

Key of Terms pertaining to Israel/Palestine

Absentee: persons whose status is defined in Israel's Basic Law: Law of Absentees' Property (5710 - 1950) and applied both retroactively and prospectively for the State of Israel possession by confiscation properties (mostly to be administered by the Jewish National Fund and subsidiaries). Those whom the Basic Law identifies as "absentees" include anyone who:

1. At any time during the period between 16 Kislev 5708 (29 November 1947) and the declaration published under Section 9(d) of the Law and Administrative Ordinance, 12 Iyar 5708 (21 May 1948), has ceased to exist as a legal owner of any property situated in the area of Israel or enjoyed or held by it, whether by himself or another and who, at any time during the said period,

(i) was a national or citizen of the Lebanon, Egypt, Syria, Saudi Arabia, Transjordan, Iraq or the Yemen; or

(ii) was in one of these countries or in any part of Palestine outside the area of Israel; or

(iii) was a Palestinian citizen and left his ordinary place of residence in Palestine

(a) for a place outside Palestine before 27 Av 5708 (1 September 1948); or

(b) for a place in Palestine held at the time by forces that sought to prevent the establishment of the state of Israel or that fought against its establishment."

(Full the full text of Basic Law: Absentees' Property Law [LAP], click [here](#). See also "Present absentee" below.)

Absentee property: a type of individual or collective possession denied to an indigenous class of inhabitants of Palestine through military and legislative events of the State of Israel's proclamation of establishment process.

Israel's Absentee Property Regulations (1950) vested possession of properties belonging to indigenous Palestinian Arabs in the "Custodian," which was an acquisitive function within the Israeli Finance Ministry in 1947, established well in advance of the Regulations. The Law of Absentees' Property (LAP) (see also "present absentee" below) provided the Custodian a new name, The "Custodian of Absentee Property" (CAP), also replaced the temporary and vague legal category of "abandoned" property with the better-defined and soon-to-be permanent category of "absentee property." The CAP possessed broad administrative and quasijudicial powers, as well as evidentiary and procedural devices, to seize property at CAP's own discretion, and ensured that the burden of proving "nonabsentee" status fell heavily on the newly dispossessed Palestinian Arab property holders.

The British Trading with the Enemy Act (1939), which created an extremely powerful

property custodian and formally extinguished all rights of former owners, inspired the Israeli Absentee Property Regulations. Israel thus treated absentee property as State property, but the nature of the emergency legislation model from which the Israeli Absentees' Property Law derived also made it subject to long-term legal challenge.

Therefore, the State of Israel incorporated the ideologically Zionist protostatal institutions within the State under 1953 legislation, but maintained them arguably outside of "government." So, in order to retain the "absentee" properties and shed the potentially constraining State obligations governing the Custodian under general principles of public international law (see "obligations" above.), the State of Israel began transferring newly acquired properties—especially such properties acquired outside internationally recognized Israeli territory—to the parastatal institutions (Jewish National Fund, World Zionist Organization/Jewish Agency and their subsidiaries and affiliates) and, subsequently, other State-managed institutions that share the Zionist protostatal institutions' covenanted principles of Jewish-only presence in, and possession of the land, properties and productive resources contained in all areas of the Land of Israel (Eretz Israel), defined as the whole of historical Palestine.¹

The illegal transfer of Palestinian refugees' and internally displaced persons' (all "absentees") properties (see "Internally displaced person(s)" above) to the Jewish National Fund (JNF) in exchange for revenues to the nascent colony was to a (then) off-shore England-registered entity, the JNF, which reunited with the State of Israel under the above-mentioned 1953 Knesset legislation. That transfer of "absentee property" took place over five years, after no standing party posed an international law challenge to Israel's territorial expansion beyond the 1947 Partition Plan (UNGA resolution 181 [II]). That omission is despite the fact that UNGA 181 was merely one of the General Assembly's contemporary nonbinding recommendations on the Palestine question, but submitted to a vote on 29 November 1947.

The "absentee property" lost in this gradual process is undetermined, but subject to reparation to Palestinian refugees and present absentees.

(See also "absentee(s)," "compensation," "confiscation," "indigenous people(s)," "internally displaced person(s)," "refugee(s)," "reparation," "return," "satisfaction" above.)

Areas of Jurisdiction (A, B and C): Gradations of Israeli and Palestinian National Authority jurisdictions in the occupied Palestinian territories of the West Bank and Gaza Strip as defined in the interim agreements signed by the two parties since 1993; however, Israel has ceased to respect many areas and dimensions of Palestinian Authority jurisdiction since its reinvasion of those zones since 2002. The Oslo Interim process created four spheres of jurisdiction in the West Bank and Gaza Strip, defined as

¹ Israel's first Prime Minister David Ben-Gurion later noted the legalistic motivations of retaining lands and properties, but under the name of the Jewish National Fund. He acknowledging that "the government does as it pleases with this property...[while]...the law limits the government in its efficient, permanent use" David Ben-Gurion diaries, no date, entry of 4 August 1949, cited in Forman and Kedar, *ibid*.

follows:

- A.** Closed Palestinian jurisdiction (Area A): In these lands, the Palestinian Authority has full effective and theoretical (de facto and de jure) jurisdiction. Israeli troops and military withdrew fully until late 2000, when they besieged the territories. Until then, Israel formally did not exercise jurisdiction over this area, except through reoccupation or Palestinian consent. Today, these areas remain under Israel's control, and several areas are under occasional Israeli military siege.
- B.** Over-riding Israeli jurisdiction. In those areas, the Palestinian National Authority holds partial personal, functional and geographical jurisdiction, as Israel retained overriding security jurisdiction through activities of Israel's troops and the Military Government. The overriding jurisdiction encompasses all components and actions that form clear violations of the Convention, as house demolitions, for example, occur in those areas in particular with the Israeli authorities' full resolve and jurisdiction. This area forms approximately 10% of the West Bank and Gaza Strip and is inhabited by approximately 20% of the Palestinian population.
- C.** Where Israel has held functional, geographical and personal jurisdiction and the Palestinian Authority has claimed personal jurisdiction, awaiting withdrawal of Israeli troops and Military Government. The size of this area is undefined; it is open to speculation by both sides, with the continuation of supreme Israeli jurisdiction as the occupying power along with jurisdictional category "A" (total Israeli jurisdiction). These areas constitute more than 73% of land in the West Bank and Gaza Strip and are inhabited by some 24% of the Palestinian population.

Citizenship and nationality: Distinct from democratic States, the legal and institutional determiners of civil status in Israeli law provide for "Israeli citizenship," under the "Law of Citizenship" [ezrahut]. No "Israeli nationality" status exists, and the State has refused petitions to establish such. Rather, nationality is a civil status created in Israeli law, particularly, "Basic Law: Law of Return" (1950) and "Status Law" (1952), establishing "Jewish nationality" and related rights and privileges, superior and distinct from those arising from "citizenship." Among the material consequences of this distinction are the State's refusal to allow the return of the Palestinian refugees expelled in 1948, and subsequently, in favour of extraterritorial "Jewish nationals"; the dispossession of indigenous Palestinians, including current citizens of Israel, under the "Law of Absentee Property"; and the distribution of that property and additional development benefits through the parastatal "national" institutions, particularly the World Zionist Organization/Jewish Agency, Jewish National Fund and their subsidiaries.

Closure: The Israel occupation authority practice applied first in 1988, and consistently since 1993 that denies Palestinians in the occupied territories of the West Bank and Gaza Strip passage through other areas of historic Palestine under Israeli jurisdiction. This involves separation of the residents of both territories from each other, and affects tens of thousands of Palestinian workers access to their jobs in Israel, and who lack other options because of the well-entrenched dependency of the occupied territories on

the Israeli economy. Closure and separation also affect a variety of rights under the Convention, including by denial of freedom of movement and closure/separation as a form of collective punishment. Closure has led to the aggravated illness and death of medical patients, who also are not spared this stricture, except in rare cases. Children are denied normal life, including family life, under closure, and are regularly denied access to education and other basic services.

Curfew: Absolute denial of the population to leave their homes or other structures into the public space for a specified period. Israeli occupation forces often impose curfew on entire villages and cities, enforceable by lethal force. Typically, the occupation authorities impose this extreme security measure as a form of collective punishment. Lifting of curfews typically takes place on a periodic basis one or two hours to allow essential civilian functions only.

Dunum / dunam: The traditional unit of land measurement in the Middle East/Western Asia, equaling 1,000 square meters. A standard dunum has been defined as land belonging to category 12 of the Ottoman Rural Property Tax Schedule.

Final-status lands: Categories of land that Israel reserves under its total control and jurisdiction awaiting their status to be determined through negotiations that are scheduled to begin in 1999 to determine their status following the end of the interim process, the framing agreements of which expired on 4 May 1999.

These are lands that fall under sole Israeli rule and are excluded from the Interim Process as final-status lands: (1) lands of settlements, (2) lands of annexed Jerusalem, (3) lands of military areas, and (4) borders. Israel enjoys all aspects of jurisdiction in these areas and is, thus, fully responsible as the occupying power. The spatial definition of all these areas remains ambiguous.

Green Line: Borders created by armistice with neighboring States (1948–49), separating the State of Israel-controlled territory from the other areas of Palestine (Jerusalem, West Bank & Gaza Strip). Indigenous Palestinians remaining inside the Green Line became citizens of Israel. Palestinians living in the other areas of Palestine, including refugees originating from inside the “green line,” came under the administration of Jordan (in the West Bank) and Egypt (Gaza Strip) until Israel conquered those territories in the 1967 War.

Higher Planning Committee (HPC): Israel, as Occupying Power and despite Hague Regulations (Article 43) prohibitions, altered the law and the structure of civic institutions in the occupied Palestinian territory (oPt) from a system of 25 municipal councils and 86 village councils. It transferred planning authority from indigenous District Committees to

an Israeli “Higher Planning Committee,” and conveyed the planning and development powers of village councils to military appointees. Israeli authorities then imposed their own physical planning regime and master plans on villages, towns and rural areas, thereby restricting Palestinian living space, often evading legally prescribed objection rights and procedures.

Meanwhile, the HPC maintains three subcommittees: Israeli settlement, house demolitions and local planning and development). The first of these secretive bodies organizes and sanctions settlement activity recognised under international law as a war crime.² The third of these, as its name indicates, oversees physical planning and development in Palestinian town and villages. That subcommittee has included some Palestinian employees of the Israeli “Civil Administration” in the occupied Palestinian territory (oPt); however, they lack power to affect policy. Neither the “Settlement Subcommittee” nor the “Supervision Subcommittee,” dealing with demolitions, has any Palestinian member. In any case, the Israeli military commander retains the power to override any planning authority decision, ensuring that all use of land in the occupied Palestinian territory (oPt) is subject to Israeli military objectives.

Intifada: The common Palestinian—and now international—term for “uprising,” derives from the Arabic verb *nafaḍa* (نَفَضَ) “to shake off.” The Palestinian uprising against Israeli occupation that began on 7 December 1987 is referred to as the first Intifada. The ongoing uprising sparked by Israeli Gen. Ariel Sharon’s militaristic desecration of the Muslim Noble Sanctuary (Jerusalem) and the subsequent massacre of Palestinian faithful there after Friday prayers at al-Aqsa Mosque, 29 September 2000, has come to be known as the second, or al-Aqsa Intifada.

Jerusalem: UNGA resolution 181 determined that Jerusalem was to come under an international regime, a *corpus separatum*. This legal status has been confirmed internationally as recently as 2000 in the formal reaffirmation by the European Union. However, Israel conquered and occupied the western part of Jerusalem in 1948, incorporating the then-occupied city into the State as its capital. (The international community generally rejects that under international law doctrine of the unacceptability of the acquisition of territory by force, recognizing instead Tel Aviv as the capital of Israel. When Israel conquered the rest of the city (East Jerusalem) in the 1967 War, Israel pursued Jewish settlement of the area and applied Israeli domestic law to the area in 1981, thereby “annexing” it (“annexed Jerusalem”). The international community, including the Security Council has formally rejected this Israeli-acclaimed annexation as a violation of international law.

Jewish nationality: (See “Citizenship and nationality” above.)

² For example, as stipulated in the International Military Tribunal (Nuremberg), the International Law Commission’s draft Code on Crimes against the Peace and Security of Mankind, Article 22; and the Rome Statute on the International Criminal Court, Article 22.

Naqab/Negev: The arid southern region of historic Palestine is traditionally and locally known as the Naqab, its capital Bi'r Sabi` ("7 springs"). Jewish colonizers sought to impose Hebrew or hebraicized place names on conquered and otherwise-acquired territories. They applied the Hebrew cognate title Negev to the territory, and "Beer Sheva" (or, Bersheeva, originally Bi'r Saba`/بئر سبع) to its capital.

National institutions: "National" institutions is the official Israeli term qualifying the parastatal organizations, particularly the World Zionist Organization/Jewish Agency, Jewish National Fund and their subsidiaries, that are chartered to engage in public development on behalf of the State of Israel exclusively for "the Jewish people," and that maintain an ideological commitment and strategy to colonize all areas under Israel's effective control for those beneficiaries, excluding all others.

Nationality and citizenship: (See "Citizenship and nationality" above.)

Occupied territory: The lands that Israel controls as a consequence of its 1967 "pre-emptive" war. These include lands acquired by force and where Israel maintains effective control through the Military Government of Israel. These remain: the West Bank, including Jerusalem and the Gaza Strip in Palestine; and the Golan Heights of Syria. Subsequent acquisition of lands in southern Lebanon through gradual conquest in the 1970s and through its 1982 invasion there has been reduced through Israel's July 2000 withdrawal. However, the territory of Shiba` Farms and Ghajar village lands remains under Israeli military occupation, which neighboring States affirm is Lebanese sovereign territory.

Present absentee: a person or descendant of a person living in Israel after 21 May 1948 with the "absentee" status created under the Basic Law: Law of Absentees' Property of 5710/1948 (LAP), especially those consequently dispossessed; a dispossessed citizen of Israel. Technically, this status affected virtually all Arabs who exited their actual homes or other possessed or owned properties during the 1947–48 War of Independence/Conquest, regardless of whether they returned. Also technically, the legislative dispossession order covered most residents, indigenous Palestinian Arabs and Israeli Jews (LAP, Article 1[ii]). However, the LAP regulations embedded a clause that systematically exempted Jews from the law's intended dispossession.³

³ Section 28 of the regulations obligated the Custodian of Absentee Property to exempt absentees who had left their home or properties out of fear of Israel's military operations or its enemies, or to exempt those who were, in the Custodian's opinion, capable of managing their property efficiently without aiding Israel's enemies. Dov Shafir, the first Custodian of Abandoned Property, later revealed that all efforts sought to avoid applying the dispossessing application of LAP to Jews. Knesset Law and Constitution Committee, 1949–50, minutes of 6 and 22 December, cited in Jeremy Forman and Alexandre (Sandy) Kedar, "From

Consequently, tens of thousands of Arabs citizens who became citizens of Israel were dispossessed absentees, but practically no Jewish Israelis were. The dispossessed Arab citizens of Israel thus assumed the paradoxical legal identity and simultaneous materially dispossessed status of "present absentee."

Separation Barrier / Separation Wall / Apartheid Wall / Security Fence / Annexation

Wall / Hafrada Wall: Various terms used to describe the complex of fences, ditches, razor wire, groomed trace sands, electronic monitoring system and patrol roads, 8–9 m-high concrete slabs, forming a physical separation between Settler colonies and Palestinian communities across the West Bank and through Jerusalem. Approximately 85% of the route, revised in June 2004, meanders up to 22 km into Palestinian territory. It runs through populated, agricultural and natural areas, severing access to roads, agricultural lands and services that the Palestinians depend on. Many in Palestine and the international community have accused Israel of designing the barrier route so as to annex the most possible Palestinian land and water resources. The International Court of Justice issues its Advisory Opinion determining the entire construction to be illegal. The Court called for its removal, for restitution and compensation for incurred losses, and "that all States are under an obligation not to recognize the illegal situation arising from the construction of the wall, not to render aid or assistance in maintaining that situation and to cooperate with a view to putting an end to the alleged violations and to ensuring that reparation will be made therefor" (para. 146.). In accordance with the ICJ Advisory Opinion, this report uses the term "Wall" throughout.

Settlements and settler colonies: "Settlement" is the social science and planning term for areas of human habitation, irrespective of their legal status, or the ethnic or religious composition of their population. "Settler colony" is the term used in reference to wholly illegal settlements of the Occupying Power's population, violating GC4, articles 49 and, under article 147, constituting "war crimes," and forming part of the practice of population transfer, recognized also as a "crime against humanity" under the Rome Statute (1998), Article 7.

Unrecognized villages: settlements of indigenous Palestinian habitation inside the "green line" that almost-exclusively predate the 1948 establishment of the State of Israel. For the sole reason that their residents are Arab citizens, and not "Jewish nationals," these villages have been excluded from master plans and, consequently, their existence is considered illegal. These "unrecognized villages" face demolitions and other bureaucratic means of forced removal amounting to internal population transfer.

These are hundreds of settlements of indigenous Palestinian habitation inside the Green Line that almost exclusively predate the 1948 establishment of the State of Israel. For no other criterion but that their residents are Arab citizens, and not "Jewish nationals,"

Israeli (exclusively Jewish) planners have deliberately omitted these villages from all plans, foreclosing their benefit from basic services enjoyed by other settlements of similar and smaller Jewish populations with the State or even in occupied territories. Consequently, the Zionist-dominated planning regime considers their existence illegal. They face demolitions and other bureaucratic means of forced removal amounting to internal population transfer. Regional and national-level Israeli development plans call for most “unrecognized village” Arab populations to be transferred to what Israeli planners call “concentration points,” or rekuzim, (planned townships, or “concentration townships”) designated elsewhere in Israel where they would live in zero-growth zones with no secure land tenure and limited livelihood options.