and the Two-States solution is being destroyed by Israel. This recognition while on its own will not achieve peace remains indispensable to preserve the prospect of peace and is in line with the obligation of all states to respect the right to self-determination of the Palestinian people.

The battle for recognition of the Palestinian people's rights, including to self-determination

At the same time the PLO achieved recognition of its role and mandate as sole and legitimate representative of the Palestinian people, it achieved recognition of the inalienable rights of the Palestinian people through the adoption of UN General Assembly Resolution 3236 in 1974 which reaffirmed the inalienable

¹ Palestine is currently recognized by 137 countries. Permanent Observer Mission of the State of Palestine to the United Nations, New York, <http://palestineun.org/about-palestine/diplomatic-relations/>



*Gaza Parkour, Abdallah Al-Qassab. 29 July 2015.
Facebook Page.*

rights of the Palestinian people, including to self-determination and return. In the above mentioned Venice Declaration, the European Community stressed the need for Israel to end its territorial occupation and addressed the right of the Palestinian people to self-determination. Palestine pursued the adoption of resolutions in the UN and in international and regional fora for the respect of the Palestinian rights, including civil and political rights, economic, social, cultural, environmental, as well as the right of the Palestinian people to permanent sovereignty over their natural resources.

After the conclusion of the Oslo accords, the Palestinian leadership and diplomacy was under pressure by the US administration to stop all these resolutions which are reaffirmed annually. The Palestinian answer to this pressure, including by the US, is that this legislation will remain until the rights enshrined in them are fulfilled, which the Oslo accords did not achieve. UN Security Council Resolution 2334 (2016) reaffirmed the rights of the Palestinian people in the face of illegal settlements and associated measures despite all Israeli attempts to claim that international law had been overridden by negotiations. Palestinian diplomacy repeatedly underlined that negotiations should not depart from international law nor breach its provisions, but rather should be based on international law and aim at upholding it. It is because of the fact that international law was not upheld that the rights affirmed decades ago were never fulfilled.

The battle against Israeli occupation and its violations of the Palestinian people's inalienable rights

Palestinian diplomacy worked intensively over the years to record and seek condemnation of Israeli violations in international fora and by individual States, with success. It has done so through resolutions, fact-finding and inquiry missions, and cooperation with international mechanisms to monitor such violations. Israeli crimes against the Palestinian people are among the most documented in history. Israel likes to say this is because of an anti-Israeli bias that shines excessive light on these violations. Usually Israel does not necessarily deny these violations, it just states that other countries commit violations without drawing the same attention and condemnation. While indeed violations of international law are not solely committed by Israel, the magnitude of these violations, their widespread and systematic nature, and their association with colonialism and Apartheid, two of the most condemned phenomena in contemporary history, all justify such international attention. But attention and condemnation is not enough.

International law does not only formulate a universally accepted set of rules, it establishes mechanisms to defend them. These include the role of the UN, including the UN Security Council, that of other international institutions, and maybe even more importantly that of states and their obligation to respect and ensure respect for international law. The measures available range from diplomatic intervention, to sanctions, all the way to military intervention.



"I see you .. do you see me?"
Gaza Graffiti Facebook Page.

In 50 years of military and colonial occupation of the West Bank, including East Jerusalem, and the Gaza Strip and 70 years of dispossession and displacement and replacement of the Palestinian people with Jewish settlers, there was no serious effort to hold Israel accountable for its grave breaches of international law and its crimes. Rights can be affirmed, violations can be condemned, but that did not lead until the present to an end to Israeli impunity, which encourages the continuous recurrence of these violations.

Palestinian diplomacy has deployed efforts to ensure accountability. Israel systematically portrays these efforts as an attack on Israel that is incompatible with peace efforts. The world has reaffirmed time and time again the necessity of accountability for justice and peace, including when setting up the International Criminal Court. Why should Israel be an exception? The Palestinian efforts included convening three meetings of the High Contracting Parties of the Geneva Conventions in 1999, 2001 and 2014, seeking through the General Assembly an advisory opinion on the legality of the Wall by the International Court of Justice, adopting resolutions dedicated or referring to accountability, and accession to treaties which provide mechanisms for accountability and to the International Criminal Court.

But all these mechanisms require third parties to fulfill their obligation to respect and ensure respect for international law by their governments, entities, companies and citizens, on one hand, and by Israel, on the other. If one day States uphold their obligations as well as clearly link the level of their relations with Israel to Israel's level of respect of the rights of the Palestinian people, including to

self-determination, it is almost certain that violations would end and peace would prevail.

Until now, Israel has been able to commit violations and provocations without triggering this legitimate international reaction, and has been able to bully the world, instrumentalizing history, interests and its special relationship with the USA. It is the lack of accountability that is the main reason why peace has evaded us all these years. Why would Israel want peace as long as the benefits of occupation far outweigh its cost? Those who advocate peace and yet do nothing to end Israel's military and colonial occupation are naive or hypocrites at best, complicit at worst.

The battle for just and lasting peace based on international law

This is a critical point in history. All monotheistic religions have spiritual and historical connections to Palestine, the Holy Land. Very particular historical circumstances allowed Zionism to transform a historical connection derived from religious history into a territorial claim. It has done so in denial of the right of the Palestinian people to self-determination. The PLO had pleaded for years for a One-State solution providing equal rights to all its citizens, regardless of religion and origin. This was portrayed against all logic as an extremist position because it refused the establishment of a state of Israel. After the occupation of the rest of historical Palestine in 1967, and in the context of its international dialogue, the PLO understood that aligning its claims with international law was the only way forward to freedom, statehood and independence, and to peace. In 1988, when

*The Muqata, headquarters of Palestinian President Yasser Arafat, after the Israeli siege of 2002 Ramallah, March 2003.
Courtesy of Bettina Marx.*



the PLO declared the independence of the State of Palestine, it committed itself to international law and paved the way for a Two-States solution based on 1967 borders. Multilateral negotiations in Madrid and bilateral negotiations in Oslo led to an interim agreement which did not tackle any of the core issues, but allowed the hope that the independent State of Palestine would finally exist on part of historical Palestine. Twenty-five years later these hopes have been crushed because Israel decided to entrench its colonial occupation rather than end it. At the time of the conclusion of the Oslo agreements in 1993, there were 100,000 settlers. Today there are 600,000. Even after the adoption of UN Security Council resolution 2334 in 2016, Israel continued settlement construction at an accelerated pace and adopted legislation and policies and decisions to that effect.

There can be no peace as long as Israel is allowed to pretend it can pursue both peace and colonialism, which are mutually exclusive. Palestinian diplomacy's role was to create the conditions conducive to peace, by acting against the obstacles to peace, including the illegal settlements and their associated regime, but also by ensuring that any negotiations would be meaningful. In that regard, Palestine emphasized the need for: 1) the respect by both parties of the clear international terms of reference for the peace process, namely UN resolutions, the Madrid principles, including the principle of land for peace, the Quartet Roadmap and the Arab Peace Initiative; 2) respect by both parties of their obligations under international law, throughout the process and in the conclusion and implementation of the peace agreement; 3) international involvement, support, monitoring and accountability; and 4) a timeframe for the conclusion of an agreement

and its implementation, and consequences if one of the parties prevent the conclusion of such an agreement within that timeframe. The UN Security Council endorsed these principles in Resolution 2334 of 2016, and Palestine supported every regional and international effort for peace. However Israel's refusal to comply with Resolution 2334 and other UN resolutions, and its rejection of every peace initiative, was met with by mild reactions that only embolden Israel, the occupying power.

Palestinian diplomacy is thus at a crossroads. President Mahmoud Abbas is the embodiment of the Palestinian readiness for peace. He believes in negotiations as a tool to achieve this aim. But his good faith and readiness were met with contempt and disregard by Israel, convincing the Palestinian people that Israel has created an insurmountable impasse and that peace cannot be achieved. But no such conclusion should be made since history is dynamic, not static.

Palestinian diplomacy is faced with the limitations deriving from a strong international consensus on how to achieve peace that is unfortunately coupled with a lack of readiness to use the tools available under international law to achieve it. While Israel has no trouble summoning ambassadors, threatening countries, cutting aid and relations, and using its political, diplomatic, economic and military resources to bully states even for legal behavior, the rest of the world has been reluctant in using the same resources to confront Israel's illegal behavior. This Israeli exception that prevents taking serious action for recognized and condemned violations and crimes is the real bias. What can diplomacy do if states are not willing to act beyond an invisible line, if international

institutions are prevented from taking action, if the international judicial system is undermined by political considerations? An important part of the answer is in finding the ways adapted to our time and lessons learned to revive and amplify the Palestinian struggle on the ground and internationally. It is indispensable to understand that there is no diplomatic path towards liberation. The role of Palestinian diplomacy was and is to echo, magnify and shield the Palestinian struggle, not be a substitute for it.

A struggle against colonialism and against... Apartheid

Israel not only pursued the displacement and replacement of the Palestinian people, and colonialism, it also set up a dual and discriminatory system, allowing the domination of one group over the other and systemic discrimination against the indigenous population. Every day that this lasts we move closer to a situation in which colonialism is coupled with Apartheid. The world has therefore a choice: either two democratic states on 1967 borders living side by side in peace and security, or Apartheid.

A personal perspective:

The Palestinian liberation movement must prepare for both options, with an adapted and possibly a different role for all Palestinians, including those citizens of Israel and the Palestinian diaspora. We must stand ready to couple an anti-colonialist struggle with an anti-Apartheid struggle, and not drop one for the other, nor necessarily try to determine the end game at this stage.

It should be noted that the similarities between the situations in Palestine and Apartheid South Africa are every day more striking. Many world leaders have made the parallel between the two situations, including from South Africa and the US. International organizations and governments around the world, while sometimes avoiding the use of the word Apartheid, still denounce Israeli policies and practices that are constitutive of Apartheid. The convergence between the two struggles has also many reflections. The Free Marwan and all Palestinian prisoners international campaign was inspired by the Free Mandela campaign. Marwan Barghout, often called Palestine's Mandela, is a parliamentarian and a popular leader that Israel abducted in 2002

and sentenced him to 5 life sentences and 40 years in prison for terrorism in a political show trial denounced by international observers. The Free Mandela Campaign was launched from the cell of Nelson Mandela on Robben Island by the anti-Apartheid icon, Ahmed Kathrada, who went on to spend 26 years in Apartheid jails himself. The Campaign to Free Marwan and all Palestinian prisoners has received since its launch in 2013 the support of 9 Nobel Peace Prize Laureates, 120 governments, 15 former leaders and hundreds of parliamentarians, academics and artists demonstrating the world's rejection of Israel's accusation of terrorism against every Palestinian struggling for freedom.

Also inspired by the struggle against Apartheid in South Africa and globally are the forms of struggle and calls issued by Palestinian civil society. These include the Boycott Divestment Sanctions (BDS) movement protests and aims to end Israel's colonial and discriminatory policies. The movement has witnessed an impressive expansion, especially among the youth. Another example is the Kairos Palestine document launched by Palestinian Christians and inspired by the Kairos South Africa document. What were considered legitimate forms of struggle at the time of Apartheid in South Africa cannot be considered illegitimate when it comes to ending Apartheid in Palestine. Can those who stand by Israel's side today regardless of its actions still support it once they are faced with a full-fledged Apartheid?

The Palestinian national movement succeeded in ensuring Palestinian resurrection and recognition, of affirming the Palestinian people's inalienable rights and denouncing Israeli violations. It received the support of one of the largest solidarity movements in the world and consolidated international consensus on Palestine, based on universal principles and international law. Can these factors allow Palestine to survive the bulldozers demolishing homes and building settlements? History will tell. Some believe that the difficulties faced by the national movement, including in renewing itself democratically, the divisions that are weakening it, the negative evolution of the situation on the ground, all indicate that the battle is lost. I tend to believe that if the Palestinian people were able to resurrect from the ashes of the Nakba, we are only one more miracle away from freedom --- and this is the Holy Land. I look at the region and the world, and I cannot but feel that a diverse, plural, democratic Palestine, and Jerusalem finally becoming a city of peace, can be a beacon of hope and change of infinite power that can help bend the arc of history towards justice and coexistence.

Lebanese Citizenship and Palestinian Refugees

By Daniel Meier

Shortly after their arrival in Lebanon in 1948 following the Nakba (catastrophe), the 100,000 Palestinian refugees underwent a process of marginalization within the political and sectarian landscape of their new home. Unlike in Syria, where they were granted civil rights, and diametrically opposed to their experience in Jordan, which saw them fully integrated as Jordanian citizens, Palestinians in Lebanon were classified along the sectarian lines and treated accordingly: while most of the Christians (15 per cent of the total refugee population) were naturalized, the Sunni majority were confined to camps patrolled by the Internal Security Forces. The Cairo Agreement of 1969 signed between PLO and the Lebanese State, which gave civil and political rights to Palestinian refugees, seemed to mark a turning point in the politicization of the Palestinian cause and the mobilisations and confrontations that appeared in Lebanon during the late-1960s. Nevertheless, the polarization of society and the politicization of the Palestinian issue in Lebanon undermined the fragile national consensus and ushered in a fifteen-year-long period of successive conflicts, known as the civil war. The Palestinian resistance was initially a powerful force until, in 1982, they were crushed by an alliance between Israel and Christian militias during the bloody siege of West Beirut. In 1990, at the end of the civil war, one of the main Lebanese narratives regarding this sad period presented the Palestinian refugees as the principal cause of the conflict and therefore accountable for the destruction of the country, which only reinforced the post-war process of marginalization process which they faced.

During the early 2000s, I conducted a two-year-long research project on mixed marriages between Lebanese and Palestinians in Lebanon (Meier, 2010). One striking aspect of these

relationships was, of course, the harsh living conditions faced by most of the Palestinian refugees in Lebanon, but also notable were the difficulties that Palestinian refugees faced in obtaining Lebanese nationality (*muwatana*), which would entitle them to better jobs and social and political rights, and consequently a better future for their children. I also noticed a gender issue at the heart of the process of granting Lebanese citizenship: while Lebanese men were entitled to pass his nationality to their wives, this was not the case with Lebanese women. Lebanese women were (and still are) unable to improve their husbands' lives easier by passing on the full citizenship which would allow them to access the labour market and receive social benefits. Given this fact, marriage to a Palestinian man was a recipe for disaster, since despite being born in Lebanon the children of these mixed unions would inevitably be classified as Palestinian refugees. This raises a simple question: Why is Lebanese citizenship so restrictive, particularly with regards to Palestinians? To answer it, I will start by clarifying the legal framework around Lebanese nationality before exploring how Palestinian refugees fit (or do not fit) into this framework given their long and volatile relationship with the Lebanese authorities.

Lebanese nationality and the confessional equilibrium

Upon the establishment of the modern state of Greater Lebanon in 1920, as was the case in other states in the region, the French Mandate adopted *jus sanguinis* in Lebanon as a way to grant nationality. Meanwhile, the Treaty of Lausanne (1923) promoted *jus solis* to confer upon inhabitants of the former Ottoman Empire

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Boys shoot marbles in Gaza City, 11 January 2017. Mohammed Abed/AFP/Getty Images, via Institute for Palestine Studies.

the nationality of the country in which they were residing in 1918—the year the empire was replaced by nation states. The implementation of a confessional political system in Lebanon distributed major executive positions and parliamentary seats among the different sects according to the results of a national census (1932), with the majority allocated to the various Christian confessions. In 1989, at the end of the Lebanese Civil War, the Taïf Agreement replaced this allocation with a three-way division of power between Christians and Muslims with the positions of president, speaker of parliament and prime minister being filled by a Christian, a Shiite and a Sunni, respectively. The confessional demography continued to play a major role in politics due to the electoral system and a post-war insistence on the importance of shoring up the “Lebanese formula”: namely, a confessional equilibrium between the sects.

The transmission of Lebanese nationality can be summed up as patrilineal affiliation: Lebanese men can only transmit nationality to foreign women, while a male foreigner (either born in Lebanon or residing in the country for more than five years) is, “almost always subject to the discretionary power of the State” (Jaulin, 2006). As for people of Lebanese origin who are living abroad, a law passed in 1946 stipulates their right to Lebanese nationality when their return to Lebanon is permanent, a right which was affirmed by a decree of the Council of Ministers. But in 1949, a year after a massive influx of Palestinian refugees who were not entitled to return to their country, a new decree was promulgated to secure more control over the implementation of the 1946 law. Once the applicant proved his or her Lebanese origin, the General Security Service would conduct an inquiry and the Ministry of the Interior

provide the Council of Ministers with a positive or negative opinion based on its findings. It seems clear that the 1949 decree increases the government’s discretionary power over the naturalisation process and in particular over Palestinian refugees who have the right to claim Lebanese nationality.

The struggle of Palestinian refugees in Lebanon

In the 1950s, most Palestinian refugees who received Lebanese citizenship were either Christians or from the bourgeoisie (Sfeir, 2008). In this process of naturalisation, the Christians, who were the hegemonic actors in Lebanese politics, found a way to enlarge their constituencies. While this measure facilitated their integration as Lebanese citizens, it also sectarianised the Palestinian community and tended to marginalise both Sunni Palestinians and those with low incomes. At the same time, the Sunni majority were settled in fifteen camps adjacent to the country’s largest cities, where they became a source of labour for Lebanon’s liberal labour market during one of the most significant periods of economic growth the country had known. Starting with Fuad Shehab’s accession to the presidency in 1958 and continuing until the end of the 1960s, the Lebanese State tried to keep tight control over the Palestinians living in the country through an administrative body called the Department of Palestinian Affairs, which was run by the Ministry of the Interior. In addition to having to register with this body, Palestinians were subjected to social discrimination as well as brutal treatment and oppression by the police, experiences which mainly affected those living in the camps. The first regulations governing their existence



Saleh Hassoune struggles to hold his farm bordering the Beit-El settlement (background) near Ramallah. In litigation involving Palestinian lands taken for this settlement, the Israeli High Court of Justice ruled that the Hague Convention of 1907 is applicable to the West Bank, that Israel's status is that of a belligerent occupier with limited and temporary rights, and that "permanent" Israeli settlements are prohibited. Courtesy of Institute for Palestine Studies.

in Lebanon appeared in 1962 along with a residence permit which allowed (but limited or controlled) their movements inside the country, while categorising Palestinians as "foreigners" and not as refugees. Since 1949, Palestinians in exile have depended on the United Nations Relief and Works Agency (UNRWA), but its mandate did not cover their protection and refugees were left at the mercy of each state's internal rules and laws. In the 1960s, other restrictions were rolled out which affected Palestinian refugees' housing conditions and work opportunities.

Growing enthusiasm and mobilisation in Lebanon's camps for the Palestinian national cause was mediated principally by the Palestine Liberation Organization (PLO), founded in Cairo in 1964, but also by local battalions of camp-trained combatants. The Palestinian fighters (fidayyin) wanted to expand the struggle against Israel with cross-border armed operations mounted from Lebanon's southern territories. The Lebanese State's "neutral" posture during the 1967 war, as well as the defeat of the Arab armies and the subsequent territorial losses suffered by Egypt, Jordan and Syria, saw huge numbers of young Arabs enlist in the Palestinian struggle. By 1969, this process had pushed Lebanon into an open confrontation between the Lebanese Armed Forces and the battalions

of young fidayyin, a development which led to the signing of the Cairo Agreement at the end of the year. This agreement marked a turning point for Palestinian refugees as it lifted all previous restrictions and discriminatory laws and allowed armed resistance operations across the southern border. But this "golden age" for Palestinians in Lebanon strongly divided Lebanese society and opened the door to civil war in 1975 (Sayigh, 2004). The country's territorial and political fragmentation made it easier for neighbouring states to advance their hegemonic interests in the country and in 1982, Israel launched a large-scale invasion of Lebanon's southern region, with the primary aim of ridding the area of Palestinian resistance. The military defeat of the Palestinians that year brought them back to square one in Lebanon's national framework.

The institutionalisation of marginalisation: which status for Palestinian refugees?

Following the Palestinians' sectarianisation during the 1950s, their marginalisation as a socio-political process (re)started in the wake of the fidayyin's departure from Lebanon. It quickly took concrete form at the end of 1982,



*Balata refugee camp near Nablus. 28 March 1964.
Courtesy of David Bivin.*

when the new government of Amine Gemayel, the leader of Phalange, the main Christian right-wing party, denied Palestinians access to twenty-four categories of employment on the Lebanese labour market. In the years that followed, work and residence permits were reintroduced and in 1987 the Cairo Agreement was abrogated. Three years later, the preamble to the new constitution inspired by the Ta'if Agreement, which was signed in 1989 to put an end to the war, stipulated that Lebanon would not tolerate any “naturalisation” (*tawtîn*), a term which evokes the threat of Palestinians waiving the right of return and choosing to settle in the countries of their exile. Though dressed up as a measure to protect the rights of Palestinian refugees the reality is that, from the 1990s on, observers have noted the recurrent use of this notion of *tawtîn* as a way of mobilising Lebanese citizens against Palestinian refugees living in Lebanon. In particular, the argument of the “protection of the rights of return” has served as justification for several laws and discriminatory measures affecting Palestinian refugees’ right to travel, access to the labour market (with up to seventy-seven jobs placed off-limits) and ownership or inheritance of property.

As seen before, this institutionalisation of Palestinians’ marginalisation in Lebanon is twofold: both written into law and imprinted on the political mindset as a constant threat—the risk of *tawtîn* and the associated danger of sectarian imbalance should all the refugees be naturalised. While the threat of *tawtîn* sounds more theoretical than real (after all, Palestinian refugees have been living in Lebanon for more than 70 years now), the sectarian balance in Lebanon is far from theoretical, since everybody in the country is dependent to some extent on the sectarian system and the local connections

and privileges it engenders and which manifest in the form of patron–client relationships. It came as no surprise when the 1994 naturalisation decree was virulently attacked for betraying the principles of the “Lebanese formula” for failing to respect the sectarian balance: two-thirds of those who were naturalised were Muslims, which did not match the requirement of a balanced treatment of Christians and Muslims. Aside from its manifold irregularities, this decree raised the ire of the general secretary of the Maronite League, Nemtallah Abi Nasr, because it supported *tawtîn* (also referred to as ‘implantation’): several thousand of those naturalised were Palestinians. In every naturalisation process, even those applications that are well-documented and made in good faith are subject to the arbitrary whims of the state or other political actors. Almost all the sectarian leaders across the political spectrum in Lebanon have, at one time or another, raised the “problem” or “threat” of Palestinian refugees to further their own political ends. Because of the war that has raged in Syria since 2011, new scapegoats have emerged in the form of Syrians seeking refuge in Lebanon. Unlike the Palestinians, however, they may still have a home to go back to once the war is over.

Reform of the nationality law has been under scrutiny for several years, not because of the Palestinian refugees but as part of a gendered struggle. Lebanese women face discrimination when they marry foreigners: they are unable to pass their nationality on to their children. In Lebanon, one of the worst situations for a couple occurs when a Lebanese woman is married to a Palestinian refugee. Though born in Lebanon, their children will not be able to receive access to public health care or education, and they cannot inherit or own property because



*Children playing amid the ruins of their houses, destroyed during the 2014 war in Gaza, 2015.
Courtesy of Bettina Marx.*

Palestinians have been prohibited from doing so since the passage of a law to this effect in 2001. A Palestinian woman can expect to improve her status by marrying a Lebanese man, which entitles her to apply for Lebanese citizenship after one year of marriage though fieldwork shows that the majority of Palestinian women do not even attempt to ask for Lebanese nationality unless they have enough money to pay for the procedure. Even then, the arbitrary nature of General Security investigations leaves the outcome uncertain.

Conclusion

History and politics have imposed a heavy burden on Palestinian refugees in Lebanon. The outlook for the majority of the approximately 300,000 refugees currently living in Lebanon—including those who have fled their camps due to the war in Syria—is gloomy. They suffer double discrimination when attempting to obtain Lebanese citizenship: both as members of a national group living in exile without a proper state and thus marginalised for political reasons, and as members of a sectarian group (Sunni) with the potential to effect a sectarian imbalance in the country's fragile political system.

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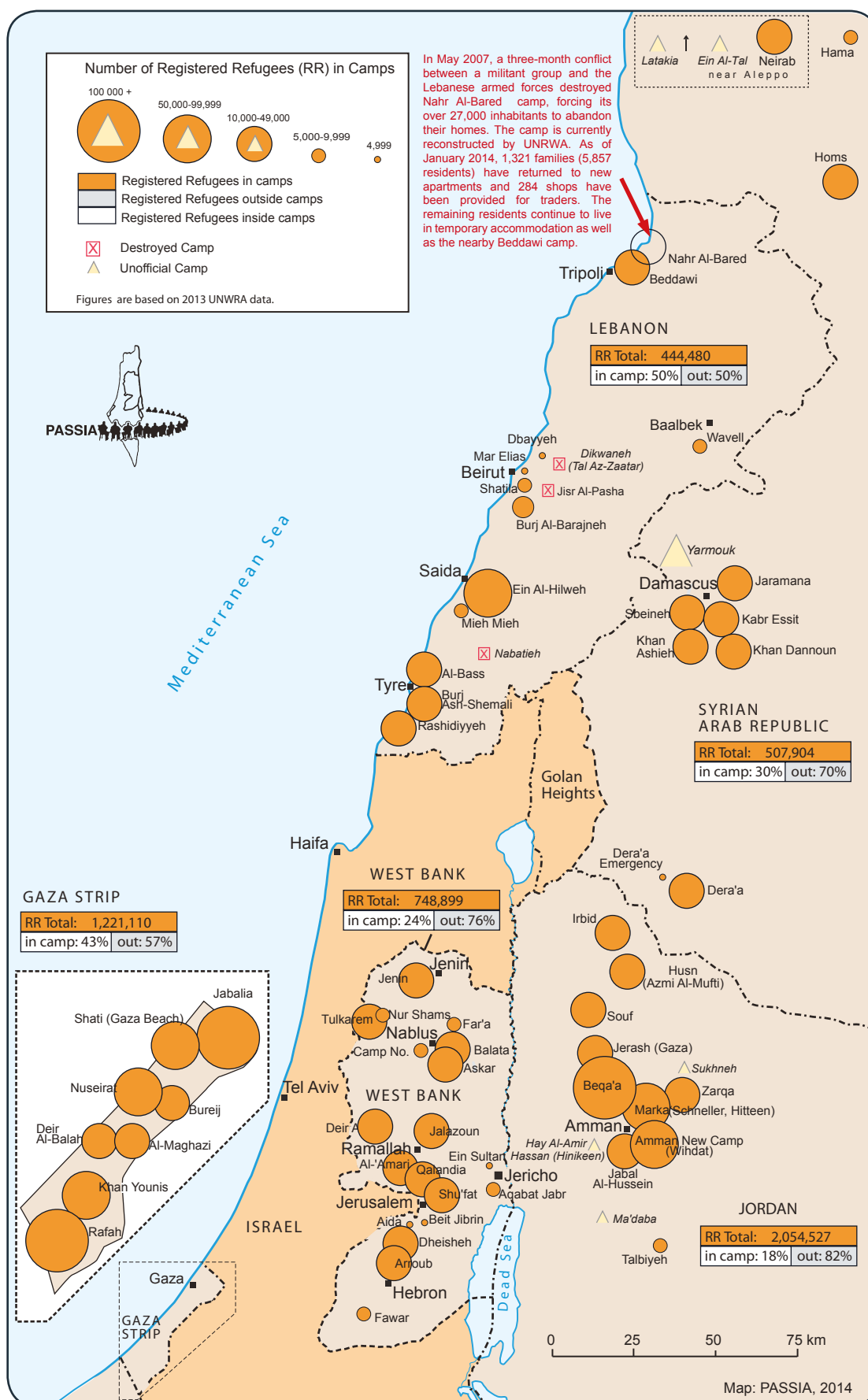
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Photos of 1967 and its Aftermath



Israeli Army at Al-Haram Al-Sharif.
Form Archives Photo Collection, courtesy of Institute for Palestine Studies.

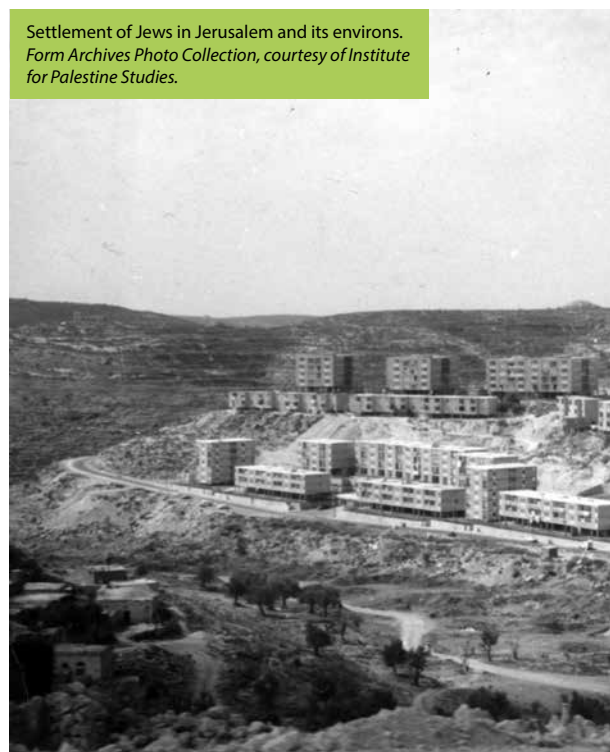


Palestinian fleeing to East of the Jordan.
Form Archives Photo Collection, courtesy of Institute for Palestine Studies.

After winning the Six-Day War and capturing the Old City of Jerusalem, Israelis bulldozed the Palestinian houses in front of the Western Wall. 1967.
Photograph by David Rubinger / Corbis via Getty, via Institute for Palestine Studies.



Settlement of Jews in Jerusalem and its environs.
Form Archives Photo Collection, courtesy of Institute for Palestine Studies.





Destruction of King Hussein Bridge (formerly Allenby Bridge) during the June War 1967.
 Form Archives Photo Collection, courtesy of Institute for Palestine Studies.



Palestinian fleeing to East of the Jordan.
 Form Archives Photo Collection, courtesy of Institute for Palestine Studies.



Settlement of Jews in Jerusalem and its environs. "Mt. Scopus prefabricated houses" - verso of photo.
 Form Archives Photo Collection, courtesy of Institute for Palestine Studies.





Israeli Army at Al-Haram Al-Sharif.

Form Archives Photo Collection, courtesy of Institute for Palestine Studies.

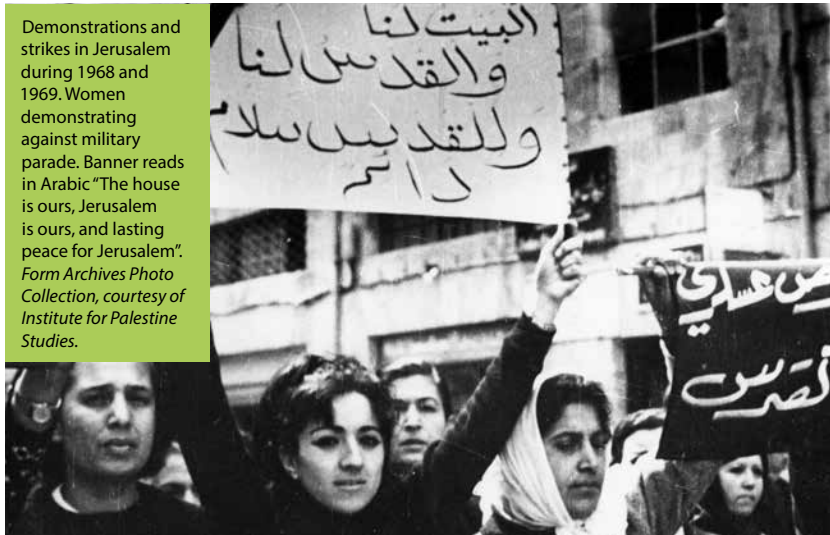
Israeli Army at Al-Haram Al-Sharif, first 100 of them entering Al-Haram.

Form Archives Photo Collection, courtesy of Institute for Palestine Studies.



Emergency camps and shelters for Palestinians displaced by the June War of 1967. "Tents damaged by wind and rain in one of the camps in East Jordan which serve as temporary shelter for thousands of people driven out of their homes by Israelis during and after the June 1967 war" - verso of photo. Form Archives Photo Collection, courtesy of Institute for Palestine Studies.

Demonstrations and strikes in Jerusalem during 1968 and 1969. Women demonstrating against military parade. Banner reads in Arabic "The house is ours, Jerusalem is ours, and lasting peace for Jerusalem". Form Archives Photo Collection, courtesy of Institute for Palestine Studies.



Demonstrations and strikes in Jerusalem during 1968 and 1969. Demonstrations in commemoration of the first anniversary of the June war. "A demonstration on 6/6/1968" - verso of photo. Form Archives Photo Collection, courtesy of Institute for Palestine Studies.



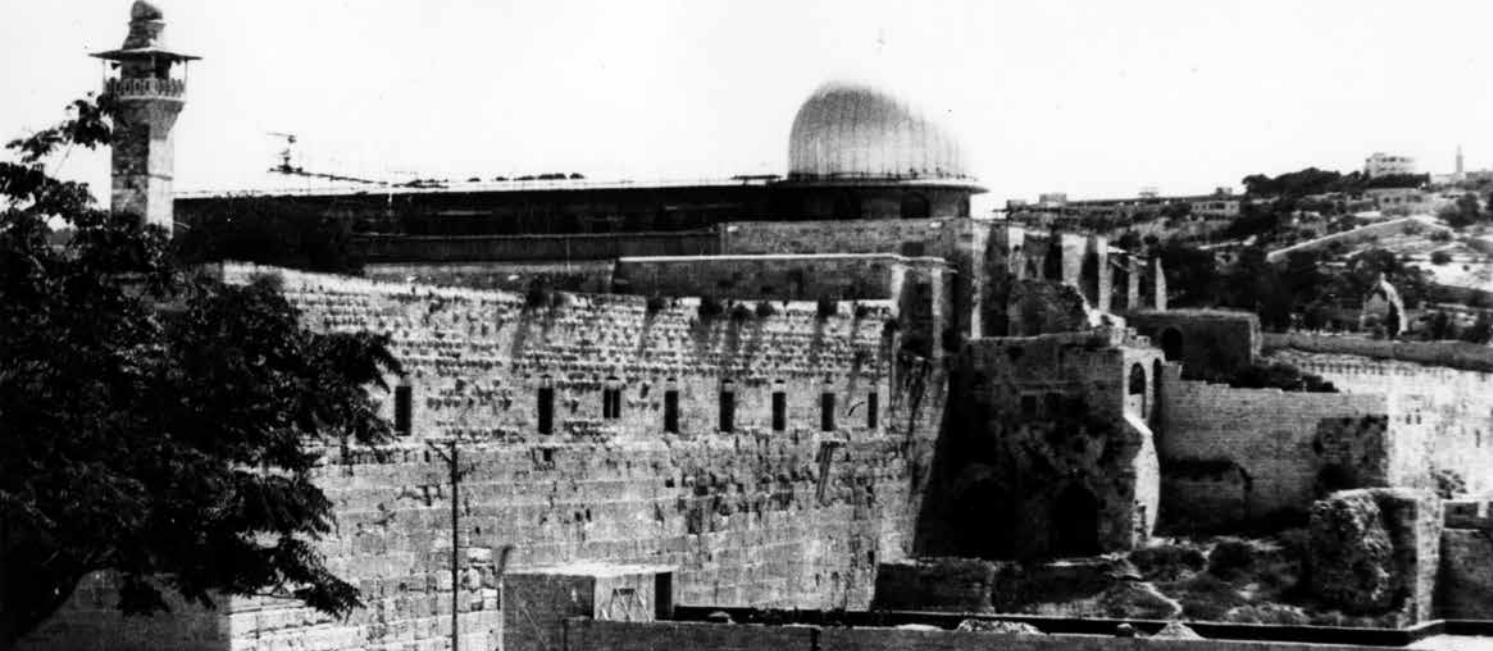
Destruction of King Hussein Bridge (formerly Allenby Bridge) during the June War 1967.

Form Archives Photo Collection, courtesy of Institute for Palestine Studies.

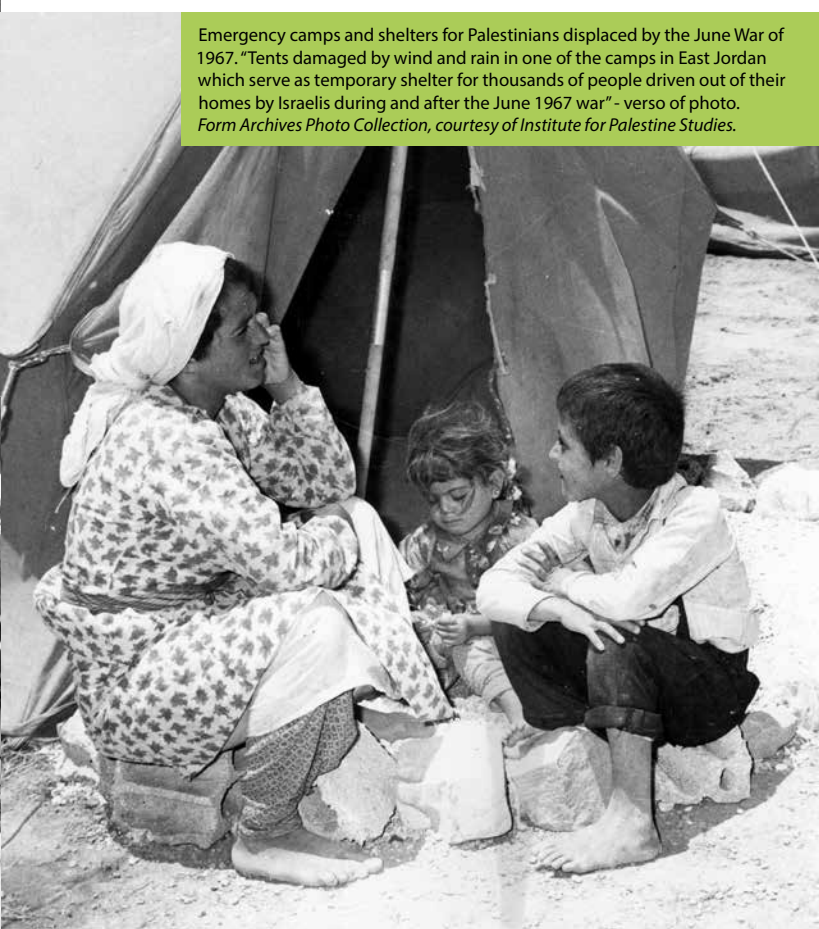
Desecration of Moslem and Christian cemeteries in Jerusalem. Desecration of Ma'man Allah (Mamillah) cemetery - verso of photo.

Form Archives Photo Collection, courtesy of Institute for Palestine Studies.





Desecration of Moslem and Christian cemeteries in Jerusalem. "Jerusalem - Mount Zion - Roman Catholic cemetery" - verso of photo.
Form Archives Photo Collection, courtesy of Institute for Palestine Studies.

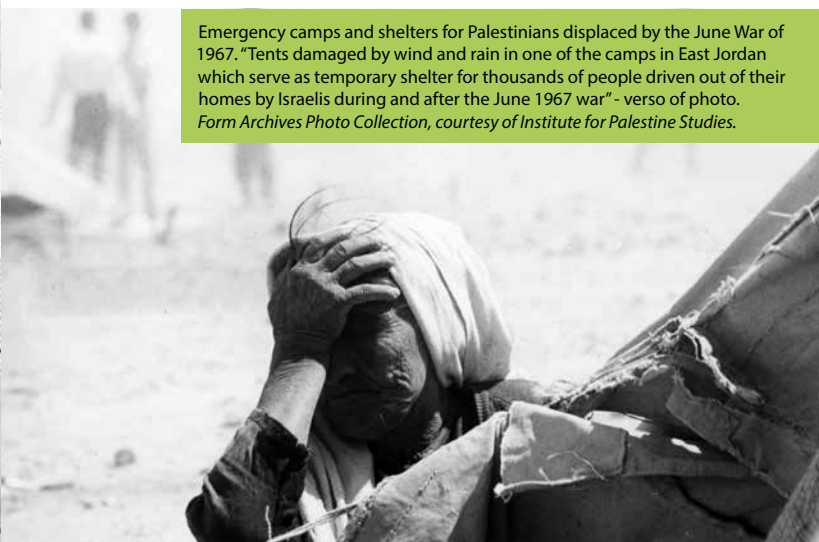


Emergency camps and shelters for Palestinians displaced by the June War of 1967. "Tents damaged by wind and rain in one of the camps in East Jordan which serve as temporary shelter for thousands of people driven out of their homes by Israelis during and after the June 1967 war" - verso of photo.
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Form Archives Photo Collection, courtesy of Institute for Palestine Studies.



Israeli Army at Al-Haram Al-Sharif.
Form Archives Photo Collection, courtesy of Institute for Palestine Studies.

QUIZ: Can You Find Your Way?

When in Rome, do as the Romans. But you are travelling to Palestine, not Rome, and you want to do as the Palestinians. So how much do you know about the Palestinians under occupation? Test your common sense, your knowledge and your luck with this quiz.

Tip: No correct answers are provided at the end. To score high, keep telling yourself to think like a Palestinian living under occupation!

1. You are planning a family weekend trip in Israel, the West Bank and Gaza. You have a nice up-to-date, scale map and you want to go all over: the Dead Sea, Jerusalem's holy sites, a stroll in the mountains and a visit to a traditional marketplace (in Nablus, let's say), and to finish it all with a traditional Palestinian feast on Gaza's Mediterranean coast. How many days will you need?

a. A two-day weekend is more than enough. According to the map, the distances involved aren't too far and should be easily covered with a car.

- b. A long weekend should do it, so we don't have to rush.
- c. It's a tricky part of the world, but a five day/four nights schedule will be more than enough time to enjoy all the places.
- d. Not in a lifetime. Unless you're the newly-elected President of the United States of America, you will never be able to hop from Gaza to the West Bank, hike through the mountains around Nablus and Hebron without getting shot at or stroll into Jerusalem without applying for a magnetic card or a pass of some kind.

2. How will you find your way when travelling through the West Bank?

- a. A map: its got all the roads and destinations marked on it.
- b. Maps are passé. Use your GPS, it's just like anywhere else in the world.
- c. People in the West Bank are super nice and friendly. Just ask around, in whatever language you like.

A shower of tear gas fired by Israeli security forces deluges protesters in Bethlehem. 18 December 2016. Thomas Coex/AFP/Getty Images, via Institute for Palestine Studies.





Workers climbing the separation wall near al-Ram town north of Jerusalem. July 2017. Courtesy of Ultrapal Ultrasawt.

- d. You have to be really smart to find your way around the West Bank. Of course, asking people is helpful, but first you need to be able to distinguish Palestinians from Israeli settlers (why does this matter? See question 6). Having a map is worthless, because distances on the maps are irrelevant: you might spend hours on a blocked road or held up at a “flying checkpoint”. GPS is also next to useless: you either have coverage from a Palestinian mobile company, none of which support GPS because Israel doesn’t allow them to carry 3G or 4G networks, or you have an Israeli network that supports GPS but gives you strange place-names—names that local people don’t know or don’t identify with. Tip: ask yellow-cab drivers. They’re the best for updating you on roadblocks, checkpoints, detours and curfews, etc. One extra tip: no need to ask anybody, just keep going. Before long you should reach an Israeli checkpoint. They’ll tell you where you are and eventually turn you back.
3. How many airports do the Palestinians have?
 - a. Zero. This is public knowledge. They don’t have any which is why they fly through Tel-Aviv (if they’re lucky enough to have a permit to fly from an Israeli airport: regular Palestinians can’t) or otherwise Amman or Cairo.
 - b. One. Ben Gurion Airport, near Tel Aviv. It’s the closest international airport to them.
 - c. Three. As mentioned in answer “a)” Palestinians have three airports at their disposal.
 - d. Two. There’s the Jerusalem International Airport and Gaza International Airport, the former located north of Jerusalem, the latter near Gaza city. Both have been closed (even bombed) by Israel and Palestinians have no way of reopening them. Palestinians from the West Bank (and some from Jerusalem) travel overland into Jordan to use the Queen Alia International Airport while most Jerusalemites have access to Ben Gurion International Airport in Tel-Aviv. Palestinians from Gaza cross the border into Egypt and use Cairo International Airport—that’s if the single crossing-point is open.
 4. Imagine you are a Jerusalemite driving your car in the city. A policeman signals for to you to stop. Wracking your brains trying to think what traffic rule you might have broken, you pull over. The policeman comes to your car window and asks for your papers. What does that mean to you?
 - a. Your driving license.
 - b. Your driving license, car registration and insurance papers.
 - c. Your driving license, car registration, insurance papers and maybe your ID card.
 - d. All of the above, plus the ID cards of all the other passengers, plus your National Security card, plus your health insurance card, plus payment receipts of your TV license, phone, water and electricity bills, your municipal taxes,



The settlement of Kiryat Arba, overlooking Hebron. In 1968 Gush Emunim activists sat in downtown Hebron in defiance of Israeli government policy. They were given permission to move into a military base on the outskirts of the city. In 1970 this base was legalized as a regular civilian settlement and its borders expanded.

Courtesy of Institute for Palestine Studies.

and any other documents you can or can't think of. To legally drive as a Palestinian in Jerusalem you have to have a Jerusalem ID card (a regular Palestinian one issued by PA is never sufficient). Your license and your car's registration documents are also not enough. Being a Jerusalemite is a status that can be revoked by Israel for any reason so you'd better have ALL your papers on you on the off chance a policeman flags you down. And BTW, police duties in Jerusalem are not

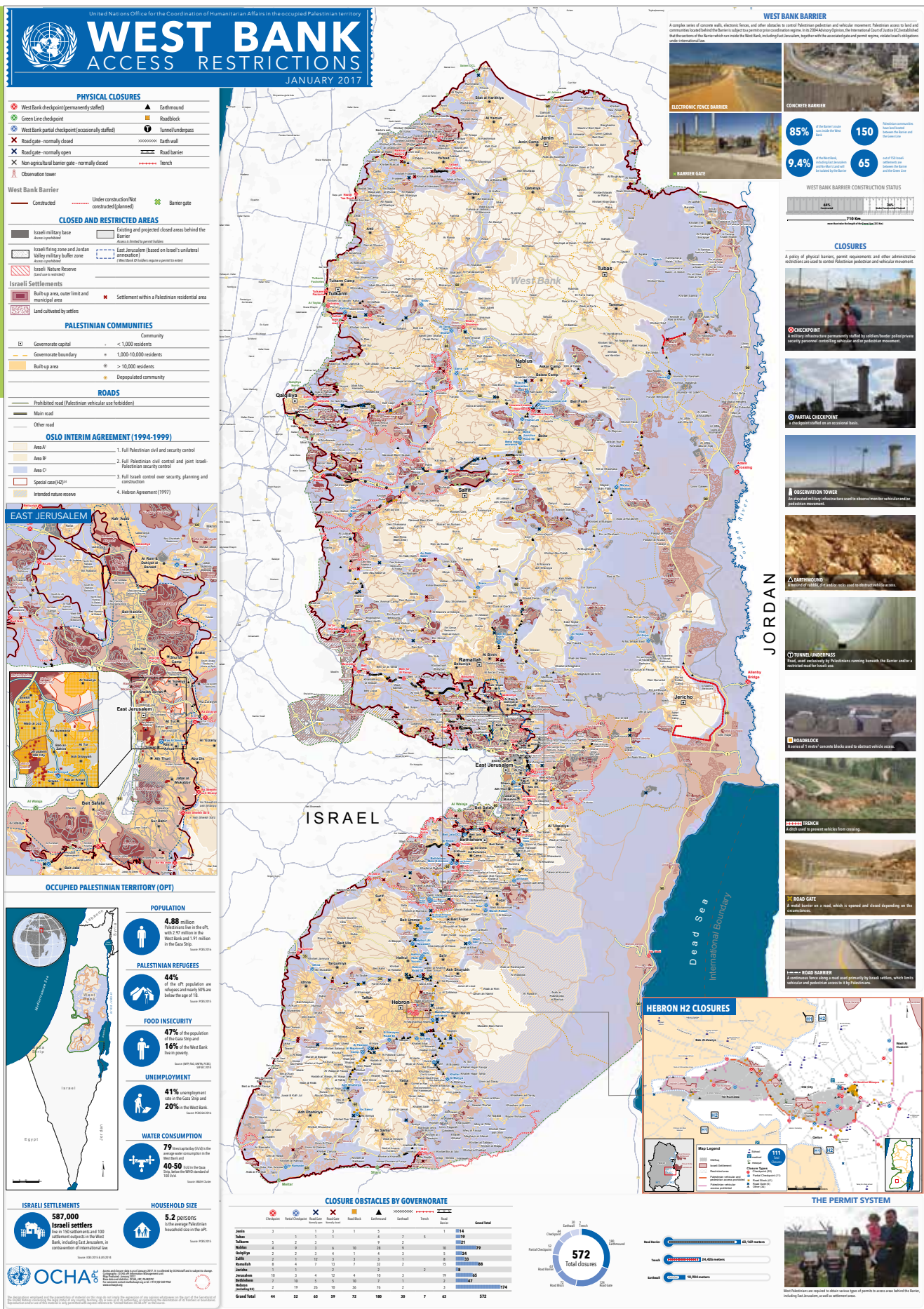
limited to traffic. Non-Jerusalemites are not allowed in Jerusalem without permits, so they have to have their papers on them, even as passengers. Tip: a few years ago you had to have your papers physically on you. Now, the cop can use the number on your ID card to check them all online. So next time you're asked to pull over, you should be thinking of your unpaid bills and losing your residency, rather than which traffic rule you broke.

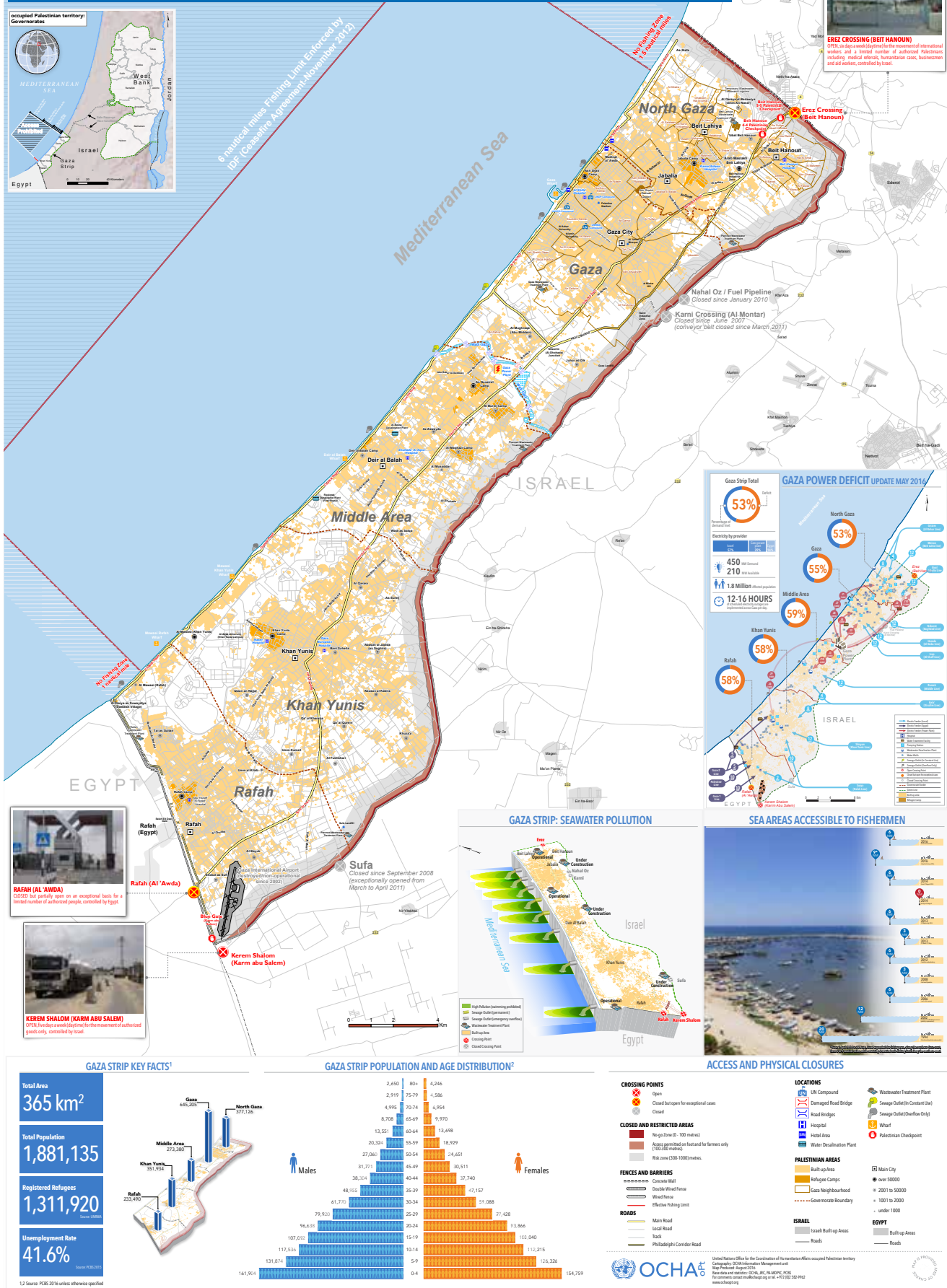
5. When in the West Bank, one can't cross the _____ line?

- a. Red. This is a common saying, anywhere in the world. You mustn't cross a red line.
- b. White. Traffic regulations everywhere all say the same: you don't cross the white line.
- c. Yellow. Yellow tape at crime scenes mean stay back.
- d. Green. While all of the above are certainly correct, a Palestinian from the West Bank cannot cross the Green Line that separates the West Bank from Israel. To do so, a Palestinian has to have a permit or a magnetic card, both issued by Israel. The process of obtaining such papers is lengthy and costly, with no guarantees. Security (that of Israel, of course, not Palestinians) is the criteria used, and even if they are issued, they can be cancelled without prior notice.

6. Who lives in the West Bank?

- a. Palestinians, with a few visiting foreigners.
- b. Palestinians and Jordanians. Isn't it the West Bank part of Jordan, after all? So Jordanians must be living there, too.
- c. No one. Isn't it part of what they call "a land without people, for people without a land"?
- d. Palestinians and Israeli settlers. While the land has been occupied by Israel since 1967, Palestinians who did not flee because of the war still live there, along with the Palestinian refugees of 1948. Jordanians don't live in the West Bank, although many Palestinians still hold Jordanian passports. Israeli settlements are illegally built in the West Bank, with settlers residing and working within the borders of these self-imposed ghettos. Israeli settlements are access-restricted areas, despite their growing size.





Not for Entertainment: Jerusalem, the Eternal Cultural Capital of the Arab World

By Mahmoud Muna

The place: the city of Jerusalem.

The date: June 1967. To be exact, the 7th of June, 1967.

For Palestinians, this is the day that Jerusalem, the Pride of the Arabs, the Jewel of the Middle East, the Centre of Gravity, the city we call Al-Quds, fell into the hands of a new occupier. For Israel, this is a day to remember with joy, the culmination of their campaign to reunite the ancient city and reestablish their state's capital on God's Promised Land.

Since then, Jerusalem has become a city torn: divided and confused, stressed and angry, hard to charm, and impossible to understand. Leafing through the history books, you will struggle to find a civilization that did not at one point attempt to capture Jerusalem and declare the city its capital. It is as if conquering Jerusalem is a mark of success or achievement, a sign of power, a proof of wealth and vigor.

There is, however, one thing we can all agree on: Jerusalem is greater than any civilization or colonizer. Of all the civilizations to have captured, controlled and governed the city, none has lasted. A few managed to leave their names on record as builders and developers; many stained their names with blood and destruction. Walking in between the markets, mosques and churches of the city, I often imagine myself talking with the stones of this ancient place. Like its people, some of the stones are crying and some are laughing, but all are confused and angry - or so it seems to me. In their name, the people who live behind them are being insulted, humiliated, tortured and killed.

Over the last fifty years of occupation, Israel has tried every trick in the book to change

the character of the city, to destabilize its community by strangling its economy and to reinvent the historical narrative by manufacturing archaeological artifacts and manipulating biblical references. On the other hand, in an attempt to compensate for its failures, the Arab League voted for Jerusalem as the cultural capital of the Arab world in 2009, a decision which was later extended, making Jerusalem the cultural capital until its liberation from Israeli occupation.

While some argue that Israel has succeeded in its mission to Judaize the city, many see the Arab population's obvious and strong presence - particularly in the East - as proof of the occupier's failure to completely eradicate of Jerusalem's Arab identity. While it is a fact that close to 300,000 Palestinians are still residents of the city - albeit with restricted rights - many are under intense social and financial pressure to leave and seek a life elsewhere with less stress and hardship.

Jerusalemites often look to unusual avenues for hope as a way of maintaining their vibrant presence. Long-awaited political change and economic intervention never materialized, so they draw upon the power of culture as their final defense against displacement and fragmentation.

While in most parts of the world, culture serves as a form of entertainment, in Jerusalem, it has become the vehicle for social and political change; more than this, it is an unshakeable buttress to identity. For cultural planners and managers it became synonymous with resilience and steadfastness, or what is called *sumud* in Arabic.

Mahmoud Muna was born in Jerusalem and has received degrees in Media and Communication from University of Sussex and King's College London. Known as the "Bookseller of Jerusalem," he is the proprietor of the Educational Bookshop and the bookshop at the American Colony Hotel where he hosts of cultural and literary events. When not reading or selling books, he is a writer and commentator on culture, politics, language and identity.

Two demonstrators dressed as Santa protest the separation wall in Bethlehem. 23 December 2016. Ilia Yefimovich/AFP/Getty Images, via Institute for Palestine Studies.



Now culture was invested with this potential a new set of opportunities and challenges presented itself to these cultural planners: challenges stemming from the need for a new form of thinking and a different strategy and philosophy of implementation, as well as more practical issues, matters related to logistics, coordination and finance.

Challenges

To burden cultural activities with the responsibility of social and political change presents an added challenge. Jerusalem's cultural institutions are asked to think both at micro and macro levels: how to achieve the organization's own aims and objectives while at the same time keeping in step with the greater national aspiration which their society upholds. In some fields, this can be easily done. For example, literature, photography, theatre and cinema are perhaps mediums that are closer to people's daily reality, but those working in areas like conceptual art or modern performance art are often confused by the planners' intentions.

A total of eight cultural institutions are active in East Jerusalem: one theatre organization, a museum, a music school, two art galleries, a single multidisciplinary culture centre and a pair of bookshops. They all refuse to accept funding from the Israeli-run Jerusalem municipality, a decision that was taken primarily as a political stance. The municipality of Jerusalem is an Israeli institution representing the State of Israel, and is widely regarded as an arm of the occupying force. Any dealings with this institution are seen as normalizing the occupation, accepting and legitimizing it, hence the refusal of East

Jerusalem's cultural institutions to take funds from the municipality and its cultural attaché.

Furthermore, the municipality's objectives are the same as those of the state, namely to eradicate the Palestinian identity and present Jerusalem as the eternal capital of the Jewish people. Such a vision certainly is in direct contradiction to the collective and shared aims of the Palestinian cultural community. This being the case, and putting the legitimacy issue to one side, Palestinian institutions have little reason to bring their proposals to the municipality funding office.

To make things worse for Palestinian institutions in Jerusalem, the Paris Protocol (an agreement between Israel and PLO that was signed as an annex to the infamous Oslo Accord in 1994) forbids the Palestinian Authority from directly or indirectly funding any activities in East Jerusalem until "final status" is reached at some indeterminate point in the future. In effect, this leaves the institutions isolated, lacking not just essential funding but also any strategic advice, planning procedures, or coordination. In fact, it cuts East Jerusalem's institutions off from the wider Palestinian cultural scene in the West Bank and within the Palestinian areas occupied 1948, which today are the state of Israel.

The lack of funding and the absence of a collective strategy has created a vacuum which is currently filled by international organizations, diplomatic missions and a small but growing private sector. Funding from international organizations comes with strings attached: allocations are seasonal, themed and often politically motivated, leaving little room for maneuver. It is quite normal in Jerusalem to hear of French film festivals funded by the French



After being denied permission to travel to Jerusalem to perform at the Palestine International Festival, the band Dawaween sings instead at the entrance to the Erez crossing in Gaza. 6 August 2016, Mahmud Hams/AFP/Getty Images, via Institute for Palestine Studies.

consulate or Spanish festivals funded by the Spanish and so on. Palestinian institutions have to tailor their events and proposals to match the expectations of the foreign donors. This donor-driven culture is irritating to the city's cultural consumers and has marginalized local artist and writers. Local creatives who fail to attract donor funds become redundant, regardless of their work's merits or its relevance to social and political change.

This new landscape has exacerbated the insecurities of local artists and writers and pushed them to pursue talking engagements, exhibitions and performances abroad. Far from encouraging local participation in the cultural sphere the donor-driven climate drove an intellectual immigration, and it became normal to hear of Palestinian artists achieving success in the Diaspora, particularly in the visual arts (cinema and filmmaking). We have all become deeply familiar with names and artists who are well-known overseas but have few followers inside the Palestinian Territories.

Perhaps the biggest challenge facing cultural institutions is their lack of audience, something that contributes to the assumption that Jerusalemites do not appreciate culture. This is factually inaccurate, of course, but it is also insulting. Jerusalemites are known for their cultured past and for their sophistication in general; it would be more accurate to say that Jerusalemites do not attend cultural activities en masse because they do not see the value and the relevance of the activities on offer - particularly when most of these activities exist solely to meet the agenda and objectives of international donors.



A government building destroyed by Israel in "Operation Summer Rains" in Gaza, 2006. Courtesy of Bettina Marx.

Before the Israeli colonization of Palestine, Jerusalem was a Mecca of culture. Writers, artists and singers, intellectuals and journalists from all across the Arab world would flock to the city. Modeled after the BBC, the Palestine Broadcasting Service was a melting pot, its offices a place where high culture was celebrated and honored. Regional celebrities, poets and writers were regularly invited as guest speakers at various venues and cultural salons or to conduct live interviews on the radio.

With six cinemas and theatres the capital, East and West, was a truly vibrant place, crammed with stars and actors. Famous singers would launch or premier their work from Jerusalem. Egyptian singer Umm Kulthoum who was known as "the planet of the East", legendary composer Abdel Wahhab, Lebanese singer Fairouz and the beloved Leila Mourad, among others, all made multiple appearances in cultural venues around the city.

Demanding audiences and challenging planning conditions embedded in a complex and contradictory political and social landscape have resulted in a kind of cultural immigration to other cities around Jerusalem. For culture to flourish, fertile soil and an encouraging climate are necessary, but such prerequisites are sadly often unavailable in Jerusalem and as a consequence another city, Ramallah, has stepped forward, becoming a cultural hub for many. Although it lacks any historical, biblical or archeological significance, this small city can boast an increasingly positive cultural environment and a vibrant scene which manifests itself in a busy cultural agenda and high levels of participation.



Opportunities and hope

In most parts of the world, cultural managers argue in favor of cultural competition between cities. In fact, they encourage it. But given current political conditions such competition poses a threat to the standing of Arab Jerusalem and I believe it should be challenged. The over-promotion of Ramallah and its elevation as an alternative cultural hub will feed into Israeli plans to realign the Palestinians of Jerusalem and develop the notion that Ramallah, not Jerusalem, is the de facto capital of Palestine. Add to this that all government organizations are based in Ramallah, alongside the banks, insurance companies and the main institutions of trade and finance, cementing Ramallah's growing status.

The salty-sweet competition between the cities of Jerusalem and Ramallah is simply unfair: the two cities are not equal and cannot be compared. Both should be encouraged to develop their own, particular cultural identity, as both have much to offer. Ramallah maintains a relaxed, outgoing ambiance, while Jerusalem brings heavier baggage, a deep-rooted social and religious history. That said, Jerusalem should always be treated as the future capital of Palestine and cultural programming should reflect this aspiration.

On the other hand, that its cultural organizations are independent of the official state institutions is an opportunity which should be embraced. Freed from bureaucratic constraints, the relevant ministries can give these institutions the flexibility to maneuver and act rapidly, as well as the space (both actual and metaphorical) to be creative and inspirational in term of ideas and projects.

Distance from official bodies also encourages critical discourse and might lead to the implementation of radical programs which would not be possible under government supervision. This is particularly important considering the culture of censorship and the lack of democratically elected governments across the Middle East.

Cultural managers need to chart a course through these contradictory dynamics, collectively challenging prevailing conditions and dictating terms in order to break new grounds. This could be made possible through the establishment of an informal body or umbrella organization through which cultural institutions can communicate, coordinate and organize. Eventually, this might lead to the adoption by Jerusalem's cultural scene of a collective position and shared strategy that transcends the narrow interests of individual organizations.

Wall graffiti near a former Israeli military checkpoint at Tufah, west of Khan Younis, after the Israeli withdrawal from the Gaza Strip in September 2005. Courtesy of Bettina Marx.

50 Years of Israeli Occupation

Fragmentation and Oppression of the Palestinian People

Fragmenting the Palestinians into:

- A. 2.7 million** in the West Bank (as of 2017)
- B. 1.9 million** in the Gaza Strip
- C. 300,000** in East Jerusalem
- D. 1.7 million** Palestinians with Israeli citizenship
- E. more than 5 million** Palestinian refugees abroad

Tools for Fragmentation

- A.** Geographic (no access between Gaza and the West Bank)
- B.** Administrative (e.g. permit system to access East Jerusalem)
- C.** Legal (Palestinian refugees not allowed to return)
- D.** Citizenship (Israeli citizenship vs. Palestinian citizenship)

The Gaza Strip

- 10 years of near total blockade on people and goods
- Death and destruction in recurrent military offensives
- Unemployment
- Devastated infrastructure (water, roads, energy and sanitation)
- Crumbling health and education systems
- Land and maritime access restricted areas

Oppressing the Palestinians

The West Bank

- Since 1967, Israel has detained more than 800,000 Palestinians*

- 95% of the population in Gaza may now be at risk of water-borne diseases

- 26.8% of Palestinian* households were classified as food insecure in 2014

- Half of the Palestinian* population suffers from one or more micronutrient deficiency

- The number of Palestinians* that receives UNRWA food aid has grown from fewer than 80,000 in 2000 to over 960,000 persons in 2016

- Palestinians are allowed to build on less than 1% of Area C (that constitutes 60% of the West Bank)

- 23% of the Gaza population is not connected to the sewage network

- The unemployment rate in the fourth quarter of 2016 was 25.7% (16.9% in the West Bank and 40.6% in the Gaza Strip)

East Jerusalem

- Discrimination in basic services (education, health, water, sanitation).

- One third of Palestinians in East Jerusalem lack sewage connections.

- Expulsion and revocation of residency permits (15,000 from 1967 to 2016).

- House demolitions.

- Social and economic restrictions.

- Restricted freedoms.

- Only 38% of the population of the West Bank is connected to water networks

★ In the West Bank and Gaza

Sources: • Israeli practices towards the Palestinian people and the question of apartheid (UN-ESCWA, 2017)

• Note of the United Nations Secretary General on the Economic and social repercussions of the Israeli occupation on the living conditions of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem, and of the Arab population in the occupied Syrian Golan (2017, 2016, 2015)

أحرار
الحرية والديمقراطية



Fifty Years under Occupation: The Struggle of Female Palestinian Prisoners for National Identity and Freedom

A Personal Testimony

By Rula Abu Duhou

On the way from the Al-Moscobiye interrogation centre in Jerusalem to the women's prison in Al-Ramleh, I was trying to commit to memory as many things as possible through the window of the police bus. This was going to be my last drive for a very long time. I was trying to capture the details of the streets, farms and mountains, and think about the life that awaited me in a locked dungeon, behind prison walls which would cut me off from the world.

Many years have since passed in prison and then some more outside it, and I still look at the life of men and women incarcerated in the jails of the Zionist occupier with awe, as though it is a magical world whose secrets we still need to decipher.

Even now I am haunted by this world and the compulsion to reveal some of its mysteries and secret corridors. To depict it not as the world of heroes, fighters and the unfaltering bravery everybody describes, but as a place where thousands live within a community with its own rules, traditions, relationships and complications. A community that does not only produce fighters, but also leaders, and which inspires defiance and resilience. A community where strength of will coexists with fragility of optimism and a deep understanding of the struggle and oneself. I do not exaggerate when I say that the community of Palestinian prisoners, men and women, is still one of the few entities capable of defiance and resistance, and capable, moreover, of uniting people at a time of deep division. It is still an entity able to reproduce and regenerate a sense of national identity and maintain resistance in all its senses.

Beginnings

I was born one year after the Zionist occupation of the West Bank, the youngest of three sisters and three brothers, the last of whom was born four years before the occupation. It seems that I was born as a reaction to the defeat, as I would later become my family's contribution to the resistance.

My father died soon afterwards, when I was nine and a half. I lived with my mother who took up Palestinian embroidery in order to support the family when my father got sick, then later on when she had become the sole bread winner. It was a household headed by a determined, hard-working woman, and we would help around the house and share responsibility with her.

Growing up, my life was dominated by occupation, a horrifying occupation which invaded our streets, homes and schools. I experienced it firsthand, and I still remember the first time I climbed through a school window to participate in a demonstration and sit-in. I was in the fifth grade. This is how I joined the struggle, without understanding much about its ideology or thought, even its history, but the daily horror of the occupation pushed me to seek knowledge and develop myself further. In high school I joined the leftist Association of High School Student Councils, and it was there that I further developed my identity and my ideas about the struggle and activism. Later, in college, I became active in the Labor Front, another leftist organization, and was elected as a student council member for two terms, the second of which I did not complete because of detainment. It was during my time at college that I evolved a clear idea about the process that would lead to the liberation of Palestine:

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fighting and resisting occupation through all possible means. At the first opportunity, I joined a military cell linked to the Popular Front, the first step on the path of organized struggle.

In the early hours of January 1, 1988, occupation soldiers surrounded our house, hammered on the door and arrested me. In vain, my mother tried to stop them. All I could do was reassuring her that everything would be alright and that I would definitely come back home. Little did I know that my return would take nine years; I had assumed that I was being arrested only for my involvement with the student council. The University of Bethlehem, where I was a student, had closed its doors two months prior to my arrest and many of its students had been detained. Since I was a member of the Student Council, I just thought that my turn had come.

Cuffed and blindfolded, I was dragged to the neighbourhood next to ours. The journey had begun. It started off with yelling, swearing and blows from rifle butts in the back of the van where they put me. It was a long night of arrests. We drove through the streets of Ramallah—at least that was what I imagined was happening—and every now and then I would sense a new prisoner being placed in the van, cuffed and blindfolded like me.

I was interrogated in Al-Moscobiyyeh about my involvement with the resistance. I was held for a month after which I was transferred to Al-Ramleh Prison (Neve Tirtza), and there, in this new arena for struggle, in a place with rules all of its own, I took up my cross and continued my chosen journey of resistance.

The First Intifada¹ had just begun, paving the way for further confrontation with the occupation and the escalation of resistance in Palestine. In the prison too, another type of resistance was growing, and hopes were pinned on the national struggle for the liberation of Palestine and freedom from captivity. I ended up in Cell 48, which was assigned to detainees and those awaiting trial. The prisoners welcomed me and tried to create as pleasant and comfortable an atmosphere as they could, something I was in great need of after my long interrogation and the onset of the acute pneumonia I would experience for a full two months, and whose effects I still suffer from today.

A square-shaped cell, with a toilet and a sink used for washing both oneself and the dishes.

A rectangular plastic mirror on the wall which barely reflected our scarcely recognizable features, and the prisoners' personal belongings, simple things like towels and so on. There was a thyme-like substitute, oil bought from the canteen, sugar and tea and, if we were lucky, maybe some biscuits. Being with the Palestinian prisoners was a relief after a whole month in which I saw only the interrogator and the inside of my cell, especially now I knew my imprisonment was going to last a long time.

With the escalation of the Intifada, female prisoners started to arrive in Al-Ramleh in batches, and I started to adapt to my new circumstances. Our relationship with the criminal prisoners with whom we shared a ward began to develop and we launched a three-month-long campaign that culminated in our being separated from the criminal prisoners and recognized as political prisoners, with the same rights and as other Palestinians in jail. This experience christened my struggle in this new location, and it was the best way to give me the balance I needed in a world where everything is confined except humanity.

There are plenty of details from this time, and they still form a significant part of my personality, memories and emotions; imprisonment is not something that can be relegated to the past. Today, I feel that what I am now and what others take me to be, is the result of this profoundly human experience, this struggle played out in exceptional circumstances. And what gave it such impact was that the community of female prisoners formed a unified front to challenge our jailers and managed, through their solidarity, to win me my freedom after I had served just nine of the twenty-five years I had been sentenced to. This is why I believe that the experience of female prisoners is worthy of being told. This article presents some of the memories and experiences I share with other Palestinian women in the world of the prison system. I dedicate this article to them and their experience throughout fifty years of an occupation which has seized what was left of the Palestine of 1967. Fifty years in which successive generations of Palestinian female fighters have experienced imprisonment and confinement. The third generation—as I will explain later in the section of this article which deals with my personal testimony—represents an important phase in the history of female prisoners' struggle in the jails of Israeli occupation.

1 The First Intifada erupted on 8/11/1987

Female prisoners have always been an integral part of the national movement in Israeli prisons in spite of the administration's attempts to separate them from the rest of the political prisoners, treating them as individuals instead of a group actively involved in the struggle. It was a systematic policy which sought to prevent female prisoners from becoming icons of resistance capable of motivating other women to join in the national struggle. From the outset, they were incarcerated with Israeli criminal prisoners as part of a policy that aimed to erase their identity as a part of the Palestinian resistance.

As a result, female Palestinian prisoners have always fought to foreground their national identity and the reasons that led to their arrest, which were linked to their activity in the resistance. They also defied the prison administration's attempts to blur the distinction between freedom fighters and Israeli criminal prisoners.

From the outset the conflict was directed at affirming national identity, and the female prisoners saw prison as just another place in which to defend their national cause; a point on their journey rather than an end to their activity in the outside world. Aisha Odeh reflects on this theme in her two books, *Dreams of Freedom* (2007), in which she relates her experience beginning with her arrest in 1969, then her interrogation and finally her transfer to the central prison, and *The Price for the Sun* (2012), where she narrated her time in Al-Ramleh with other female prisoners and some of her memories before incarceration. In this second book, Odeh emphasizes her status as a prisoner and member of the national liberation movement, the fighter's identity that is the source of her pride.

To engage in this conflict meant becoming part of the framework of nationalist political organisation. This was of utmost importance to the prisoners' movement, which functioned as an artery for life and continuity for female prisoners and a way to fight death and human cruelty. The movement injected life into veins that would otherwise wither and close from long confinement, and most significantly, it was the best way to maintain the resilience and consistency of national identity, and shield it from the attempts of the prison administration and intelligence services to bring it under control.

In an interview, Aisha Odeh² summarized this philosophy of conflict and its connection with the national and patriotic cause, the role of female prisoners inside prison and the importance of their struggle there, which was rooted in their convictions about the importance of the struggle outside the walls:

"Why are we in prison? Because we mustered our will and rejected the defeat of the Arab Nation, and we [...] belong the popular and national groups. We want to take matters into our own hands and rectify our situation and that is why we fight. Our imprisonment is the result of this struggle. We are in prison because we are fighters, and everything we do proves that we have a cause, and that this enemy that expelled us, displaced our people and took our land, will never defeat us, because if accepted defeat we wouldn't have embarked on this journey. We fight, and we know that we are taking our lives in our hands, and we are ready to make the ultimate sacrifice. Imprisonment is not the same as sacrificing our lives and therefore we want to continue fighting. This has always been our cause, and in whatever we do, and in our imprisonment, we uphold this cause, and we want emerge from prison strong. We believed that we were the owners of this land, and we wanted to accentuate the truth and prove them wrong: that it is we who are living on our land, and that they are nothing but servants. This is how we philosophized things: they close the doors and bring us food; we are the masters and not them; they are aggressors who took what is not rightfully theirs, while we are proud of ourselves and believe that we are better than them".

Keeping the flame burning

Tracing the history of the national movement in prison, we find it full of struggles and accomplishments, and see how the prisoners were able to develop and strengthen their structures and community over the course of fifty years. It is important to emphasize the historical transformations this movement underwent: the development of an organizational structure in the late 1970s, combating the policies of repression, personal humiliation and physical oppression used against prisoners, which culminated in the Nafha strike in 1981, the struggle to secure humane living conditions which also ended with a prisoners' strike in 1992, and finally, Oslo, with all its negative

² Aisha Odeh, during a video interview at her house on 23/4/2014

A basketball hangs in the air after a Palestinian woman takes a shot during an adaptive sports coaching session in Khan Yunis. 28 May 2016, Said Khatib/AFP/Getty Images, via Institute for Palestine Studies.



repercussions for the movement. The history of the prisoners' movement is consistent, coherent and unbroken.

At the same time, some aspects of female prisoners' have been unique to them, particularly the fact that they were at times isolated from other groups. For this reason, we speak about three generations that have contributed to the history of female prisoners, with a fourth that is currently writing its own chapter. Unlike the male prisoner population, which can be counted in their thousands, the number of female prisoners has always been quite limited, shrinking further following successive prisoner exchanges in 1979, 1983 and 1985³, when the majority female prisoners were released. The impact of these releases was to force each generation to accumulate experience of life in detention, rebuild organizational structures and reorganize life inside prison, something male prisoners—who never had such proportionally significant batches of prisoners released in these exchanges—did not have to do.

The Neve Tirtza Prison in Al-Ramleh is the main prison for women. From the 1970s to the early 1980s female prisoners were also incarcerated in Nablus Central Prison and Asqalan, but for the most part Al-Ramleh was where female prisoners were confined. Being held with

criminals confronted the female prisoners with difficult and harsh situations, the most critical being attacks on their lives by Israeli prisoners. Many female Palestinian prisoners passed through Al-Ramleh and it was here that their experience of struggle was shaped. Every one of them can be said to belong to one of three broad generational groups:

The first generation (From the start of the occupation up to 1979):

The main challenge for this generation was maintaining its patriotic Palestinian identity, which the prison administration tried to erase by placing them with Israeli criminal populations and creating constant conflict. In order to do this, the women distanced themselves from the traditions of the prison movement, adopting a collective model of existence and acting as a single group across traditional partisan lines⁴. As Aisha Odeh⁵ explains, in the period between the start of the occupation and the late 1970s there were no prisoner-run institutions and no clear partisan divisions in the decision-making process, which is why it makes more sense to describe their situation as a collective way of life: "The National Committee organized our life inside prison and their work focused on maintaining our coherence and intellectual vitality by drawing up a list of books that we

3 The Palestinian revolution adopted the tactic of abducting Zionist soldiers as a way of securing the release of Palestinian prisoners. The tactic was first employed during the occupation of the West Bank and Gaza Strip in 1967, and evolved into the hijacking of planes and the abduction of soldiers during the invasion of Lebanon in 1982. The abductions precipitated three main prisoner exchanges prior to Oslo, the most important of which, in 1985, saw the release of 1,300 male and female political prisoners.

4 One of the mechanisms of internal organization in the prison movement involved the allocation of prisoner accommodation according to political affiliation. The unified national committee which organized collective life in prison included representatives of the various parties.

5 Aisha Odeh was arrested in 1969, and was sentenced for two life sentences and an additional ten years. She spent the next decade in prison and was released in 1979 as part of a prisoner exchange between the Palestinian resistance and the occupation authorities. She was exiled for fifteen years in Jordan and returned to Palestine with the election of the Palestinian Authority in 1994.

were to discuss with one another, a committee to supervise the canteen and distribute items to everyone without exception. Whenever we had an issue we discussed possible courses of action and took our decisions as a group, regardless of our political affiliation, whether it was Fatah or the Popular Front.”

In addition to improving living conditions the priorities of the prison movement’s struggle included refusing to work in prison facilities, as such work was designed to co-opt Palestinian prisoners, making them contribute to the occupation’s military establishment by fashioning military uniforms, body-armour and the camouflage nets used to entrap Palestinians. The objective of the prison administration was to humiliate political prisoners, and so regardless of the pain and oppression that resulted from challenging this policy, facing it head on was necessary to protect what they referred to as the first line of defence: their “national and human dignity and personal pride”⁶. It is evident here that this was not viewed as a matter of individual self-interest, a spontaneous and disorganized struggle, but was rather part of a conscious appreciation of the reasons why political prisoners were forced to work. The conflict, it was argued, was one in which the occupier sought to expel the occupied, and therefore confronting it was an obligation, regardless of the pain and agony that would be inflicted on the prisoners as a consequence. Female prisoners required more time because they needed more organization, the very thing which suffered after the first prisoner exchange in 1979⁷.

The second generation:

With those women imprisoned during the 1980s, things gradually became more organized. Refusing to work in prison facilities was one of the pillars of the struggle during the period, coming to a head during the prisoners’ strike, which is regarded as the main accomplishment of this generation.

In 1983, as a result of the general political atmosphere and the invasion of Lebanon the previous year, female political prisoners pushed ahead more forcefully with work stoppages in

prison-run facilities such as sewing workshops, assembly plants for electrical and domestic appliances and also in the kitchen that also served jailers and Israeli criminal prisoners (Fahoom 1985)⁸.

On June 14 1983 the female political prisoners announced a work stoppage in these facilities listing a number of reasons for their action including the cruel and inhumane treatment of prisoners that was intended—as they saw it—to crush their spirit. However, the main reason (reflecting the intensity of the ongoing conflict between the political female prisoners and the prison administration) was a matter of principle: as prisoners of the Israeli occupation they refused to engage in labour that would benefit the occupation’s economy. As prisoner Rawda Baseer said on this topic: “What is more important is that we are defending our humanity, our human and national dignity”⁹. In response to the months-long strike the prison administration oppressed the prisoners, depriving them of most of their rights and even raiding their cells. They used tear gas, punished prisoners with solitary confinement and, on the last day of October that same year, they banned family visits. But for the prisoners, whose strike coincided with the escalation of the conflict in Lebanon, this was a matter of life and death: they saw their action as an integral part of the struggle and confrontation with the enemy everywhere¹⁰. The strike lasted for ten months from June 1983 to March 1984 when the female prisoners emerged victorious from the field of battle: they had successfully refused to do the work that oppressed their national and patriotic identity. However, the experience of that generation almost disappeared with the prisoner exchange of 1985, and the momentum was lost. The main achievement of this generation was to force the separation of Palestinian prisoners from the Israeli criminal prison population, and to ensure the allocation of special sections and wards for female political prisoners as was the case with the male Palestinian prisoners.

The third generation:

The post-1985 generation of female prisoners coincided with the First Palestinian Intifada,

6 Prison Is Not For Us, a book about the reality of imprisonment and the philosophy of conflict, was written and produced in Nafha Prison by the Ishaq Maragha Organization. It was smuggled out of prison and published in 1985.

7 Al Fahoom, Walid. *The Birds of Nafi Taratsia: Palestinian Women in the Israeli Women’s Prison*. Dar Al Jalil (Amman) 1985

8 Ibid.

9 Al Itihad Newspaper, Haifa, 19/7/1983

10 In 1982 the army of the Israeli Occupation invaded southern Lebanon and reached Beirut with the intention of crushing the Palestinian resistance.

which began in 1987. These women attempted to create some kind of internal organization, and they organized a famous strike in 1988 which lasted for three months. Their action included several individual hunger strikes and the refusal to leave their cells to protest the mixing of the political and criminal prison populations and the ban on family visits. The female prisoners demanded that they be separated from Israeli criminal prisoners, placed in a separate prison and treated as part of the prison movement.¹¹

The strike was successful and the female prisoners were relocated to Sharon Prison (Al-Talmond) on the Palestinian coast near Netanya. The new arrangement allowed them to communicate with their fellow cadres in other prisons and with political parties on the outside. It was here that they began to set up prisoner-run institutions like those in other prisons. In 1990, the female prisoners adopted the prisoners' bylaws enforced elsewhere in the prison system.

I still recall the way we organised ourselves according to the rules of the prison movement: assigning a room to each political party, forming a national committee (and a dialogue committee with the prison administration), posting women in the corridors to distribute food and cater to the needs of prisoners in their cells. We got lucky because the children's ward (Intifada Children) was next to ours, and through them we were able to communicate with other prisons and the prisoner-run organizations which sent us the regulations and bylaws governing the work of committees and political parties. I remember us bursting into laughter when we read about the set number of "national days" when prisoners would go on hunger strike, because we did it almost twice weekly in Al-Ramleh in accordance with the directives of the Intifada's Unified National Leadership.

The struggle, their shared problems and difficulties, their isolation from the main body of the prison movement (unable to mingle with other prisoners and never transferred to other jails) and their limited numbers compared other Palestinian prison populations, meant that their collective existence (and its challenges) remained a priority for female prisoners, over and above all personal and partisan considerations. The Intifada of 1988 escalated the national struggle, engaging Palestinians from all sectors, and women were

no exception. Indeed, Palestinian women played a central role in direct confrontation with the occupation army and in managing the daily lives of Palestinians by organizing community schools, domestic budgeting, neighbourhood committees, and so on. This led to an increase in the numbers of women detained, including girls as young as fourteen. The rapid growth in the female prison population, in addition to the diversity in age, geographical origin and social background, presented a real challenge to the movement. The prison became into a beehive, as prisoners busied themselves organizing the various aspects of their daily lives and cultural and political activities, and establishing channels of communication. The prison population was now a big colourful family that included plenty of differences, individual needs, personal and public concerns, and all of us had to play a wide variety of roles: we were mothers, sisters, comrades, teachers and leaders—and we had to be, because you cannot deal with a 14-year-old child who misses her mother, toys and friends with the system based on discipline, and rights and duties that was used with older prisoners. These beautiful young girls displayed a limitless capacity deal with challenges, and demonstrated a great deal of responsibility, resilience and willingness to learn as they followed in the footsteps of older prisoners. Late at night, we would comfort them, attempting to compensate them for their lost freedom and their mothers' embraces. But by day we had to stand up to the administration's attempts to crush the prisoners' morale and break them by depriving them of medical treatment and access to reading material, by preventing them from seeing their families for extended periods of time, and by encouraging them to sing and play like little children. We also had to address the girls' adolescence crises and their need for carefree happiness and rebellion, which the cells were too small to contain. We also had to deal with the pain and agony of detained mothers who were separated from their children outside the prison walls. There were efforts to ensure that they would benefit from their time inside, a time when they could learn new skills, receive an education, experience hard work, reassess their lives and ambitions and be inspired by the promise of a life after our national liberation. And we had to do all this beneath the watchful eyes of the jailers who were working hard to sabotage everything we did. Every day we were obliged to resist the harsh conditions imposed on us and steal every possible moment of

11 Abu Daho, Rula. 2012. Testimony from a Time that has not Passed Yet. Paper submitted in a conference titled A Will that Challenged Shackles, Abu Jihad Centre for Prisoners Affairs. Al Bireh.



Ain Yabrud resident points to his fruit trees enclosed within the barbed-wire perimeter of the Ofra settlement, 12 miles north of Jerusalem. Ofra began as a "work camp" in early 1975 when Defense Minister Shimon Peres of the Labor Government authorized "overnight lodging" at a former Jordanian Army camp near Ain Yabrud. The Begin government subsequently allowed Gush Emunim settlers to expand Ofra on adjacent privately owned Palestinian land. Courtesy of Institute for Palestine Studies.

happiness, every opportunity for emotional and human engagement and every chance for self-development and challenge that presented itself. This formed us into a coherent unit in which all our fates were melded into one: as though we had become one body, one dream and one ambition. The harsh conditions, the deprivation, oppression and difficulties imposed by the jailers, and our deep connection to the resistance and struggle against occupation, all worked to bring us together in the same space. And at times of confrontation they were strong enough to generate a collective will and strength capable of realizing the freedom we fought for.

When the Oslo Accords were signed female political prisoners were supposed to be released, but it did not happen and the prisoners realized that their issue had been relegated to the section entitled "Good Intentions". So, while male political prisoners and others who met the criteria of the agreement were released, female prisoners remained behind bars.

It was a difficult period, watching life go on outside prison, seeing the return of the revolution's leadership, and knowing other political prisoners were now free while we were still incarcerated. Life seemed to come to a halt. The days dragged by, and our only question was: What next? Are we to remain in prison? If the leader¹² has returned, why aren't the soldiers set free too!

We weren't left wondering for too long. Things escalated quickly and all of us, whether for Oslo or against it, decided to fight as one. We demanded our freedom in accordance with

the terms of the agreement and mobilized the families—the mothers especially mothers—to stand behind our struggle. The prison buzzed with activity: letters were sent to consuls, the UN, human rights groups, international organizations and Israeli and Palestinian negotiators alike. Our demand was freedom, without restrictions and without discrimination. By 1995 things were becoming unbearable. The reality of our situation was now clear: the issue of the prisoners' release was given no more than lip service, and prisoners with long sentences, the sick, children and women were not even this. As a result, and for the first time in its history, the prison movement decided to begin an open hunger strike, not in order to improve their living conditions, but to demand the release of prisoners. The strike was actually directed at the negotiators and not the prison administration. Its first slogan was, "Freedom for the prisoners of freedom". This meant an unconditional freedom without being required to sign a petition condemning terrorism, or excluding those who were alleged "to have blood on their hands", and furthermore, without discriminating against those who opposed Oslo. Female political prisoners were part of this strike, which lasted for nineteen days, during which time the prison movement remained unified despite the divisions that were starting to emerge between Palestinians over Oslo. The objective was freedom from imprisonment.

Following the strike, it appeared that a decision had been taken to release female prisoners. Following Israeli media coverage we got the impression that this might not be accurate, even as the Palestinian side remained convinced that

¹² In 1994 Yasser Arafat, the General Commander of the Revolution and the PLO, and hundreds of the revolution's leaderships, returned to Gaza, as per the Oslo Accords, while the "revolution's soldiers" including female prisoners were not released from prison.

The Gilo settlement, with home of Halima Abdul Nabi in foreground. Mrs. Nabi, a 70-year old Palestinian widow, once had a four-room home on a 12-dunum (three acre) fruit orchard. In 1970 her land was confiscated for "public purposes". In 1976, without notice, bulldozers uprooted her orchard, and settlement construction commenced. The pictured staircases went through her washroom and kitchen. Mrs. Nabi was imprisoned for three days for resisting the taking of her land. She is left with two room and one tree.
Courtesy of Institute for Palestine Studies.



our release was imminent. Our concerns were not entirely baseless. The director of the prison came to us and said that he would call out the names of individual prisoners who should to gather their belongings and prepare to leave. He called the names of all of us except for five: they were the ones the Israelis said had "blood on their hands", a phrase which meant they had killed Israeli soldiers. The prisoners announced that they wouldn't leave without these five. I was one of them. This came as a shock to the prison administration: the long years and cruel policies had failed to kill off the spirit of unity; on the contrary, it had strengthened it to the extent that prisoners were refusing freedom if it was going to be denied their fellow detainees.

With the female political prisoners refusing freedom in solidarity with their five comrades, a new struggle began a fight to face down any attempts to release the prisoners by force. In 1996, as Palestinians looked forward to their first parliamentary elections, news was leaked that Israel would attempt to forcibly expel the female prisoners. The prisoners set up an operation room for those prisoners due for release and held discussions, excluding "the five" in order to avoid any undue pressure or influence on the prisoners' decisions. We decided to assemble in two cells and refuse to leave, aware that we would probably be barricaded in there until after the elections. Only once the Palestinian elections had taken place and Israeli Prime Minister Shimon Perez had announced that the occupation government would reconsider the issue of the female prisoners, did we end the barricade.

Despite our bitter experiences during this action, the harsh conditions we lived through, the pressure that was put on our families

(particularly mothers waiting for their children), not to mention the suffering of the imprisoned mothers longing to see their children and that of those child detainees waiting for their mothers, our unshakeable will and strength gave us hope that we could emerge victorious. We had burnt all our bridges and our goal lay clear before us: freedom for all, without exception.

In late 1996 and early 1997, during the Palestinian-Israeli negotiations over Israeli settlements in the old town of Hebron, the two sides agreed to make our release part of the deal. On February 11, 1997 all female political prisoners were released after a fifteen-month struggle to ensure that their five colleagues would obtain their freedom, too. It was the unity of our will and shared fates combining together through one of the most extraordinary and most difficult experiences within the context of political imprisonment, which made this victory possible.

Fourth generation:

Twenty years after the release of all female prisoners and after fifty years of occupation, there are fifty-seven Palestinian female prisoners incarcerated in this same prison. They are now making their contribution to the tapestry of struggle and defiance against the Zionist settler occupation that was begun and maintained by previous generations.

As long as people continue to fight, the prisons will continue to operate and generations of fighters, men and women, will be detained within them. The Palestinian woman left her mark on the Palestinians' long struggle for freedom from occupation.

Translated from Arabic



UNITED NATIONS

Office for the Coordination of Humanitarian Affairs, occupied Palestinian territory

The Barrier Route in the West Bank July 2011



Agricultural gates

Frequency of opening

- ✕ Daily *
- ✕ Seasonal **
- ✕ Seasonal Weekly ***

West Bank Barrier

- Constructed
- - - Under Construction
- ⋯ Projected

Israeli Settlements
Behind the Barrier

Area Behind the Barrier

* Generally open 15-60 minutes; 3 times/day.

** Open daily during olive harvest only

*** Open 3 times/day; 1-3 days/week; during olive harvest

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708-Km



438 km (61.8%)
Constructed

58 km (8.2%)
Under Construction

212 km (30%)
Planned

Two Children

Two 12 year-old children commit the same crime - **throwing a stone** - in the West Bank and then flee. One is Palestinian and the other is Israeli.



The Palestinian Child

Here is what would happen next for each:



The Israeli Child

Israeli officers suspect they know the location of the child perpetrator

- The officers can immediately search the child's house without any warrant.
- The officers conduct a body search of the child's family.
- The officers would have to get a search warrant to search the child's house.
- The officers need a warrant to conduct a body search on the child's family.

The officers find the child

- The child is immediately arrested and detained.

- An arrest warrant is needed and the child cannot be detained before charges are filed.

The child is detained

- The child will remain in detention between 24-48 hours before being brought before a judge.

- The child will remain in detention 12-24 hours before being brought before a judge.

The investigation continues

- A military court of appeals can extend the detention beyond 40 days, for additional periods of up to 90 days each.
- The child is not allowed to have parent presence during interrogation.
- Proceedings may be conducted on camera if the military court orders it.
- There is no restriction imposed on publishing the child's name or the details of the proceedings.

- A judge can extend the child's detention for a maximum of 40 days for purpose of investigation, but the authorization of the Attorney General is required for that.
- One of the child's parents attends the interrogation with him/her.
- Proceedings concerning the child must be conducted on camera.
- The publication of the name of a minor who has been brought before the court is prohibited.

Proceedings begin

- The child can remain in custody for one year, which can be extended from time to time by 6 months each time, under order from the military court of appeals.
- The child is tried before a military court.

- The child cannot be remanded till the end of proceedings.
- The child is brought before a juvenile court.

Sentencing

- There is no option for the court to refrain from convicting if it concludes that the child committed the offense.
- There is no option for the court to refer the child to diverse treatment alternatives.
- The military court is enabled to issue a prison sentence against the child.

- The court is authorized to not convict the minor and rather settle for the conclusion that the child committed the offense.
- Being under 14 years old, the law prohibits the court from imprisoning the child.
- The court is obligated to review diverse modes of punishment and treatment besides imprisonment before issuing a sentence.

Sources: Association of Civil Rights in Israel

Editor: Carol Khoury

Translations from Arabic: Samira Jabaly

Proof reading: Anita Vitullo, Robin Moger

Cover page cartoon, and all inside cartoons: Mohammad Sabaaneh

Graphic novel: text by Maya Abu Alhayat, drawings by Mohammad Sabaaneh

Illustrations, maps, & photographs: see attributions

Printed by: BAILASAN Design

Opinions expressed in the articles are those of the respective authors and interviewees, and not necessarily of the Heinrich Böll Stiftung.



Published by the Heinrich Böll Stiftung 2017

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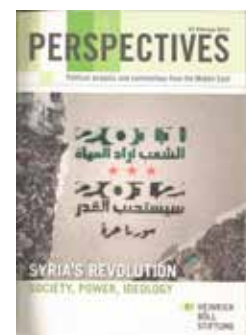
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Heinrich Böll Foundation - Middle East & North Africa

Our foremost task is civic education in Germany and abroad with the aim of promoting informed democratic opinion, socio-political commitment and mutual understanding. In addition, the Heinrich Böll Foundation supports artistic, cultural and scholarly projects, as well as cooperation in the development field. The political values of ecology, democracy, gender democracy, solidarity and non-violence are our chief points of reference. Heinrich Böll's belief in and promotion of citizen participation in politics is the model for the foundation's work.

This edition is published jointly by the offices of Heinrich Böll Stiftung in Beirut and Ramallah.



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