Ideological Roots of Population Transfer

Decades of Cold War thinking have now irreversibly given way to new trends in world politics. The upheavals that began with the revolutions of 1989–90 will be marked in history as a time in which rigid ideological structures were swept away by the tides of more-pragmatic thinking. While pundits and political scientists announce the end of ideology,[1] the responses of indigenous peoples and minorities within many states today would undoubtedly be less sanguine.

War in the former Yugoslavia provides dramatic testimony to the potential for conflict between a state dominated by an ethnic group and its other component populations. The images that emerged from Bosnia in 1992, captioned with the term "ethnic cleansing," invoked recognition of the means by which military powers secure land, preferably without the indigenous people. The quincentennial year 1992 closed with yet another population transfer scene: the forced expulsion by Israel of some 413 Palestinian men from the occupied Palestinian territories. As of this writing, those expelled remain sequestered in Israeli-occupied South Lebanon.

Population transfer, thought to be a thing of the past only a century ago, has re-emerged in the 20th Century as a common geopolitical devise with grave human-rights consequences. It may be said that ours has been the century of the displaced person. The present number of UN-registered (cross-border) refugees is some 18 million, but actual displaced persons worldwide may exceed 24 million.[2] Unlike many "internally displaced," the international status of cross-border refugees makes these victims the subject of international relief and intergovernmental debate. Internal transfers have no-less-severe consequences than cross-border transfers and, in a sense, are more dismal in the face of customary deference to a state's right to "noninterference" in its domestic affairs.

Population transfer policies within state borders are often grounded in ideologies of ethnic-group domination. These have the effect and/or purpose of manipulating demographic units to ensure territorial and social control. The present inquiry focuses on cases in which racial and religious chauvinism have played an instrumental role in forming population transfer policies at the expense of vulnerable groups. Each case places a further burden on efforts to maintain regional peace and world order.

Most forms of nationalism have more-or-less conscious ideological elaborations of race concepts that often carry with them religious symbols. When a nationalist movement succeeds to establish itself in the seat of government, those elements are typically incorporated into the dominant ideology of the state. That is not to say that nationalism and state ideology alone have produced racism. Rather, both reflect, and have emerged from pre-existing assumptions of human difference. However, by helping to systematise and rationalise ethnocentric assumptions, state ideology works to entrench them in the mind and in law.

Ideology, a system of thought that seeks to explain behaviour,[3] serves as an effective tool

providing social cohesion and legitimacy. A variety of ideologies lie at the foundation of modern states and government policies that serve as some of the most prolific purveyors of ideas and values intended to bind citizens together. Frequently, however, such state ideologies formalise a self-definition that coincides with notions of ethnic purity to the exclusion of indigenous and minority peoples. Among the common ordeals of these unrepresented peoples is their transfer from, and/or the implantation of alien settlers into their territory. Within this century, several governments have pursued population transfer as a preferred policy option, having devastating effects for the subject citizens and indigenous peoples.

A discussion of historic cases of ethnocentric state ideology and population transfer is presented here, followed by consideration of the development of state ideologies that underlie examples of three contemporary states in which population transfer has emerged as policy. These cases then lead to an assessment of population transfer under existing international law, and conclude with a call for further inquiry into specific cases with a view to further developing international law to prevent and redress population transfers and their destructive consequences.

Population Transfer in History

In less-enlightened phases of human history, before the emergence of international law regulating state behaviour, governance has often been synonymous with subjugation, and mass deportations and population transfer were common. In the ancient world, ample evidence indicates that population transfer was carried out as a political tool to weaken, dismember and eliminate the national dimensions of subject peoples. Population transfer was known to be official policy in ancient Egypt and Mesopotamia, while judges in the Hittite Empire of Anatolia also applied population transfer as a collective punishment.

The Assyrian Empire in Western Asia practiced population transfer on a grand scale already at least as early as the first and second millennia BC. For the Assyrians, it became a regular feature of imperial policy to dominate other peoples, with far-reaching demographic, physical, political and economic consequences. Within the approximately four hundred years between the reigns of King Tiglath-pileser III (1114–1076 BC) and Assurbanipal (669–627 BC), at least 157 population transfer campaigns are known to have been carried out. The names of at least 500 places were changed in the process, and an estimated minimum of 4.5 million persons were forcibly deported.[4] These schemes often involved transfers over great distances, uprooting peoples to zones with greatly differing topography and climate, from Egypt to Andia (today's Azerbaijan), from Palestine to Mesopotamia, and from Jadnana (Cyprus) to the shores of the Persian Gulf. In the rich language of ancient Assyria, at least eighteen terms were used to refer to population transfer.[5]

In the Christian era, European powers have redrawn political maps by conducting their own population transfers, primarily as a tool of conquest. For example, Anglo-Saxon invasions displaced indigenous Celtic peoples, including those who took refuge in Brittany in the 4th and 5th Centuries. The *Reconquista*, in Spain, and the subsequent Inquisition forced the transfer of surviving Jews and Muslims from their Iberian homes at the turn of the 16th Century.

"Age of Discovery" and Population Transfer

In the era ushered in by Columbus, population transfer was raised to sacramental level in the minds of the Europeans who colonised the Western hemisphere. The Spanish and English, in particular, have left the world with a heritage of population transfer there. In the modern successor states in the Americas, literary, religious, military and legal cultures have converged to void the new-found lands of their indigenous human societies.

In the 16th Century, the Spanish distinguished themselves as colonial America's earliest and most ambitious practitioners of population transfer. One of the earliest reports of such officially and religiously sanctioned practices is found in the works of the Bartolomé de Las Casas,[6] who, as a young Dominican priest, had participated in the conquest of the island of Cuba. In his time, racist concepts prevailed among the colonisers that consigned the indigenous peoples to subhuman categories and sought to justify the acquisition of their land by force, and the removal and enslavement of the indigenous peoples themselves.[7]

In present-day Chile, the indigenous people had already been sold into slavery when Pedro Gutiérrez de Valdivia arrived from Spain to governor the colony in the middle of the 16th century. Slavery was practiced there by secular and religious colonial institutions, and many indigenous Araucanians were transferred to Peru, in order to provide slave labour for the Spanish mining enterprises there.[8]

In less than a century after the accidental arrival of Columbus on the continent, de Valdivia had realised the dream to extend Spanish possession over all the lands south to the Tierra del Fuego. In this period, a policy to *"descargar la tierra"* (empty the land) was implemented to break the indigenous peoples' characteristic attachment to their territory. Thus, war would be inevitable, one colonial advisor warned, for

> So great is the love that the Araucanians have for their land, and so great is their courage and valor, that once they realise that the Spaniards plan to enslave them and deport them to far-off places, they will never surrender. Even the most cowardly among them will fight to the end, and the women and children will take up arms to defend themselves also, preferring to die than to submit to slavery.[9]

In many cases throughout the colonial Americas, the indigenous population was nearly or completely wiped out; those who escaped extinction were driven out to the wastelands and designated areas called "reserves," *"reducciones"* or "homelands," and subjected to conditions of retarded social and economic development. Although the indigenous peoples may no longer constitute a serious numerical threat to the dominant majority, the presence of their survivors persists as a constant reminder of the cruelty committed against them as peoples.

A century before the arrival of the first English settlers in the "New World," the British, too, made eloquent use of the ideological constructs of Spanish clergy and legal scholars[10] in their own population transfer and dispossession of the indigenous population of Ireland. The British Crown may have approached its conquest of Ireland in secular terms; however, concepts of

social evolution and the Irish social condition resembled the styles already articulated by Spanish *conquistadores*. The English characterisation of the Gaelic Irish as "pagan" and backward evolved into concepts of law and religious duty, calling for the "civilising mission" of English conquest. Based on the premise that their Christianity was a prerequisite of civilisation, the English took it as their duty, or at least just cause, to conquer and expel the population in favour of English civilisation and its progeny. One of the English queen's lieutenants an Ulster reported in 1573 how the English drove the Irish from the plains into the woods where they would freeze or starve in the winter, and commented:

> How godly a dede it is to overthrowe so wicked a race the world may judge: for my part I think there canot be a greater sacryfice to God [sic].[11]

The Irish people's custom of moving with its herds of domesticated animals from one pasture to another led the English to conclude that the Irish were nomads, and therefore barbarians. The device of invoking legal doctrines applicable to vacant lands wherever the transhumant population is found provided legal grounding for the conquering power to justify its claims (or those of its agents) to the lands of the indigenous Irish people. In his time, Lord Deputy of Ireland Sir Henry Sidney was credited with making a great contribution to the legal reasoning behind eliminating the Irish, for he had "invented good lawes and statutes for the bridling of the barbarous and wicked, and for the maintayning and defending of the just" [sic].[12]

English legal thought in the New World developed the principle that permanence is superior to transhumance in cases where Europeans sought claim to indigenous territories. Ironically, European transplants claimed for themselves superior right to the land as "permanent" residents, and asserted such claims even when the transferred and dispossessed indigenous people were already settled in permanent villages. The indigenous people were referred to by white settlers as morally and spiritually inferior by virtue of their nonparticipation in the Christian religion and, thus, their putative nonlanded and nonhuman (savage) status made them candidates for population transfer and other methods of elimination, all of which could be legally justified.[13]

European settlers in North America favored certain references to Biblical precedents of population transfer to rationalise their deeds. For example, the literature and correspondence of the Massachusetts Bay Colony (of Puritans) reveal the settlers' self-description as the "new Israelites," and refer to the indigenous people as the "New Canaanites,"[14] thus inviting a sense of divine purpose to "smiting" the original inhabitants of a "promised land," just as the early Hebrews (Habiru) had conquered the hills of Canaan (Palestine).[15] Such ideological constructs led the 17th Century Massachusetts Bay Governor John Winthrop to decree that "the habitation of the wicked [indigenous people] should no more appeare in Israell" [Massachusetts Bay Colony].[16]

Puritan settlers in the New World eschewed facts in order to derive rationale from the Holy Scriptures. They found profitable use for such stock passages as Psalms 2:8: "Ask of me, and I shall give thee, the heathen for thine inheritance, and the uttermost parts of the earth for thy possession." Likewise, Romans 13:2 provided sanction to repressing resistance to their dispossession of the indigenous peoples: "Whosoever therefore resisteth the Power, resisteth the

Ordinance of God, and they that resist, receive to themselves damnation."

Where Massachusetts Bay colonists in the 17th Century referred to their society as the "New Israel," subsequent colonial efforts have found encouragement to adopt self-acclaimed accountability to a higher, supernatural power, while simultaneously dispossessing or otherwise eliminating colonised peoples (who commune with nature).[17] The superiority of the settlers' permanent claim to lands over the supposedly transitory indigenous custodians was upheld as a principle of international law.[18]

In 1790, the U.S. Government sought, with inconsistent levels of diligence, to protect indigenous peoples from the excesses of the states. However, such protections were soon eroded by a combination of Supreme Court decisions[19] and the executive power of President Andrew Jackson.[20] His presidency (1829–37) encouraged the rule of the states over Indian affairs, as well as Congress' legal power to legislate directly over native peoples.[21] In the Jacksonian era, Indian removal policy was formalised and enforced, resulting in some 100,000 Cherokee, Creek, Chickasaw, Seminole, Sac, Fox and other peoples being forced off their lands and driven to the west. One-fourth to one-third died in the process,[22] from starvation, disease, village burning and the infamous forced transfer of the Cherokee (1838), remembered as the "Trail of Tears."

U.S. Secretary of War Lewis Cass argued that such were part of the inevitable "progress of civilisation and improvement, the triumph of industry and art, by which these regions have been reclaimed, and over which freedom, religion and science are extending their sway." He asserted that the "barbarous" indigenous peoples "cannot live in contact with a civilised community," and thus were to be removed.[23] The sense that this policy served some divine purpose of biblical proportion was shared with Jackson, who saw himself as one of "the Isarelites [sic] of old in the wilderness."[24]

This view even portrayed the victim ultimately as a beneficiary. President Jackson saw his policies as placing "a dense and civilised population in large tracts of country now occupied by a few savage hunters," who would perhaps "gradually under the protection of the Government and through the influences of good counsels...cast off their savage habits and become an interesting, civilised, and Christian community."[25] Therein lay the rationale, as Drinnon put it, "for burning villages and uprooting natives, Cherokee and Seminole, and later Cheyenne, Philippine, and Vietnamese."[26]

This reasoning has become internalised over time, through literature, education, art and official pronouncements. Commonly, pious justification is essential to validating the actions of the dominant group. "Christian religion and the Western idea of history are inseparable and mutually self-supporting," wrote Vine Deloria.[27] He further observed that "to retrench the traditional concept of Western history at this point would mean to invalidate the justifications for conquering the Western Hemisphere. Americans in some manner will cling to the traditional idea that they suddenly came upon a vacant land on which they created the world's most affluent society. Not only is such an idea false, it is absurd. Yet without it both Western man and his

religion stand naked before the world."[28]

To the colonisers' mind, the indigenous inhabitant of the land often did not only lack value, they did not exist. For, as such, indigenous peoples were not part of the plan.

Population Transfer in the Ottoman Empire

Just preceding and simultaneous with the Age of Discovery for Europe, the Ottoman Empire was consolidating its hold on land and subject peoples through a process of "gradual assimilation."[29] The turkification of western Anatolia was carried out not by a mass conversion to Islam, but by an aggressive Turkish settlement movement that sought new areas beyond the overpopulated lands to the east. The subsequent expansion of the Ottoman Empire was assured largely by the *ghazi* military organisations that functioned as warriors of the Islamic faith in the borderlands.

Although the state was dominated by ethnic and assimilated Turks, it may be an exaggeration to characterise the Ottoman Empire as a Turkish ethnocracy. The guiding ideology rather was "Pan-Islamic" until the empire's decline in late 19th Century, when Pan-Turkism took hold independently of Sultan Abd ul-Hamid II. Nonetheless, the Ottoman state actively had encouraged the settlement of Turkish people, or other Muslims, in conquered lands. This developed into an elaborate system of colonisation and mass deportation (*sügün*) to secure conquests. The Ottomans also transferred non-Turks to Anatolia, the Ottoman heartland, as in the transfer of Christian militiamen from their fortresses in Europe to Karasi, in order to thwart insurgency in the 14th Century[30] and exiling rebellious Albanians to Trabzon in the 15th Century.[31]

Other cases appear to be motivated less by counterinsurgency strategies than for purposes of outright territorial control through demographic manipulation. By the 16th Century, Turks were settled along the two great strategic routes of the Balkan Peninsula: through Thrace and Macedonia, assuring a loyal Turkish population along the route to the Adriatic Sea, and through the Maritza and Tundja valleys to the Danube. There, village names today bear witness to the Anatolian Turkish origins of their inhabitants. According to an imperial population transfer decree,[32] one of every ten families in Anatolia, Rum (Sivas), Karaman and Zulkadriye provinces were to be sent to newly conquered Cyprus. In the same stroke, 1,025 Muslim families from Anatolia were transferred to the Pravadi district of Bulgaria.

The Ottoman population transfer schemes have left behind a recipe for conflict that still challenges modern states taht emerged from the former Ottoman Empire. The actual or perceived problem of multiethnicity has been a factor leading recently to state responses, involving extreme human rights violations and further population transfer in at least two cases threatening world order and peace: the forcible assimilation and expulsion of Turkish Bulgarians from Bulgaria (1984–90), and the partition, invasion and occupation of Cyprus (1974–present).

As the Ottoman Empire lost its ascendancy in the Middle East, the various nationalities asserted their will to achieve self-determination in the form of states. The non-Muslim national groups

largely succeeded with the assistance of European powers that sought, in return, economic and geopolitical advantages in a new self-determination- and micro-state-based world order. The looming exceptions were the Armenian and Kurdish nations, whose national liberation pursuits were frustrated by the lack of tangible European assistance and, thus, suffered the full brunt of ethnocratic population transfer policies throughout the transition from Ottoman Empire to Turkish Republic[33] (and the priorities of adjacent states under formation, namely, Iran, Iraq and the Soviet Union).

Armenia:

The bloodless revolution of 1908 that deposed Sultan `Abd ul-Hamīd II and installed the *Ittihad*ists (Young Turks) exacerbated internal ethnic conflicts, in particular, Turkish-Armenian friction. Some ideologically (religiously) oriented Young Turks felt compelled to correct what they considered to be the debilitating tactical mistakes of the past regime, including the error of not forcibly converting (or eliminating) the non-Muslims of the former empire.[34] One of the subjects of their 1910 Congress at Saloniki was the development of a policy of total ottomanisation of all Turkish subjects.[35] It became known in diplomatic circles that the new Turkish government had intended to use violence, including massacres, as a last resort to resolve conflicts with non-Turkish national groups whom it perceived as hostile to the fledgling Turkish state.[36] Manifestations of this policy emerged as a factor leading to European intervention in the 1912 Balkan War, and plunging Turkey into the First World War.

Turkish massacres of the Armenians took place well before the First World War, but did not become the subject of criminal charges, neither at the national nor the international levels. This fact may have encouraged the subsequent massacres and forcible population transfers that were carried out under cover of the war.[37] According to diplomatic sources at the time, it became clear that Turkey was "intent on taking advantage of the war in order to thoroughly liquidate its internal foes; i.e., the indigenous Christians, without, thereby, being disturbed by foreign intervention."[38] Turkey apparently intended to avoid European intervention on behalf of another minority (e.g., as previously done in Lebanon) and also to liberate itself from the burden of the 1914 Armenian Reform Agreement imposed after the Balkan War under European pressure, which was to provide some protection for the Anatolian Armenian community.

Through an imperial rescript of 16 December 1914, the Ottoman Turkish government canceled the 1914 Reform Agreement. Citing "national security," the Ottoman authorities ordered the forcible transfer of the Armenian population in the country's eastern and southern provinces, but also carried it out in virtually all areas of Armenian habitation.[39] The Turkish military conducted the transfer in three organised stages, involving confiscation of Armenian property. The final stage was ordered by a Temporary Law of Deportation drafted with obfuscative language on 26 May 1915. The results of the mass population transfer included the massacre of at least 800,000 Armenian men, women and children, according to official Turkish figures,[40] in addition to many Assyrian victims.

By this act of population transfer and genocide, the wartime Turkish government succeeded in an

essentially political program, exploiting Islamic religious themes and symbols, to clear the land within the Turkish state of an *"akien"* (Christian) people. Thus, essentially, the emerging state sought also to realise the Turkish state's own territorial (land, geostrategic and natural resources) claims as consistent with legitimate Turkish national rights and aspirations. However, those could come about only at the expense of the other indigenous peoples and their claims to an ancestral place within the Turkish state's claimed territorial reach.

Contemporary Population Transfer

Such historic population transfer cases are distinguished from those carried out today, in that they largely have occurred before the existence of any multilateral human rights and international humanitarian law (IHL) agreements. Fortunately, legal developments in the 20th Century have seen states agree to set forth principles regulating the minimum standards of state behaviour toward its citizens and others within their jurisdiction and effective control. The United Nations has recognised that the violation of these principles is an underlying cause of conflict that threatens international world order and peace. Nevertheless, the practice of population transfer continued with lethal consequences.[41]

The following discussion investigates three ongoing cases of conflict involving systematic, forcible or coercive population transfer. Consistent with earlier examples, religion and law combined in the dominant state ideology to deem a distinct population living within its jurisdiction (or effective control) as alien, unwanted or "surplus peoples." Thus, the familiar past of population transfer is contained in the present.

Population Transfer and Transition from Pan-Islam and Pan-Turkism

At the end of the 19th Century, the Young Turks adopted an ideology that included the irredentist objective to establish some sort of union—culturally, physically, or both—among peoples of proven or alleged Turkish origins, whether they lived inside or outside of the frontiers of the former Ottoman Empire.[42] With its emergence in the early 20th Century, Pan-Turkism promoted a return to Turkish origins and the purity of the Turkish language (purged of its foreign influences and vocabulary). This ideology has advanced the concept of a distinct Turkish "race" and raised a number of racist slogans, especially in fanatic circles, such as "the Turkish race above any other."[43]

In the first two decades of the new Turkish republic, Pan-Turkism competed with Kemalism, the official political and social ideology of the republic's first president, Mustafa Kemal Atatürk. Kemalism was purported to end Turkish irredentist claims against neighbouring countries and peoples. That state ideology rejected at least the extraterritorial objectives of Pan-Turkism, considering that the future of the republic relied upon Turkey's sovereignty within its own national (state) borders and a focus on the needs of post-war reconstruction. Nonetheless, in the 1930s and 1940s, Turkey officially encouraged the immigration of *Diş Türkler* (outside Turks)

from Cyprus and the Balkans to Turkey. In 1939, one year after Atatürk's death, Turkey annexed the multiethnic province of Antakya, with the French Mandate administration unilaterally ceding the territory from Syria.

Since the death of Atatürk, Pan-Turkists have remained vocal, if not always dominant. In the 1940s, Pan-Turkists, publishing on the theory of a Turkish "race," reflected the influence of the so-called "research" on race that was produced in Nazi Germany. Eventually, Pan-Turkism was officially banned out of concern for the potential antagonism it would engender among neighbouring states. However, in the 1950s and 1960s, Pan-Turkism was rehabilitated and officially encouraged.[44] In 1965, a group of acknowledged Pan-Turkists assumed control of the conservative Republican Peasants and Nation Party (later, the Nationalist Action Party), and Pan-Turkist literature and political groups proliferated.

One of the resurgent Pan-Turkist groups, the *Kibris Türktür* ("Cyprus is Turkish") movement, also gained strength in the 1950s. *Kibris Türktür* claimed its purpose as "to acquaint world opinion with the fact that Cyprus is Turkish, to defend the rights and privileges of Turks with regard to Cyprus and [to do this] from every point of view, and to condition Turkish public opinion."[45] *Kibris Türktür*, which integrated both religious and nationalist symbology, was credited with inciting the anti-Greek riots in İzmir and İstanbul in 1956 by bringing about the convergence of Pan-Turkism and anti-Greek sentiment at the time. Homes, businesses and churches of the Greek community (and a comparatively small number of Armenian and Jewish shops and homes) were attacked in the 1956 riots, as a result of which sixteen Greeks were killed and 32 seriously injured.

Cyprus:

The Cyprus problem, simple in its essence, has been protracted by the intervention of foreign governments and population transfer.[46] There had been no serious conflict between the Greek and Turkish communities of Cypriots until the present generation; dozens of "mixed" Cypriot villages existed until the invasion—with British encouragement (see below)—resulted in a system of ethnic separation was established in 1974, interrupting historic Greek and Turkish Cypriot coexistence.

In July of that year, Anatolian Turkish forces invaded the island in response to a Greek Cypriot *coup d'état* that Turkey foresaw as a threat to the Turkish Cypriot community. They also saw this as a step toward the practical realisation of the Athens military junta's designs through its local, Greek Cypriot *enotist* (unificationist) allies. The military forces of the Republic of Turkey, a guarantor of the treaty establishing Cyprus' independence, brought about two benign results: the failure of the *coup* in Cyprus and the collapse of the military dictatorship in Greece.

A few weeks later, however, in the midst of peace talks in Geneva, Turkey launched a second invasion with some 40,000 troops. Consequently, in August 1974, 180,000 civilians were expelled or forced to flee under the Anatolian Turkish invasion, rape, plunder and napalm bombings (particularly over undefended Nicosia and Famagusta). The Turkish army, thereby,

carved the island in two by occupying 37 percent of the island, stopping at the partition line that Ankara had earlier proposed, and the UN rejected, in 1965.[47] In addition to the resulting casualties, 1,619 Cypriots "disappeared."

As a result of the invasion, some 201,000 Greek-Cypriot refugees were created by the advancing Turkish army. About 38,000 of these returned home when they learned their houses were just south of the Attila line, demarcating the occupied zone. Thus, about 174,700 were ultimately displaced by the invasion. Immediately after the Turkish advance, 12,289 Greek Cypriots (and a community of Maronites, now numbering 195) were enclaved in the Karpass Peninsula (northeast Cyprus), but about 11,700 of these people had left for the free area by 1990.

On 15 January 1975, British authorities on Cyprus transferred Turkish Cypriots *en masse* to Turkey for eventual resettlement in northern Cyprus. Later in 1975, under an ultimatum by the occupiers threatening to expel all Greek Cypriots in the occupied north, Greek Cypriot negotiators agreed to transfer the remaining Turkish Cypriots in the south to the Turkish-occupied, northern zone.

Turkish occupation forces continued to brutalise and expel indigenous Greek Cypriots from the northern zone,[48] and from June to December 1976, expulsions reduced the remaining Greek Cypriot population in the north by 51 percent.[49] With at least 82 percent of the northern Greek population already expelled or transferred, and erasure of the non-Turkish Cypriots in the occupied zone would be complete, were it not for the 544 Greeks (and 278 Maronites) who have remained in their relatively isolated Karpass Peninsula communities.

In the transformation of occupied Cyprus into a purely Turkish province, the Turkish military occupation has renamed and replaced the native population of at least seventy-two Cypriot villages, and have implanted some 60,000 Anatolian and Bulgarian[50] Turkish settlers in their place, in addition to some 30,000 occupation forces.[51] Ankara's most ambitious plans have called for the eventual implantation of 200,000 Anatolian Turkish settlers in the self-proclaimed "Turkish Republic of Northern Kibris."[52]

The creation of these additional aspects of what originated as a problem of governance between two ethnic communities within an independent state has served to delay resolution and to provide time for further consolidation of the occupiers' objectives in occupied Cyprus. The longer the Cypriot people remains dismembered by the massive population transfer, the more difficult the peace.

In 1992, the UN sponsored talks between the Greek and Turkish Cypriot leaders toward resolving the conflict and establishing a single Cypriot sovereignty. However, these negotiations, based on the UN secretary-general's proposed Set of Ideas, have proved inconclusive, particularly with the Turkish Cypriot leader Raul Denktash's rejection of the concept of federation, restoration of displaced persons to their homes and territorial adjustments.[53]

Kurdistan:

The Treaty of Lausanne between the Allied powers and Atatürk included provision for the protection of the non-Muslim minorities in Turkey, in particular, the Armenians, Turkish Jews and Greek Christians, but did not mention the Muslim Kurdish people who constituted the most numerous national minority within the new republic. Eight million Kurds living in that part of Kurdistan that falls within the border of Turkey make up approximately one-fifth-to-one-quarter of Turkey's citizens.[54] In their territory in southeast Turkey, they comprise 82 percent of the population, with the remaining 18 percent comprised of Arabs, Armenians (8–9,000) and a considerable number of Turkish military personnel and expatriates transplanted from the Balkans.[55]

Since the mid-1920s, the official ideology of the Republic of Turkey has sought to deny the existence of the Kurds as a distinct people. Both Turks and Kurds are interpreted as having descended from the "pure Turkish `race´" and who, due to their isolation in their mountain region, have forgotten their true native language over time, thus dismissing the Kurdish national dimension. Instead, Kurds in Turkey are often referred to officially as "mountain Turks" and are, thus, subject to assimilation by various means of dispersal and transfer by various means.

Legislation has systematised and entrenched the ethnic self-definition of the Turkish state, setting out specific measures of assimilation. Law No. 2510 of 14 June 1934 provides the juridical foundation for mass population transfer of Kurds (and other minorities) in Turkey. In order to "propagate Turkish culture" and for grander social engineering purposes, this law divides the country into three regions:

1. The regions in which Turkish culture is very strongly anchored in the population;

2. The regions in which those populations are to be settled that must be made Turkish (these are the areas in the West, especially along the Mediterranean, the Aegean, the Sea of Marmara and Thrace);

3. The regions that, for health-related, economic, cultural, military and security reasons, must be depopulated and where nobody may be allowed to settle: Agri, Sason, Tunceli—in Kurdish; Dersim, Van, Kars—the southern part of Diyarbakır, Bitlis, Bingöl and Mus.

Paragraph 11 of this law reads:

A: Persons whose mother tongue is not Turkish may not be resettled together in a village or neighbourhood; they may not establish any organisations of workers or craftsmen, or give their descendants training in their trades; nor may their descendants return to their elders' villages or neighbourhoods of origin.

B: Persons without an affiliation to Turkish culture and persons with an affiliation to Turkish culture but another tongue may be resettled at any time upon orders of the Ministry of the Interior for cultural, military, political, social or security-related reasons.[56]

In consistent fashion, Turkey has treated Kurdistan within its jurisdiction as a kind of repository for a variety of people to be settled and receive special privileges. Turkish demographic and social engineering policy has settled (Turkic) settlers from Afghanistan—Kirgiz, Kazakh, Tatar and Uzbek—into the Van, Antep and Urfa areas of Kurdistan under the banner of Pan-Turanism.[57] Government-sponsored development projects typically result in the implantation of

Turkish or turkified peoples into Kurdistan in order to dilute Kurdish population concentrations in the area. This has also been done in multiethnic regions, such as Antalya (Antakya). Thousands of Caucasian Laz people were implanted in that traditionally Arab/Kurdish/Turkish region, following the 1963 earthquake that damaged Laz villages on the Black Sea coast.[58] However, that scheme failed in time with the Laz returning to their previous homes to the north and renting their compensation lands to the local Antakyans. Other methods of dispersing Kurds within Anatolia have had contrary effect, whereas new pockets of Kurdish habitation in central Anatolia─where no Kurdish people have lived historically─have taken root against official expectations of their assimilation into Turkish society.

In 1950, under a government amnesty, many Kurds were allowed to return to their original homes. However, in the same province, now officially known by a Turkish name, *Tunceli*, the Turkish government has been reportedly planning another mass population transfer.[59] Already in August 1985, thirty families, including 270 people from Ormanyolu village (Hozat) were expelled from their homes.[60] In February 1987, an official Expertise Commission was reported to have earmarked 3,192 Kurdish villages for removal, ostensibly under an ambitious reforestation project. Alternatively, provincial Governor Cengiz Bulut explained that this plan sought instead to deprive terrorists of a base for acts of violence. Director of the Turkish Foreign Ministry's Office of Research Unul Marasli offered yet another explanation: that the Kurdistan relocations are actually to be carried out in the interest of the economic betterment of the villagers.[61]

Turkish transfers of Kurds today are conducted alternatively on the pretexts of counterinsurgency and large-scale development projects. To prevent Kurdish uprisings, the Turkish government reportedly has transferred by force at least 1,462,972 Kurds from Turkish Kurdistan to western parts of Anatolia.[62] In 1938, Turkey forcibly relocated thousands of Kurdish villagers from their villages in Dersim province to other parts of Anatolia, during which many were killed.

Other government development/population transfer policies included the refusal to provide basic services─roads, electricity, water, health facilities or schools─to, at least, twenty villages in the Hozat region. Thus, these communities will become what the local people call "snuffed-out villages."[63] In late October 1989, Turkish government forces removed some 10,000 Kurdish peasants from more than thirty villages in Turkish Kurdistan, including about 500 Kurdish farmers from Dereköy village. In April 1990, the Turkish government granted additional powers to the governors of eleven southeastern provinces in Anatolia with the purpose of quelling Kurdish insurgents there. Those powers authorised provincial governments to evacuate entire Kurdish villages by special orders which are not subject to appeal.

The Republic of Turkey is currently investing a great amount of public (and international) funds in southeastern Turkey in connection with the Atatürk Dam construction project, which is expected to transform the region and provide the pretext for further transfers of the indigenous Kurds from their national territory. Recent reports have affirmed that many of the 55,000 affected villagers have already been transferred.[64]

The World Bank-financed Karakaya Dam project already has displaced some 20,000; however,

proper monitoring and reporting on Karakaya resettlement are virtually absent. The dam construction agency and the senior management of the national resettlement program have declined to analyze or report survey data, and the basic demographic and other data are unavailable except for the minority opting for formal resettlement.[65] The World Bank estimated that the the construction of dams already operating in southeastern Turkey have displaced 212,000 people (from 1,765 km^2), and those under construction would require the transfer of some 240,000 more (from 2,083 km^2). Precise data on displacements from other dam-related projects and the demographic composition of the affected populations are not available.[66]

The internal displacement of Kurds in Turkey for counterinsurgency reasons reached a new stage in 1992, with the demolition of the village of Sirnak on the Turko-Iraqi border. During the night of 18–19 August, under cover of a clash with Kurdish guerrillas, the Turkish army flattened all buildings in the commercial center of Sirnak—save the military and government structures—by explosives and tank fire. Twenty-one Kurdish civilians were reportedly killed in the process, and 84 others, including 35 children, were wounded. Reportedly 20,000 inhabitants of Sirnak and local villages, presumed to be supporters of the *Partiya Karkaren-i-Kurdistan* (Kurdish Workers Party), fled to the neighbouring town of Cizre.[67]

Turkish president M. Türgüt Özal spoke to the residents of Sirnak and urged them to leave the region for settlement to the west. Citing the number of 500,000 (Kurdish) persons, Özal's proposal to resettle them as an "eventual solution" to the problems of the region had a familiar, ominous tone.[68]

Apartheid and Forced Removals

The ideology of racial separateness (*apartheid*), though official government policy only after 1948, has guided legislation and policy in South Africa since the European colony was established in the 17th Century. Unlike the English settlers of New England, the Europeans—primarily of Dutch, German and French Huguenot origins—who colonised South Africa did not come to the new land with profound ideological doctrines and motives for self-emancipation. The Boers, or Afrikaners, as they came to be known, came rather for economic reasons. Their settler ideology was born from the influence of 16th Century Calvinist religion, reduced to its simplest forms.

Without education and leadership for much of the first two centuries of colonisation, the Boers sought meaning for their existence in the Calvinist doctrines of predestination and election; i.e., their self-definition as the "elect," or people chosen by God for salvation. Those colonists perceived themselves as doing God's bidding to create a new order, to master nature and to mold society according to the divine pattern. In their advance to conquer unknown lands, the Afrikaners consulted the Bible and the Calvinist song book, the Psalter, for guidance.

The Afrikaners believed in God's sovereignty in history; that is, that history progressed by divine will. History's divine inevitability justifies all means to "sustain" it. Through their reading of the Old Testament, particularly Exodus and the Chronicles, the Afrikaners grew to identify

themselves with the biblical Israelites as they related to the heathen Canaanites and other indigenous peoples of ancient Palestine. Thus, the "native question" over how to relate to the indigenous non-European Khoikhoi, San and the Bantu-speaking peoples emerged as central to the Afrikaners' perceived role on earth. Since they were more technologically and culturally advanced than the African peoples they encountered, the Boers interpreted the Africans in their midst to be the descendants of Ham and, therefore, cursed to be perpetual "hewers of wood and drawers of water in perpetuity."[69] The social order established through colonisation of the indigenous Africans and their territory was a fulfillment of a divine order to be maintained.

Afrikaners interpreted the concept of "Christian" simply to mean "European" and "white man."[70] The idea of the purity of "races" and the imperative to keep the races apart were also derived from the lessons of scripture. The key biblical passage to the evolution of racist *apartheid* theology in South Africa is the Tower of Babel story. That parable recounts Gods intervention to disperse the builders of the Tower of Babel who had united to form a single purpose. According to the legend, God caused them each to speak different languages, rendering their union impracticable and affirming the divine sanction for different peoples to live separately. (Nonetheless, workers' freedom of association since has been guaranteed in international law.[71]

To verify this interpretation further, Afrikaners adopted racial segregation as a religious duty based on their reading of II Corinthians 7:14:

> Be ye not unequally yoked together with the unbelievers: for what fellowship hath righteousness with unrighteousness?
> Wherefore, come out from among them and ye shall be separate, saith the Lord, and touch not the unclean thing, and I will receive you.

The Afrikaners' religion provided them with an additional passage which would be taken as their license forcibly to expel the African people, appropriate their lands and enslave them. Psalm 105 instructs that God "hath brought forth His people with joy, and His chosen with gladness, and He gave them the lands of the heathen; and they inherited the labour of the people."

The standard nationalist version of Afrikaner history relies also on a series of symbols arising from the early Calvinist and Huguenot experience on the frontier, triumphing in battle against native forces. The resistance of the San people—derogatorily referred to as "Bushmen"—to Afrikaner dispossession was met with a fierce war of extermination fought during the last quarter of the 18th Century.

At the turn of the 19th Century, before the ideas of the enlightenment had reached Europe's colonies, accounts of the dispossession of indigenous peoples of the Cape conveyed a sense of historic inevitability in the further dispersal of the Khoikhoi, until they would eventually die out. Some critical thinkers treated the settlers' original-purchase of land from the Khoikhoi as not merely a transaction involving individuals at a given time, but also forming a "founding action" that applied to the entire history and growth of the European settlement.

Subsequent acts of dispossession and expulsion of the indigenous inhabitants would be justified

in light of some putative original purchase transacted between the colonisers and the Khoikhoi. In order to deflect condemnation, prevailing legal opinions among the Boers asserted that the fact of obtaining territories by force or conquest could constitute a "perfect right" of colonial possession when "the inhabitants or possessors of the territory are expelled from their dwelling-place."[72]

Word of genocidal tactics, particularly against the San, triggered occasional criticism from both Dutch and British high officials. However, the colonists in South Africa were not compelled to respond, or to defend their actions until the later advent of missionary and philanthropic critics of settler society in the early 19th Century.[73]

In the colonial capitals, the usual line of argument that Cape Colony land had been acquired by contract or "rightful conquest" was received as morally and historically suspect. The colonists then began to base their land claims on the revisionist view that the land was not occupied before the colonists' arrival.[74] In essence, Afrikaner legal apologists and historical ideologues applied the rationale that the nomadic and communal character of the original inhabitants disqualified them from legal ownership of their land. In 1838, Leyden-trained attorney in Cape Town, J. de Wet, clarified that, "although we admit that the various tribes [*horde*] jointly occupied the land and wandered about there, one cannot say that they were, therefore, to be regarded as a nation who had taken possession of it. The earliest accounts...of the Hottentots...show us that no individuals nor any tribes among them had taken as property any fixed permanent place in the whole vastness of the settlement."[75]

The Great Trek

To avoid British interference, particularly the liberal suggestion of racial equality, the Afrikaners left the Cape Colony for the northern interior on the first Great Trek, in 1835. On the frontier, Afrikaner ideology was nurtured and fully developed, and this period was to determine the enduring character of South Africa as a whole.

The Dutch Reformed Church of Cape Colony opposed the Trek and did not dispatch ministers to accompany the Voortrekkers, as they came to be called. Thus, the Voortrekkers sought to establish their good society, a "new Israel," guided only by their reading of the Bible and Psalter. They related their experience to the peoples of the scriptures; the indigenous Africans were considered to be the children of Ham, and the encroaching British Empire was referred to as "Pharaoh."[76] One of the more radical Voortrekker communities in the 1850s called themselves the Jerusalem Pilgrims and actually believed that they could travel by ox cart from Rustenberg (Transvaal) to Jerusalem, in Palestine. The Pilgrims actually set out to do this by following a river they mistakenly called *Nylstroom* (Nile River), believing that it would lead them to the Mediterranean Sea.[77]

Before going into battle, the Afrikaners entered into a "compact" or "covenant" with God. In the battles against the Ndebele in October 1936 and January 1937, the commando leader Charl Cilliers attributed both victories to their compact with God (although their African allies, the

Rolong, aided them considerably in the battle). Before entering into battle against the Zulu at Blood River, on 12 December 1838, both Cilliers and General Andries Pretorious decided on a covenant with God; that the day of victory be consecrated as a holy day to be commemorated each year, and that a church be built on the site.[78]

Repeated encounters with the indigenous Africans through the Afrikaners' predatory expansion of their colony coincided with an exaggeration of their immunising ideological concepts. The outwardly pious and pillaging Afrikaners came to symbolise the frontier experience, and the simple understanding of religion, (divine) election and predestination served the Afrikaners as guides in everyday life as they moved deeper inland. Religion played an essential part in providing meaning to life and rationalising every action. It provided social cohesion for the frontier society as the Afrikaner family unit emerged as the most important form of social organisation.

The isolation of frontier life also led to the Afrikaners' social consciousness to emphasise their rights, at the expense of moral and legal obligations. Ultimately, this ideology determined the Afrikaners' perception of, and relations with the peoples they encountered and dispossessed. To explain the trauma of the Trek itself and the fierce battles waged to acquire land, the Afrikaners were given to quasireligious rhetoric, referring to the land they inhabited as having been "bought with human blood."

Law and Policy

After the British Parliament's abolition (but not yet criminalization) of slavery in 1834, and following their defeat of the Zulus in 1938, the Afrikaners had their first opportunity to institute their own labour laws. A new legislative era began with the 1839 Squatters Law to control and limit the African population in Afrikaner-conquered territories. By the end of the 19th Century, the African people had been dispossessed of most of their lands. Many thousands were concentrated into "reserves" which corresponded with the what remained of the four kingdoms of African leaders who had opposed European conquest.

The nationalist interpretation of Afrikaner history became more formalised well after the pivotal events of Afrikaner colonisation. Prominent, latter-day intellectuals, such as David Livingstone, Gustav Preller and André du Toit, offered affirming interpretations of the Afrikaner experience from the mid-19th to mid-20th centuries. The Afrikaners' exclusivist ideology was given further impetus by South African scholars who had pursued theological studies in Germany and the Netherlands.[79] Dutch Reform theologians returning from the Free University of Amsterdam brought with them the influences of its founder Abraham Kuyper. His antipathy for secular humanism struck a chord with many Afrikaner students and propelled a romantic vision of the Afrikaner experience.

The period leading up to the Anglo-Boer War (1899–1901) frustrated Boer expansionist objectives. The more the Afrikaners and their current government under President Paul Kruger saw themselves as a reinforced Zion, the more they perceived the British as their anti-Christ.

During that period, the Afrikaners directed their theological justifications more to opposing the British than to anti-African concerns. Although they realised that they were comparatively weak, the Afrikaners believed that, just as God had given strength to Joshua and Gideon, that same Hebrew God would not betray their own "covenant" in their "promised land."

The consequent notions of superiority among the Afrikaners swelled in the insecure years following their Boer War defeat. Ironically, the Afrikaners who accepted unconditional surrender to the British were the statesmen who negotiated the 1910 Union of South Africa Constitution. At the time of self-government, the three largest of the four provinces held an Afrikaner majority (among the whites). Further, three young Afrikaner generals during the Anglo-Boer War—Louis Botha, J.M.B. Hertzog and Jan Smuts—later dominated the government until 1948.

Under the Union government, the 1913 Land Act formalised the practice of segregation resulting from the territorial conquests. That law delimited the area of the African reserves (also called "scheduled land"), totalling 7 percent of the total land area (or 9 million ha.). The Land Act prohibited Africans from purchasing land outside the "scheduled area" and prevented whites from purchasing inside those areas. As a result of that legislation, the Afrikaner forces forcibly evicted *en masse* the sharecroppers who had undertaken most agricultural production outside the scheduled areas.

In addition to their defensive posture following the Boer War, many Afrikaners developed a sympathy for the German cause in the 1920s and 1930s, and throughout World War II. The Afrikaners were receptive to Nazi ideology, and the concept of a totalitarian *Volksrepublik* grew in popularity. The economic boom and industrial growth that coincided with the war years saw a rapid urban influx of African job seekers. The Afrikaners, especially the poorer whites, perceived black workers as a threat to white South African society by competing for jobs.

The Stallard Commission of 1922 influenced population transfer policies in South Africa, concluding that "the native should only be allowed to enter the urban areas, which are essentially the white man's creation, when he is willing to enter and to minister to the needs of the white man and should depart therefrom when he ceases so to minister."[80] The South African Parliament enshrined that principle in the Native (Urban Areas) Act in 1923, under which commissioners and police were to remove forcibly any unemployed African male from an urban area. The Stallard Doctrine failed due to noncompliance, nonenforcement and African defiance of the bans.

The 1936 Native Trust and Land Act released some 6.2 million ha as reserve land (13 percent of the country's land area). Like the 1913 Land Act, the 1936 law sought to provide labour for white farmers by making it more difficult for African workers to migrate from white-owned farms to the cities. Thus, the 1936 Act was a proto-apartheid statute.

The 1937 Native Laws Amendment Act limited the time that an African could be present in an urban area looking for work. A census of the urban-dwelling Africans was to take place every two years and "surplus" Africans, exceeding the local labour demand, were to be removed. The Act provided for the central government to intervene if the local authorities did not comply. The

law also prohibited Africans from acquiring land from non-Africans, and effectively prevented Africans from obtaining any further freehold rights. However, the biennial census and removals of surplus workers did not take place, and legislation was required in the 1950s to concentrate the African population and to insulate these areas geographically and politically from the "white areas."[81]

National legislation created the Bantustan system in 1959 under the Promotion of Bantu Self-Government Act. This system resurrected colonial-era structures of social control directed through the Bantu Affairs Department. Bantustan land consolidation sought to concentrate widely scattered areas of Black people's habitat. Many of the areas of freehold land held by Africans throughout the Republic of South Africa since 1913 came under threat of transfer order and confiscation when they lay in areas designated as "white areas." A plan was then implemented to eradicate "black spots" by forcible removals to lands designated as part of the new Bantustans. Many peasant farmers were made landless and communities were forced to live without livestock, at the edge of subsistence.[82] The process was further accelerated and streamlined to evade legal checks and local opposition by enabling legislation in 1973.[83]

More recently, Pass Laws adopted in 1979 and the subsequent influx controls (after 1986) further contributed to forced removal throughout the republic. Although an accurate total of victims of South African population transfer may still be difficult to ascertain, one recent attempt to quantify the victims determined that four million people had been forcible transferred between the years 1951 and 1986 alone.[84]

As a consequence of ideological and legal developments over the past century and a half, the distribution of land in South Africa has preserved the white minority on the most and best land. The 78 percent majority African population has thus been concentrated onto Bantustans totalling only 13 percent of the least productive land, thus destroying much of their economic existence.

The Dutch Reform Church, transplanted from the 16th Century mother church in The Netherlands, provided the spiritual home for 90 percent of Afrikaners in South Africa.[85] One of the great challenges to both church and state in South Africa is to make reparations for the losses, costs and damage caused by population transfers carried out under the apartheid state's ideological and military power.

White South Africans, including many Afrikaners, have endorsed post*apartheid* reforms and the government has lifted the ban on African purchases of land outside of the Bantustans. However, the repeal of *apartheid* laws is not enough, where the discriminatory role of the old legal set up will be largely assumed by free market forces. Thus, without strong affirmative action provisions in force, the ideology of *apartheid*, with its deep historic roots, will continue to determine the social order for the shunted people of South Africa.

Israel's Population Transfer *Raison d'État*

Of all the modern cases under review, Israel is the only case in which population transfer actually constitutes the *raison d'état*. The primary function of the Zionist Movement—and, thus, state and government of Israel—is to create an exclusively Jewish state in a land (historic Palestine) that had already been inhabited consistently over centuries by a nation of people known as the Palestinian Arabs. The fulfilment of this project, political Zionism/Jewish nationalism, required the expulsion and replacement of the indigenous population as an inevitable accompaniment to the establishment of a newly constructed "State of Israel." Expulsion of the indigenous population was a primary tactic. Official Israeli documents refer to this ambitious population transfer project as "the central task of the State,"[86] or "the chief purpose and function of the State itself."[87]

Through a century of organised Jewish settlement in Palestine, this has been carried out by a variety of means and at varying degrees, as political and military circumstances permit. The ideology of political Zionism also relies upon a set of religious symbols and references that have the purpose and effect of transforming a metaphysical relationship to mythical land of the Hebrew Bible for people of Jewish faith in other countries into a physical Jewish presence in, and exclusive possession of Palestine. The early Zionists and today's Israelis have referred to this acquisition as *Eretz Israel* (Land of Israel).

Genesis of the Movement

At the end of the 19th Century, well before the rise of Nazism in Europe, political Zionism was founded on the principle of population transfer of the Palestinian Arabs out of Palestine as the prerequisite of the Zionist project. The movement emerged from the context of insurgent nationalist movements across Europe, often bound to scientific racism theories. Its ideological author was a Germano-Polish Jew from Wielkopolska (Greater Poland), born in the village of Książ, but within two years moved to the village of Żerkow, to the east. Whetted with the literary appetite for romantic filler, Graetz grew up to carve out an fashionable academic niche for himself by producing the first *History of the Jewish People* (1850).

In the earliest days of the Zionist movement, one of its founding ideologues, Israel Zangwill, repeatedly advocated the essential measure realizing Jewish "national" sovereignty over territory, asserting that "we must be prepared to expel them from the land [of Palestine] by the sword, just as our forefathers[88] did to the tribes that occupied it."[89] These sentiments were echoed by most Zionist leaders in the period preceding the establishment of the Jewish colony (*yishuv)* in Palestine as the precursor to the State of Israel.[90] Some Zionist ideologues viewed with favour the post-WWI population-exchange agreement between Greece and Turkey, as they perceived it as a legal precedent for their own transfer scheme.[91]

As the British began their administration of Palestine in 1922, European politicians and intellectuals consequently debated the plan for the expulsion of the Palestinian people from Palestine, which they preferred to term more euphemistically as "transfer." British Mandate

policies and the expulsion of Palestinian peasants from their lands as a result of Zionist colonisation already had led to the Arab Revolt in 1936–39. The British Peel Commission inquired into options to deal with the increasingly unmanageable situation and recommended partition of Palestine between the Zionists and the Palestinians with a corresponding "compulsory population exchange." This formal recognition of population transfer as an acceptable policy option bolstered the Zionists' rhetorical position; however, the British government rescinded this option shortly thereafter,[92] setting the Zionist strategists and the British at odds.

The Nazi genocide of Europeans of Jewish faith during the Second World War increased the urgency for the Zionist leadership to advance its plan to transfer the impoverished Jewish survivors and refugees to Palestine. Proponents of the Zionist political program urged the expulsion and replacement of the population of Palestine as the solution to the manifestation of racism in Europe known as the "Jewish problem." Persecution of a religious minority in Europe, once again, provided the impetus for a settler-colonial movement.

The vision of Zionism's founder Theodor Herzl became institutionalised in the Jewish National Fund (JNF), the body, which today coordinates with the Government of Israel and oversees the continuing land acquisition and development processes.[93] By the close of 1937, the JNF-linked Jewish Agency had established the Population Transfer Committee, and in 1940, director of the JNF Lands Department Yosef Weitz wrote:

> It must be clear that there is no room in the country for both peoples...If the Arabs leave it, the country will become wide and spacious for us...There is no room for compromises...There is no way but to transfer the Arabs from here to the neighbouring countries, to transfer all of them, save perhaps for Bethlehem, Nazareth and old Jerusalem. Not one village must be left, not one [beduin] tribe...For this goal funds will be found...And only after this transfer will the country be able to absorb millions of our brothers and the Jewish problem will cease to exist. There is no other solution.[94]

Incremental and Mass Transfers

By the end of the British Mandate in Palestine (1948), the Jewish community in Palestine owned less than 7 percent of the land in the country, or 12 percent of the cultivable land.[95] Nonetheless, with the official Palestinian leadership exiled, imprisoned or deceased,[96] and against the protests of neighbouring states, and contrary to the international law principle of *uti possidetis*, the UN General Assembly adopted the "Partition of Palestine" resolution 181 (XX), which assigned 56 percent of the land of Palestine to a Jewish state, alongside the Palestinian Arab state on the remaining land of Palestine.

Before and during the War of Conquest/Independence (1948),[97] Israeli forces expelled or coerced the flight of 770–780,000 Palestinian civilians,[98] and destroyed some 414 of their villages in the following two years.[99] Within five years, the same forces annexed and depopulated 108 Palestinian villages and habitations on al-Naqab (south Palestine),[100] and additional demolitions until 1977[101] raised the total of Israeli-depopulated Palestinian villages to 552.

It was under the cover of war—that the most ambitious phase of expulsion was carried out, followed by Israel's confiscation of properties from Palestinians determined to be "absentees." Internally displaced Palestinians inside Israel count as more than 200,000. In response, the international community affirmed the refugees' right of return and made Israel' membership in the UN contingent on the implementation of that right.[102] Until today, this right, as an element of the right to remedy and reparation,[103] has not been implemented.

Of the 156,000 Palestinians who remained in the area of the Jewish state in Palestine as of 1948, some 40,000 were then also refugees and IDPs from villages and towns that came under siege by Zionist forces, thus constituting a second transfer category of "internally displaced" persons.[104] For example, the village of Umm al-Faham, with a population of 3,000 in 1948, swelled the next year with thousands of refugees seeking shelter from undefended villages nearby. Shortly thereafter, the state of Israel confiscated 124 of the village's 150 dunams of land. A town of 26,000 residents today, Umm al-Faham's overcrowding and squalor testify to that history and the continued displacement of Palestinian Arab citizens from their lands in Israel.

Much of the efforts to euphemise colonial history are contradicted by the boasts of the settler movement's militant pioneers. As commander of the armed forces in that war, Israel's first prime minister David Ben Gurion (Gruen) is on record as issuing expulsion orders to his troops to empty civilian Palestinian villages.[105] Ben Gurion himself drew analogies between the Zionists and other colonists, as in his 1917 essay, "Judea and Galilee." He saw the Zionist settlers in Palestine as "not just workers," but as "conquering, conquering the land. We are a company of *conquistadors*."[106] Commenting on his role under the command of Ben Gurion[107] and his successors, General Moshe Dayan reflected in 1969:

> We came to this country which was already populated by the Arabs, and we are establishing a Hebrew, that is a Jewish state here. In considerable areas of the country [actually about 6 percent] we bought the lands from the Arabs. Jewish villages were built in the place of Arab villages. You do not even know the names of these Arab villages, and I do not blame you, because these geography books no longer exist, the Arab villages are not there either. Nahalal arose in the place of Mahalul, Gevat—in the place of Jibta, [Kibbutz] Sarid—in the place of Tel Shaman. There is not one place built in this country that did not have a former Arab population.[108]

Recently published documentary evidence reveals that Israel's leadership had always intended forcibly to transfer the Palestinian population from the land within Israeli *de facto* control.[109] The Jewish state and the Zionist settler movement have accomplished this by a variety of means, including both mass and small-scale transfer. These tactics have accelerated in the context of war. In May and October 1948, Israel launched two military campaigns, seizing the Galilee and reducing its population by 56.3 percent (expelling 117,490 persons).[110] Israel's military forced another 3,000–3,500 Palestinian "citizens" from the Galilee into Syria during its invasion of Egypt in 1956, and carried out large-scale expulsions simultaneously in the Gaza Strip.[111]

During the 1967 war, Israel's expulsions and the conduct of war forced 300–350,000 Palestinians to flee.[112] Israeli jets napalmed Palestinians fleeing the Old City of Jerusalem as late as 7 July 1967,[113] and the Israeli occupation authorities prevented the refugees from returning to their homes and farms.

Gradual and incremental expulsions have characterised the interwar periods. For example, Israel selectively expelled approximately 1,180 Palestinians from the occupied West Bank and Gaza Strip from 1967 to 1977.[114] In those occupied Palestinian territories the most common causes of displacement are house demolitions and land confiscations. When a house is demolished or sealed, either for lack of licence or security pretexts, the land on which the structure is built "reverts" to Israel as "state land" (for the exclusive use of "Jewish nationals") and the former owners/residents are prevented from rebuilding there.[115]

The practice of targeting the indigenous population's homes, shelters and shelter has manifest as a standard military doctrine of the State of Israel. This continuum dates back to a policy in force since the early days of the state's formation.[116] The Zionist forces implemented Plan Dalet, which the political and institutional leadership adopted on 10 March 1948 with a focus on conquest of all Arab urban centres within the area proposed as the Jewish state in Palestine recommended under UN General Assembly resolution 181. The Plan elaborates:

> 4. Mounting operations against enemy population centres located inside or near our defensive system in order to prevent them from being used as bases by an active armed force. These operations can be divided into the following categories:
>
> - Destruction of villages (setting fire to, blowing up, and planting mines in the debris), especially those population centres [that] are difficult to control continuously.
> - Encirclement of the villages, conducting a search inside it. In the event of resistance, the armed force must be destroyed and the population must be expelled outside the borders of the state.[117]

The pattern of land confiscation and discriminatory restrictions on housing and community development concentrate the increasingly landless Palestinians of the West Bank into three enclaves, while Israel has confiscated, and banned Palestinians from at least 60 percent of the land there. Similarly in the Gaza Strip, Israel has taken one-third of Palestinian land, where Israeli restriction of Palestinian rights to land and sea access, and diversion of the water supply[118] continue to threaten the Palestinians' economic existence and institutionalise squalid living conditions.

Throughout the land of historic Palestine—inside the "Green Line" and in the occupied Palestinian territories—Israel reduces and demolishes Palestinian habitat, with the purpose and effect of displacing homeless families, pressuring them to emigrate or remain in planned concentrations. The landscape inside the State of Israel is today still punctuated by the ruins of Palestinian homes and villages with their enduring cactus rows, which the indigenous people have used for centuries to mark village borders, but which serve today only as a subtle reminder of the indigenous inhabitants who tended that land.

One Israeli observer described the typical scene, noting that these villages were:

> destroyed *completely*, with their houses, garden walls, and even cemeteries and tombstones, so that literally a stone does not remain standing, and visitors are passing and being told that "it was all desert."[119]

Religion and Ideology

Like other colonial movements before it, political Zionism has combined religious references with the myth of deliverance into an unoccupied land. At the time of large-scale Zionist settlement, Palestine already supported a populous, land-based society and civilisation. Nevertheless, consistent with their western-hemisphere counterparts, the Zionists were determined to enforce the "empty land" claim through a variety of means, including military action if necessary. Immediately preceding, and in the course of the 1948 war, Zionist armed forces carried out a series of assaults on, and massacres of Palestinian villages.[120] Some of these have been interpreted not as acts of retribution for local resistance, nor for the military/strategic importance of their locations, but as examples for the indigenous population to flee or face the same fate. The most famous of these massacres include the attacks on Dayr Yasīn and Duwāymah villages.[121] In fact, the deliberate and unprovoked attack on homes, shelters and shelter seekers has emerged as Israeli military doctrine.[122]

The acquisition by Israeli Jews of land from Palestinians is commonly referred to in Israel as *geulat haqarqa* (redemption of the land). Israel rationalises the transfer and implantation of Jewish settlers by scripture, citing, among others, Isaiah (XLIII 5,6), which promises: "I will bring thy seed from the East and gather Thee from the West. I will say to the North, give up, and to the South, keep not back: bring my sons from afar, and my daughters from the ends of the earth."

In spite of Israel's citation of scripture officially to justify its acquisition of Palestinian land, many devout Jews nevertheless reject the state of Israel as a presumption against the omnipotence of God. They believe that God's era of universal redemption will come with the fulfilment of the prophetic promise to return the "people of Israel" back to Zion. But this "return" is promised to take place at God's own initiative, not by military conquest, in order to make Zion a "house of prayer for all people."[123] In spite of the apparent contradictions of scriptural prerequisites posed by the current Jewish state, those in Israel who argue in favour of Israel's right to territorial conquest, land confiscation and settlement in Palestine rest their case, ultimately, on religious claims of a "divine promise."

In the famous *Elon Moreh Case*,[124] the High Court of Israel described the arguments submitted on behalf of the Elon Moreh settlers as based upon the Biblical text of Numbers 33:53, which reads:

> Then ye shall drive out all the inhabitants of the land from you, and destroy all their stone idols, and destroy all their molten images, and demolish all their high places;
>
> And ye shall dispossess the inhabitants of the land, and dwell therein; for I have given you the land to possess.

The conservative Likud party, which led the Israeli government until June 1992, provides an example of the religious rationale for land acquisition for exclusive settlement by Jews and consequent transfer of the indigenous inhabitants. Its official party platform states: The Jewish people have an eternal, historic right to the Land of Israel, the inalienable inheritance of its forefathers.[125]

Law and Policy

Biblical references to divine provision of a "promised land" to the children of Israel form the cornerstone of the state of Israel's claim to the land of historic Palestine on behalf of the "Jewish people" exclusively. Consequently, a concept of Jewish superiority and "chosenness" lies at the base of Israel's relations with the indigenous Palestinians. This has been formalised in Israeli civil law, which confers full civil and human rights only upon a class of citizens deemed to be "Jewish nationals." Thus, the Israeli legal concept of "Jewish nationality" determines relations between groups of Israeli citizens and creates the criterion by which some citizens ("Jewish nationals") obtain rights to use land and benefit from "national" institutions providing many types of government services, including land-use and development planning. Israeli citizens without "Jewish nationality" are formally denied some basic rights and privileges, including the right to development their communities.

"Jewish nationality" status also serves as the principal criterion for immigration designed to dilute or supplant the Palestinian people's presence in the land of historic Palestine. The Palestinians are thereby denied their own national dimension and right to a place to live, while they are to be replaced with settlers whom the state endows with the superior civil status.

This state ideology of exclusion establishes separate classes of citizenship based on racial/religious criteria, and is institutionalised by a combination of Zionist laws, which include irrevocable "basic laws," such as:

•**The Law of Return** (1950), which creates the exclusive "nationality right" for Jews from anywhere to come to the lands Israel occupies to claim—as "nationals"—a superior legal status and full rights which are denied to the indigenous minority of Palestinian citizens;

•**The Law of Citizenship** (1948), which establishes eligibility for citizenship status, but citizenship without "Jewish nationality" offers no basis for many fundamental rights;

•**The Status Law** (1952), which recognises "national" entities serving "the Jewish people" exclusively as part of the government of Israel (the World Zionist Organisation/Jewish Agency—which include the Jewish National Fund—and its subsidiaries);

•**Basic Law: Knesset (Amendment No. 7)** (1985), prevents a candidate from participating in an election on a platform which does not coincide with the exclusionary definition of the state of Israel as "the state of `the Jewish people.'"

Inside the "green line" (Israel's internationally recognised border) Israeli planning provides the official basis for demolishing some 552 historic Palestinian villages and small clusters of habitation in the present phase of the population transfer of Palestine.[126] With the close collaboration and oversight of Jewish "national institutions," such as the World Zionist Organisation/Jewish Agency, this strategy is attempting to create some 40,000 permanently landless, internal refugees of Israel's own "citizens" (although not privileged Jewish "nationals"). Some of these are scheduled for transfer to planned townships (seven in the north and 16 in the south) lacking adequate infrastructure and economic base. In Israeli parlance, these sites are referred to as "concentration points."[127]

New, exclusively Jewish settlements already straddling the "Green Line" have begun to link the population transfer strategies inside the State of Israel with their counterparts in the occupied Palestinian territory.[128] Both aspects of currently implemented plans have been accelerated under cover of the *intifada* and the recent Gulf War.[129] Over the past several years, Israel, the former Soviet Union and the United States have cooperated to direct the flow of Jewish Soviet emigration to Israel/Palestine. In 1990 alone, over 200,000 Soviet emigrés were implanted in Israel and the occupied territories,[130] where many populate new and expanding settlements created exclusively for new "Jewish nationals" on confiscated Palestinian land.

In the Israeli-occupied West Bank, the pattern of land confiscation, house and village demolition, as well as the prohibitions of new Arab housing reveals that the Palestinian population is destined to be squeezed into three small "Bantustans," or "cantons," around the major Palestinian urban centres of Nablus, Jerusalem and al-Khalil (Hebron), effectively isolating the sequestered populations from each other and eliminating the land base and national dimension of the Palestinian people there.

In 1937, Ben Gurion wrote that, as Israelis, "we must uproot from our hearts the assumption that the thing [transfer] is not possible. It can be done."[131] Echoing this stance, a movement emerged in mid-1987, embodied in the Moledet Party, which calls for the expulsion ("transfer") of the Palestinians from all of historic Palestine.[132] A significant number of the transfer plan's Israeli critics argue not on moral or legal grounds, but point out the logistic and financial difficulties in carrying it out.[133]

The United States Government recently approved guarantees enabling Israel to seek $10 billion in loans to subsidise its settler absorption without conditions of nondiscrimination, nor effective proscription of their use for illegal colonisation of the occupied Palestinian territories.[134] The Israeli government also has appealed to European governments to follow suit and provide additional financial aid.

Thus, perpetuating a historical continuum, the conflict over home and land in Israel/Palestine is destined to become deeper as Zionist Israeli policies complete the project to eliminate the indigenous Palestinian presence from historic Palestine, replacing them with Jewish settlers recruited from other countries.

The mass expulsion of 413 individual Palestinians in 1992 formed the latest vignette in the long-running drama of Israeli transfer policy. On 14 December 1992, Israel's High Court upheld the expulsions on an individual basis. Thus, as in its unbroken support for state-sponsored confiscations of land and demolitions of houses belonging to Palestinians, the High Court has affirmed its role as serving ideology, in contradiction to international legal norms.

Population Transfer and International Law

The human rights dimensions of involuntary population transfer, in any context, are evident.

Forcing or coercing the transfer of a population, in whole or in part, is commonly accompanied by the subject group's loss of property and land, their source of livelihood and irreplaceable social capital, which constitute livelihood rights of the most-common victims. For the affected populations, transfer also means the destruction of distinct communities and an assault on land-based religions and cultures. Added to these are the well-known consequences of increased mortality and morbidity rates, which typically hit the youngest and oldest members of the transferred group most severely.[135]

These conditions represent violations of a spectrum of the individual's and communities' fundamental human rights. Moreover, the coupling of these conditions with the implantation of alien settlers into the demographic unit of the affected group also may violate the inalienable right to self-determination in all of its dimensions. Respect for this right, as well as the prohibition against discrimination, arguably another consistent feature of population transfers, is considered so fundamental that the two essential human rights principles of self-determination and freedom from discrimination are enshrined in the United Nations Charter. Therefore, honouring these basic concepts of human rights law is a prerequisite for membership in the United Nations—the international community of states.

Population transfers clearly and consistently violate the human rights of individuals and groups, and its historic manifestations as a policy of state often have genocidal consequences. Nonetheless, existing international law may need to develop further to address this phenomenon adequately, assigning liability, effecting accountability and deterrence.

Law of War/Humanitarian Law:

The Hague Convention IV respecting the Laws and Customs of War on Land (1907),[136] the earliest international legal instrument governing the legal conduct of war, is silent on the question of population transfers. The director-general of the International Committee of the Red Cross (ICRC) present at treaty negotiations offered an explanation for this omission: because such tactics were no longer practiced in so-called civilised warfare.[137] Therefore, the drafters considered population transfer to be consigned to the tyrannies of the past and had no place in the 20th Century.

However, in the course of WWII, allied governments became aroused to the consequences of population transfer as a war crime. The Allied Declaration on German War Crimes specifically referred to "a regime of terror characterised in particular by...mass expulsions."[138] In that same year, the Polish Exile Cabinet decreed that punishments "increased to life imprisonment or the death penalty will be imposed, if such actions caused death, special suffering, deportation, [or] transfers of population."[139] After the war, the Allies brought their indignation at this Nazi practice to the war crimes trials, defining such crimes to include "murder, ill-treatment or deportation to slave labour or for any other purpose of civilian population of or in occupied territory..."[140] The Nuremberg Tribunal went on to define "crimes against humanity" to include "murder, extermination, enslavement, deportation and other inhumane acts committed against any civilian population before or during the war."[141]

The horrific human suffering inflicted by Nazi practices in wartime inspired important new principles of treaty law in the Fourth Geneva Convention relative to the Treatment of Civilian Persons in Time of War, the only global legal instrument explicitly to prohibit population transfer. Its article 49(6) prohibits "individual or mass forcible transfers...regardless of their motive" and further prohibits the transfer of parts of a state's own population into the territory it occupies. Further, article 17 of Protocol II of the Convention prohibits civilian displacement "for reasons related to the conflict unless the security of the civilians involved or imperative military reasons so demand."[142] Article 146 is concerned with the effective enforcement of the protective articles, and calls on the High Contracting Parties to enact domestic laws in order to punish "persons committing or ordering to be committed" any of the grave breaches defined in article 147, including "unlawful deportation of transfer or unlawful confinement of a protected person."

According to the ICRC, the primary sponsor of the Civilians Convention, Article 147 was intended to

> prevent a practice adopted during the Second World War by certain Powers, which transferred portions of their own population to occupied territory for political and racial reasons or in order, as they claimed, to colonise those territories. Such transfers worsened the economic situation of the native population and endangered their separate existence as a race.[143]

The use and apparent endorsement of the concept of "race" here is unfortunate, and reflects its relative acceptability when that passage was written. Nevertheless, the interpretation is relevant to our consideration of the effect and purpose of population transfer, suggesting conditions that threaten the existence of the affected people as a distinct group.

This multilateral treaty concerns the law of armed conflict (humanitarian law) and is not explicit in cases not involving foreign occupation. However, this agreement affirms the universal principle of protection of civilians from the actions of a state or government that may violate the human rights of the transferred population.

When the Twenty-sixth Plenary Meeting of the Diplomatic Conference met to adopt the Geneva Civilians Convention,[144] the draft text of crucial Article 49(6) was adopted without a dissenting vote, and no evidence in the negotiating history of the 1949 Conference that article 49(6) suggests that it should be interpreted narrowly.[145] Argued on the basis of both the intent and the worldwide acceptance of this Convention and the principles it contains, legal scholars have concluded that the prohibitions of Article 49 constitute customary law and are, in fact, applicable anywhere, at any time.[146]

In the case of civil war, The Hague IV Regulations do not apply. The Geneva Civilians Convention has limited force in such conflicts, applying only to the states that have become party to the 1977 Optional Protocols.[147] However, that Geneva Convention is relevant in that it provides (in Article 3) for "minimum standards of humanitarian conduct."

Under the laws of war, population transfer is only permissible when it is carried out as a

defensive military necessity, or to protect the civilian population. In which cases, the power carrying out the transfer is obliged to return the population to their homes upon cessation of hostilities.

Human Rights Law

> Typically, population transfer affects distinct social or ethnic groups, and the antidiscrimination and antiracism principles of the United Nations Charter and other international human rights agreements should apply. In particular, the International Convention on the Elimination of All Forms of Racial Discrimination remains the most widely accepted human rights instrument in history (with 131 ratifying parties). Still, among its parties are some countries that either practice population transfer as a matter of national policy, or in which population transfer is a source of, or is even promoted as a possible solution to current political problems. The Racism Convention specifies that a form of "racial discrimination" means:
>
>> Any distinction, exclusion, restriction of preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life (article 1).

Population transfer is often carried out with the purpose or effect of destroying, in whole or in part, the affected group as such. This is done by a range of methods, from demographic manipulation of the group's territory (self-determination unit) to eliminating the economic existence of the group, or by outright physical elimination. Population transfer policies can coincide with other measures of physical destruction, including killing on a small or grand scale. Notably, in its draft Code of Crimes against the Peace and Security of Mankind, the International Law Commission recognized that "establishing settlers in occupied territories constituted a particularly odious misuse of power"...and that "Changes to the demographic composition of an occupied territory seemed to...be such a seriousness act that it could echo the seriousness of genocide."[148]

Of course, when population transfer is carried out in connection with such expedient means as physical elimination, the connection of population transfer to genocide becomes most evident. However, physical destruction of a group does not have to be rapid; it could be gradual and incremental, as illustrated by historical examples discussed above. It is in this light that the UN Subcommission has recognised the connection between population transfer and genocide in its resolution of 1991.[149]

The International Racism Convention defines its subject as any group discriminated against on the basis of its "race, colour, descent, or national or ethnic origin." The Genocide Convention also protects victims from those groups affected on the basis of their religion. Thus, with regard to the specific cases raised here, state-sanctioned religious discrimination resulting in population transfer deserves further critical attention. Specifically, the International Convention on the Prevention and

Punishment of the Crime of Genocide[150] provides a definition of genocide that may apply to the practice of population transfer in some cases. Article II reads:

> In the present Convention, genocide means any of the following acts committed with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:...(b) causing serious bodily or mental harm to members of the group;...[and] (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part...

Charges that a particular case of population transfer constitutes an act of genocide may rest on adequate demonstration that the transfer policy has these destructive effects, and that the effects are indeed calculated as such. However, with current knowledge of the effects of population transfer, a government's claim to lack knowledge of the effects of transfer on the subject group would be considered suspect. The Genocide Convention could serve as a useful tool to prevent and defend against population transfer having severe physical consequences, and may be useful to obtain remedy for victims. However, that important legal instrument has no corresponding monitoring or adjudication body.

The Universal Declaration of Human Rights,[151] though not having the force of treaty law, provides that "everyone has the right to freedom of movement and residence within the borders of each state" (Article 13). That article also affirms that "everyone has the right to leave any country, including his own, and to return to his country." This principle is particularly useful when taken in combination with the other human rights provisions concerning the rights of nations and peoples and the prohibitions against racism and discrimination. Similarly, the International Covenant on Civil and Political Rights[152] guarantees that "everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence" (Article 12).

The European Convention for the Protection of Human Rights and Fundamental Freedoms[153] expressly prohibits mass expulsions, but its application is limited to European states signatory. Article 3 of the Fourth Protocol to that Convention states:

> 1. No one shall be expelled, by means either of an individual or of a collective measure, from the territory of the state of which he is a national.
> 2. No one shall be deprived of the right to enter the territory of the State of which he is a national.

Further, Article 4 provides that "collective expulsion of aliens is prohibited." However, the European Convention provides for the derogation of humanitarian provisions "in time of war or other public emergency." The problem here is that a forced transfer could conceivably be considered legal in Europe on an exceptional basis.

Most modern international human rights agreements have corresponding bodies that oversee states' compliance with their obligations as contracting parties. Although these treaty bodies provide limited access for victims to present complaints, nonetheless, they can offer a forum to air charges against governments and other parties that practice population transfer. Still, the best hope for preventing population transfers and their lethal effects remains the adoption of a specific international convention prohibiting population transfer generally as "a crime against

humanity."

Self-determination:

Of all the contributions of the United Nations Charter to the body of international law, the prohibitions against discrimination and the inalienable right of peoples and nations to self-determination are perhaps the most constructive. Numerous other international agreements on the rights of nations, nondiscrimination and self-determination arguably are binding on all states as customary law.[154] These include General Assembly resolution 1514 (XV) of 14 December 1960, entitled "Declaration on the Granting of Independence to Colonial Countries and Territories." The first two operative paragraphs of this resolution provide a statement of principles relevant to the violations discussed here:

> 1. The subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental rights, is contrary to the Charter of the United Nations and is an impediment to the promotion of world peace and cooperation.
>
> 2. All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

The vote for that resolution was 90 in favour, none opposed, and 9 abstentions.[155] Thus, this resolution must be interpreted as reflecting the legal position of the membership of the UN at that time, and that the right of self-determination is further affirmed as law. The statements and action of the United Nations since this resolution was adopted in 1960 are consistent with this basic principle.

Resolution 2625 (XXV) of 24 October 1970, entitled "Declaration of Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations," is perhaps the most far-reaching statement of principle on human rights, the rights of peoples and nations, and the obligations of states to implement those rights.

At least four bases affirm the authoritativeness of this resolution in international law. First, it is based on the UN Charter and, thus, its principles are already binding on states through their membership in the international body. Secondly, the resolution was developed and adopted by consensus and the negotiating history confirms that a number of governments regard the unanimity of its acceptance to render it as binding international law.[156] Thirdly, resolution 2625 was developed to provide a statement of law, not merely one of policy or as a declaration of aspirations. This is borne out by the resolution's title and final paragraph, which states that "the principles of the Charter, which are embodied in this Declaration, constitute basic principles of international law." Finally, resolution 2625 carries authority based on the fact that the relevant provisions concerning self-determination are already implemented in the practice of states and, on that basis, it is arguable that this principle would constitute international law by customary practice, with or without the affirming 1960 or 1970 resolutions on the subject.

Conclusion

Positive international law already prohibits, or at least regulates, many forms of forcible population transfer, particularly in time of war. Nevertheless, without a specific international treaty on the human rights aspects of population transfer that reflects cumulative experience, it may remain unclear to some just where to draw the line between legal and illegal transfers.

Earlier in the 20th Century, population transfers were carried out pursuant to peace treaties, such as in the Treaty of Lausanne, by which 1.5 million Anatolian Christians and 400 thousand Balkan Muslims were exchanged in a highly imperfect—but nominally legal—compulsory population transfer between Greece and Turkey. Twenty-five years later, civil strife and a new religious state ideology led to the establishment of a pure (*paki*) Muslim state in the decolonised Indian subcontinent. These developments spawned mutually supervised population exchanges between the newly independent states of India and Pakistan, but precipitated major upheavals and substantial loss of life.

In addition to all the possible arguments based on humanitarian law, it should be evident also that reprisals against a defeated enemy are not legal, and such "reprisal" against a civilian population is reprehensible and absolutely forbidden.[157] Nonetheless, some 14 million ethnic German civilians were forcibly transferred, and at least a million died in the process, as a matter of political expediency following WWII, before the humanitarian provisions of the Civilians Convention were drawn.

The shortcomings of current standards and legal terms of art become evident, for example, in addressing the consequences of population transfer in Cyprus. The Commission on Human Rights has parcelled its concerns in terms of separate and—still underdefined—rights, such as the freedoms of movement and settlement, and the right to property. As evident from the UN-sponsored talks on the Cyprus question in 1992, the Turkish-Cypriot side has been able to interpret cynically each of these rights separately and in self-exonerating fashion.[158]

Although the laws of war provide the most explicit legal instruments to prohibit the transfer of population, applying these humanitarian provisions is still less than satisfactory. Whereas there is little dispute (outside the government of Israel) as to the relevance of the Civilians Convention in the occupied Palestinian territories, for example, other foreign occupations have not been formally recognised. Nor has international attention been directed to the remarkably similar practices against Palestinian Arab citizens within Israel. Further, population transfer practices, including the implantation of foreign settlers, in Tibet, occupied by China since 1950, has yet to be adequately recognised or addressed by states, either individually of in the UN context. The Serbian "ethnic cleansing" policy in Bosnia-Hercegovina, as well as the apparent long-standing practice of demographic manipulation in the former Yugoslavia, remind how population transfer practices remain insidious, unrestrained, and how they exacerbate conflict.

While it may be argued that Article 49 of the Geneva Civilians Convention forms part of universal customary law applicable also in peace time, the prohibition against population transfer

not occurring during armed conflict is largely derived from the provisions of human rights conventions and covenants. As international law on the subject continues to evolve, it is heartening to note that the Draft Code of Crimes against the Peace and Security of Mankind has given attention to this category of violation. The Draft Code, produced by the International Law Commission and expected to come before the General Assembly in 1993, refers to both war-time and peace-time population transfers. Draft article 22 cites "deportation or transfer of the civilian population and collective punishment", as well as "large-scale destruction of civilian property" under the heading of "exceptionally serious war crimes."[159]

The Draft Code also calls for the punishment of a "leader or organiser [who] commits or orders the commission of the crime of *apartheid*," which consists of acts based on practices of racial segregation and discrimination in order to maintain one racial group's domination over another and systematically oppressing it. Such acts specifically include "deliberate imposition on a racial group...living conditions calculated to cause its physical destruction in whole or in part"; any legislative and other measures "calculated to prevent a racial group from participating in the political, social, economic and cultural life of the country and the deliberate creation of conditions preventing the full development of such a group"; and any measures "designed to divide the population along racial lines, particularly by the creation of separate reserves and ghettos...or expropriation of landed property belonging to a racial group or to members thereof."[160] The Draft Code also provides for punishment of an individual responsible for "systematic or mass violations of human rights," including "deportation or forcible transfer of population."[161]

The harmful effects of population transfers resulting from large-scale development have also created the need for relevant international standards of civilian protection. The International Labour Organisation Convention 107 obliges states, in the case of transfer of indigenous and tribal people, to provide them with equal or better replacement lands.[162] Concerning the displacement of tribal peoples by development projects, the World Bank has also adopted protective standards, but the Bank and its loan partners have so far failed to live up to them.[163] The UN Committee on Economic, Social and Cultural Rights has echoed these concerns and provided legal guidelines for states "scrupulously [to] avoid involvement in projects which...involve large-scale evictions or displacement of persons without the provision of all appropriate protection and compensation."[164] In addition, the International Law Institute has issued several statements on the subject, essentially asserting that population transfer is legal only if it is voluntary.[165] Still, such efforts either do not go far enough, or do not represent "hard law" with adequate enforcement mechanisms.

The governments represented at the United Nations have consistently affirmed the position that military means are unsuitable to solve political conflict and endanger world order and peace. By the same token, modern governance should also affirm that altering the composition of demographic units to suit the sectarian nor ethnic preferences of a state ideology, including by way of population transfer, is likewise unacceptable and, without exception, leads to grave human rights violations and deepens existing conflict. However, such unambiguous recognition by states is still needed. Ideology, deriving in part from the long-standing and customary practice

of transfers by many states, obstructs the rule of law. Added to this, too, is the mutual deference among states to "noninterference" on domestic affairs, while population transfers are also conducted within state borders. Such statist preferences continue to affect negatively the implementation, enforcement and further development of the spectrum of human rights standards.

The UN Subcommission on Prevention of Discrimination and Protection of Minorities, the principal subsidiary body of the Commission on Human Rights, has only recently taken up "the human rights dimensions of population transfer, including the implantation of settlers," dedicating its efforts to the development of international law in this regard.[166] It remains to be seen, however, how broadly that body will define the phenomenon. The human rights community and affected peoples look forward to states' positive reception of the work of the Subcommission, and their ultimate assertion of law over ideology. As has already been done with regard to the offences of race and gender discrimination, and genocide, world order and peace will undoubtedly be enhanced when specific prohibitions against population transfer are translated into a formal international commitment to enforce the ban against this ancient evil.

Notes

1   For example, much attention has been given to the works of Francis Fukuyama, "The End of History?" *The National Interest* (summer 1989) and his *The End of History and the Last Man* (New York: Free Press, 1992).

2   According to figures from the UN High Commission for Refugees and the Refugee Policy Group (Washington), respectively.

3   For a working definition of ideology, see L.B. Brown, *Ideology* (Baltimore: Penguin Press, 1973), p. 9.

4   Bustenay Oded, *Mass Deportations and Deportees in the Neo-Assyrian Empire* (Wiesbaden: Reichert, 1979), p. 16.

5   Oded, op. cit., pp. 5–6.

6   Bartolomé de Las Casas, *Apologética história de las Indias*, in *Nueva* Biblioteca de Autores Españoles, Vol. XIII (Madrid: Bailly-Bailliere e Hijos Editores, 1909); *Brevísima relación de la destrucción de las Indias, 1552*, in Manuel Rivadeneira, editor, *Biblioteca de Autores Españoles desde la formación del lenguaje hasta nuestros días*, 110 volumes (Madrid: Real Academia Española, 1943–58), Vol. CX, pp. 134–81; also *História de las Indias* 3 vols. (México: Fondo de Cultura Económica, 1951). For English edition, see Bartolomé de Las Casas, *History of the Indies* (New York: Harper and Row, 1971).

7   Las Casas, however, later became an exceptional Christian humanist voice among the colonizers who challenged the very basis of western thought and responded to Aristotle's theory of natural slavery, to which many of his order subscribed, insisting that "all nations of the world are men." Such ideas of the intrinsic value and dignity of each individual were not commonly upheld by the conquering Europeans. It has been observed by the eighteenth century Spanish naturalist Felix de Azara, for example, that the early Spaniards in the New World considered the indigenous people there to be a *tertium quid*, or intermediate species between human and animal. For further discussion, see Francisco de las Barros de Aragón, ed., *Viajes por la América Meridional*, 2 vols. (Madrid: Progreso Editorial, 1923). For a bibliography on European concepts of the American Indian, see Lewis Hanke, *The First Social Experiments in America* (Cambridge, MA: Harvard University Press, 1935), 74–81.

8   While ecclesiastical debate ensued and alternative measures of repression eventually were instituted, the Jesuits maintained Indian slaves, known euphemistically as *indios de servicio*. For discussion of slavery practiced by Jesuits in Latin America, see Pedro Lozano, *História de la Compañia de Jesús en la provincia del Paraguay*, 2 volumes (Madrid: Imprenta de la viuda de M. Fernández del Supremo Consejo de la Inquisición, 1754-55), as cited in Korth, op. cit., 95. See also D. Amunátegui Solar, *Las encomiendas de indigenas en Chile*, 2 volumes (Santiago: Crevantes, 1910), and [anonymous] *História general de la Compañia de Jesús en la provincia del Perú*, 2 volumes (Madrid: 1944), both cited in Alvaro Jara, *Guerre et société au Chili: Essai de sociologie coloniale* (Paris: Institut des hautes études de l'Amérique Latine, 1961).

9   Domingo de Eraso, "Papel sobre la esclavitud de los Indios de Chile," in Martín Fernández de Navarette, Miguel Salva and Pedro Sainz de Baranda, eds., *Coleción de documentos inéditos para la história de España* 112 volumes (Madrid: Imprenta de la viuda de Calero, 1842–95), L, 229–31, as cited in Eugene S. Korth, S.J., *Spanish Policy in Colonial Chile: The Struggle for Social Justice, 1535–1700* (Stanford: Stanford University Press, 1968), 94.

10 For a discussion of Spanish reasoning, see Wilcomb Washburn, *Red Man's Land/White Man's Law: A Study of the Past and Present Status of the American Indian* (New York: 1971), Chapter 1.

11 Lt. Edward Barkley, in Walter Bourchier Devereux, Lives and Letters of the Devereux, Earls of Essex in the Reigns of Elizabeth, James I, and Charles I, 1540–1646, I (London: 1853), *I,* 14 May 1574, S.P. 63/46, No. 15, Public Records Office (London), as cited in Nicholas P. Canny, "The Ideology of English Colonization: From Ireland to America," *William and Mary Quarterly* 3ʳᵈ ser., XXX (1973), pp. 575–98, at 581.

12 André Thevet, T. Hacket transl., *The new found worlde, or Antarticke* (London: 1568), as cited in Canny, op. cit., p. 586.

13 See discussion in Francis Jennings, *The Invasion of America: Indians, Colonialism, and the Cant of Conquest* (New York and London: W.W. Norton, 1975), especially Part I.

14 See Joseph Schechla, "A Covenant of Dispossession and Genocide," in Barry Tharaud and Elizabeth Pallito, eds., *The Endangered Planet in Literature: Selected Proceedings, 16–18 November 2005* (İstanbul: Doğuş University, 2007), pp. 328–46, at: https://www.academia.edu/7926056/_A_Covenant_of_Dispossession_and_Genocide_New_Israelites_in_Colonial_America_.

15 This event, reported in the Book of Judges and the Book of Joshua in the Bible probably corresponds with arrival of the second migration of Israelitish (Hebrew) tribes belonging to the larger Hyksos group which entered both Egypt and Palestine around 1400 B.C.

16 Cited in Richard Drinnon, *Facing West: The Metaphysics of Indian Hating and Empire Building* (Minneapolis: University of Minnesota Press, 1980), p. 10.

17 In justifying English seizure of lands belonging to the indigenous inhabitants (whom he denegratingly called "savages"), Purchas asserted that God had intended such lands to be cultivated, rather than to leave in its precolonized state "that unmanned Countrey, which they [the savages] range rather than occupy." Samuel Purchas, *Hakluytus Posthumus*, IV, book , chapter 20 "Virginia's Verger, Or a Discourse showing the benefits which may grow to this Kingdome from American English Plantations, and especially those of Virginia and Summer Illands," 1809–26, quote at 1814; as cited in Jennings, op. cit., p. 78.

18 U.S. Secretary of War Lewis Cass concluded that the Cherokees had an inferior claim to the land, since they had "traversed but not occupied," it. See Lewis Cass, "Removal of the Indians," *North American Review* XXX (January 1830), pp. 62–121.

19 *Cherokee Nation v. Georgia*, 30 U.S. (5 Pet.) 1 (1831) and *Worcester v. Georgia*, 31 U.S. (6 Pet.) 515 (1832).

[20] Jackson did so in violation of existing law, such as, for example, the Indian Trade and Intercourse Act of 1802, which asserted federal jurisdiction in Indian territory and proscribed Indian land cession except by treaty.

[21] Act of 28 May 1830, 4 Stat. 411.

[22] Estimates from Michael Rogin, *Fathers and Children* (New York: Alfred A. Knopf, 1975), cited in Richard Drinnon, op. cit., 181.

[23] Cass, op. cit.

[24] Drinnon, op. cit., 481.

[25] Howard Zinn, *A People's History of the United States* (New York: Harper and Row, 1980), 139.

[26] Cited in ibid., 131.

[27] In his book *God is Red* (New York: Grosset & Dunlap, 1973).

[28] Deloria, op. cit.

[29] As characterized by Halil İnalcık, "Ottoman Methods of Conquest," *Studia Islamica* II (1954).

[30] Gábor Ágoston and Bruce Masters, *Encyclopedia of the Ottoman Empire* (New York: Facts on File, 2009), p. 232.

[31] İnalcık, op. cit., p. 124.

[32] Decree of 13 Djumada I 980 (24 September 1572).

[33] See Vahakn N. Dadrian, "Genocide as a Problem of National and International Law: The World War I Armenian Case and Its Contemporary Legal Ramifications," *Yale Journal of International Law* Vol. 14, No. 2 (1989), especially `The Armenians' lack of a tie to any European power,' p. 249–51.

[34] As concluded by Vice-Field Marshal J. Pomiankowski, the Austrian Military Plenipotentiary attached to the Ottoman General Headquarters during the war, based on consultations with members of the Ottoman government, as well as Ambassador H. Morgenthau, in Morgenthau, op. cit., at 9. All are cited in Dadrian, op. cit., at 256–57.

[35] Foreign Office Archives, Public Records Office 195/2359, folio 276, as cited in Dadrian, op cit, at 253 The author asserts that this program was the subject of secret discussions outside of the formal sessions With reference to this subtext of the 1910 Congress, the British Ambassador Lowther observed that, "to [the *Ittihad*ists], `Ottoman' evidently means `Turk,' and their present policy of `Ottomanization' is one of pounding the non-Turkish elements in a Turkish mortar" Gooch and Temperley, eds, *British Documents on the Origins of War, 1889–1914* (London: 1926), Part 1, Document No 181, 6 September 1910 report, at 207 The secretive nature of the Congress is corroborated in Lord Kincross, *Atatürk: A biography of Mustafa Kemal, father of Turkey* (New York: William Morrow, 1965), p. 34–35.

[36] See Dadrian, op. cit., note 107, p. 253.

[37] "They concluded that their crime would be condoned, as was done in the case of the massacres of 1895–96, when the Great Powers did not even reprimand the Sultan," H Morgenthau, *Ambassador Morgenthau's Story* (New York: Doubleday, 1918), at 9

[38] Cited from the statement of Young Turk party leader Talat Pasha to German Ambassador Wangenheim, and cited in Wangenheim's 17 June 1915 report to his chancellor in Berlin Federal Republic of Germany, *Akten des Auswärtigen Amtes, 1867–1920* (Federal Republic of Germany Foreign Office Archives, Bonn), Abteilung IA (Political Department): *Türkei*, file 183/37, A19744; also J Lepsius, *Deutschland und Armenien, 1914–1918* (Potsdam and Berlin: 1919) Both are cited in Dadrian, op. cit, at 258.

[39] See Dadrian, op. cit., note 131, at 262.

[40] This figure is attributed to a post-war Turkish Minister of the Interior, relying on statistics provided by his ministry, in Vahakn Dadrian, "The Naim-Andonian Documents on the World War One Destruction of the Ottoman Armenians—The Anatomy of a Genocide," *International Journal of Middle Eastern Studies* Vol 18, No 3 (1986), at 342 See also YH Bayur, *Türk Inkilabı Tarihi* [The History of the Turkish Revolution] Vol 3:3 (Ankara: 1983), at 787 For a graphic, detailed eyewitness description of the results of the massacres, see Leslie A Davis, *The Slaughterhouse Province: An American Diplomat's Report on the Armenian Genocide, 1915–1917*, edited by Susan K Blair (New Rochelle, NY: Caratzas, 1989).

[41] See Alfred Maurice de Zayas, "A historical survey of twentieth century expulsions," in Anna C. Bramwell, ed., *Refugees in the Age of Total War* (London: Unwin Hyman, 1988).

[42] See Jacob M Landau, *Pan-Turkism in Turkey: A Study of Irredentism* (Hamden, CT: Archon, 1981), "Definition of Pan-Turkism," p. 1.

[43] *Her Irkin Üstünde Türk Irki* This slogan was carried on the covers of *Ergenekon* and *Bozkurt*, among the spate of Pan-Turkist journals to appear in the 1930s and 1940s *Bozkurt* was revived in 1972, and was published in Ankara and Konya until 1977

[44] Landau, op. cit., chapter 5, "Pan-Turkism in the Republic of Turkey: Back into the Mainstream," 144–75; also A.N. Kirmaci, "Nationalism—Racism—Turanism in Turkey," in Kemal H Karpat, ed., *Political and Social Thought in the Contemporary Middle East* (New York: Praeger, 1968).

[45] "Request for Indictment Presented to Martial Law Tribunal No 2" Document No 1150–955/499, Istanbul, 9 February 1956, included in US Consul General in Istanbul, "American Consul General in Istanbul to Department of State," Telegram No 563, Dispatch No 306, 20 February 1956, as cited in Christos Iaonnides, *In Turkey's Image: The Transformation of Occupied Cyprus into a Turkish Province* (New Rochelle, NY: Caratzas, 1991), p. 77.

[46] In particular, the guarantor states (Greece, Turkey and UK) in cooperation with the United States' "Acheson Plan" for partition In response to official Greek opposition to the Acheson Plan, President Johnson retorted, "Fuck your parliament and your

constitution America is an elephant, Cyprus is a flea Greece is a flea If these two fellows continue itching the elephant, they might get whacked by the elephant's trunk, whacked good. If your Prime Minister gives me talk about democracy, parliament and constitution, he, his parliament and his constitution might not last very long" (See Lawrence S Wittner, *American Intervention in Greece* [New York: Columbia University Press, 1982], as cited in Christopher Hitchins, *Hostage to History: Cyprus from the Ottomans to Kissinger* [New York: Noonday Press, 1989], pp. 61–62).

47 First presented in 1958, and known as the Küçük Proposal, named after its principal Tursih Cypriot proponent Fazil Küçük, who was also leader of *Kibris Türktür*'s sister party in Cyprus, *Kibris Türktür Partisi.*

48 See, for example, US Senate Staff Report of the Subcommittee on Refugees (Washington: US Congress, January 1976)

49 Some 7,371 inhabitants were reduced to 3,631. Report of UN Secretary-General Kurt Waldheim to the General Assembly of 9 December 1976.

50 See Sener Levent, "On the settlement of Bulgarian Muslims in Varosha," *Ortam*, 17 June 1989; Bayram Kansoy, "On the general situation in the occupied area and the proposal of Denktash for the settlement of Bulgarian Muslims in Varosha," *Ortam*, 20 June 1989; "Denktash's contacts in Istanbul: refers to the settlement of Bulgarian Muslims in occupied area," *Kibris*, 9 October 1989; also *Yeniduzen,* 21 and 22 September 1989.

51 The Turkish Cypriot press has set the number of Turkish settlers at 80,000; as a result of Turkish Cypriot emigration under the current occupation regime, indigenous and settler populations are now at parity *Yeniduzen*, 14 February 1990, p. 1. Turkey has also implanted a number of Kurdish settlers in Cyprus as well, including some 3,000 to 4,000 Kurdish personnel in the Turkish military. See Iaonnides, op. cit, p. 37.

52 As confirmed, for example, in the semi-official Turkish bulletin *Pulse*, 19 August 1975 200,000 is an oft-cited round figure for regional displacements: 200K refugees from Anatolia in the Greek-Turkish Transfer Agreement (1921), 200K Greek-speaking Cypriot refugees/IDPs in 1974, 200K internally displaced Palestinians in Israel, 200K Greeks remaining in İstanbul after 1923

53 "Question of Human Rights in Cyprus" (report of the secretary-general provided pursuant to Commission on Human Rights decision 1992/106), UN document E/CN4/1993/36 of 3 February 1993.

54 Ranging from "Türkiye'deki Kürtlerin sayısı!" *Milliyet* (in Turkish) (6 June 2006), at: http://wwwmilliyetcomtr/Defaultaspx?aType=SonDakika&ArticleID=873452; Tolga Atar, "MGK'nın sır raporu ortaya çıktı!" *Bugun* (in Turkish) (6 June 2006); and Tolga Atar, "Sır rapor şoku" *Bugun* (in Turkish) (6 June 2006; to Sandra Mackey, *The reckoning: Iraq and the legacy of Saddam* (New York: WW Norton and Company, 2002), p. 350.

55 Approximated from figures in *1970 Genel Nufus Sayimi Sonuclari* [Results of the General Population Census, 1970] (National Institute of Statistics, Ankara) cited by Kendal, "Kurdistan in Turkey," in Gerard Chaliand, ed., *People without a Country: The Kurds and Kurdistan* (London: ZED, 1980), pp. 47–48.

56 Published in *Resmi Gazete* No 2733, 21 June 1934, as cited in "A Report on State Terrorism in Turkish Kurdistan" (The Initiative for Human Rights in Kurdistan, May 1990), pp. 1–2. A reformulation of this law in 1983 added limitations on the number of animals, as well as the amount of wool, vegetable oil and nuts permitted to be owned (by non-Turks). Ibid.

57 Barbara Aswad, *Property Control and Social Strategies in Settlers in a Middle Eastern Plain* (Ann Arbor, MI: University of Michigan Press, 1971), at 20, as cited in Mehrdad Izadi, "Persian Carrot and Turkish Stick: Contrasting Policies Targeted at Gaining State Loyalty from Azeris and Kurds," *Kurdish Times* Vol III, No 2 (Fall 1990), at 36 See Also Peter A Andrews, ed with the assistance of Rüdiger Benninghaus, *Ethnic Groups in the Republic of Turkey* (Wiesbaden: Reichert, 1989).

58 The Laz have since migrated back to their original areas and became landlords to the indigenous Arabs and Kurds on lands provided for the Laz by a Turkish government project to reclaim agricultural land by draining Lake `Amuq. Aswad, op. cit.

59 Jeri Laber and Lois Whitman, *Destroying Ethnic Identity: The Kurds of Turkey* (New York and Washington: Helsinki Watch, March 1988).

60 As reported in *2000'e Dagru* magazine (14–21 March 1987) and recounted in Jaber and Whitman, op. cit., at 35–36

61 Ibid, pp. 36–37.

62 Jürgen Roth and others, *Geographie der Unterdrückten* (Rowohlt-Verlag, 1978).

63 Ibid, p. 39.

64 Thomas Goltz, "Turkey Diverts Euphrates River: Development Project Will Reduce Water Flow to Iraq and Syria," *Washington Post* 14 January 1990, A22

65 "Turkey—Resettlement in World Bank Power Projects: A Special Supervision Report" unpublished document (Washington: World Bank, Energy Operations Division, Country Department 1, Europe, Middle East and North Africa Regional Office, 20 October 1988), pp. 18–19.

66 Ibid, p. 4.

67 "Sirnak, une ville en ruines" *Le Monde*, 25 August 1992, 41; "Destruction of the Kurdish City of Sirnak and of Its Villages," *Institute Kurde de Paris* information and liaison bulletin 89–90 (August–September 1992), p. 5; "Exode Kurde en Turquie," *Libération*, 26 August 1992, p. 40.

68 Nicole Pope, "M Özal a incité la population kurde à quitter la région de Sirnak," *Le Monde*, 10 September 1992, 70

69 Joshua (9:23).

70 See Sheila Patterson, *The Last Trek: A Study of the Boer People and the Afrikaner Nation* (London: Routledge and Kegan Paul,

1957), p. 177; also ID MacCrone, *Race Attitudes in South Africa: Historical, Experimental and Psychological Studies* (Johannesburg: Witwatersrand University Press, 1965), p. 87.

71 International Labour Organisation Convention, "Freedom of Association," No 87 (1948), as well as International Covenant on Economic, Social and Cultural Rights (1966), Article 8.

72 See excerpts of 1802 *Memorie* of Egbertus Bergh, member of the Dutch East-India Company Council of Policy, and dissertation by influential Afrikaner lawyer Christoffel Brand, "Concerning the method and law of acquiring colonies," *Dissertatio Politica-Juridica de Jure Coloniarum* (Leyden: 1820) in André du Toit and Hermann Giliomee, *Afrikaner Political Thought: Analysis and Documents* Volume One: 1780–1850 (Berkeley, Los Angeles and London: University of California Press, 1983), 205–208.

73 Among them was Dr Philip, *Researches in South Africa* (1928), which gathered considerable political force through John Fairbairn, editor of the *South African Commercial Advertiser* and the Select Committee on the Aborigines (London) in the 1830s

74 See lecture by Sir John Truter, chief justice of Cape Colony (1812–28), "The Origins and Development of the Laws of the Colony," *Het Nededuitsch Zuid-Afrikaansch Tijdschrift* (1836), pp. 125–26, 306; and Cape Town lawyer J de Wet, "Something about the so-called earlier right of ownership to this country of the Hottentots," *Het Nededuitsch Zuid-Afrikaansch Tijdschrift* (1838); as translated and published in du Toit and Giliomee, op cit,, pp. 210–13.

75 As quoted in du Toit and Giliomee, op. cit., p. 213.

76 J Alton Templin, *Ideology on a Frontier: The Theological Foundation of Afrikaner Nationalism, 1652–1910* (Westport CT and London: Greenwood Press, 1984), pp. 99–148.

77 However, they never followed through to find that the river, a tributary of the Limpopo, actually emptied into the Indian Ocean Their "Moses," Commandant-General J.A. Enslin, had died and the pilgrimage was aborted Templin, op. cit., 135–37

78 There are some contradictions in the contemporary accounts of this covenant by Cilliers, Pretorius and Jan Bantjes It is also uncertain if the 468-man commando shared in this covenant See Leonard Thompson, *The Political Mythology of* Apartheid, (New Haven CT and London: Yale University Press, 1985), pp. 146–51 and 166–69.

79 These included, among others, Piet Meyer, Nico Diedrichs, Geoff Cronjé and HF Verwoerd

80 Quoted in TRH Davenport, "African townsmen: South African natives (urban area) legislation through the years," *African Affairs* Vol. 68 (1969), and cited in Elaine Unterhalter, *Forced Removals: The Division, Segregation and Control of the People of South Africa* (London: International Defence and Aid Fund for Southern Africa, 1987), p. 6.

81 Urban Areas Act (1945) and its 1952 amendment The Group Areas Act (1950) was the most systematically applied of the influx control laws, giving the government full control over where the different racial groups live In 1955, the Bantu (Urban Areas) Amendment Act enabled the central government to abolish African freehold rights to their property

82 Cosmas Desmond, *The Discarded People* (Harmondsworth: Penguin, 1971).

83 Bantu Laws Amendment Act of 1973.

84 According to the findings of a research group at Stellenbosch University, cited by Unterhalter, op cit, p. 3.

85 As of 1993 The Dutch Reform Church is divided into three main branches in South Africa In order of congregational size, these include the *Nederduits Gereformeerde Kerk*, *Nederduits Hervormde Kerk* and the *Gereformeerde Kerk.*

86 The World Zionist Organization/Jewish Agency (Status) Law of 1950 states that the "mission of gathering the exiles" is the "central task of the State of Israel and the Zionist Movement."

87 For example, see Israel Office of Immigration, "Four Years of Israel's Statehood; The Story of Immigration" (April 1952)

88 Zangwill is referring here to the biblical Hebrew people, from which many Jewish people and many Zionists claim to descend

89 See Shabtai Teveth, "The evolution of `transfer`' in Zionist thinking," (Tel Aviv: Moshe Dayan Center for Middle East and African Studies, Shiloah Institute, Tel Aviv University, 1989).

90 These spokespersons included Baron Edmond de Rothschild, Arthur Ruppin, Nachman Syrkin, Max Nordau, Leo Matzkin, Chaim Weizmann and, most notably, David Ben Gurion, Israel's first prime minister See Shabtai Teveth, op cit; also Nur Massalha, *Expulsion of the Palestinians: The Concept of "Transfer" in Zionist Political Thought, 1882–1948* (Washington: Institute for Palestine Studies, 1992).

91 See Teveth, op. cit.

92 One year after the Peel Commission, the Woodhead Commission pointed many practical difficulties of the partition and transfer schemes, and the MacDonald White Paper (1939) announced that Britain would no longer support partition and would limit land transfers and immigration See *Report of the Partition Commission* (Woodhead Commission), Cmd 5854 (1938) and Great Britain, Palestine, *Statement of Policy* (The MacDonald White Paper), Cmd 6019 (1939).

93 For discussion of the legal relationship of the Jewish National Fund to the Israeli government, see Roselle Tekiner, "On the Inequality of Israeli Citizens," *Without Prejudice* Vol. I, No. 1 (1987), pp. 48–57; Kenneth Lewan and Uri Davis, *The Jewish National Fund* (London: Kegan Paul, 1989); and on the related parastatal relationship of the World Zionist Organization/Jewish Agency (and United Israel Appeal), see W. Thomas Mallison and Sally V. Mallison, The Palestine Question in International Law and World Order (London: Longman, 1986), "Juridical Status and Political Activities of the Zionist Organization/Jewish Agency" Chapter 2, pp. 79–141.

94 Yosef Weitz, *Yomani Ve'igrotai Labanim* [*My Diary and Letters to the Children*] Vol I, entry for 20 December 1940, 181; as quoted in Benny Morris, *The birth of the Palestinian refugee problem, 1947–1949* Cambridge: Cambridge University Press,

1987), p. 27.

95 John Ruedy, "Dynamics of Land Alienation," in Ibrahim Abu Lughod, ed., *The Transformation of Palestine* (Evanston, IL: Northwestern University Press, 1971), pp. 119–38, 134.

96 Pamela Ann Smith, *Palestine and the Palestinians, 1876–1983* (New York: St Martin's Press, 1984).

97 A conquest which Israelis call the "War of Independence," and Palestinians call the "Conquest" In Arabic, the term is *al-Karitha* (catastrophe), or *al-Nakba* (disaster).

98 See Janet L. Abu Lughod, "The Demographic Transformation of Palestine," in Ibrahim Abu Lughod, *The Transformation of Palestine* (Evanston, IL: Northwestern University Press, 1971), p. 161.

99 Walid Khalidi, ed., *All That Remains* (Washington: Institute for Palestine Studies, 1992).

100 *The Goldberg Opportunity: A Chance for Human Rights-based Statecraft in Israel* (Cairo: HIC-HLRN, 2010), at: http://wwwhlrnorg/img/publications/Naqab%20FFM%20report%202010zip. See map by Salman Abu Sitta "Village Points Inside & Outside Siyag," accompanying the report.

101 Bashir Nijim and Bishara Muammar, *The De-Arabization of Palestine, 1947–1977* (Dubuque IA: Kendall and Hunt, 1984)

102 General Assembly resolutions 194 (III) of 11 December 1949 and 513 (VI) of 26 January 1952, as well as subsequent resolutions of the General Assembly and Security Council See W.T. Mallison and S.V. Mallison, *Los derechos* nacionales del pueblo de Palestina (Buenos Aires: Fundación Argentino Arabe, 1983), pp. 49–66.

103 "Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law," A/RES/60/147, 21 March 2006, at: http://www2ohchrorg/english/law/remedyhtm.

104 "The Right of Return for Intra-refugees (1948)" (Haifa: Initiating Committee for Defending the Rights of Uprooted in Israel, August 1992).

105 See Benny Morris, *The birth of the Palestinian refugee problem, 1947–1949* (Cambridge: Cambridge University Press, 1987), p. 207.

106 David Ben Gurion, *Rebirth and Destiny* (New York: Philosophical Library, 1954), p. 9.

107 Ben Gurion's expulsion order cited in Morris, op cit., pp. 206–8.

108 *Ha'aretz* (Tel Aviv), 4 April 1969.

109 See Morris, op. cit.

110 Calculated from comparative figures in UN General Assembly, *Ad Hoc* Committee, Second Session, "Report of Subcommittee" 2 A/Ac 14/32 (11 November 1947), at 43; and *Statistical Abstract of Israel, 1981*: 32, Table II/3; as cited in Khalil Nakhleh, "The Two Galilees" Arab World Issues Occasional Papers Number 7 (Belmont MA: Association of Arab-American University Graduates, September 1982), p. 13.

111 These included Palestinian "citizens" of Israel expelled from their original villages in 1951 in the course of water diversion projects Noam Chomsky, *The Fateful Triangle* (Boston: South End Press, 1983), 97

112 Janet Abu Lughod, "The Continuing Expulsions from Palestine: 1985–1985," in Glenn E Perry, *Palestine: Continuing Dispossession* (Belmont MA: AAUG, 1986), p. 21.

113 Arthur C Forest, *The Unholy Land* (Old Greenwich, CT: Devin-Adair, 1972), pp. 16–17.

114 Taken from Israeli figures reported in the *Financial Times* (London), 9 December 1977 Ann Lesch listed 1,151 expelled from 1967–78, but excluded those recorded only by numbers, rather than by name, as well as whole groups of Beduins in 1967 and 1969 See Ann Lesch, "Israeli Deportation of Palestinians from the West Bank and the Gaza Strip, 1967–1978" Part I, Vol. VIII, No. 2 (Winter 1979), pp. 101–31; and Part II, *Journal of Palestine Studies* Vol. VIII, No. 2, pp. 81–112. See also "Transfer Policy in Action: The Expulsion of Nonresidents" (Jerusalem: Sanabel Press, 31 December 1991).

115 Roselle Tekiner, "Race and Issue of National Identity in Israel," *International Journal of Middle Eastern Studies* Vol. 23, No. 1 (February 1991), 39–55, at: http://links.jstor.org/sici?sici=0020-7438%28199102%2923%3A1%3C39%3ARATION%3E2.0.CO%3B2-1.

116 Habitat International Coalition-Housing and Land Rights Network, "Targeting Homes, Shelters and Shelter Seekers during Operation Cast Lead in the Context of Israeli Military Practice" (29 July 2009), at: http://www.hic-mena.org/documents/Submission.pdf.

117 Plan Dalet, 10 March 1948, at: http://www.jewishvirtuallibrary.org/jsource/History/Plan_Dalet.html.

118 "World Environment Day," Gaza," *HIC-MENA News,* (July 2012) at: http://landtimeslandpediaorg/newsdesphp?id=qWw=&catid=ow==&edition=pQ==.

119 Israel Shahak, in Uri Davis and Norton Mezvinsky, *Documents From Israel, 1967–1973: Readings for a Critique of Zionism* (London: Ithaca Press, 1975), p. 44.

120 "Killings and massacres during the 1948 Palestine war," *Wikipedia*, at: http://enwikipediaorg/wiki/Killings_and_massacres_during_the_1948_Palestine_war.

121 On Dayr Yasin, see Jacques de Reynier, "Deir Yasin, April 10, 1948," in *From Haven to Conquest: Readings in Zionism and the Palestine Problem until 1948* (Beirut: Institute for Palestine Studies, 1971); on Duwaymah, see Yoella Har-Shefi, "Another Deir Yassin?," *Hadashot* (Tel Aviv), 24 and 26 August 1984, as reprinted in English translation in *Journal of Palestine Studies,* Vol.

XIV, No 2 (1985) Some twenty major incidents have been recorded, each massacre having at least 50 victims) See Guy Ehrlich, "During the Independence War, Many Arabs Were Massacred by Jews, Not Only in Dayr Yasin," *Ha'ir* (Tel Aviv) (6 May 1992), citing Bar Ilan University historian Ariyeh Yitzhaki (1948).

[122] HIC-HLRN, "Targeting Homes, Shelters and Shelter Seekers during Operation Cast Lead in the Context of Israeli Military Practice" (29 July 2009), at: http://wwwhic-menaorg/documents/Submissionpdf.

[123] Isaiah LXVI: 7.

[124] *Seventeen Residents of the Village of Rujerib v Government of Israel et al, HCJ 390/79, at 6–8 (Sup Ct Israel, 22 October 1979)* The citation from this case is provided by the Government of Israel and circulated at United Nations Headquarters The Court responded that it would have to apply the law of Israel and quoted Leviticus 19:34: "But the stranger who dwelleth among you shall be unto you as one born among you, and thou shalt love him as thyself; for ye were strangers in the land of Egypt,"as cited in Sally V. and W. Thomas Mallison, *The Palestine Problem in International Law and World Order* (London: Longman, 1986), 251: the Court did not go on to quote another relevant passage from Leviticus 24:22, which states: "Ye shall have one manner of law, as well for the stranger as for one of your own country; for I am the Lord your God."

[125] Translated and published in *The Jerusalem Post*, 21 June 1977.

[126] As issued by the Markowitz Commission (1986), various plans by the Jewish Agency/World Zionist Organization and Seven-Star Plan currently implemented under Housing Minister Ariel Sharon See also "Demolition of Palestinian Homes and Other Structures by Israeli Authorities," (Washington: EAFORD—USA, 1990).

[127] The term, in Hebrew, is *rekuz* (literally, "concentration").

[128] Khaled Abu Aker, "Russian immigrants to be used as political pawns: Sharon plans to divide Palestinians with settlements along `green line'" *al-Fajr* (English-language weekly), 10 December 1990.

[129] The human rights organization *al-Haq* has calculated that Israel has confiscated 87 percent of the land of the West Bank during the *intifada*, and that 7 percent of the West Bank's total land area was taken in the January 1990–January 1991 period alone See "Israeli Land Acquisition and Settlement in the Occupied Territories," *Human Rights Focus*, 20 August 1991.

[130] See "Soviet Jews: Whose Humanitarian Concern?" (Washington: Settlement Watch, 1992).

[131] Ben Gurion's diary entry of 12 July 1937, quoted in Massalha, op. cit.

[132] See Roni Hadar, "Transferring the Arabs of Judea and Samaria," *Ma'ariv* (Tel Aviv), 8 July 1987; New York News Service, "Israeli Official Proposed Moving Arabs to Jordan," *Baltimore Sun*, 30 July 1987; Thomas Friedman, "Israeli Proposes Ouster of Arabs," *New York Times*, 31 July 1987; Dvorah Getzler, "Proposal of `transfer' of Arabs is blasted," *Jerusalem Post* (international edition), 8 August 1987; "Minister [Yosef] Shapira Call for Expulsion of the Arabs for $20,000 Each," *al-Ittihad* (Haifa), 30 October 1987; Glenn Frankel, "Some Israelis Urge Arabs' Expulsion," *Washington Post*, 31 October 1987; Yossi Melman and Dan Raviv, "Expelling Palestinians: It Isn't a New Idea, and It Isn't Just Kahane," *Washington Post*, 7 February 1988; Allan Shapiro, "Kahanism on increase in Israel," *Jerusalem Post*, 23 April 1988.

[133] For example, see quotation of transfer critic Amnon Sofer in Israel Shahak, "The Concept of `Transfer' in Zionism," *Journal of Palestine Studies* Vol. 38, No. 3 (spring 1989), pp. 22–37, 23.

[134] Nor do the terms link the loans to specific projects, thus not effectively restricting their use in the occupied Palestinian territories Eugene Bird, "First $2 Billion US Loan Guarantee Signed Ever so Quietly," *Washington Report on Middle East Affairs* (February 1993), p. 7.

[135] See, Thayer Scudder and Elizabeth Colson, "From Welfare to Development: A Conceptual Framework for the Analysis of Dislocated People," in Art Hansen and Anthony Oliver-Smith, eds, *Involuntary Migration and Resettlement: The Problems and Responses of Dislocated People* (Boulder CO: Westview Press, 1982) Also see R Mansell Prothero, "Disease and Mobility: A Neglected Factor in Epidemiology," Working Paper 26 (Liverpool: University of Liverpool Department of Geography, African Population Mobility Project, 1976).

[136] Signed 18 October 1907 by all the thirty-five states participating in the Conventions, which effectively represented the entire world community of states at that time.

[137] Jean Pictet, *La Convention de Genève Relative à la Protection des Personnes Civiles en Temps de Guerre* (4 ICRC, *Les Conventions de Genève du Août 1949; Commentaire*) 9 (1958); Draper, "Human Rights and the Laws of War," *Virginia Journal of International Law* vol 12 (1972), p. 326.

[138] Adopted in London, 13 January 1942.

[139] Decree on the Punishment of German War Crimes Committed in Poland Cited in L Holborn, ed., *War and Peace Aims of the United Nations* I (1943), p. 462.

[140] Article 6(b) of the Charter of the International Military Tribunal, signed at London, 8 August 1945.

[141] Ibid This determination is also repeated in article 6 (c).

[142] It adds that, "should such displacement have to be carried out, all possible measures shall be taken in order that the civilian population may be received under satisfactory conditions of shelter, hygiene, health, safety and nutrition"

[143] Pictet, ed., 4 ICRC *Commentary on the Civilians Convention 77* (1958), p. 283.

[144] On 6 July 1949.

[145] *The negotiating history is found in the Final Record of the Diplomatic Conference of Geneva of 1949* (Swiss Federal Political

Department)

[146] See L Oppenheim, "International Law: Disputes, War and Neutrality," Lauterpacht, ed (7th edition) (: , 1952), 451; JL Brierly, *The Law of Nations* (6th edition, 1963), 59–62; Mallison and Mallison, op. cit., pp. 261–62.

[147] Protocol Additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of International Armed Conflicts (Protocol I) of 8 June 1977.

[148] (7) under subparagraph (b).

[149] Resolution 1991/21 of 31 August 1991.

[150] Adopted as GA resolution 260 A (II) of 9 December 1948; entered into force 12 January 1948.

[151] Adopted as GA resolution 217 A (III) of 10 December 1988 Articles 5, 9, 12 and 15 are relevant to protection against population transfer.

[152] Adopted as GA resolution 2200 A (XXI) of 16 December 1966; entered into force 23 March 1976 Articles 6, 7, 12, 13 and 17 are relevant to protection against population transfer.

[153] Article 15 of the Convention adopted in 1963; entered into force 2 May 1968 The European Convention only has legal force in the countries of Western Europe.

[154] See, for example: the Charter of the United Nations (1945), articles 13 (prohibiting racism and discrimination) and 55 (on self-determination); the Declaration on the Granting of Independence to Colonial Countries and Peoples (1960), preamble and Article 7; General Assembly resolution 1803 (XVII) "Permanent sovereignty over natural resources" (1962), preamble and paras 1–2 and 5–7; the International Convention on the Elimination of All Forms of Racial Discrimination (1965), Articles 1 and 5; the International Covenant on Economic, Social and Cultural Rights (1966), Articles 1 and 11; the Declaration on Social Progress and Development (1969), articles 2 and 3 and Part II; and the ECOSOC Declaration on Race and Racial Prejudice (1978), Articles 1, 3, 5 and 9; and the Declaration on the Right to Development (1986), preamble and Articles 1, 6 and 8

[155] See discussion in Mallison and Mallison, op. cit., pp. 192–97.

[156] Either under article 38(1)(c) of the Statute of the International Court of Justice concerning "general principles of law recognized by civilized nations," or as a "subsequent agreement between the parties regarding the interpretation of the treaty or the application of its provisions" in accordance with article 31(3)(a) of the Vienna Convention on the Law of Treaties See UN Doc A/CONF39/27, *International Legal Materials* Vol. 8, No. 679 (1969).

[157] See legal arguments in Alfred M de Zayas, "International Law and Mass Population Transfers," *The Harvard International Law Journal* vol 16, no 2 (Spring 1975); also his Nemesis at Potsdam (Lincoln: University of Nebraska Press, 1990).

[158] "Question of Human Rights in Cyprus" (report of the secretary-general provided pursuant to Commission on Human Rights decision 1992/106, ECOSOC document E/CN4/1993/36, 3 February 1993, esp. pp. 3–5.

[159] General Assembly document A/46/405, 11 September 1991, p. 11591.

[160] Article 20(2), subparas (b), (c) and (d), respectively Ibid, 1590.

[161] Article 21 Ibid, pp. 1590–91

[162] International Labour Organization Convention 107, Recommendation 104, concerning the Protection and Integration of Indigenous and Other Tribal and Semitribal Populations in Independent Countries, article 12(2) *United Nations Treaty Series* Vol 328 (1959), 248–68 The replacement Convention 159 concerning Indigenous and Tribal Peoples in Independent Countries (1989), not yet in force, goes farther than its predecessor, but fails to recognize these peoples' right to self-determination See *Without Prejudice* (special issue on Indigenous Peoples and the Law) Vol. II, No. 2 (1989).

[163] See especially Morse, Bradford and Thomas Berger, *Sardar Sarovar: The Report of the Independent Review* (Ottawa: Resource Futures International, 1992).

[164] Draft Report of the Committee on Economic, Social and Cultural Rights to the Economic and Social Council in accordance with Economic and Social Council resolution 1985/17, Annex V, General Comment No 2, document E/C12/1990/CRP2/Add2, 7 February 1990, p. 4.

[165] See de Zayas (1975), op. cit.

[166] This has taken the form of entrusting the issuance of a report on the subject to two special rapporteurs, the integration of this issue into the related work of the Subcommission and the reconsideration of the issue on its August 1993 agenda.