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**Recognition of the Nakba, criminalizing its
denial, and mechanisms of accountability in light
of international law**

By

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**This thesis was submitted in partial fulfillment of
the requirements for the Master`s degree in
International Law and Diplomacy**

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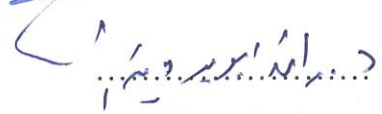

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Thesis Approval

Recognition of the Nakba, Criminalizing its Denial, and Mechanisms of Accountability in Light of International Law

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Declaration

I, the undersigned, Samar Abul Rahman Awadallah, acknowledge that I have been accepted into the Program for the Master's degree in International Law and Diplomacy. Therefore, I release the Arab American University from any responsibility that may arise from my failure to meet the admission requirements for the Master's program in International Law and Diplomacy.

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Appreciation and Gratitude

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Very special thanks and profound gratitude to the national leader, Qais Abu Laila Al-Samara'i.

Dedication

To my Palestinian people, the souls of the Palestinian and Arab martyrs and to the prisoners and detainees, the victims of the colonial occupation,

To the Palestinian refugees, the victims of the Nakba, those who survived it and persevered on their land,

To the Al-Yarmouk camp

To the reason for my existence... the children of my spirit and my passion for survival...
Ouf and Luna Salameh,

To the olive tree of our family that carried us like cats from one country to another in a long journey of refuge... my mother, Rada Nateel,

To the national leader who dedicated his life in exile and camps, fighting for the return to Isdod... my father, Abdul Rahman Awadallah,

A special dedication to my lover, who enlightened my life and became the secret of my eternal love... my husband and comrade, Qais Abu Laila Al-Samara'i.

Abstract

The research addresses the problem of the failure of the international community and Israel, the occupying power, to recognize the Palestinian Nakba for 75 years and the international community's lack of willpower and legal measures to hold the Israeli perpetrators accountable and deter them from committing further crimes. This research seeks to bring attention to the undeniable reality that the Nakba has not ended after the end of the 1949 war, but rather persisted following the 1967 occupation and the signing of the Oslo Accords onward. This is supported by the presentation of recently disclosed historical documents, significant confessions, and testimonies from Israeli archives, which validate the original Palestinian narrative.

The legal chapter examines the nature of the crime and explores the tools of international law to internationalize the Palestinian Nakba, recognize it, and criminalize its denial. It explores also avenues for legal accountability and the prosecution of those responsible for the crimes, seeking justice by utilizing the mechanisms of international law in general and international criminal justice, particularly.

The research concludes that the Nakba is not a past event but an ongoing international crime that includes numerous images that in themselves constitute ongoing international crimes. Legally, they are classified as war crimes, crimes against humanity, a serious violation of the United Nations Charter, and a threat to international peace and security. Israel initiated these crimes before 1948 and they continue to this day. Its colonial settlement and apartheid occupation represent its worst manifestations.

It recommends, at the international level, mobilizing legal, diplomatic, and political efforts to issue a resolution from the United Nations General Assembly that recognizes the Nakba, legal adapting it and criminalizes its denial. In addition, it

recommends establishing mechanisms for accountability and effective redress for Palestinian victims, keeps the matter under the Secretary-General's follow-up, and establishes a temporary international criminal court to hold perpetrators accountable for their actions, as well as compelling Israel to recognize the crime, apologize for it, and provide reparations to its victims.

On the national level, the study recommends forming a national professional task force mobilizing for these efforts, enacting a Palestinian law for international crimes, including all forms of the Palestinian Nakba crime, activating the jurisdiction of the Palestinian national judiciary over the ongoing international crimes committed by individuals and leaders of the occupation, including settlers, and trying them before national courts. Finally, harmonizing Palestinian legislation, including the "Palestinian Penal Code" to include the most serious crimes and punish them.

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1. Chapter One: The General Framework

1.1 Preface

This research is merely an introduction: an introduction to a deeper and more detailed study of the history of the Palestinian-Israeli conflict, particularly the trajectory of the Zionist project in Palestine. The study relies on the scientific approach and logical correlation of discovered and established objective facts, as well as the deep phenomena expressed based on the standards of international law, far from rhetorical exaggerations and intellectual chaos. The aim of this study is not to embellish the Palestinian narrative, although it will be necessary to dispel the fog spread by the false Zionist narrative in order to reveal the historical facts that it attempts to conceal. The objective of this study is to explore avenues for resorting to the tools of international law in order to achieve accountability, redress, and justice for the victims of the Zionist project among the Palestinians whose human rights have been violated.

It may be appropriate to begin by noting that the researcher herself is a victim of the Nakba (Catastrophe), and both her parents are survivors of a process of ethnic cleansing in two Palestinian towns. They were born and raised in these towns before being forcibly and violently displaced to the Gaza Strip and then to an Arab state. The researcher was born and spent her childhood and early youth as a refugee in the Yarmouk camp, which is known as the capital of the Palestinian refugee camps. Therefore, she considers it her right to regard the birthplace of her parents as an integral part of her national homeland, which she venerates and sacrifices for.

However, regardless of her ideological position and ethical judgment, the researcher will strictly adhere, within the framework of this thesis, to the provisions of

international law and the decisions of the United Nations as the adopted standard of legitimacy, even if they entail injustice to her people.

The Zionist propaganda launches a fierce attack on any reference of the ethnic cleansing that accompanied the establishment of the State of Israel, considering it "anti-Semitism" and a challenge to the legitimacy of the "Jewish state" that was based on United Nations General Assembly Resolution 181. However, this false argument ignores the fact that Resolution 181, which authorizes the establishment of a "Jewish state," did not include any indication of authorizing the forced displacement of its Palestinian population. In fact, this was far from the intentions of the "international legislator," if the expression is correct. If it were not for that, the General Assembly would not have adopted a resolution obligating the emerging state to allow the return of refugees to their homes and the restoration of their properties, a decision whose acceptance was considered a condition for accepting Israel as a member of the United Nations, that is, a condition for conferring "international legitimacy" on it.

Furthermore, the Zionist narrative resorts to justifying this act by claiming that the Palestinian Arab leadership, along with the Arab League countries, rejected the partition decision from the beginning. However, the logic of justice, which is the ultimate goal of the law, exposes the fallacy of this argument. Nothing justifies imposing collective punishment on an entire people because of a decision made by their leadership. Moreover, the facts, as we will attempt to demonstrate through this research, confirm that the process of ethnic cleansing was an adopted plan by the Zionist leadership since the mid-1930s, and the detailed implementation plans were prepared since the early 1940s and began to be executed immediately after the issuance of the

partition resolution, even before the international community had the opportunity to devise peaceful mechanisms to implement the resolution.

Moreover, the process of ethnic cleansing did not stop at the boundaries of the area designated by the UN partition plan for the establishment of the "Jewish state." It extended beyond that to include all the areas that Israel seized during its expansionist war immediately after its declaration on May 15, 1948, where it gained control over more than half of the land allocated to the Arab State of Palestine under the partition plan. The reality is that this invasion began before the Arab armies entered the country, and their incursions rarely reached the borders of the partition. Most of the battles they fought were defensive battles to defend positions in the heart of the Arab region, which were subjected to Zionist invasion. It is worth mentioning here that at the time of the partition resolution, the Haganah militia numbered more than 65,000 fighters, and their numbers doubled to reach 130,000 fighters by the end of the war. On the other hand, the total number of Arab armies that entered Palestine, including the Salvation Army (volunteers), did not exceed 27,000 fighters¹.

This research will seek to highlight the facts confirming that the process of ethnic cleansing did not stop with the end of the Arab-Israeli war in the summer of 1949, but continued under the military rule imposed on the Palestinian minority within the borders that Israel subjected to its sovereignty after the armistice.

Furthermore, the research will demonstrate that this process was resumed with renewed momentum during the expansion war that Israel launched against the

¹ Abu Sitta, Suleiman (2021). The village of Brair massacre of 1948, Palestine Land Authority website, Pg.6. Available at: <https://www.plands.org/ar/articles-speeches/articles/2021/%D9%85%D8%AC%D8%B2%D8%B1%D8%A9-%D8%A8%D8%B1%D9%8A%D8%B1>

surrounding Arab countries in June 1967. This war served as a continuation of the catastrophe of 1948 and a resumption of its path. The occupying state developed new means and methods to continue achieving its goal of land plunder and the expulsion of the population. These included land confiscation, property destruction, settlement construction, and the establishment of a systematic and methodical apartheid regime to subjugate the people.

This march did not come to a halt with the signing of the "Oslo Accords," which Israel quickly stopped its implementation. Instead, it unleashed a fierce settlement campaign accompanied by a policy of creeping annexation, ultimately resulting in the actual annexation of Jerusalem and a significant portion of the West Bank.

The researcher believes that this ominous trajectory confirms that the Nakba was not a past historical event that has ended, but rather an ongoing and continuous journey of injustice and suffering whose chapters continue to unfold to this day. It is elevated to the level of war crimes and crimes against humanity according to international law.

The researcher sees that international silence and the absence of international will to deter Israel from continuing this path, due to the complicity of colonial powers that have created an atmosphere of impunity and promoted the false Zionist narrative that denies the Nakba and disclaims responsibility for it, have played a decisive role in enabling Israel to continue committing the crime and the ensuing suffocating suffering inflicted upon the Palestinian people.

The goal of the global system established after World War II and the function of international law, which has formulated its rules in this context, is to organize cooperation between nations to promote peace and international security. The Middle

East is a vital and pivotal region in today's world, and establishing security and stability in it is a prerequisite for achieving peace on a global scale.

Stability in the region cannot be achieved without reaching a final solution to the Palestinian-Israeli conflict. This does not refer to settling the outcomes of the June 1967 war, but rather to a solution that addresses the root causes of the conflict and establishes an acceptable conclusion for both parties and the peoples of the region. In this lies the responsibility of the international community, which extends beyond facilitating negotiations between the parties to imposing conditions that require everyone to adhere to the requirements of peace.

The first of these requirements is the enforcement of justice and fairness for the victims of occupation, and it is the responsibility of the international community to activate the instruments of international law capable of achieving this, following the role it played in resolving the conflict in South Africa. The leaders in that country emphasize that the enforcement of justice and fairness for the victims of oppression was only possible through acknowledging the crime of racial discrimination and apologizing for it, which laid the foundation for a historical reconciliation based on a stable and universally accepted peaceful settlement of the conflict.

The researcher reaffirms that debunking the narrative based on the denial of the catastrophe (Nakba) is a contributing factor in urging the international community to overcome failure and fulfill its responsibilities.

The denial of the catastrophe is complicity in the crime, covering it up and its perpetrators, and it incites its continuation. Therefore, the entry point to achieve justice and fairness for the victims is to urge the international community to recognize the catastrophe (Nakba) and criminalize its denial, and activate the instruments of

international law to compel Israel to admit the crime, apologize for it, and remedy the harm inflicted on its victims.

This research is further complemented by the legal substantiation of the nature of the crime, and the formulation of recommendations aimed at creating the necessary conditions to harness the tools of international law, leading to accountability and the prosecution of those responsible for the crimes, as well as providing redress for the victims.

1.2 Research Problem

Despite the existence of strong evidence and recently disclosed official Israeli documents from the Israeli archive, in addition to other historical documents, which prove that Israel has been committing ongoing international crimes against Palestinians since the Nakba in 1948 until today, the procedures and legal mechanisms that oblige the international community to recognize the Nakba and bear its legal, political, and moral responsibility in achieving justice and redress for the rights of the victims are still absent.

This problem directly and automatically affects the possibility of compelling Israel to recognize the Nakba and its historical responsibility for creating the refugee problem and destroying the political, economic, social, and cultural structures of the Palestinian society.

Despite the fact that this crime (the Nakba) constitutes a grave violation, international crimes described in international law, a violation of the Charter of the United Nations and a threat to international peace and security, Israel is sheltering from its consequences under the umbrella of international silence and by virtue of the policy

of impunity and international accountability dictated by its allies in the Western world, especially the United States.

Although the United Nations has issued hundreds of resolutions in favor of the Palestinian cause since the Partition Resolution (181), including General Assembly Resolution (194), which explicitly affirms the right of return and compensation for refugees, it has not recognized the Palestinian Nakba as a crime that caused the tragedy of displacement, nor has it issued a resolution in this regard to this day. This is accompanied by the absence of a Palestinian initiative that imposes new equations on the international community and takes proactive steps to resolve the conflict from its roots. Despite the magnitude of atrocities and crimes committed by Israeli leaders and soldiers over the past 75 years, no legal measures have been taken to hold them accountable for their crimes, such as the establishment of a special international criminal court similar to the International Criminal Court for Yugoslavia, Rwanda, and others. This has encouraged Israel, the occupying power, to intensify its denial of the Nakba and shift the responsibility onto the Palestinians and Arabs.

This thesis argues that this denial has exacerbated the suffering of refugees and has led the international community to shirk its role in ensuring international peace and security and in compelling Israel to find a just solution for the return and compensation of Palestinian refugees in accordance with UN Resolution 194.

1.3 Research Questions

Hence, the researcher raises the main question to address this issue, which is how the international community and Israel, the occupying colonial authority can, be compelled to recognize the catastrophe (Nakba) of the Palestinian people, acknowledge

their responsibility for it, ensure accountability for the ongoing international crimes, and achieve effective redress for Palestinian victims and the enforcement of international justice? This main question leads to several sub-questions, as follows:

1. What is the context of Israeli policies, practices, and laws during the 1948 catastrophe, the June 1967 war, and the post-Oslo era?
2. What are the Israeli crimes that have been revealed from the Israeli state archives during those periods?
3. What are the significant manifestations of these crimes during those time periods?
4. What are the national and international mechanisms for recognizing the Palestinian people's Nakba and criminalizing its denial?
5. is it possible to hold the Israeli perpetrators of crimes accountable for their actions 75 years after the Nakba

1.4 Research Importance

The importance of the research is evident in raising awareness about the use of documents and records revealed from the Israeli archives to demand international recognition of the Nakba (catastrophe) and criminalize its denial. It also emphasizes the need to hold accountable those responsible for the ongoing crimes against the Palestinian people since the 1948 Nakba until reaching a historical reconciliation that is necessary for a fair final settlement of the conflict. Additionally, it urges decision-makers in official and civil Palestinian bodies to activate the diplomatic, political, and media machinery to influence and pressure the Security Council to establish a

temporary international criminal court to address Israeli crimes in Palestine, with its jurisdiction including war crimes and crimes against humanity.

To achieve this, the second importance lies in activating the jurisdiction of the Palestinian national judiciary through enacting local legislation that legally adapts the crime of Nakba denial, as well as the more serious international crimes such as war crimes and crimes against humanity, considering them as ongoing crimes. It also involves formulating legal, diplomatic, political, and media mechanisms for an action plan that encompasses all components of the Palestinian people, their institutions, and supporters. This includes the formation of a professional national team working on various levels mentioned above, aiming to expose Israel's crimes as the occupying authority and stigmatize it as a member that commits war crimes and crimes against humanity through its leaders, officials, and soldiers, leading to its isolation from the international system and accountability for its actions, ultimately ending its colonial occupation of Palestine. The team's tasks also include mobilizing legal and political efforts with UN member states to issue a resolution in the UN General Assembly that recognizes the Nakba, criminalizes its denial, and establishes mechanisms for accountability and effective redress for Palestinian victims.

The researcher argues that making such a Palestinian decision at this specific time is necessary to overturn the Israeli plans aimed at eliminating the refugee issue and the United Nations Relief and Works Agency for Palestine Refugees (UNRWA). It aims to label the Palestinian people and their human rights institutions as "terrorists" and encourages the financial blackmail practiced by donor countries. It also perpetually threatens with an economic solution to the Palestinian issue at the expense of a political solution. This move will hold the international community accountable for ending the

occupation and push towards achieving international justice. The researcher believes that redirecting the conflict back to its original context based on strong evidence is the key to resolving the severe consequences that the Palestinian people have been paying for until this day.

Furthermore, this proposed national and international initiative in this thesis will instill confidence in the Palestinian refugees, including the researcher herself, in international justice and the accountability of the criminals responsible for the international crimes committed against their people and loved ones. It will pave the way for effective redress for the victims and compensate them for over seventy-five years of catastrophe.

The importance lies at the Palestinian level, and through the issuance of local legislation that criminalizes the denial of the Nakba as a prelude to requesting countries worldwide to pass this law in their local legislation based on the scope of the principle of international jurisdiction. This aims to activate national resolutions of significant political value that restore confidence to the Palestinian people in reclaiming their rights.

From an academic perspective, the importance of this thesis increases as it fills an important academic gap in Palestinian academic research that has not adequately addressed the importance of Israel's recognition and the international community's recognition of the Palestinian Nakba and the criminalization of its denial. It also calls for the establishment of a temporary international criminal court for war crimes and crimes against humanity committed by Israel since 1948 and ongoing, as well as the activation of the principle of universal jurisdiction and the mechanisms of the permanent International Criminal Court.

Presenting such mechanisms to the Palestinian and international academic community, including students, professors, lecturers, and not limiting their discussion to official corridors, is of great importance in conveying and promoting the idea and working towards its implementation and future development.

On the personal level, the researcher is one of the millions of Palestinian refugees who have not yet obtained their right to remedy, return and compensation. From the importance derived from this, the objectives of this study emerge, which are as follows:

1.5 Research Objectives

1. To uncover the policies, practices, and legislation used by Israel from 1948 to the present day.
2. To expose Israel's crimes during the Nakba of 1948 and the 1967 war to the international community, which contradicts its official position that denies the realities of the Nakba.
3. To identify some of the Israeli crimes that have been disclosed through the Israeli archives.
4. To clarify the legal framework of the right of return and important resolutions of the United Nations General Assembly related to the issue of Palestinian refugees.
5. To provide a broad outline that includes national and international mechanisms for recognizing the Palestinian people's Nakba and criminalizing its denial.
6. To explore the possibility of establishing a special international criminal court for Israeli crimes in Palestine.

7. To enhance effective means of redress for Palestinian victims using the tools and mechanisms of international criminal law.

1.6 Research Methodology

To address the questions raised in this thesis, the researcher utilizes the historical methodology, which chronicles the events within the specified time and geographical boundaries mentioned below. The descriptive methodology is also employed to describe the Israeli system, supported by a set of policies, practices, and laws that solidify the imposition of facts on the ground. Additionally, the analytical approach is used to analyze these facts and draw clear conclusions leading to the final recommendations. Interviews with authoritative figures from official and human rights institutions, Palestinian and international academics, experts, and Israelis will be conducted to arrive at conclusive findings.

1.7 Research Limitations

The thesis focuses on specific time limits, starting from 1948, the year in which the great Nakba of the Palestinian people began and has not ended, as well as 1967, the year in which Israel defeated Arab states in the war, occupying the West Bank, including East Jerusalem, Gaza Strip, Sinai, and the Golan Heights. Furthermore, it addresses the time limit of 1993, when the Oslo Accords were signed between the Palestine Liberation Organization and Israel, and onwards. In terms of geographical limit, it encompasses historical Palestine, the historical and national homeland of the Palestinian people, including the occupied Palestinian territories since 1967.

The spatial boundaries are represented by the land of historical Palestine, the historical and national homeland of the Palestinian people, including the land of the state of Palestine occupied in 1967.

1.8 Research Obstacles

The main difficulty faced by the researcher is the absence of a Palestinian or Arab archive documenting the period of the Nakba in 1948 and the June 1967 war, except for the "Palestinian Studies Institute" and some articles by Palestinian and Arab researchers, according to the researcher's knowledge.

Additionally, a large number of Palestinian writers, journalists, and news websites lack methodology and clarity in conveying accurate narratives related to historical or current events, as well as Israeli violations and crimes, including the inconsistency of numbers and facts with other sources.

This has compelled the researcher to seek accurate and documented information from Israeli and international sources, which unfortunately have a clearer methodology and information delivery. The researcher believes that this is one of the main reasons that has contributed and continues to contribute to weakening the Palestinian narrative compared to the Israeli narrative, delaying the transmission of its true essence as it should have been over the past seven decades.

1.9 Literature Review

Israeli historian Ilan Pappé uncovers the historical truth that Zionist narrative has attempted to erase over the years in his book "The Ethnic Cleansing of Palestine." He provides a comprehensive explanation of the "Plan Dalet," which aimed to destroy

both rural and urban Palestinian areas as part of the ideological vision to ethnically cleanse Palestine. Pappé refutes the myth of "voluntary exodus" of Palestinians during the Nakba and argues that Israelis waged an "ethical" war in 1948. He relies on military reports containing documents extracted from the Israeli archives, which provide evidence of Zionist militias carrying out atrocities such as poisoning wells, rape, and numerous massacres, focusing on specific instances.

In a later chapter, Pappé defines ethnic cleansing as a crime against humanity, substantiating it with plans for ethnic cleansing and the supervision of their implementation by leaders like Yigal Allon, Moshe Dayan, and Eyal Alon, among others. Pappé delves into the military preparations and the establishment of the Jewish military organization, "Haganah," with the assistance of the British in 1920. He highlights the British authorities' facilitation of infrastructure development for the future "Jewish state" since that time.

The historian focused on the role of the "Jewish National Fund" in the seizure of Palestinian lands and the mechanisms employed to erase the memory of the Nakba and reimagine Palestine, which he described as virtual colonization. He dedicated another chapter to discuss the denial of the Nakba and the peace process, excluding the Nakba of 1948 from peace talks. He argued that Palestinians misread the American peace project and that only Israel had the authority to set the agenda for peace negotiations, including a permanent settlement.

Pappé advocated for the necessity of adopting the model of ethnic cleansing as a foundation and framework in confronting the model of war. He viewed it as essential for scientific research and public discourse regarding the Nakba. Emphasizing that "transfer" is a euphemism for ethnic cleansing. He asserted that it has been an integral

part of the carefully planned strategy underlying the ongoing conflict, calling for international recognition of this tragedy.²

The researcher relied on significant portions of Pappé's book to guide her thesis, believing that it is one of the most significant literary works that have opened the door to reinterpreting the conflict from a scientific perspective based on thorough investigation of facts and raising questions that the world has failed to address.

On the other hand, historian Gadi Elgazi attempts to establish the direct links between the 1948 Nakba and the 1967 War by delving into the issue of Palestinian refugees in his study titled "The Refugee Issue between the Nakba of 1948 and the 1967 War". He relies on a large collection of testimonies and confessions from Israeli soldiers who participated in the killing of Palestinians and the methods they used to kill and frustrate those who attempted to return to their homeland. The author includes official statements from Israeli army leaders that were uncovered from Israeli government session records. Elgazi compares the events of 1948 and 1967, with a particular focus on the Gaza Strip. His conclusion is that from a colonial, plundering, and refugee perspective, the expulsion operations that occurred in 1967 are a continuation, both practically and politically, of what Israel did not accomplish in 1948. This contrasts with the ongoing Israeli debate that often seeks to separate the Nakba of 1948 from the 1967 War and contradicts it.³ This study is one of the most important works that the researcher relied on in the second chapter regarding the June 1967 War, enabling her to create a coherent series of documented events supported by testimonies that prove the

² Pappé, Ilan, (2007). *Ethnic cleansing in Palestine*, Foundation for Palestine Studies, first edition, Beirut, July 2007, pp. 1-375.

³ Gadi Elgazi, (2018). *The refugee issue: between the 1948 Nakba and the 1967 War*, *Journal of Palestinian Studies*, Vol. 29. 2018. Issue 113, P.(90,106) .

systematic policies and practices followed by the occupation leaders from the Nakba to the post-Oslo Agreement phase.

In his research paper, "Massacres and Plunder... Apologies and Confessions," the historian Johnny Mansour examines the Zionist narrative regarding the cover-up of ethnic cleansing and the fabrication of the Palestinian "escape" during the Nakba. He traces the deliberate effort made by Ben-Gurion to formulate a false Zionist narrative and establish this falsehood, reinforcing the lie and promoting it to the international community.

Mansour also reveals the directive given to the "Shiloh" Institute to erase and destroy incriminating evidence and documents in the secret Israeli archives that prove the deportation of Palestinians. The author exposes some of the documents that have come to light concerning forced displacement, uprooting of Palestinians, such as the Negev Bedouins, looting, massacres, and crimes committed from late 1947 to the end of 1948. These accounts include testimonies and confessions from Israeli official political levels, soldiers, and officers. Mansour then dedicates another section to uncovering the crimes and other massacres committed by Israel since after the year 1948, including the Israeli aggression on the Gaza Strip from 2008 to 2014.

The author concludes his research by emphasizing the fact that Israeli governments persistently evade acknowledging their crimes and assuming direct responsibility for these massacres. Instead, they blame the Palestinian side and hold it fully accountable.

⁴This study is enriched by Johnny Mansour's extensive use of carefully selected testimonies, gathered from Israeli websites, newspapers, and Israeli historians.

In another study by historian Walid Khalidi, titled "Plan Dalit: A Major Plan for the Invasion of Palestine in 1948", Khalidi extensively explores the pre-Dalit plans, the Dalit plan itself, and its operations, some of which succeeded and others that failed. He mentioned that the Deir Yassin massacre was one of the pivotal points in the "Dalit Plan" operations, which was referred to as "Nakshon" and considered successful.

The researcher examines the Israeli narrative regarding evacuation and deportation orders by reviewing the archives of the British Broadcasting Corporation, housed in the British Museum in London, and publishing the findings that refute the Israeli myth claiming that Arab leaders ordered Palestinians to flee their lands in 1948 to allow the entry of regular Arab forces. The author concludes that Israel was established through the strategy of *fait accompli*, and the Dalit plan led to the fragmentation of the Palestinian Arab community, the displacement and expulsion, and the impoverishment of the majority of Palestinians, making the establishment of the State of Israel possible. However, Khalidi emphasizes in his research that the Israelis' lack of security and tranquility stems from the guilt complex felt by many of them regarding the role of the Zionist movement in uprooting and displacing the Palestinian people.⁵

Elia Zreik, the author of the book "Palestinian Refugees and the Right of Return," provides an overview of defining the refugee status and the legal foundations upon

⁴ Mansour, Johnny (2022). *Massacres and looting..Apologies and confessions*, managed by the Palestinian Center for Israeli Studies in cooperation with the Department of negotiations affairs, Ramallah, pp. 1-103.

⁵ Khalidi, Walid, (2013). The Dalit plan again, *Journal of Palestinian Studies*, No. 96, fall 2013, pp. 3-70, available at: <https://www.palestine-studies.org/sites/default/files/mdf-articles/11889.pdf>

which the right of Palestinian refugees to return is based, the US policy towards them, and the Israeli and Palestinian perspectives on the refugee issue, as well as the stance of Arab governments. The author concludes that the best one can expect from the Israeli side after the signing of the 1993 Declaration of Principles with the Palestine Liberation Organization is a reaffirmation of its long-standing position towards the refugees of 1948. The author emphasizes that in the current situation, it is unlikely that peace talks in the Middle East would recognize the collective rights of Palestinians, especially given the Palestinian division and the Arab governments' compliance with the unipolar system at the international level⁶.

In his book "Palestinian Refugees and the Peace Process in the Middle East in the Balance of International Law," Dr. Raed Abu Badawia examines the historical stages of the Palestinian cause from the British Mandate to the United Nations resolution to the present day. He details the phases of the peace process and identifies the reasons for its failure. Abu Badawia explains the plans proposed by the international community to address the issue of refugees, the United Nations initiatives for their resettlement, and the conditions of Palestinian refugees in host countries, including their legal, social, and political status. The author elucidates the legal foundations of the Palestinian right of return, as well as the international standards and human rights principles relevant to this issue, providing a comprehensive analysis of the peculiarities of the second asylum in 1967. Abu Badawia draws several conclusions, including the necessity for any future peace process based on United Nations resolutions, particularly Resolution 194, to be supervised by the United Nations and the international community. One of the key recommendations presented by the author is the

⁶ Zreik, Ilya, (1994). Palestinian refugees and the right of return, *Journal of Palestinian Studies*, Vol.5, No. 19, summer 1994. Pg.(83,68)

development of a new peace formula and a negotiating framework based on the principles of international justice, the rules of international law, and United Nations resolutions to resolve all aspects of the conflict. He concludes that these measures will achieve justice for the refugees⁷.

In his study "Environmental Injustice and the Scene of Denying Palestinian Existence," Sari Makdisi discusses the methods used by Israel to erase over 450 villages and hamlets, specifically what he refers to as the "Greenwashing Campaign." During this campaign, Israel uprooted olive groves and citrus trees that symbolized Palestinian presence in the area and replaced them with millions of European-style trees, including extensive forests that covered the destroyed villages.

Makdisi accuses Israel of committing an ecological crime against Palestinian land and its natural spaces, which the author considers a cultural and natural heritage that reflects its identity. Makdisi also criticizes the "Committee for Naming Places," appointed by the Israeli government to renaming of Palestinian places in Hebrew with names carrying Torah-related meanings that symbolize imagined and hypothetical historical moments that align with the reshaping of the Palestinian landscape and natural scene to establish a Jewish perspective that denies Palestinian existence.

Nevertheless, the author emphasizes in his study that the remnants of destroyed villages still bear witness to the crime, "environmental cleansing" and ethnic cleansing. He presents testimonies and statements from Israeli leaders that endorse land confiscation, erasure of Palestinian landmarks, and the exclusion of the "other". The author views Israel's creation of vast green spaces as part of the colonial settlement process and concludes that Israel's ongoing denial of Palestinian existence actively

⁷ Abu Badawia, Raed, (2018). Palestinian refugees and the Middle East peace process in the balance of international law, sponsors publications for studies and publishing, Ramallah.

contributes to shaping its colonial culture. He argues that the Nakba began in 1948 but has not ended, and the Zionist invasion of Palestine is a systemic structure rather than a singular event⁸.

In his study "Refugees in Their Homeland: 'The Present Absent' in Israel," Wakim Wakim discusses the Palestinian Nakba and the organized displacement that affected over 80% of Palestinians in the occupied land in 1948, describing it as the greatest disaster and tragedy to befall any people in the second half of the twentieth century. Wakim affirms in his study that the occupation and displacement were a result of racially motivated aggression, delving into the historical roots of the displacement catastrophe and focusing on internally displaced Palestinian refugees. He documents their numbers, the names of villages from which they were displaced, and places of refuge. The author examines the legal and field measures taken by Israel against them in order to seize their properties and lands, highlighting the various tools used by Israel for this purpose, including racist laws and diverse methods of relocating Palestinians and settling Jewish immigrants in their place, as well as the establishment of settlements. The author dedicates a section of his research to discuss the Committee for the Defense of the Rights of the Displaced and the necessity of institutionalizing its work, calling for the formation of dedicated working teams within a specialized research and study center that covers all activities related to displaced individuals on scientific, professional, and technical levels. Wakim urges the local and international community, including individuals and officials, to assume their historical responsibilities in addressing this issue that will not fade with time⁹.

⁸ Makdisi, Sari (2018). "Environmental Injustice and the Scene of Denying Palestinian Existence," *Journal of Palestinian Studies*, Issue 113, Winter 2018, pg. 1-22.

⁹ Wakim, Wakim, (2001). "Refugees in their homeland:" absent presenters " in Israel," *Journal of Palestinian Studies*, issue 46/45, winter/ spring 2001, pp. 1-15.

In an article by researcher Salim Tamari titled "The Historiography of the Nakba: New Research Directions," the author raises a central question about the comparison between the incomplete Palestinian narrative and the tightly woven Israeli narrative, despite the latter being nothing more than a fabricated myth. Tamari attributes this discrepancy to the contributions of new Israeli historians who revived the true Palestinian narrative by relying on archives extracted from the hidden Israeli security establishment for decades. Tamari lists the reasons that, in his view, contributed to consolidating the Israeli narrative at the expense of the Palestinian narrative. These reasons include the absence of a scholarly discourse based on the scrutiny of archival sources, the lack of an Arab and Palestinian archive equivalent to Israeli sources, and the absence of critical review of the war that matches the strength of the Zionist discourse and its criticism by the new historians.

The author highlights pioneering Palestinian experiences that provided significant scholarly contributions in confronting the Israeli narrative, especially with the rise of the resistance movement after the 1967 war, such as literary novels that chronicle the life of the Palestinian people. Tamari examines five cases of new research trends that align with theoretical currents in scientific historiography, ranging from the French "Annales School" to the "Foucauldian" perspective attributed to Michel Foucault, and their connection between the situation in Palestine and the world around it.

The author confirms that all of these models are far from the mournful discourse that dominated previous writings about the Nakba, and they all share varying degrees of reliance on oral history. Examples of these models include Rashid Khalidi's book "Iron Cage: The Story of the Palestinian Struggle for Statehood" and Rosemary Sayigh's

studies that focused on the aspects of daily life of three generations of refugee women as a primary source of historical understanding, serving as an alternative to nationalist discourse.

Tamari concludes by emphasizing the necessity of using a new generation of Palestinian historians who employ sources and research methodologies to compensate for the absence or weakness of the Arab and Palestinian archives regarding the 1948 war. He also highlights the need for new trends to seek the meaning of the Nakba anew and strive to surpass the narrative of exile and dispersion to understand the dynamics of Palestinian society before and during the war¹⁰.

In his book "Nakba and Survival: The Story of Palestinians who Remained in Haifa and Galilee (1948-1956)", Adel Manaa explains the narrative of Palestinians who clung to their villages and cities in Galilee and other areas inside Israel after the Nakba during the period from 1948 until the Kafr Qasim massacre in 1956. The book recounts personal and human stories of the marginalized and the little attention they received in Palestinian literature. Manaa sheds light on the beginnings of the Nakba and how the residents of Galilee perceived and experienced it, highlighting acts of killing, displacement, prevention of return, expulsion of "infiltrators," and the struggle for survival in the context of military rule, the "Supreme Court of Justice," and the "loyalty test".

The author discusses cases from the city of Nazareth and its villages that were not forcibly expelled, and emphasizes the existence of an official policy of expulsion by senior Israeli officials, rather than individual decisions made by officers in different regions. Manaa presented this experience based on the narratives of those who lived

¹⁰ Tamari, Salim, (2020): The History of the Nakba: New Research Directions, Journal of Palestinian Studies, Issue 121, Winter 2020.

through it, conducting interviews with them and documenting their oral testimonies, rather than relying on the official archives of the state that caused their catastrophe¹¹.

The researcher has reviewed numerous literary works, books, references, articles, and other studies on the Palestinian issue in general and the Nakba in particular. She claims that what distinguishes this research is its focus on mechanisms of international and national accountability and prosecution, such as enacting Palestinian laws for international crimes, a law criminalizing the denial of the Nakba, issuing a UN resolution recognizing it, and calling for the establishment of a special international criminal court for Palestine to hold Israel accountable for the international crimes committed since 1948 onwards. Furthermore, she emphasizes the activation of the principle of universal jurisdiction and the mechanisms of the International Criminal Court simultaneously.

1.10 Key Words

(Al-Nakba)

“The Nakba is the crime, tragedy and human catastrophe that was born in the context of a colonial scheme that began with the Balfour Declaration in 1917, which included planned Jewish immigration to Palestine, murders, uprooting, expulsion, ethnic cleansing and forced displacement carried out by Zionist gangs and their accomplices since 1947 against the Palestinian Arab people and on his land, which resulted in the displacement of nearly a million Palestinians and turning them into refugees through a large-scale aggression, during which dozens of massacres were committed, including

¹¹ Manna', Adel, (2015). Nakba and survival, the story of the Palestinians who remained in Haifa and the Galilee (1948-1956). Institute for Palestine Studies, Haifa: Dar Al-Arkan for Production and Publishing, 2015, pp. (1-442).

the destruction of cities, villages, and landmarks of Palestinian society with its various cultural, social, economic and political components, with the aim of erasing its Arab Palestinian identity and robbing its property and its narrative and cultural legacy"¹².

Palestinian Refugees

According to the definition provided by the United Nations Relief and Works Agency for Palestine Refugees (UNRWA), "Palestinian refugees are those persons whose normal place of residence was Palestine during the period from June 1946 to May 1948, and who lost both their homes and means of livelihood as a result of the 1948 war".¹³ UNRWA states that one-third of Palestinian refugees live in 58 recognized refugee camps in UNRWA's operational areas, which include Jordan, Lebanon, Syria, Gaza Strip, and the West Bank, including East Jerusalem. The remaining two-thirds live in cities, villages, and surrounding areas in host countries, as well as within cities and villages in the West Bank and Gaza Strip. It should be noted that not all Palestinian refugees are registered with UNRWA.

Criminalizing the Denial of the Nakba

The State of Palestine considers the "Nakba of Palestine" to be a crime that does not expire with time, and it continues through the ongoing Israeli colonial and racist occupation and aggression against the Palestinian Arab people, as well as the denial of their legitimate rights, including the right of return and self-determination. The Nakba of Palestine is an integral part of the Palestinian national narrative based on historical

¹² According to the definition of the State of Palestine contained in a decree-law signed by Palestinian President Mahmoud Abbas, (2023).

¹³ Palestinian refugees, who are the Palestinian refugees, (n. d). United Nations Relief and Works Agency for Palestine Refugees in the Near East, available at: <https://www.unrwa.org/ar/%D8%A7%D9%84%D9%84%D8%A7%D8%AC%D8%A6%D9%8A%D9%86-%D8%A7%D9%84%D9%81%D9%84%D8%B3%D8%B7%D9%8A%D9%86%D9%8A%D9%8A%D9%86>

rights and international decisions. The denial of the Nakba is deemed a crime punishable by imprisonment for up to two years, and relevant authorities are responsible for prosecuting perpetrators within and outside the count¹⁴.

The United Nations

The United Nations is “an international organization established in 1945. It currently consists of 193 member states. The UN is guided by the objectives and purposes outlined in its founding Charter and has evolved over the years to keep pace with a rapidly changing world. Nonetheless, it remains the only place on Earth where all countries can come together, discuss common problems, and find shared solutions that benefit humanity as a whole.”¹⁵

International Law

International law refers to a set of legal rules (including treaties, customary practices, and legal principles) that regulate relations between states and individuals under the framework of ensuring peace and international cooperation¹⁶.

International Criminal Tribunals

These are International criminal courts specifically established to address crimes such as war crimes, crimes against humanity, genocide, and serious violations of the Fourth Geneva Convention. Among these tribunals is the International Criminal Tribunal for the former Yugoslavia, which was established by the UN Security Council resolution in 1993 to prosecute individuals responsible for crimes against humanity that occurred in Yugoslavia in 1991 and to deter violations of international humanitarian law. Other tribunals include the Special Court for Rwanda, Sierra Leone, the Special

¹⁴ Palestinian Decree-Law.

¹⁵ United Nations, (undated). Introduction to the organization, United Nations page, available at: <https://www.un.org/ar/about-us/>

¹⁶ Deeb, Akkawi, International Law, The Walls Foundation, Acre, 2002, p. 25

Tribunal for Lebanon, and others. All of these tribunals have specified timeframes and conclude under specific circumstances, unlike the permanent International Criminal Court (ICC).

2. Chapter Two:

The Nakba of the Palestinian people of 1948

2.1 Introduction

In this chapter, we delve into the events surrounding the tragic fate of the Palestinian people during the year 1948, commonly known as the Nakba. It aims to shed light on the historical realities of the catastrophe that befell the Palestinians, orchestrated by the Zionist movement and its supporters. This catastrophic event marked one of the most egregious instances of ethnic cleansing witnessed since the adoption of United Nations General Assembly Resolution (181)¹⁷ in 1947. This resolution proposed the division of Palestine into two separate states, one Arab and one Jewish, with international administration over Jerusalem and its surrounding areas.

The main phase of this process unfolded soon after the international resolution was passed, coinciding with the culmination of the Arab-Israeli war in the summer of 1949. As a result, the majority of the Palestinian people were uprooted from their homes and forcibly displaced, while the State of Israel was established, seizing control over 78% of the Palestinian lands. This outcome starkly contradicted the original partition plan, which had only allocated 55% of the land to the proposed Jewish state.

This chapter aims to unveil the policies and premeditated plans devised by the Zionist leadership to facilitate and execute the various stages of the aforementioned process. It will also elucidate the methods employed by the Zionist movement to carry out these plans, including but not limited to mass killings, looting and pillaging of

¹⁷ The UN Partition Resolution 181 allows for the establishment of a Jewish state on 55.5% of the land of Mandatory Palestine.

property, acts of rape and intimidation, forced expulsion of residents, destruction of infrastructure, demolition of towns and villages, and even contaminating wells and water sources.

Extensive research in this field will primarily draw upon Israeli sources, such as the documents found in the Zionist archive, statements made by Israeli political and military leaders, testimonies provided by soldiers, as well as the works of contemporary Israeli historians. By examining these sources, a comprehensive understanding of the events will be obtained.

Furthermore, this research will delve into the laws and legislation enacted by the State of Israel to prevent the return of Palestinian refugees, confiscate their properties, and repurpose them to bolster the Israeli economy, while also providing housing and employment opportunities for Jewish immigrants.

By analyzing these aspects, a comprehensive account of the Nakba and its aftermath will be presented, utilizing Israeli sources and scholarly works to shed light on this complex historical period.

2.2 The First Topic: Policies and Plans for Indigenous Population Transfer

The records found in the Zionist archive provide significant insights into the consensus among Zionist leaders regarding the concept of population transfer as early as the mid-1930s. This consensus was particularly reinforced following the release of the recommendations by the British Peel Commission in July 1937. Starting from June 1938, David Ben-Gurion expressed his explicit support for the notion of forcibly transferring several hundred thousand Arab Palestinians, if not the entire population, from the territories designated for the establishment of a Jewish state. Ben-Gurion

boldly stated that “He does not see anything immoral about this proposition”.¹⁸ During a meeting of the executive body of the Jewish Agency in 1944, where the idea of population transfer was discussed with the British, Moshe Sharett, the director of the agency's political department at the time, emphasized that population transfer could be a crucial consequence of their policy. However, he cautioned against openly and prematurely advocating for this idea, as it would likely trigger formidable opposition, potentially leading to its failure. Sharett further stated that “once the Jewish state was established, there could very well be a population transfer of the Arab population”¹⁹.

These documented statements and discussions among Zionist leaders reveal their active consideration and planning for the forced displacement and transfer of the indigenous Palestinian population. The intention to remove a substantial portion, if not all, of the Arab Palestinians from the designated Jewish state's territories was an integral part of their strategic vision, even though they acknowledged the political sensitivity and potential backlash associated with openly advocating for this approach.

From 1945 onward, the “Haganah”, the official military organization of the “Yishuv” (the Jewish community in Palestine), embarked on formulating various plans to facilitate the implementation of population transfer. These plans were devised to create the necessary conditions for the establishment of the anticipated Jewish state by displacing the indigenous population from its territories. One notable plan, known as “Plan Gimel”, was developed in May 1946 and put into action immediately following the United Nations' adoption of the partition resolution in November/December 1947.

¹⁸ Fact Sheet: The Palestinian Nakba & the Establishment of Israeli Apartheid, (2013). Institute for Middle East Understanding IMEU, available at: <https://imeu.org/article/the-nakba-65-years-of-dispossession-and-apartheid>

¹⁹ Mauric, Benayoun, (2007). Critical Analysis of the Emergence of the Palestinian Refugee Problem, Palestine Remembered website, Article Available <https://www.palestineremembered.com/Articles/General/Story2434.html>

“Plan Gimel” aimed to seize control of the Palestinian lands situated between major Jewish settlements, evicting the local residents and hampering Arab defense operations. Additionally, it involved launching a psychological campaign to undermine the morale and spirit of the Palestinian population.²⁰

Regarding the primary strategy, Plan (Dalet) was devised to assert control over the territories designated for the establishment of a Jewish state according to the International Partition Plan. Its objective was to evacuate these areas of their Arab population prior to the conclusion of the British Mandate. Plan (Dalet) encompassed a series of thirteen comprehensive operational plans, each accompanied by specific timelines for execution.

The plan entailed securing crucial infrastructure such as postal services, telecommunications, water and power sources, major roadways, airports, and seaports. It involved encircling Arab towns and neighborhoods, exerting pressure on their inhabitants by gaining control over vital services, and economically besieging them in order to compel their departure.

Furthermore, the plan sought to occupy strategic locations that facilitated communication between Jewish colonies, establishing defensive positions within the territories allocated to the Arab state. This would involve the expulsion of residents and the destruction of villages through methods such as demolitions, arson, and the placement of mines amidst the ruins, thereby preventing the displaced population from

²⁰ Abu Sitta, Suleiman (2021). The village of Brier, the massacre of 1948, the website of the Palestine Land Authority, pg. 6. Available at: <https://www.plands.org/ar/articles-speeches/articles/2021/%D9%85%D8%AC%D8%B2%D8%B1%D8%A9-%D8%A8%D8%B1%D9%8A%D8%B1>

returning.²¹

Following the conclusion of the British Mandate and the declaration of the State of Israel on May 15, 1948, the Israeli government established the "Transfer Committee." Yosef Weitz, the director of the Land Settlement Program in the Jewish National Fund, was appointed as its president. The committee's primary responsibility was to formulate government policy regarding the issue of Arab refugees, specifically exploring methods to incentivize their emigration from the country. Weitz held the belief that the only viable approach was to transfer the Arabs to neighboring countries, stating that "there is no other way than to transfer the Arabs from here to the neighboring countries... All of them must be transferred, except perhaps the inhabitants of Bethlehem and Nazareth... Not a single village or (Bedouin) tribe should be left behind... The transfer must be directed to Transjordan, Syria, and even Iraq... Only after this deportation will the country be able to absorb millions of our brothers, and the Jewish problem will cease to exist. There is no other solution."²²

Under Weitz's leadership, the committee devised a policy aimed at preventing Arabs from reclaiming their homes. "This strategy involved causing extensive damage to villages during military operations, thereby creating significant obstacles for their return. Additionally, the policy sought to hinder Arab communities from engaging in agricultural activities such as harvesting crops, reaping olives, and cultivating the land".

(²³)

²¹Al-Khalidi, Walid (2013). The Plan Daled Again, Journal of Palestinian Studies, File. Issue 96, Fall 2013, available at: <https://www.palestine-studies.org/sites/default/files/mdf-articles/11889.pdf>

²² Palestine remembered, Yosef Weitz-A Brief Biography, cited in (Benny Morris, p. 27 & [Expulsion Of The Palestinians](https://www.palestineremembered.com/Acre/Famous-Zionist-Quotes/Story644.html), 131-132), available at: <https://www.palestineremembered.com/Acre/Famous-Zionist-Quotes/Story644.html>

²³ Makdisi, Sri (2018). Environmental injustice and the scene of denying the Palestinian existence, studies, statements and facts, Journal of Palestinian Studies, Issue 113, p. 115.

In his memoirs, Ben-Gurion recounts a conversation he had with Yosef Weitz on September 26, 1948. Contrary to Israeli propaganda suggesting that Arab refugees left voluntarily, both Ben-Gurion and Weitz expressed concerns during their discussion about “the refugees attempting to return to their homes through alternative routes. They acknowledged instances where refugees from Ramla and Lydda had arrived in Gaza via Ramallah, possibly due to their perception that it would be easier to return from Gaza to Ramla and Lydda. What should be done? We must pursue them non-stop... also in the south," said Weitz. as they were unlikely to head towards the sea, and Egypt would not permit their entry.. Therefore we must redirect them towards Jordan." When Ben-Gurion inquired about who would carry out this task?, Weitz identified Shilo, with assistance from the Weitz Committee”²⁴. Notably, Shilo refers to Reuven Shilo, the inaugural commander of the "Mossad," the Israeli intelligence service.

2.3 The Second Topic: Zionist Practices Aimed at Seizing the Land and Transferring Civilian Population

Zionist practices aimed at land seizure and population transfer were carried out through various means: The first is the bloody massacres: Zionist militias and Israeli army forces committed brutal acts of mass killing, targeting civilian populations. These massacres were accompanied by acts of rape, intimidation, and looting of property. The second is the sabotage of vital resources: Another tactic employed was the poisoning of wells and destruction of water sources, deliberately causing the spread of epidemics and infectious diseases. This strategy aimed to undermine the stability and livelihood of the

Quoted from Irus Braverman, *Planted Flags: Trees, Land and Law*, in Israel/Palestine (Cambridge University Press, 2009), p.100

²⁴ Adert, Ofer (2021). Akevot Institute, report, Haaretz Newspaper, available at: <https://www.akevot.org.il/wp-content/uploads/2021/05/2021-05-09-Haaretz-English-Edition-Ben-Gurions-Diary.pdf>

local population. The third is mass expulsion and forced displacement of the population. The fourth is the destruction of property and the demolition of villages and neighborhoods to prevent the return of their inhabitants and wipe out their traces from the earth to hide the signs of the crime and the fifth is prevention of refugee return: Various measures were employed to hinder the return of refugees, including the laying of mines and targeting returnees as "infiltrators" through sniper fire. These tactics aimed to obstruct the repatriation of Arab refugees and discourage their attempts to reclaim their homes and lands.

During this operation, approximately (70) brutal massacres²⁵ were perpetrated, resulting in the deaths of around (15,000) Palestinians. The majority of the victims were innocent civilians, including women, children, and the elderly. This staggering loss equates to roughly one Palestinian martyr for every hundred individuals in the population of 1.4 million at the start of 1948.²⁶

During this operation, the Zionist militias and the Israeli army gained control over 744 Palestinian cities and villages. Among these, 531 villages were destroyed, while the remaining ones were transformed into settlements to accommodate Jewish immigrants. Furthermore, over 109 settlements were established on the lands of the demolished villages or in their vicinity.²⁷

As a consequence of this operation, approximately 957,000 Palestinians²⁸ were forcibly displaced from their homes. Additionally, an estimated 5.5 million dunums of land—

²⁵ Awad, the head of the Palestinian Bureau of Statistics, reviews the conditions of the Palestinian people through statistical figures and facts on the seventy-fourth anniversary of the Palestinian Nakba, May 15, 2022, Palestinian Central Bureau of Statistics. Available on the Bureau's website :<https://www.pcbs.gov.ps/postar.aspx?lang=ar&ItemID=4235>

²⁶ Ibid.

²⁷ Wakim, Wakim (2001). Refugees in Their Homeland: Present and Absent in Israel, *Journal of Palestine Studies*, Issue (45/46), Winter/Spring 2001, and pg. 97.

²⁸ The second estimate of the United Nations for the number of refugees in 1950. Bureau of Statistics, Ibid.

consisting of refugee-owned properties, real estate, and cultivated crops—were seized by Israel without providing any compensation.²⁹

This operation was conducted in two distinct phases: The first phase commenced immediately after the United Nations' adoption of the partition resolution and lasted until the conclusion of the British Mandate, as well as the declaration of the establishment of the State of Israel on May 15, 1948. During this period, significant events unfolded, including the intensification of Zionist activities and the initial stages of population displacement and land seizure. The second phase transpired following May 15, 1948, extending until the conclusion of the war and the signing of the armistice agreements in the spring of 1949. This stage witnessed further military operations, population transfers, and the consolidation of Israeli control over territories, leading to significant demographic and territorial changes.

During the first stage, the Zionist militias had the objective of gaining control over the areas designated for the establishment of a Jewish state according to the partition plan, as well as displacing the Arab population residing in those areas. It is worth noting that the partition resolution proposed allocating 55.5% of the territory of Mandatory Palestine for the Jewish state. Within this allocated area, approximately 599,000 Jews and 438,000 Arab Palestinians were living at the time.³⁰

Contrary to claims made by Zionist propaganda suggesting that Palestinians left their homes due to the calls from Arab countries that entered Palestine at the end of the Mandate, historical facts confirm a different narrative. Following the issuance of the

²⁹ Qudwa, Naser. (2020), Palestinians can now see their stolen property in the database we've made public, Middle East Eye. available at: <https://www.middleeasteye.net/opinion/refugee-property-database-highlights-severe-injustices-done-palestinian-people>

³⁰ Al-Sharif, Maher (2023). 75 years since the continuous Nakba, blogs, Institute for Palestine Studies, available at: <https://www.palestine-studies.org/ar/node/1653888>

partition decision, Zionist militias took the initiative and launched an extensive campaign to implement the "Plan Gimel." This campaign, which lasted until the end of March 1948, resulted in the displacement of approximately 30 Arab villages, affecting a population of around 22,000 individuals.³¹ The majority of these villages were located in the central area surrounding Tel Aviv. Subsequently, the implementation of "Plan Dalet" commenced in early April. This plan included various military operations, such as Operation "Nahshon" on April 1, which aimed to establish a corridor connecting Tel Aviv and Jerusalem. Other operations included "Sprayem" on April 21, with the objective of occupying Haifa and expelling its Arab residents, "Chimetz" on April 27 to encircle Jaffa in preparation for its occupation, "Yabusi" to isolate Jerusalem and destroy surrounding villages, and "Yefthah" to assert control over the Galilee region, among others.

The campaign that ensued culminated in mid-May, during which approximately 231 villages and neighborhoods were destroyed, leading to the displacement of roughly 400,000 Palestinians. Subsequently, the second phase unfolded, lasting until the conclusion of the Arab-Israeli war in the spring of 1949. Throughout this phase, approximately 300 additional villages, along with other towns, were destroyed, resulting in the displacement of an additional 405,000 Palestinians.³² Indeed, the events that transpired were not accidental or incidental outcomes of military confrontations, as claimed by Zionist propaganda. It is evident from historical records and accounts that the displacement and destruction of Palestinian villages were not merely driven by military necessities or security concerns to protect Israeli forces. Instead, they were part of a deliberate and systematic process of ethnic cleansing.

³¹ Abu Sitta, *Ibid* .

³² Hamdan, Abdul Majeed (2023). The partition decision and the position of the League of Liberation, PLO news website.

2.3.1 First Section: Extrajudicial Killing, Looting and Rape

In this section, we will provide notable instances of massacres that occurred prior to May 15, 1948, as well as two examples of massacres that took place after this date. These examples will be accompanied by confessions and testimonies from Israeli militia members, soldiers, as well as political and military leaders who were involved in these acts of violence.

A) Deir Yassin Massacre

The Deir Yassin massacre stands as one of the notable instances of violence committed by the Zionist militia before May 15, 1948. However, it was not the sole massacre that occurred during that period. Prior to the establishment of the State of Israel, numerous other massacres took place following the partition decision.

Some of these massacres include the destruction of the village of Abbasiya in December 1947, which was completely leveled, making way for the establishment of the settlement known as "Ehud." Additionally, the massacre of Arab al-Khasas also occurred in the same month. Other incidents include the Jerusalem massacre, Balad al-Sheikh, the villages of Haifa in early January 1948, Semiramis in Jerusalem, the Saraya al-Arabiya, al-Ramla and Yazur in Jaffa, Tirat Tulkarm in February, Sa'sa', Shubash Bedouin Valley in March, among others.

These massacres were carried out with the intention of instilling fear and intimidation, not only among the villagers directly affected but also as a message to the wider Palestinian population.

Deir Yassin is a village situated west of Jerusalem, approximately 800 meters above sea level. Prior to the tragic events, the village had a population of around 750

individuals³³. It is important to note that there were no armed men present in the village, as acknowledged by the regional commander of the "Haganah" militia. In fact, it was the only village in the area that did not actively participate in the fighting.

Regrettably, Deir Yassin was deliberately chosen as a target for psychological warfare, aimed at terrorizing Palestinian civilians, undermining their morale, and coercing them to flee. This intent is further corroborated by the extensive propaganda surrounding the massacre, which was disseminated through various media outlets, including the Zionist media of that time.³⁴

While some attempts were made by the "Yishuv" leadership to distance themselves from the Deir Yassin massacre and place the blame on extremist militias, evidence indicates that the massacre was indeed a part of the broader "Nahshon" military operation. The responsibility for carrying out the operation was entrusted to the "Irgun" and "Lehi" militias, with the participation of "the Palmach," which was the elite nucleus of the Haganah militia.³⁵ In the early hours of April 9, 1948, the Israeli forces stormed the village. Artillery fire was directed at houses, resulting in the loss of numerous civilian lives. Subsequently, a group of villagers was rounded up in one location and brutally killed, with their bodies being subjected to desecration. Tragically, a number of women were raped before being killed.³⁶

Following the Deir Yassin massacre, a group of residents, primarily consisting of women and children, surrendered and were transported in freight cars to West

³³ Deir Yassin, (n.d). The website of the interactive encyclopedia of the Palestine Question, available at: <https://www.palquest.org/ar/place/22422/%D8%AF%D9%8A%D8%B1-%D9%8A%D8%A7%D8%B3%D9%8A%D9%86>

³⁴ Al-Khalidi, Walid (2015). The Deir Yassin massacre as chronicled by Professor Walid Al-Khalidi, Diwan Al-Arab website, available at: : <https://www.diwanalarab.com/%D9%85%D8%AC%D8%B2%D8%B1%D8%A9-%D8%AF%D9%8A%D8%B1-%D9%8A%D8%A7%D8%B3%D9%8A%D9%86>

³⁵ Ibid.

³⁶ Pappé, Ilan (2007). Ethnic cleansing in Palestine, first edition - Beirut, Institute for Palestine Studies, p. 101

Jerusalem. Tragically, those who remained in the village were either killed or injured. Disturbingly, Jewish soldiers set fire to a number of corpses in the village's main street after dousing them with oil, resulting in the burning of approximately 30 bodies.³⁷

While the exact number of casualties from the village is difficult to determine with precision, senior survivors from Deir Yassin have asserted that around 250 individuals lost their lives in this massacre. These claims were later acknowledged by the "Zionist Ministry of Defense" in 1972.³⁸

One of the significant testimonies regarding the Deir Yassin massacre comes from Jacques de Rene, the head of the Red Cross delegation in Palestine. On the morning of April 11, he visited the site of the massacre and conducted an inspection. In his report, "he described finding lifeless bodies in the houses, victims of heavy machine gun fire and bombings". According to his findings, "out of the approximately 400 people in the village, only 40 managed to escape, while the rest were indiscriminately and brutally slaughtered in cold blood."³⁹

As for Sir Henry Gourney, Secretary-General of the Mandate government in Palestine, he wrote in his memoirs that "200 innocent people, most of them women and children, were massacred at the hands of the Irgun and the Stern... De Rene told us about stacks of corpses that were shot in cold blood, and the correspondent of the "London Times" told me. He tried to pass into the village, but he was prevented from crossing, and the British police could not approach the place".⁴⁰

³⁷ Mansour, Johnny (2023). *Massacres and Looting: Apologies and Confessions*, Madar, the Palestinian Center for Israeli Studies, in cooperation with the Department of Negotiations Affairs, p. 31. Negotiation Department website :<https://www.plands.org/ar/articles-speeches/articles/2021/%D9%85%D8%AC%D8%B2%D8%B1%D8%A9-%D8%A8%D8%B1%D9%8A%D8%B1>

³⁸ Khalidi, Deir Yassin massacre, Ibid.

³⁹ Ibid.

⁴⁰ Ibid

Doron Hesed, one of the leaders of the "Al-Jadna," witnessed the aftermath of the Deir Yassin massacre and shared his haunting recollection. He described the sight of burning bodies and expressed the lasting impact it had on him, stating, "the smell of shredded human flesh still haunts me to this day. They are burning people."⁴¹

Shimon Monetan, a fighter associated with the Lehi militia, expressed concern regarding the burning of corpses: "It is not possible to burn corpses in open air... The Nazis built specialized crematoriums that operate at extremely high temperatures for such purposes"⁴²

Director Nita Shoshani's documentary film, "Born in Deir Yassin," sheds light on the Deir Yassin massacre through the confessions of the soldiers who participated in it. In an article by Ofer Ederet published in the Hebrew newspaper "Haaretz,"⁴³ some notable confessions were highlighted, including that of Yehoshua Zeitler, the leader of the operation, before his death in 2009.

According to the article, Zeitler described the Palestinians as fleeing like cats, and he acknowledged that the Israeli forces were not handling the situation with restraint. He revealed, "Explosives were planted to destroy houses as the residents tried to escape". He admitted, "Multiple explosions took place over several hours, resulting in the disappearance of half the village". Zeitler "expressed anger at the actions of his men, who mistreated the deceased by bruising them and burning their bodies, which led to the emergence of a foul stench"⁴⁴.

Yair Tzaban, a former member of the Knesset from "Meretz," recalls that he

⁴¹ Ibid.

⁴² Ibid

⁴³ Aderet, Ofer (2017). Testimonies from the censored Deir Yassin massacre: They piled bodies and burned them, Haaretz newspaper, available at: <https://www.haaretz.com/israel-news/2017-07-16/ty-article-magazine/testimonies-from-the-censored-massacre-at-deir-yassin/0000017f-e364-d38f-a57f-e77689930000>

⁴⁴ Ibid

went after the massacre to bury the bodies of the deceased and erase the evidence in anticipation of the arrival of the Red Cross and the dissemination of images and testimonies that would harm the image of the "War of Independence." Tzaban says, "I saw a considerable number of bodies, and I don't recall encountering the body of a fighter at all. I mostly remember women and elderly individuals... I remember an old man and a woman sitting in a room with their faces against the wall, both of them injured in the back... This couldn't have happened in the midst of a battle.. It's impossible."⁴⁵

Yakov Shiffer, from the Haganah forces, says, "When I entered the village, I don't know how many dead bodies there were. Dozens and dozens of dead bodies. Everyone was inside the houses. They were all killed from a close range. Almost everyone was killed inside the houses. There were no signs of a battle because, as the area commander told me, this village was the only one that didn't fight against us... There was no battle, they just entered and killed people in their homes from point-blank range. Yes, children, women, and the elderly."⁴⁶

The article in Haaretz also mentions that during Shoshani's work on extracting documents from the Haganah archives for the purpose of making the film, an elderly man named Shraga Beilin (91 years old) approached her. He took her to a separate room and cautiously informed her that he had taken photographs immediately after the massacre. The man had been working in the intelligence service of the Haganah during the time of the massacre and was sent with a camera to document what he witnessed. Beilin says, "When I arrived at Deir Yassin, the first thing I saw was a large tree with a young Arab man tied to it, burning in flames... They had tied him to the tree and set him

⁴⁵ Ibid

⁴⁶ Ibid

on fire... I photographed that. I also took pictures from a distance of what looked like dozens of other bodies that had been gathered in a nearby quarry." Shoshani confirmed that the man told her he handed over the film to his superiors, and since then, he hadn't seen the pictures. Shoshani filed a request with the Supreme Court for the release of the photographs, and Haaretz newspaper joined her in the request. However, the state clarified, according to the article, that "publishing the photos would harm the country's foreign relations and desecrate the dignity of the deceased." In 2010, after viewing the photos, the Supreme Court rejected the request.⁴⁷

The clarification provided by the state and the court's decision is in itself a condemnation of the Zionist leadership. If the mere publication of the photos would harm the image of the State of Israel and its foreign relations, it is an indication of the magnitude and brutality of the massacre and exposes the false heroic aura that Zionist propaganda bestows upon the so-called "War of Independence."

B) Al-Tantura Massacre

Al-Tantura is a Palestinian village located on the Mediterranean coast, approximately 30 kilometers south of Haifa. It had a population of 1,490 inhabitants and covered an area of 120 dunams (about 30 acres)⁴⁸. On the night of May 22-23, 1948, the 33rd Battalion of the Haganah (part of the Alexandroni Brigade) attacked the village, which fell after a short battle. Israeli historian Benny Morris writes, "It was clear that the leaders of the Alexandroni Brigade wanted the village emptied of its inhabitants, and that some of these inhabitants were at least expelled." An Israeli military communiqué,

⁴⁷ Ibid

⁴⁸ Al-Dabbagh, Mustafa, (n.d). Al-Tantura, Our Country Palestine, Palestine in Memory, p. 605. Available at <https://www.palestineremembered.com/Articles/Biladuna-Filisteen/Story25590.html>

issued on May 23, 1948, and reported by The New York Times, stated: "Hundreds of Arabs fell into our hands, as well as large quantities of booty. Some of the expelled went to the triangle area, while the majority were expelled to the neighboring village of Al-Fureidis."⁴⁹

In mid-January 2022, a film titled "Al-Tantura" was screened at the Sundance Film Festival in Puta, United States. The film presented historical facts about the massacre that occurred in Al-Tantura. The film concludes that dozens of Palestinians may have been buried beneath what is now a parking lot in the tourist village of "Dor", which was built on the ruins of Al-Tantura. The burial operations reportedly lasted for more than a week. Additionally, experts confirmed, through the comparison of aerial photographs taken before and after the invasion, using 3D imaging technology, the precise location of the burial site and estimated its dimensions to be approximately 35 meters in length and 4 meters in width.⁵⁰

After the film was screened, the Israeli historian Adam Raz presented, in an article in the Hebrew newspaper "Haaretz", some testimonies and confessions that were featured in the film from elderly Israeli soldiers. These testimonies were originally conducted by historian Theodor Katz twenty years ago as part of his Master's Thesis.

⁴⁹ Al-Khalidi, Walid (n.d). Al-Tantura: A historical overview of Al-Tantura (Haifa district), from the book (So that we do not forget). Palestine Remembered. Available on:

<https://www.palestineremembered.com/Haifa/al-Tantura/Story26580.html>

⁵⁰ interview with the film's director, Alon Schwartz, with France 24, available on the agency's website:

<https://www.france24.com/ar/%D8%A7%D9%84%D8%A3%D8%AE%D8%A8%D8%A7%D8%B1%D8%A7%D9%84%D9%85%D8%B3%D8%AA%D9%85%D8%B1%D8%A9/20220126-%D9%81%D9%8A%D9%84%D9%85-%D8%A5%D8%B3%D8%B1%D8%A7%D8%A6%D9%8A%D9%84%D9%8A-%D9%8A%D8%B3%D9%84%D8%B7-%D8%A7%D9%84%D8%B6%D9%88%D8%A1-%D8%B9%D9%84%D9%89-%D9%85%D8%B0%D8%A8%D8%AD%D8%A9-%D9%85%D9%86%D8%B3%D9%88%D8%A8%D8%A9-%D8%A7%D9%84%D9%89-%D8%A7%D9%84%D9%82%D9%88%D8%A7%D8%AA-%D8%A7%D9%84%D8%A5%D8%B3%D8%B1%D8%A7%D8%A6%D9%8A%D9%84%D9%8A%D8%A9-%D9%81%D9%8A-%D8%AD%D8%B1%D8%A8-%D8%B9%D8%A7%D9%85-1948>

When Katz published his thesis, it faced severe criticism and backlash from academic and military circles, leading to Katz being brought to trial and ultimately retracting his thesis. The article in "Haaretz" emphasizes that at the time, the court did not show much interest, even refusing to watch the live interview tapes conducted by Katz with the soldiers involved in the massacre. However, Israeli director Alon Shvartzer managed to obtain these tapes and supplemented them with documented interviews he conducted himself with some of these soldiers. Raz explains that amidst Israeli estimates, the number of Palestinian casualties reached approximately 200 Palestinian civilians.

Some of the significant testimonies include the following:

Former soldier Moshe Diamant says, "The villagers were brutally killed with machine gun fire after the battle ended."

Hayim Levin, another former soldier, said, "One of the unit members went to a group of 15 or 20 prisoners of war and killed them all."

Mika Vaknin, another former soldier, stated, "An officer who later became a high-ranking official in the Ministry of Defense shot Arabs one by one with his pistol." According to Vaknin, the officer committed this act because the prisoners refused to reveal the location where they had hidden the remaining weapons in the village.

Another unnamed former soldier, as reported by "Haaretz," said, "It is not good to say this. They placed a large number of civilians in tin barrels and opened fire on them with machine guns. I remember the blood flowing from the bullet holes in the barrels... (...) They simply did not act like humans in the village. A grave was specifically dug for this purpose, and the burials continued for more than a week."

Former soldier Amitzur Cohen said, "I would kill the detainees and not send them to prison. I killed many Arabs outside the scope of the battle. I had a machine gun

with 250 rounds... I cannot count the number of casualties."

The article also affirmed that testimonies from soldiers of the Alexandroni Brigade support a previous statement made by Youssef Ben Eli'ezer, a former minister and member of the Knesset, who wrote about two decades ago, "I was one of the soldiers who participated in the occupation of Tantura, and I was aware of the murder crimes committed in the village." Ben Eli'ezer claimed, "Some soldiers were killing people on their own initiative without any orders."⁵¹

The film director, Schwartz, wrote a series of articles in the newspaper "Haaretz," in which he added several testimonies that confirm the existence of a mass grave where the bodies were buried and covered up for over 70 years.

One of these testimonies includes the testimony of Mordechai (Motl) Sokoler, who was a guide from the settlement of "Zichron Yaakov." He accompanied the forces to the Battle of Tantura and stayed there for a few days to carry out part of the Arab burial operation. He claims that a large number of the dead were buried by him and the residents of Fureidis, who were brought to Tantura to carry out the mission. In the interview, he mentions how he accompanied the combat forces. This is fully consistent with the Israeli army's documents regarding the day of the battle.

According to Schwartz, the burial mission and collection of bodies continued throughout the week following the massacre, based on the documents he currently has from several archives. In addition, there are written records and testimonies confirming the presence of many bodies scattered on roads, in houses, and in streets. Schwartz states in his article that "in another document we currently have in our possession,

⁵¹ Raz, Adam (2022). There's a Mass Palestinian Grave at a Popular Israeli Beach, Veterans Confess, Haaretz newspaper, available at: <https://www.haaretz.com/israel-news/2022-01-20/ty-article-magazine/.highlight/theres-a-mass-palestinian-grave-at-a-popular-israeli-beach-veterans-confess/0000017f-f230-d223-a97f-fffd5b0000>

written by the commander of the Nafatli Brigade to the commander of the first area where Tantura was located on May 29, 1948, the brigade commander scolds his soldiers: 'You must ensure that all Arab bodies in Tantura are buried and prevent an epidemic. It is unreasonable for you not to carry out what is required of you... You should have had enough time to fully complete this mission'.

According to the testimonies, the methods of killing included shooting individuals who were detained in lines against a wall, firing artillery at tents where people were gathered, shooting individuals in the head at point-blank range with a "Barbluom" pistol, throwing grenades into rooms where civilians were assembled, burning alive several individuals (including a woman) with an incendiary launcher, and in some cases, orders were given to individuals to dig a pit and then they were shot in the head. This is only a partial list.⁵²

In a recent study conducted by the "Froznik Archaeotech Institute"⁵³ and revealed by the newspaper "Haaretz," it was found that there are four mass graves in the village of Tantura. Two of these graves are located in a parking lot on the beach and contain an estimated 70-140 bodies, another one is near the Islamic cemetery and contains 40-80 bodies, and the fourth one is located on the beach.⁵⁴ The institute also published aerial photographs clearly indicating the locations of these four graves.

⁵² Schwarz, Alon (2022). How to Cover Up a Massacre, Haaretz Newspaper, available at <https://www.haaretz.com/israel-news/2022-08-12/ty-article-magazine/how-to-cover-up-a-massacre/00000182-9271-d9bc-affb-f3ff387f0000>

⁵³ It is an institute affiliated with the University of London, under the leadership of Israeli architect Eyal Weizman. It specializes in documenting human rights violations using advanced technological methods.

⁵⁴ Aderet, Ofer (2023), 'We Threw Bodies': Researchers Say Four Mass Graves Dot Site of Arab Village in Israel, Haaretz Newspaper, available at: <https://www.haaretz.com/israel-news/2023-05-26/ty-article-magazine/.highlight/researchers-say-four-mass-graves-dot-site-of-arab-village-in-israel/00000188-541a-dde3-abf9-fc1b64d00000>

C) Lydda Massacre

As part of the effort to lift the siege on Jewish colonies west of Jerusalem and secure the Tel Aviv-Jerusalem highway, the Israeli leadership decided to occupy the neighboring cities of Lydda and Ramla. For this purpose, Operation "Dani" was launched, with implementation starting on the night of July 9-10, 1948, under the command of Yitzhak Rabin, who was then the Deputy Chief of Staff. Within two days of the operation's launch, Israeli forces occupied the villages surrounding Lydda from the north and west.

On the eve of the attack on the city, Israeli warplanes conducted intense air raids on Lydda and Ramla for the first time during the war. These airstrikes took place while the residents were having their "iftar meal" during the holy month of Ramadan, resulting in the death and injury of dozens of civilians. The following morning (July 11), Israeli planes dropped leaflets urging the residents to surrender and leave the city before it was destroyed over their heads. In the afternoon of the same day, the Israeli attack on the city began with a strong armored force that managed to penetrate it. They started indiscriminately firing at the inhabitants.⁵⁵

On the following day, the Israeli forces took control of the city and deployed patrols in its streets, announcing a curfew through loudspeakers and urging residents to stay in their homes. Males were summoned to gather at the Great Mosque and the "Dahmash" Mosque. Then the soldiers began throwing hand grenades inside houses and firing at those trying to escape. They also attacked the "Dahmash" Mosque and opened fire indiscriminately on the people gathered there, resulting in the death of dozens of

⁵⁵ The military operation, Operation Dani, (n.d). The website of the interactive encyclopedia of the Palestine Question, available at: <https://www.palquest.org/ar/militaryoperations/25284/%D8%B9%D9%85%D9%84%D9%8A%D8%A9-%D8%AF%D8%A7%D9%86%D9%8A>

individuals.⁵⁶

According to the Israeli historian Ilan Pappé, (176) bodies were found inside the mosque, along with over (350) other bodies of men, women, and children in the nearby streets.⁵⁷

This was the first stage of the Lydda massacre. The second stage involved Israeli soldiers forcing approximately 70,000 residents of Lydda and Ramla, and the refugees who had settled there after the fall of Jaffa, to leave at gunpoint in a death march where hundreds died due to thirst, dehydration, and exhaustion. We will discuss the horrifying details of this journey in a later part of this chapter, which addresses forced displacement and the expulsion of the population.⁵⁸

These three massacres were not the only ones for which testimonies are available. There are dozens of other villages and towns where Israeli military archives reveal the massacres committed there.

For example, in the village of Burayr, which was invaded by Palmach forces on May 12-13 with the aim of controlling Arab communities in the Negev, Palmach soldier Tzvi Tziber says, "The Arabs in Burayr died like dogs, and we demolished the walls of their homes and fields. We burned down many houses and smashed and killed in cold blood. There was no sense of hatred or committing atrocities or disgust. It was just like killing a stray dog or a dying donkey or stepping on a fly."⁵⁹

⁵⁶ Hamoudi, Sana (n.d). Lydda 9-13 November 1948, a massacre exacerbated by the march of death, the website of the interactive encyclopedia of the Palestine Question, available at: <https://www.palquest.org/ar/node/24097>

⁵⁷ Auron, Yair (2018). Breaking the silence, The poem that exposed Israeli war crimes in 1948, Haaretz Newspaper, available at: <https://www.haaretz.com/israel-news/2016-03-18/ty-article/.premium/the-poem-that-exposed-atrocities-perpetrated-by-israel-in-48/0000017f-ef88-d223-a97f-efdd05bc0000>

⁵⁸ Ibid

⁵⁹ Mansour, Ibid, p. 43. Quoted from Zipper's memoirs, published in Hebrew on the Haaretz page, available at: <https://www.haaretz.co.il/captain/2003-05-04/ty-article/0000017f-db25-d3a5-af7f-fbaff7380000>

In the village of Dawaymah near Hebron, according to the testimony of a soldier who spoke about the incident to a member of the "Mapam" Party, "There was no fighting or resistance when the Eighth Brigade slaughtered 100 men... The early conquerors slaughtered 80 to 100 Arab women and children by smashing their skulls with sticks... There was not a single house without casualties."⁶⁰

Yitzhak Tischler from the "Palmach" testifies about the battles led by Ghandi (Rehavam Zeevi) in towns like Balad Al-Sheikh, Beisan, and others: "The instructions from the military command were to evacuate the men from the town and kill them... These instructions were not followed. The doors were not knocked on and the men were not taken out. Instead, explosive hand grenades were thrown into every house and destroyed it. Whoever dies, dies, and whoever lives, lives... I had a 52-inch rocket launcher with me, the instructions were to fire at Arabs from a distance of 400 meters, and that is what I did... The goal of the killings was to terrorize the Arab population and force them to leave... Under Ghandi's leadership, we did not act ethically... Ghandi believed that Arabs should be killed, to die first and then to expel and displace them... The goal of the Palmach operations was killing, so that Arabs would not remain present... What I witnessed in Lydda reminded me of the history of massacres and expulsions that Jews experienced."⁽⁶¹⁾

Testimonies from soldiers regarding the massacre in the village of Safsaf near Safed indicate that soldiers from the Seventh Brigade killed dozens of civilians: "Fifty-two men were captured, tied together, a pit was dug, and they were thrown into it and shot. Ten of them were still trembling. The women came and begged for mercy. The bodies of six elderly men were found... There were 61 bodies and three cases of rape,

⁶⁰ Auron, Yair, Ibid

⁶¹ Mansour, Ibid, pg. 67. Quoted from Zochrot, at the following link : <https://zochrot.org/he/testimony/all>

including a 14-year-old girl."⁶² According to the newspaper "Haaretz," the "Mal'mab" team has been monitoring the documents, which have now all gone missing from the Israeli archives.

Alongside the mass killings, terrorizing, destruction, and rape, the massacres committed by Zionist soldiers during the Nakba were accompanied by extensive and despicable acts of looting, plundering, and confiscating Arab properties. Historian Adam Raz documented these acts in his book 'The Plunder of Arab Properties in the 1948 War,' based on documents from the Israeli archives that include numerous confessions and testimonies regarding the looting operations. Here is a brief overview of them:"⁶³

On April 22 nd, Haifa was occupied after a brutal battle, prompting the British High Commissioner Alan Gordon Cunningham to declare, "The fighting methods used by the Jewish fighters were exceptionally barbaric."⁶⁴

The Communist Party leader, Ruth Lapidot, wrote an extensive article about the looting of Haifa, affirming that the leadership of "Haganah" did nothing to curb the rampant and depraved instincts of a portion of the city's inhabitants. She stated, "The leadership remained silent and dealt tolerantly with the looting that spread like a plague. Haifa was subjected to despicable looting, and it continues to be robbed to this day."⁶⁵

On May 10th, the Central Committee of the Communist Party presented a memorandum to the "Yashuv" government and Haganah headquarters regarding the

⁶² Raz, Adam (2021), Murder by the army, Haaretz Newspaper in cooperation with Akevot Institute, available at:

https://www.akevot.org.il/wp-content/uploads/2021/12/2021-12-10_Haaretz_EN_cabinet-meetings48.pdf

⁶³ Raz, Adam (2023). The looting of Arab property in the 1948 war. Translated by Amir Makhoul. Madar the Palestinian Center for Israeli Studies. (Translated from the Hebrew edition of Carmel Publishing, in cooperation with the Akivot Institute, 2020)

⁶⁴ Raz, Ibid, p. 43.

⁶⁵ Ibid, pg. 47. The article was published in "Kol Ha'am" newspaper on May 30, 1948, under the title "The Purity of Our War."

situation in Haifa, indicating the "terrifying looting and theft of Arab properties (...). Within two weeks of the occupation, the overwhelming majority of Arab residents' homes were emptied of anything of value. Goods and groceries were looted from stores, and machines were confiscated from factories and workshops."⁶⁶

It is worth noting that Ben-Gurion arrived in Arab Haifa after its occupation. While standing on the balcony of the "Eidin Hotel" with Ezra Danin, the "Custodian of Absentee Property", the two observed the streets of the lower city and witnessed acts of collective looting. Danin recounted in his memoirs how they saw "groups of Jews, both organized and unorganized, raiding Arab shops." Rumors spread about looting operations carried out by residents of "Moshav Nahalal" and allegations that employees of "Solel Boneh" Construction Company looted equipment from the port. Danin requested to speak to Ben-Gurion about it, but the latter excused him from continuing the conversation, saying, "Would you be happier if these properties fell into private hands? At least this is not looting by individuals."⁶⁷

In the archives of the so-called "Hashomer Hatzair Jewish Defense Organization," memoirs of Yosef Nahmani were found, in which he speaks about his visit to the city of Tiberias after it was seized by Zionist gangs. He writes, "Elderly people and women, regardless of age and religious status, are all engaged in looting, and no one is stopping them. Shame... Shame overwhelms me. There is a desire to spit on the city and leave it. People have lost all sense of shame."⁶⁸

⁶⁶ Ibid, pg 48.

⁶⁷ Ibid, pp. 50 and 51. About Ezra Danin's book, A Zionist at Any Cost, Volume One, Kidum Publishing, Jerusalem

⁶⁸ Aderet, Ofer(2020). Jewish Soldiers and Civilians Looted Arab Neighbors' Property en Masse in '48. The Authorities Turned a Blind Eye, available at: <https://www.haaretz.com/israel-news/2020-10-03/ty-article-magazine/.highlight/jews-looted-arab-property-en-masse-in-48-the-authorities-let-them/0000017f-e7d4-d62c-a1ff-ffff83bd0000>

On May 25, 1948, Isaac Ben-Zvi, a leader of the "Haganah" and later the second President of Israel, wrote a report about his visit to Qatamon and "other neighborhoods that we occupied" in Jerusalem. As Raz states, it becomes clear that he witnessed acts of looting and plundering, and that "respected Jews saw looting as something natural and accessible. In a letter to Ben-Gurion, he wrote, "I cannot remain silent about the looting, both organized by groups and unorganized. These acts of theft have turned into a widespread phenomenon (...) There is a consensus that our thieves are attacking deserted neighborhoods just as locusts attack a field or a well. As you pass in the streets of Rehavia, with every step you take and in every corner, you see elderly people, young people, and children returning from Qatamon or other neighborhoods with bags full of stolen items. The loot is diverse: refrigerators, beds, watches, books, underwear, and clothes. In fact, there is now a market for trading in these items."⁶⁹

In what they call the "Mishmar Ha'emek battles," one of the soldiers who participated in them said, "After the Mishmar Ha'emek battle, the Arabs hid everything (...) It is not a matter of pride to say that (the Jewish residents and fighters) stole good sewing machines. In Migdal and at the excavation site, a great fortune was discovered. We looted the American prospectors' cameras and their families (...) There were horrifying thefts there (...) Senior officials in charge stole (...) When I informed the military commander responsible that there were significant properties being looted, he said they would ridicule us if we left anything. (And then) they stole everything and sold it."⁷⁰

These operations constitute one of the largest armed looting operations in history, acknowledged and admitted by the first Prime Minister of Israel, David Ben-Gurion, who stated that "these acts showed that most Jews were thieves," as mentioned

⁶⁹ Raz, Ibid, pg 71, 72.

⁷⁰ Ibid, pg. 174. According to an interview with Ephraim Ben-Natan, Institute for the Study of Defense Forces Group, 1983, File I.T.

in an archival document cited by Raz in his book. French researcher Thomas Vescovi estimates in his article titled "The Nakba: Why Did the Zionists Expel the Palestinians," published on May 15, 2020, that the Palestinian properties seized by the Israelis during the Nakba included around 7,000 stores and companies, 500 factories and workshops, and 1,500 warehouses. In Haifa, the Israeli authorities seized Arab customers' deposits in banks, amounting to approximately 1.5 billion pounds sterling.⁷¹

2.3.2 Second Section: The Poisoning of Wells and Water Sources and the Spread of Deadly Diseases

With the start of May 1948, the city of Acre, which was crowded with refugees who had fled from Haifa after its fall, witnessed a sudden and terrifying outbreak of typhoid and dysentery fever. There were reports of bacteria being introduced into the water of the Pasha Canal, which supplied drinking water to the city. This resulted in the death of 70 Palestinians and 55 British individuals according to an initial and minimum count by the Red Cross on May 6, 1948. The report confirmed that the epidemic that struck the city was transmitted through the water, emphasizing the need to refrain from using the canal water and find alternative ways through other channels.⁷²

The newspaper "Haaretz" uncovered a study conducted by historians Benny Morris and Benjamin Kedar titled "Israel's Biological War in 1948" which revealed an Israeli operation codenamed "Send Your Brother" after a biblical verse. The operation began in early April 1948 and aimed to poison the drinking water in Palestinian cities and villages from Acre to the Gaza Strip. The study confirmed the successful poisoning

⁷¹ Al-Sharif, 75 years since the continuous Nakba, Ibid.

⁷² Abu Sitta, Suleiman (2003). Israel was the first to use germ warfare in Palestine and has the largest stockpile of it, London, Al-Hayat, p. 9. Available on <https://www.plands.org/ar/articles-speeches/articles/2003/israel-is-the-first-to-use-germ-warfare-in-palest>

of water by injecting bacteria that caused typhoid and dysentery diseases in cities such as Acre, Eilabun, Jerusalem's villages, Gaza Strip, Beersheba, Jericho, and others.

According to documents found in the archives of the Israeli army, David Ben-Gurion himself, along with a select group of military and state leaders, was in charge of the operation. They worked alongside the Biological Sciences Division, which was established by Ben-Gurion and comprised Jewish scientists from Europe who were brought in to work on "enhancing our ability for mass killing." Moshe Dyan served as a carrier of the bacteria from the Biological Sciences Division to various locations. According to multiple reports, dozens of Palestinians, especially in Acre, were affected by the diseases.⁷³

It was found in the army archives a letter written by Moshe Dayan to Yigal Yadin, in which he states, "This operation will be carried out by Nahshon on Sunday or Monday, and I will be present with all the material by midweek." In another telegram, Yadin writes, "Keep the material sent to your brother in the wells." In another message, there is a question about confirming authorization for the use of the material in the evacuated areas. In a testimony provided by an archaeologist named Shemariah Gutman, who was the commander of the "Palmach Infiltration Unit" and part of the army's intelligence, he mentioned that when he requested a written order to carry out this mission, Yohanan Ratner, the operation's commander, responded, "That is not possible, understand it yourself."⁷⁴

David Mizrahi and David Horino had headed towards the borders with Egypt to carry out the operation in the Gaza Strip, but they were captured and executed by the

⁷³ Aderet, Ofer (2022). Place the Material in the Wells': Docs Point to Israeli Army's 1948 Biological Warfare, Haaretz Newspaper, available at, <https://www.haaretz.com/israel-news/2022-10-14/ty-article-magazine/.highlight/documents-confirm-israelis-poisoned-arab-wells-in-1948/00000183-d2b2-d8cc-afc7-fefed64d0000>

⁷⁴ Ibid.

Egyptian military court on charges of intending to poison the wells. This was based on the evidence found in their possession and their written confession that they were a team of twenty Jews tasked with poisoning the wells. This was confirmed in Ben-Gurion's memoirs on May 17, 1948, where he mentioned, "We received a telegram from Gaza stating that Jews carrying malaria germs were arrested, and they issued instructions not to drink the water."⁷⁵

Na'im Jaladi, a recruit in the Mossad, stated during his presence in the United States of America that "Moshe Dayan issued orders to expel Arabs from their villages, destroy their homes, and poison the wells with typhoid and dysentery. The Haganah placed bacteria in the water that feeds the waterline passing through Acre from a spring near the village of Kabri, and the watercourse passes near one of the kibbutzim."⁷⁶

2.3.2 Third Section: Forced Displacement of Civilian Populations

In addition to seizing land and expanding the territory of the Jewish state (geographic annexation), the goal behind the massacres and other mass killing methods employed by the Zionist movement was to expel the Palestinian population and uproot them from their homes, forcibly displacing them beyond the borders of Israel (demographic displacement).

When seizing any Arab area, following each massacre or mass killing operation, the primary task undertaken by the Zionist forces was to expel the Arab inhabitants and forcibly compel them to leave collectively. A testimony from a soldier in the Israeli forces that stormed the village of al-Faluja states, "The Jewish narrative that the Arabs left based on instructions from their Arab leaders is not true; the real reason is the

⁷⁵ Abu Sitta, Ibid.

⁷⁶ Ibid

killings that occurred."⁷⁷

The most horrific example of forced expulsion and deportation is what happened in the second stage of the tragedy of Lydda. On the day following the seizure of the city, on July 13, 1948, Israeli soldiers forced approximately 70,000 inhabitants of Lydda, Ramla, and neighboring villages to leave the city. They used loudspeakers to urge the residents to leave as quickly as possible, fearing they would meet the same fate as those seeking refuge in the Dahmash Mosque. The soldiers set up a checkpoint at the city's entrance on the road leading to Ramallah, where they searched the departing individuals and stole their belongings, including money, gold, jewelry, and watches.⁷⁸ Furthermore, soldiers spread out on both sides of the road, firing their rifles to urge people to keep moving. A small Israeli military aircraft circled above the convoy at a low altitude, forcing them to continue moving on a rugged path filled with rocks and thorns under the scorching July sun. Hundreds of people, including elderly individuals and pregnant women, perished due to thirst and exhaustion.⁷⁹

The expulsion of the residents of Lydda and Ramle was a deliberate decision made by the Israeli leadership at the highest levels. Benny Morris quotes Yitzhak Rabin as saying during a discussion at the Operations Headquarters: "What shall we do with the fifty thousand civilians living in the cities? It is clear that we cannot leave a hostile and armed populace in our rear." Ben-Gurion remained silent, as was his custom in such situations. However, when Rabin repeated the question, "What is to be done with the population?" Ben-Gurion gestured with his hand in a decisive manner, indicating,

⁷⁷ Al-Khalidi, *Ibid*, p. 562.

⁷⁸ Hamodi, *Ibid*.

⁷⁹ *Ibid*

"Drive them out."⁸⁰

This was one of the forced expulsion operations that were repeated in all the areas captured by Israeli forces. In a testimony by soldier Ralph Bauman from the "Palmach forces", who participated in the ethnic cleansing operations of Arab villages on the Lebanese border, he says, "We moved from house to house and forced everyone to leave and walk barefoot across the border to Lebanon. They were barefoot and we did not give them time to wear shoes or take their family belongings. Anyone who attempted to return to retrieve belongings from their family home was labeled "infiltrator" and immediately shot at."⁸¹

In the testimony of Amnon Neumann, a soldier from the "Palmach", regarding the battles in the villages surrounding Gaza, he stated, "On the last day of the ceasefire, they came and informed us that the Egyptians had brought in 20mm cannons into the villages of Al-Kawfah and Al-Muharraqah, and we were tasked with destroying these villages. We went there and expelled them, yes, we started firing into the air, and everyone began screaming... and we drove them away. The women and children fled to Gaza... No one dared to stay in the villages... We didn't enter the villages to stay there, but to deport them. One of them asked first how they were expelled. That's how it was. Then the same thing happened with the Bedouin tribes. After six months, I met a soldier who was fighting in Beersheba at the time, and he said they opened fire on the people who fled from Beersheba, and people escaped after the soldiers opened fire on

⁸⁰ Cleansing Lydda & Ramla, Zionist Quots, based on declassified documents & personal diaries, Palestine Remembered, available at: [Cleansing Lydda & Ramla, Zionist Quotes - Palestine Remembered](https://www.palestineremembered.com/quotations/cleansing-lydda-and-ramla)

⁸¹ Mansour, Ibid, pg. 78. Adapted from testimonies from the database of the 'Zakhorot', which conducted multiple interviews with Israeli soldiers who participated in the events of the Nakba. Available at the following link :<https://zochrot.org/he/testimony/all>

civilians... They fled east and south, and they were fired upon... Well, I did that too."⁸²

The process of expelling the population did not cease after the end of the war and the implementation of the ceasefire in the spring of 1949. It continued in various forms until the mid-1960s. In late 1949, around 500 Bedouin families were expelled from the Negev to the Hebron Mountains under the control of the Jordanian authority or to the Sinai Peninsula in Egypt. Additionally, hundreds of inhabitants of villages west of Jerusalem were displaced to the East Bank of the Jordan. During the year 1950, the residents of the town of Majdal were expelled towards the Gaza Strip.⁸³

In a striking example of targeting the Bedouin village of Al-Araqib and its demolition, historical documents revealed by historian Gadi Algazi exposed a plan to displace the Negev Bedouins and seize their land, which began implementation in November 1951 under the leadership of Moshe Dayan, who was the "Commander of the Southern Region in the Israeli Army," and with the approval of the "Chief of Staff," Yigal Allon. In a letter sent to the "Army General Staff" on September 25, 1951, Dayan affirmed, "it is now possible to transfer most of the Bedouins near Kibbutz Shoval to lands south of Hebron Street - Be'er Sheva, thus gaining control over 60,000 dunams to cultivate and establish towns." The letter stated, "If the Bedouins are not willingly transferred from their lands, the Israeli army will be forced to relocate them by force of arms."⁸⁴

During the period between 1949 and 1956 alone, Israel forcibly expelled over 20,000 Palestinian Bedouins from their tribes and seized around 700 square kilometers

⁸² Ibid. pg.79

⁸³ Al-Sharif, Ibid.

⁸⁴ Mansour, Ibid, pg 10.

of their land.⁸⁵ By the mid-1960s, Israel had expelled 15 percent of the remaining Palestinian population within its borders.⁸⁶

3.2.4 Fourth Section: Destruction of Properties, Demolition of Villages and Neighborhoods, and Erasing Their Traces

Out of the 744 Palestinian villages and neighborhoods that Israel seized during the war, 531 villages were completely destroyed, with their homes and structures demolished and landmines planted among their ruins. The primary goal of destroying the villages was to prevent the return of their forcibly displaced inhabitants. However, this was not the only objective. After the expulsion operations ended, Israel launched a campaign to erase the traces of the destroyed villages, flatten their remains with the ground, and remove any remaining landmarks. The purpose of this campaign was to eliminate evidence of Palestinian Arab presence in the land and support the Zionist narrative of "a land without a people."

Amnon Neumann, from the "Palmach" forces, speaks about the destruction operations in the villages surrounding Gaza, saying, "In the south, houses were demolished immediately upon occupation after the residents left. Destroying them was not a problem. These were mud houses. It was enough for an armored vehicle to pass by and strike it, and the entire building would collapse. The people who were in Gaza wanted to return to the villages. They would return at night... and we waited for them,

⁸⁵ See "Investigation Report" Simon and Vermeersch, UNA DAG-13/3.3.1-18, cited in Morris, *Israel's Border Wars*, supra note 45, 170

⁸⁶ ICBS (2001), Israel Central Bureau of Statistics), "Statistical Abstract of Israel", available at: <https://www.cbs.gov.il/en/publications/Pages/2001/Statistical-Abstract-of-Israel-2001-No52.aspx>

See Table 2.18-The Population of Palestine by Religion, 1870 to 1946 in McCarthy, *The Population of Palestine*, supra note 15,37.

but it was impossible to allow them to linger there, so we waited for them... We would snipe them and kill them."⁸⁷

In another testimony from an unnamed soldier who participated in the massacre of the village of Burayr, he said, "At exactly five in the morning, we took control of the village... and we started with demolition and destruction... We set many houses and wells on fire... We took a quantity of food supplies... and we blew up the wells."⁸⁸

Yigal Naor, from the "Palmach" forces, recounts in his testimony the destruction of villages in Jerusalem: "Except for the villages of Deir Ayyub and Biddu, once the villages were occupied, they were completely blown up. The instructions were to evacuate the Arabs and demolish their homes. What happened in Deir Yassin helped us greatly in the other villages."⁸⁹

Israel launched a campaign called "Greenwashing" after the expulsion operation. It involved planting millions of trees over the destroyed villages and the remnants of demolished Palestinian homes in order to conceal them. Olive and citrus trees, which symbolized Palestinian presence, were uprooted and replaced with giant eucalyptus and cypress trees that cast shade on the soil and killed Palestinian vegetation. Entire forests were even planted to obscure the view and avoid tourists' questions about scenes of destruction.⁹⁰

As a continuation of the destruction and erasure process, a second committee was formed alongside the "Transfer Committee" with the task of renaming Arab places and replacing them with Hebrew names. This process aimed to further assert control over the geography through language. The "Place Naming Committee" was tasked with

⁸⁷ Mansour, *Ibid*, pg 79.

⁸⁸ *Ibid*, p. 43. Quoted from an internal information bulletin, written by the Palmach leadership, dated May 20, 1948. Palmach archives.

⁸⁹ *Ibid*, pg.67

⁹⁰ Makdisi, *Ibid*. pg118.

creating a Hebrew toponymy that aligned with the drawing of a new map of the terrain and locations.⁹¹

After 1948, Miron Benvenisti, who served as Deputy Mayor of Jerusalem, said, "The country has become a blank canvas on which the Committee can place names as it pleases."⁹² Thus, the new names became entirely derived from the original Arabic names. After the new settlers occupied the homes following the expulsion of their owners, "Most of the settlements were named after the neighboring depopulated villages. For example, a settlement was named Beit Dagon after the village of Beit Dajan, Kibbutz Sasa after the village of Sa'sa, Moshav Beit Eshet after the village of Al-Bassa, Moshav Tzippori after Saffuriya, Moshav Amka after the village of Amqa, and so on."⁹³

Aaron Shai, an author and professor at Tel Aviv University, states that in the spring of 1965, a "clear policy was adopted to settle the abandoned villages with land in order to cleanse the country."⁹⁴ According to an official in the Ministry of Foreign Affairs, this would prevent tourists from asking unnecessary questions about the scenes of destruction they witnessed. Shai explains that the plan involved settling the land in an area extending from the Galilee Finger southward, including every hill, slope, and shack, in order to cleanse the land. As one of those interviewed stated, "This will prevent Arab villagers (Palestinians) from ever claiming: This is my tree. This was my village. No tree or village will remain."⁹⁵

In this context, former Israeli Defense Minister Moshe Dayan stated in 1969,

⁹¹ Ibid, pg 116

⁹² Ibid

⁹³ Wakim, Wakim (2002). Refugees in Their Homeland: Present Absentees in Israel, Institute for Palestine Studies, pg. 96.

⁹⁴ [The Fate of Abandoned Arab Villages in Israel, 1965-1969 on JSTOR](#)

⁹⁵ Ibid

"Jewish villages were established in the place of Arab villages. You don't even know the names of these Arab villages, and I do not blame you because geography books no longer exist. Not only do the books not exist, but the Arab villages are also not there either."⁹⁶

2.3 The Third Topic: Israeli Legislations

Israel pursued a policy of seizing Palestinian lands not only through military means but also through a series of legal measures aimed at covering up land confiscation operations. In March 1948, with the start of Israeli military operations, the "Haganah" forces established what was called the "Committee for Arab Property" in Palestinian villages. Similar committees were formed after the Israeli occupation of the Palestinian cities of Haifa, Jaffa, Safed, and Tiberias in April and May.

In November 1948, Israel continued to occupy most of the fertile lands. In December, which was the month when UN Resolution 194 calling for the return of refugees and the Universal Declaration of Human Rights was issued, Israel's reaction was to issue emergency regulations related to absentee property. This law turned refugees into absentees and transferred control over their properties to a "Custodian Committee," granting it the authority to consider any Palestinian Arab as absent and thus seize their properties. This arbitrary definition was applied not only to those who were expelled beyond the ceasefire lines but also to Palestinians who remained inside Israel. Even those who temporarily left their designated places, such as for shopping, running errands, or visiting relatives, were considered absent, and their properties were

⁹⁶ Ayoub, Nizar (2012). The Ethnic Cleansing of Jerusalem, Annals of Jerusalem, Issue 13, Summer 2012, Institute for Palestine Studies, pg.1. Available on :<https://www.palestine-studies.org/sites/default/files/hq-articles/11462.pdf>

confiscated. Since these individuals became citizens holding Israeli nationality, they were ironically labeled as the "present absentees." This term, though ironic, accurately reflects the situation of these individuals and the flawed Israeli legislation that contradicts logic and justice.⁹⁷

In 1950, Israel expanded the application of this policy to include properties of Islamic endowments (waqf) that had existed for centuries, with few exceptions for certain religiously significant sites. Until this day, repairs or use of mosques and religious shrines in evacuated villages are not permitted. Most of these sites have been covered with forests of trees, similar to what happened with destroyed villages to conceal any remaining traces. The same has happened to churches as well.⁹⁸

Israel reinstated the Emergency Defense Regulations of 1945, which were enacted by the British Mandate to suppress Palestinian protests against British policies. Israel applied these regulations to the areas where Palestinians remained within Israel through the appointment of military governors for each region. These regulations were not naturally applied to the Jewish population living in the same areas. Under these regulations, the military governor had the authority to declare any area as a closed zone, prohibiting entry or exit at any time.⁹⁹

The Knesset issued the "Emergency Law for the Utilization of Uncultivated Land" in January 1949, granting the Minister of Agriculture the authority to seize any piece of land deemed uncultivated. Then came the Emergency Law of 1949, which

⁹⁷ Shalhat, Antoine (2013). Yair Aron, *The Holocaust, The Resurrection, The Nakba*, Madar, The Palestinian Center for Israeli Studies, Ramallah, Palestine. pg. 61.

⁹⁸ Ghodia, Ahmed (2012). Sixty-four years since the Nakba: Developments and Transformations, *Journal of Middle Eastern Studies*, Middle East Studies Center, Volume 16, Issue 60, pg. 139.

⁹⁹ Saleh, Mohsen Muhammad (2012). *The Palestinian Cause, Its Historical Mysteries and Contemporary Developments*, Beirut, Al-Zaytouna Center for Studies and Consultations, *International Policy Journal*, pg. 240.

allowed the Minister of Defense to declare any area suitable as a security zone and restrict entry or exit from it. Another law was enacted, known as the "Emergency Law for Land Possession" of 1949, which empowered any competent authority to acquire any land if deemed necessary for the defense of the state, public security, essential services, absorption of immigrants, or resettlement of former soldiers. In some cases, the Israeli governments laid their hands on lands despite the presence of their rightful owners who cultivated and cared for those lands themselves, in accordance with Israeli law. These lands were declared closed, and no one was allowed to remain on them.¹⁰⁰

The legislation of plunder and looting would not have yielded its fruits if it weren't for the mass expulsion of refugees, which resulted in Israel gaining complete control over the land. This would not have been possible if that state were truly democratic, safeguarding the rights of the Palestinian minority within it from apartheid. To establish a mediator between the "Custodian Committee" responsible for absentee property and the ultimate beneficiary, Israel enacted the "Development Authority (Transfer of Property) Law" in 1950, which facilitated the transfer of ownership of Palestinian lands to Israel. The authority had the right to buy, sell, rent, repair, construct, develop, and cultivate Palestinian properties, on the condition that the beneficiary be Jewish or a Jewish entity. This, of course, excluded non-Jewish Israeli citizens (the Palestinians within Israel, also known as the Palestinians of 48).¹⁰¹

The Knesset issued the "Law of Return" on July 20, 1950, which grants every Jew the right to immigrate to Israel, settle there, and receive citizenship upon arrival. The law includes children, grandchildren, and great-grandchildren of Jews. When

¹⁰⁰ Youssef, Ahmed and Nafaa, Hassan (1993). *The International Community and the Palestinian Cause*, Cairo, Institute for Arab Research and Studies, pg. 84.

¹⁰¹ Manna', Adel (2020). *The history of the Marginalized in Palestine from the Ottoman Rule to the Nakba and Beyond*, Ostor Magazine for Historical Studies, the Arab Center for Research and Policy Studies., Issue 12, pg. 251.

presenting the proposal of the law to the General Knesset session, Ben-Gurion stated that this law aims to define the goal and nature of the Jewish state. He added that the law's purpose is not to grant rights by the state, but to give the Zionist idea a legal framework and strengthen the essential right of every Jew to immigrate to and reside in Israel. Ben-Gurion emphasized that this right predates the establishment of Israel. The law also grants the Minister of Interior the authority to deny entry to any Jew if it is revealed that they are working against the state of Israel or endangering public health and state security.¹⁰²

In 1953, the Knesset granted the "Jewish National Fund", known as "Keren Kayemeth LeIsrael," governmental authorities.¹⁰³ In 1960, the Knesset issued a basic law called the "Israel Lands Law," which prohibits the transfer of land ownership through sale or any other means. Similarly, the Israeli law of 1952 provided a quasi-governmental status for the World Zionist Organization and the Jewish Agency, recognizing them as the authorized agents of the state for "country development and settlement" and the absorption of immigrants from the diaspora. According to a report by Human Rights Watch, the Israeli authorities primarily used two mechanisms to acquire Palestinian lands in Israel. The first was the adoption of the "Absentee Property Law" by the Knesset in 1950, based on the 1948 emergency regulations that allowed for land confiscation. This opened the door for the seizure of homes and properties of Palestinians who were absent from their possessions in 1947 and 1948, whether in

¹⁰² The Law of Return, Encyclopedia of Terms, Madar Center for Israeli Studies website: available at <https://www.madarceter.org/%D9%85%D9%88%D8%B3%D9%88%D8%B9%D8%A9-%D8%A7%D9%84%D9%85%D8%B5%D8%B7%D9%84%D8%AD%D8%A7%D8%AA/225-%D8%AD%D9%82-%D8%A7%D9%84%D8%B9%D9%88%D8%AF%D8%A9>

¹⁰³ According to the Human Rights Watch report (2021) [A Threshold Crossed](#) The main mission of the "Jewish National Fund (JNF) is to develop and lease lands exclusively to Jews, excluding other populations. Under the "Constitution", the (JNF) acquires property "for the purpose of settling Jews on these lands and properties."

neighboring Arab countries or any part of Palestine outside of Israel's areas. The Israeli authorities implemented this law to seize the majority of lands owned by hundreds of thousands of Palestinian refugees who resided outside of Israel, as well as the lands of Palestinians who were displaced due to the events of 1947 and 1948. The Israeli authorities placed these lands under the control of the "Custodian of Absentee Property" and eventually transferred them to state lands, predominantly allocated for the construction of new Jewish settlements. This also applies to lands owned by Palestinians in occupied East Jerusalem. The second aspect is the declaration by the government of many Palestinian villages and towns as closed areas during the period of military rule. Additionally, the "Land Acquisition Law" was enacted to seize uncultivated lands since 1948 and lands whose ownership by Palestinians is not recognized, even if they are cultivated. At the time, Israeli Foreign Minister Moshe Sharett described this as "open theft".¹⁰⁴

The Israeli authorities continue to prevent Palestinians from accessing and utilizing their lands, which were confiscated from them. Among prominent examples, in November 1948, Israeli forces displaced the residents of the village of Ikrit, located near the Lebanese border, and declared the area a closed military zone. In response, the village residents, who remained internally displaced within Israel, filed a legal lawsuit against their displacement. In 1951, the Israeli Supreme Court rejected their return to their village, and two months before the court's decision was implemented, the Israeli army destroyed all the village houses. Afterward, the Israeli government claimed that their return posed a security threat.¹⁰⁵

The researcher conducted several interviews with prominent figures in the fields

¹⁰⁴ [A Threshold Crossed: Israeli Authorities and the Crimes ...](#)

¹⁰⁵ Ibid

of law, academia, civil society, and government officials to inquire about the international efforts made by the international community to address the consequences of the Palestinian Nakba and its impact on Palestinian refugees. She also discussed the international resolutions that have been taken in favor of Palestinian refugees to seek justice for them.

Shawan Jabarin,¹⁰⁶ the General Director of Al-Haq Human Rights Organization, emphasized that the efforts thus far have been limited to the issuance of UN General Assembly Resolution 194, which remained ink on paper. The subsequent actions have not been accompanied by any real institutionalized efforts, whether in terms of accountability or even raising awareness about the Palestinian Nakba and the crimes committed during that period. He pointed out that the Palestinian people had placed their hopes on the Palestinian revolution at the time to liberate their homeland, relying more on the aspirations of the revolution than on international law, criminalization, and the available mechanisms at the international level. Jabarin warned that the ongoing efforts- which have not yet been completed- are examining in-depth the crime of genocide to describe what happened in the 1948 Nakba, according to the definition of the Genocide Convention. He reaffirmed that the definition of the crime in the Convention aligns with the intent, purpose, and policy behind the massacres committed against the Palestinians.

Aida Touma,¹⁰⁷ a member of the Israeli Knesset, agrees with Jabarin regarding

¹⁰⁶ Shawan Jabarin, the Director General of Al-Haq Human Rights Organization, was awarded the Reebok Prize in 1990 for his support of human rights. He was elected Secretary General of the International Federation for Human Rights in 2019. The interview with him was conducted on May 19, 2023, and it is recorded in audio format and available upon request.

¹⁰⁷ Aida Touma is a member of the Israeli Knesset representing the Joint List. She is the second candidate on the "Democratic Front for Peace and Equality" list for the Knesset

the inadequate response of the international community to the issue of Palestinian refugees and the Nakba. She described these efforts as resembling attempts to rescue people from a natural disaster and meet their humanitarian needs. Touma pointed out that the establishment of UNRWA was one of these efforts aimed at assisting the Palestinian people only on humanitarian aspects, treating the issue as if it were a natural disaster that displaced its inhabitants, and international institutions provided assistance to them and the affected individuals. She emphasized that the Palestinian Nakba and its consequences should have been addressed at the international political level, dealing with a population that was entirely displaced from its land and deprived of its right to self-determination. Touma noted that the Partition Resolution 181, which was adopted at the time to establish two states, was flagrantly violated by Israel without international accountability or prosecution, especially since Israel took control of parts of the land allocated to the Palestinian state according to that resolution. The Keenest member considered this violation and the lack of international accountability as an integral part of the Nakba. Regarding the international resolutions adopted in favor of Palestinian refugees, particularly Resolution 194, Touma pointed out that the international community exempts itself from responsibility by making decisions that it does not enforce. In her view, international resolutions are a means for the international community to cleanse its conscience. At the same time, she stated that although these resolutions serve as a reference and support of the Palestinian narrative, they have remained ink on paper, and the international community has not exerted sufficient pressure to enforce them on a state that derives its legitimacy from the decisions and

elections. In 2015, she proposed a bill to the Knesset to commemorate the Kafr Qasim massacre, which was rejected by the Jewish parties in the Israeli opposition and coalition. The interview with her was conducted on April 27, 2023, and it is recorded in audio format and available upon request.

recognition of the international community (referring to Israel).

Dr. Omar Awadallah ¹⁰⁸, Assistant Minister of Foreign Affairs of Palestine, shares the view that the international community has not made real efforts to solve the issue of refugees and the consequences of the Palestinian Nakba. Otherwise, the Palestinian people would have obtained their natural right to self-determination, and the refugees would have returned to their homes. Awadallah considers international resolutions to be aimed at containment rather than a solution. They provide relief and humanitarian assistance but do not focus on repatriating refugees to their homes. He points to the complicity of the international community in sustaining and attempting to resettle refugees in places they sought refuge, with the intention of erasing their right to self-determination. However, the Palestinians' self-organization through the establishment of the Palestine Liberation Organization (PLO), as well as Arab resolutions rejecting refugee resettlement and affirming their inherent right of return, along with the subsequent political framing of the issue, addressed the humanitarian needs by considering them temporary. As a result, we have witnessed how refugees settled in camps while maintaining their refugee status and this situation has not changed since then.

Professor Michael Lynk,¹⁰⁹ the former Special Rapporteur on the situation of

¹⁰⁸ Dr. Omar Awadallah is the Assistant Minister of Foreign Affairs for Multilateral Affairs in Palestine. He also serves as the Head of the General Administration for the United Nations, its specialized agencies, and human rights at the Ministry. He holds two PHD, one in Artificial Intelligence and the other in International Relations. He has led, along with his colleagues, the strategy for international engagement, including joining organizations such as UNESCO, the United Nations, and other international organizations and agreements. Additionally, he is involved with the International Criminal Court and other courts. The interview with him was conducted on May 27, 2023, and it is recorded in audio format and available upon request. (Arabic)

¹⁰⁹ Professor Michael Lynk, a Canadian national, was appointed in 2016 as the Special Rapporteur on the situation of human rights in the occupied Palestinian territories since 1967. He is an Associate Professor at the Faculty of Law, Western University in Ontario, where he teaches labor law, constitutional law, and human rights law. He has collaborated

human rights in the Palestinian territories occupied since 1967, believes that the international community has failed to address the consequences of the Palestinian Nakba and find solutions to it due to the guilt complex surrounding the Holocaust. He interprets the lack of addressing the Nakba's consequences and leaving the refugee issue unresolved as a result of the concern that arises from Israel's establishment based on this displacement and the support of major powers, including the United States, which has endorsed the Israeli narrative.

Adam Raz,¹¹⁰ the Israeli historian, believes that revealing official documents regarding the confessions and testimonies of Israeli officials and military personnel about the events and crimes committed before, during, and after the Nakba is crucial in raising international awareness about the Palestinian Nakba and bringing about a qualitative change in the international stance. He states that any future dialogue between the Palestinian and Israeli sides requires us to understand the past. He emphasizes that Palestinians are well aware of what happened during the Palestinian Nakba, as they experienced forced displacement, mass killings, looting, and confiscation firsthand. They do not need access to Israel's closed state archives to discover these facts; they already know what happened to their land and villages. However, Raz explains that archival documents will provide Palestinians, for the first time, with documentation of their narrative and enable them to obtain official resources and sources to substantiate their claims.

with the United Nations on human rights and refugee issues in Jerusalem. The interview with him was conducted on April 10, 2023, and it is recorded in audio and video format, available upon request.

¹¹⁰ Adam Raz is a writer, journalist, and one of the new Israeli historians. His grandparents survived the Holocaust and immigrated to Israel in the 1920s. He has authored numerous publications in collaboration with the "Akevot" center, documenting Israeli crimes during the 1948 Palestinian Nakba, and published a book "The Looting of Arab Property in the 1948 War." The interview with him was conducted on April 3, 2023, and it is recorded in audio format and available upon request.

Raz does not believe that the international and Arab communities care enough about the Palestinians, and the same applies to Israeli society. However, he argues that documenting more of history, increasing awareness, and exerting pressure to open Israel's archives, of which only 2% has been disclosed, is a historical responsibility.

Raz also interprets the closure of the archives to the Israeli public and the world as Israel being akin to a mother who tells her children a beautiful bedtime story and reassures them that there are no monsters under the bed. "The state does not want to raise difficult questions or topics within the Jewish psyche. Israel's existence is based on the properties of the absent Palestinians, and the archive is the secret. It contains all the materials and documents related to the reality and the actual situation in 1948 (the archive depicts photographic snapshots of the reality), the land, houses, properties, factories, and so on. If a Palestinian refugee residing in the West Bank, Gaza, or Jordan tries to understand what happened to his family and belongings, he will gain understanding by accessing the archive documents." The Israeli historian explains that the issue is not only about revealing the suffering but also about the properties and money that should be compensated to the Palestinians. The hidden documents are like an "ATM card" for Palestinian properties, as he describes them.

Regarding Israel's reluctance to open the archives to the public, despite Israeli law allowing for the opening of archives after 30 to 50 years, Israeli historian Ilan Pappé¹¹¹ states that the Israeli establishment sees a direct connection between Israeli

¹¹¹ Professor Ilan Pappé is one of the new Israeli historians. One of his most famous works is "The Ethnic Cleansing of Palestine." He has taught at the University of Haifa and currently teaches at the University of Exeter in the United Kingdom. He is a supporter of boycotting Israeli educational institutions. It is worth mentioning that he has faced significant criticism in Israel for his support of Palestinian rights, including the right of return for refugees and resistance against the occupation. The interview with him was conducted on May 17, 2023, through WhatsApp and email, and it is securely stored and available upon request.

behavior during the Nakba and the country's moral international standing. Pappé adds that this period is when the United Nations recognized the legitimacy of Israel and the West embraced it as a "democracy." The historian emphasizes that the reality of what Israel did in 1948 casts doubt on the ethics of the state and the justice behind the international community's decision to support it.

In this sense, Shawan Jabarin calls for the necessity of utilizing and disclosing these documents to solidify the Palestinian narrative. He emphasizes the use of various modern tools in technology, such as advanced programs and innovative scientific methods, to reconstruct the crimes and build the scene through images, pinpointing the locations and distances where the massacres took place. The official Palestinian institution, which relies on oral tradition, demands a shift toward a scientific approach based on documentation.

Aida Touma considers the disclosure of these documents highly important for reintroducing the facts to public awareness, establishing the truth, and exposing the crimes committed against the Palestinian people. She emphasizes the need to widely disseminate and publish them in all languages, using them as documented evidence in international forums and specialized courts to hold Israel accountable for its historical responsibility for the Nakba.

The researcher believes that the facts and testimonies presented in this chapter confirm that the Palestinian Nakba was the result of a systematic and planned ethnic cleansing process. It aimed to exploit the UN partition resolution to seize as much Palestinian land as possible, cleanse it from its indigenous population, erase Palestinian presence, and ensure a Jewish majority with enhanced influence and dominance, without regard for any provisions or principles of international law.

The researcher points out that the documents, testimonies, and confessions included in this chapter affirm that the majority of killings, displacement, and destruction were carried out according to policies adopted by Zionist leadership or with their knowledge and complicity. At the forefront of these figures was Ben-Gurion himself. The researcher also states that the illegal actions committed in violation of international law were ordered by official leaders in both the political and military spheres, which confirms the responsibility of the Israeli leadership for committing war crimes and crimes against humanity.

Furthermore, these facts and testimonies reveal that the leadership of the State of Israel deliberately launched an expansionist war to seize land beyond the borders assigned to it in the partition resolution (181). It also adamantly refused to allow the return of Palestinian refugees who wished to return to their homes after the war, in violation of UN Resolution 194. Instead, Israel continued the process of expulsion and displacement even after committing to accepting and implementing these two resolutions, which were conditions for its membership in the United Nations.

3. Chapter Three:

The 1967 War and the Occupation of the West Bank and Gaza Strip

3.1 Introduction

On June 5th, 1967, Israel launched a preemptive war against the Arab countries of the surrounding region, namely Egypt, Jordan, and Syria. This war lasted for six days, during which Israel succeeded in occupying the Sinai Peninsula in Egypt, the Golan Heights in Syria, as well as the West Bank, including East Jerusalem, and the Gaza Strip, which constituted the remaining Palestinian territories under the mandate.

The war erupted at a time of high tension in the region, which Israel took advantage of to label its military campaign as a preemptive war aimed at protecting its security and thwarting an alleged Arab military attack. Subsequent events revealed that despite the war drums, the Arab countries involved had not taken any actual measures to launch a military offensive and had no intention of doing so. There is now partial evidence available that suggests the Israeli leadership was aware of this situation and launched the war with the aim of achieving its expansionist ambitions in Arab lands, particularly in Palestine and the Golan Heights.¹¹²

¹¹² On June 5th, 2023, "Yedioth Ahronoth" published an article by Zion Hillelai, revealing some of the contents of recently uncovered secret transcripts from the Knesset archives. According to the article, in a meeting of the Foreign Affairs and Security Committee held in Kirya (the Ministry of Defense headquarters) on June 7th, 1967, attended by Prime Minister Levi Eshkol and ministers Menachem Begin and Israel Galili, Defense Minister Moshe Dayan presented a report. Among other things, the report indicated that there was no security necessity to open a front with Syria, which had been relatively calm compared to Egypt and Jordan. Dayan stated, "I understand the importance of the territories known as the plateau (the Golan Heights), but we should not cross the borders with Syria due to its relationship with the Soviet Union." Dayan later added that if the government decided otherwise, the army could carry out the occupation of the Hight. Indeed, based on the

In its public diplomatic discourse, Israel pretended to be ready to trade land for peace, meaning a withdrawal from occupied territories in exchange for peace with the Arab states that would guarantee "secure and recognized borders." This was the equation upon which UN Resolution 242, adopted by the Security Council on November 22nd, 1967, was based. However, the realities on the ground were moving in a different direction, as Israel was obstructing the implementation of the resolution under the guise of conflicting interpretations of its provisions. When the United States launched the "Rogers Plan" in the summer of 1970, which was accepted by Egypt and Jordan in an attempt to bridge these differences, it became apparent during the indirect negotiation process that Israel wanted to retain large areas of the occupied territories to satisfy its expansionist ambitions.

This assessment is strengthened when we examine the actual course of Israeli practices on the ground, which followed the same trajectory as we witnessed during the 1948 war and its aftermath. This included the expulsion and displacement of civilian populations, the destruction of villages and neighborhoods, and the annexation of East Jerusalem from the first week of the war onwards. Israel sought to achieve the same goal (seizing the largest possible area of land with the fewest possible number of inhabitants), but through new means that took into account the remarkable shifts that had changed the international landscape during the two decades between 1948 and 1967. Indeed, these two decades witnessed a dramatic collapse of the colonial system

government's decision, two days after that secret session, on the morning of June 9th, the Israeli army launched a comprehensive attack on Syrian sites in the Golan Heights, reaching Mount Hermon and Quneitra. Gadi El Ghazi also reveals, in an article "The Issue of Refugees between the Nakba of 1948 and the 1967 War," published in the *Palestinian Studies Journal*, Winter 2018, that based on the minutes of Israeli government sessions, the issue of occupying the West Bank was discussed multiple times during the 1960s, including a government session on April 25th, 1963. The Israeli army had been preparing to seize the West Bank since then and was making preparations for establishing military rule over the population, including the translation of emergency laws into Arabic and introducing amendments to them.

and the success of national liberation movements in achieving independence for their peoples in dozens of countries in East and South Asia, Africa, and Latin America. This led to the consolidation and widespread awareness of values such as freedom, justice, and the right to self-determination among broad sectors of global public opinion. This was accompanied by a series of successive technological revolutions in the world of communications and information, and a tremendous advancement in the methods and reach of written, audio, visual, and electronic media, which unified the space of knowledge across different parts of the world. During this period, the influence of contemporary international law, which was still in its early stages of development in 1948, significantly grew. However, its impact on the actual state of affairs between nations was still relatively weak. These three factors prompted tangible changes in the means and methods employed by the Israeli leadership to achieve its objectives.

This chapter will cover the behavior of the Israeli occupation in the West Bank, including East Jerusalem, and the Gaza Strip during the period from June 1967 until late 1993, the date of the signing of the “Oslo Agreement” between the Palestine Liberation Organization (PLO) and Israel.

3.2 The First Topic: Israeli Policies and Practices in The Occupied Palestinian Territory After 1967

While the Israeli establishment approved the goal of expansion and strengthening the "Jewish state" through the annexation of land and displacement of civilian populations, the Israeli domestic scene varied in terms of its expansionist ambitions between the camp led by the “Labor Party”, and later the “Al-Ma'arakh party”, which remained dominant in power during the first decade of the occupation

(until 1977), and the right-wing camp led by “Likud”, which increasingly gained majority support since early 1978.

The first camp aspired to annex the “Greater Jerusalem”, the West Bank highlands, and the Jordan Valley, and extend its control to the northwestern coast of the Dead Sea. The right-wing camp, on the other hand, embraced the ideology of "Greater Israel," which called for the establishment of a "Greater Israel" encompassing the entire historic land of Palestine. The “Allon Plan”, which will be detailed in a later part of this chapter, represented the aspirations of the first camp. Meanwhile, the second right-wing camp adopted the "Drobles Plan" and later the "Sharon Plan" (refer to the third requirement/First Topic of this chapter).

Israel found itself compelled to adjust its methods of operation in accordance with the new international situation. While practices of killing, expulsion, and mass displacement of the population continued, along with the destruction of villages and neighborhoods, were limited by the necessity to maintain Israel's image and status in the new international context. Israel also adopted policies of annexation, creeping annexation, and Judaization, and sought to impose facts on the ground through the construction and expansion of settlements as a means to achieve its goal of expansion and seizure of land.

3.2.1 First Section: Forced Displacement of Civilian Populations

The rapid occupation of the West Bank and Gaza Strip ignited the Israeli leadership's appetite to launch a new wave of "transfer" of the Palestinian civilian population, continuing what had started in 1948. Colonel Shlomo Gazit, “Coordinator of Government Activities in the Territories” until 1974, alludes to this by stating, "The

top leadership was optimistic, immediately after the war, about the possibility of continuing the wave of Palestinians leaving to the East Bank of Jordan and preventing their return".¹¹³

For this purpose, the occupying authorities prepared plans for systematic expulsion operations and made significant efforts to implement them during and after the war, continuing in the West Bank until at least 1971 and in the Gaza Strip until at least 1972.¹¹⁴ The outcome of these efforts resulted in the deportation of over 433,000 Palestinians and their prevention of returning.¹¹⁵ They constituted approximately 30% of the total population in the West Bank and Gaza Strip at that time.¹¹⁶

Israel resorted to various methods to carry out expulsion operations. It took advantage of the temporary evacuation of civilian populations from combat areas and forced residents, through threats, to leave their homes in villages and neighborhoods before destroying them. Israel deliberately spread terror, including the deployment of special units for psychological warfare to spread rumors among the population to push them to leave. It also employed various military and legal means to prevent the return of the displaced individuals. In Bethlehem, for example, the French nurse Marie-Thérèse recorded in her diary that military vehicles roamed the city's streets, urging residents to leave within two hours. Father Paul Goutier witnessed that the military patrols'

¹¹³ Youssef, Ahmed and Nafaa, Hassan (1993). *The International Community and the Palestinian Cause*, Cairo, Institute for Arab Research and Studies, pg. 91.

¹¹⁴ Al-Ghazi, Ibid, pg. 4.

¹¹⁵ Abu Badawiya, Raed (2018). *Palestinian refugees and the peace process in the Middle East in the balance of international law*, Al-Ra'aa Publications for Studies and Publishing, p. 111.

¹¹⁶ According to the organization "B'Tselem," the population census conducted by Israel after the transfer in 1967 was 660,000 in the West Bank and 350,000 in the Gaza Strip. The total number of displaced individuals was 433,000, which amounts to a total of 1,443,000. This means that the displaced individuals constituted 30% of the total population.

The statistics can be found on the following website of the "B'Tselem" organization: War of 1967 <https://conquer-and-divide.btselem.org/map-ar.html>

loudspeakers repeated a military announcement calling on the population to flee and take the road to Jericho to save their lives and the lives of their children, warning that otherwise they would be "crushed under the rubble within an hour."¹¹⁷

On June 10, 1967, the residents of the al-Magharebah neighborhood in Jerusalem, numbering approximately 3,500 people, received a notice from Israeli officers to evacuate their homes within two hours before their neighborhood was demolished. Those who refused to comply with the evacuation orders were forcefully coerced when the bulldozers moved toward the neighborhood.

This action came as a sudden shock to the residents, as some of them had not heard the evacuation call, resulting in cases of fatalities buried under the rubble for those who couldn't evacuate in time. One such case was a woman who did not hear the evacuation calls and was found buried under the debris of her house the following morning. As a result, some of the residents of the neighborhood were displaced to the Shuafat refugee camp located 4 kilometers north of the Old City and to other places in Jerusalem. The residents of Moroccan origin, who constituted half of the inhabitants of the neighborhood, returned to Morocco with the assistance of King Hassan II.¹¹⁸

In a testimony provided by Major Etan Ben-Moshe, the officer responsible for the destruction of the al-Magharebah neighborhood, during an interview with the Israeli newspaper "Yerushalayim" in 1999, the officer revealed that "before demolishing the neighborhood, a military unit passed in front of the Arab houses and ordered the residents to leave their homes within 15 minutes". He states, "After we finished

¹¹⁷ Al-Ghazi, Ibid, pg. 5

¹¹⁸ Tom, Abboud, (2002). The Moroccan Alley: A History of the Present, Journal of Palestinian Studies, Vol. 13, No. 51 (Summer 2002), pg. 3 and 4. Available on: <https://www.palestine-studies.org/sites/default/files/mdf-articles/%D8%AD%D8%A7%D8%B1%D8%A9%D8%A7%D9%84%D9%85%D8%BA%D8%A7%D8%B1%D8%A8%D8%A9.pdf>

demolishing the neighborhood, we found bodies among the rubble of some residents who refused to leave their homes. There were three bodies that were transferred to Bikur Holim Hospital in the western part of the city. But there were other bodies... we buried them".¹¹⁹

In the weeks following the war, convoys of buses were organized to transfer thousands of refugees eastward beyond the Jordan River. According to a report found in the Israeli archives, a Ministry of Foreign Affairs official accompanied a delegation of foreign journalists who had heard reports of thousands of refugees crossing daily to the east of Jordan. They did not believe the Israeli narrative that it involved only a few hundred people.

The report further states that the journalist delegation was first taken to meet with the deputy military governor in Jericho, and before the meeting began, the Israeli officer whispered in the official's ear the number that was supposed to be used regarding the supposed number of refugee crossings according to the official narrative. However, upon their arrival at the "Allenby Bridge", the journalists were surprised to see dozens of trucks carrying hundreds of refugees crossing the river. One of the journalists asked an Israeli soldier standing at the checkpoint, "How many people crossed from here today?" The answer was, "4,000 people." The Israeli official in his report says, "Fortunately, the soldier did not speak English. And during the translation, I dropped a zero."¹²⁰

Isaac Modai, the "military governor of Gaza" after the war, spoke about "convoys of trucks carrying primarily young men, as well as adult men and women, and transferring them to the Suez Canal while Israeli forces opened fire to prevent them

¹¹⁹ Abboud, *Ibid*, pg. 9.

¹²⁰ Al-Ghazi, *Ibid*, pg. 7.

from returning." He added, "We are talking about tens of thousands. If only we could have completely emptied Gaza, but that was not possible."¹²¹

According to a report by UNRWA on September 17, 1972, approximately 16,000 refugees were transferred from the camps of Shati, Jabalia, and Rafah. The report states: "Soldiers arrived at the camps during the night hours and marked the buildings for demolition. They gave the residents between two and 48 hours to leave with their belongings... and informed them that good housing awaited them in Arish. They could also choose to move to the West Bank or Jordan, or stay in Gaza on the condition that they obtain written consent from the owners of the vacant homes where they would reside outside the camp".¹²²

The peak of the attempts to forcibly displace the residents of Gaza camps occurred during the military campaign led by Ariel Sharon to suppress Palestinian resistance in the Gaza Strip between 1971 and 1972. Thousands of homes were demolished, and their inhabitants were transferred to Arish or other locations within the Gaza Strip.¹²³

In the spring of 1973, members of the southern "kibbutzim" from the "Hashomer Hatzair movement"¹²⁴ revealed the establishment of settlements on the outskirts of Rafah through the forced eviction and displacement of thousands of Bedouins. The area was declared a closed military zone for security reasons, and

¹²¹ Ibid, pg. 12. (Quoted from Rubik, Rosenthal: "The First Hundred Days," "Faces," No. 39 (2007). p. 28).

¹²² UNRWA, 'Special Report of the Commissioner – General on the Effect on Palestinian Refugees of Recent Operations Carried by the Israeli Military Authorities in the Gaza Strip (A/8383) 17/9/1972.

¹²³ Al-Ghazi, Ibid, pg. 12.

¹²⁴ "Hashomer Hatzair" translates to "The Young Guard". It is a global organization of Zionist youth that was founded in Poland in 1913. Its second World Conference in 1927 affirmed the necessity of immigration to Palestine and joining the life of the kibbutz. In 1946, the organization transformed into a political movement and played a role in the establishment of the "Mapam" Party (United Workers' Party) after the declaration of the State of Israel.

bulldozers demolished houses and tents, wells were sealed, and the land was fenced off by Ariel Sharon's decision. During this operation, brutal looting acts took place according to testimonies collected by members of the “kibbutzim”, and the Israeli government did not allow the Bedouins to return to the areas from which they were evicted.¹²⁵

As a continuation of the expulsion operations, intense efforts were made to prevent the return of the displaced individuals. Checkpoints were set up, and patrols were conducted on the return routes, with strict instructions to open fire on returning convoys, even if it resulted in fatalities, and to forcefully expel them once again.

In a report presented by Moshe Dayan to the Israeli government in August 1967 regarding the prevention of refugee return, the following was stated: “We prevent them from crossing during daylight hours, we shoot above their heads, then they return at night, and we open fire on them, even in some cases where women and children are among them. Despite that, just two or three days before the government session, we had 500 more people who successfully crossed the Jordan River. Our patrols intercepted them between the Jordan River and Nablus after they had walked a certain distance on foot. We transported them by buses and returned them to the other side of the Jordan River”.¹²⁶

In 1985, the testimony of an Israeli soldier was published, confirming, “They made it clear to us that if convoys of refugees returning from Jordan to the West Bank passed by us, we were required to open fire on them. I asked the responsible officer if I should also shoot when I hear the cries of children. The answer I received was, 'Don't be a woman.’” The soldier continued, “We were four armed soldiers with Uzi rifles. We heard the noise of people approaching us, so we hid. When they came

¹²⁵ Al-Ghazi, *Ibid*, pg. 12.

¹²⁶ Zureik, *Ibid*, pg. 29

closer to us, we raised our flashlights and started shooting. We clearly saw dozens of refugees about 70 meters below us. We saw the outlines of the luggage they were carrying. We unleashed intense and heavy gunfire”.¹²⁷

In addition to military means to prevent the return, Israel adopted bureaucratic and legal mechanisms to achieve the same goal. In 1967, the military administration conducted a “population census in the West Bank and Gaza Strip”.¹²⁸ It took control of the population registry records, including marriage, divorce, birth, death, and address changes, and deleted hundreds of thousands of Palestinians from these records. Identification cards were issued to those included in the census. Those who were not present during the census, including temporary travelers for study, work, visiting relatives, or tourism, were deleted from the registry and denied the right to return to the country. Military orders and laws were issued to control and restrict family reunification cases to the narrowest extent possible.¹²⁹

During the summer of 1973, while comparing the outcomes of the 1948 Nakba and the 1967 war, Moshe Dayan acknowledged that: “As a result of the transfer in 1948, about 80% of the Arabs residing in the areas controlled by Israel became refugees, and Israel seized 4 million dunams of land.”¹³⁰ Following the June 1967 war, 20% of the

¹²⁷Al-Ghazi, Ibid, pg. 6 (quoted from (Eyal Erlich, “Ambush on the Jordan River” by Cottert Rachet 8/14/1985).

¹²⁸ Conquer and Divide, (n.d). The 1967 War, B'Tselem, available at: <https://conquer-and-divide.btselem.org/map-ar.html>

¹²⁹ A regime of Jewish Supremacy from the Jordan River to the Mediterranean Sea: This Is Apartheid, B'Tselem report, available at: https://www.btselem.org/arabic/publications/fulltext/202101_this_is_apartheid

¹³⁰ We clarified in the previous chapter that the actual area of land seized by the state of Israel in 1948 from the refugees amounted to 5.5 million dunams, according to the United Nations database cited in Dr. Nasser Al-Qudwa's article in "Middle East Eye." (Note from the researcher)

population of the West Bank became refugees,¹³¹ and Israel confiscated only tens of thousands of dunams of their land.”¹³²

The process of displacement did not cease after the short period following the war but rather continued through other means and justifications in the West Bank, as well as in the Gaza Strip. These included declaring lands as “closed military zones” or “firing zones” for military training purposes, or claiming that the properties in which Palestinians reside were originally owned by Jews before 1948.

For example, the “Akevot Institute”¹³³ revealed a document from the minutes of the “Settlement Ministerial Committee” meeting held in July 1981, which was preserved in the state archives. The document outlined a plan to displace Palestinians from their homes in the southern Hebron region by declaring their lands as “firing zones” for the training of the occupying army. This document was presented to the Supreme Court in an attempt to assist a few hundred Palestinians who remained in the rural areas of Yatta to confront the occupation's intention to evacuate them. The document proves that the declaration of the area as a “firing zone” was not initiated by the “Ministry of Defense” or the army but rather by Ariel Sharon, who was then the “Minister of Agriculture”. The goal behind this was to reduce the number of Palestinian inhabitants, as confirmed by a senior officer in the occupying army in an interview with Amira Hass in the "Haaretz" newspaper in 2014, stating that “training in firing zones in

¹³¹ We explained in a previous section of this chapter that the actual proportion of the population that was displaced after the 1967 war was approximately 30% of the total population of the West Bank and Gaza Strip at that time. (Note from the researcher)

¹³² Al-Ghazi, *Ibid*, pg. 8.

¹³³ The "Akevot" Center, which means "Tracing the Path, is a research center focusing on the Israeli-Palestinian conflict. It was established in 2014, and according to its website, its main mission is to enable the public to access the Israeli archive in general, and specifically the military archive and the archive of the Israeli security establishment. The center operates based on the premise that the cumulative result of withholding archive documents from the Israeli public would distort the overall Israeli political discourse and affect the narrative related to the conflict in general.

the West Bank is a means to reduce the number of the Palestinian population in those areas”.¹³⁴

3.2.2 Second Section: The Destruction of Properties and the Demolition of Villages and Residential Neighborhoods

As in the 1948 Nakba, Israel continued, during the 1967 war, and before the smoke of the battles had dissipated, the process of demolishing and destroying Palestinian villages and neighborhoods, albeit on a smaller scale due to the constraints imposed by the new international situation. Here, we refer to two prominent examples of the destruction process: the Maghariba Quarter and the Latrun villages.

A) Moroccan Quarter “al-Maghariba Quarter”

Moroccan Quarter is one of the neighborhoods in the city of Jerusalem, located southwest of the Old City. It covers an area of 3,200 dunams (about 3.2 square kilometers). It was named after a large number of Moroccans (North Africans) who were settled there by Salah ad-Din al-Ayyubi (Saladin) following the Muslim victory in the Battle of Hattin and the liberation of Jerusalem.

On June 10, 1967, two days after the occupation of East Jerusalem and while the war was still ongoing, the Israeli government made the decision to demolish the al-Maghariba Quarter. It appears that the objective of this decision was to reveal the hidden parts of the Western Wall (referred to by Jews as the Wailing Wall and considered the remaining wall after the destruction of the Temple), in order to create a

¹³⁴ Raz, Adam, (2021). Murder by the Army, Akevot Institute in cooperation with Haaretz Newspaper available at: https://www.akevot.org.il/wp-content/uploads/2021/12/2021-12-10_Haaretz_EN_cabinet-meetings48.pdf

plaza that could accommodate hundreds of thousands of Jews coming to pray at the wall.¹³⁵ The remaining parts of the al-Maghariba Quarter were integrated into the adjacent Jewish neighborhood for restoration, renovation of buildings, and the rehabilitation of its infrastructure.

Within a few hours of notifying the residents of the neighborhood to evacuate their homes, the bulldozers began demolishing the houses. Within hours, the entire neighborhood, consisting of 135 houses, was destroyed and leveled to the ground. None of the neighborhood's structures, including the al-Maghariba Mosque, were spared from demolition.¹³⁶

Continuing his previous testimony, Major Eitan Ben-Moshe stated, “The Mayor of Jerusalem, Teddy Kollek, marked the sites to be demolished in the neighborhood on a piece of paper, but the bulldozer drivers exceeded the orders and destroyed other houses. The entire neighborhood was destroyed. There was a mosque in the area called the al-Buraq Mosque, which was built on the site from which Prophet Muhammad ascended to heaven (as mentioned in the text)... I said if the horse ascended to heaven, why shouldn't the mosque ascend as well? So, I destroyed it without leaving any trace”. When asked why the residents were not allowed to move their furniture and belongings, he replied, “There was no time. That day was Saturday, and the following Tuesday was the celebration of Jewish Passover according to the Torah. At that time, a very large number of Jews were expected to come to the Western Wall, and we had only two days to prepare the square”. He further stated, “A high-ranking official told me that if we

¹³⁵ Moroccan Quarter, (n. d). Wikipedia, the free encyclopedia, is available at: https://ar.wikipedia.org/wiki/%D8%AD%D8%A7%D8%B1%D8%A9_%D8%A7%D9%84%D9%85%D8%BA%D8%A7%D8%B1%D8%A8%D8%A9

¹³⁶ Shabana reviews the situation and conditions of the Palestinian people on the 41st anniversary of the June setback, (2008). Palestinian Central Bureau of Statistics, available at: <https://www.pcbs.gov.ps/Portals/pcbs/PressRelease/naksa67.pdf>

faced many international reactions, we would say that you did it on your personal responsibility, and we would sentence you to five years in prison but don't worry, we will grant you amnesty the next day. I accepted the offer.”¹³⁷

B) The Latrun Area

The Latrun Area is located between Jerusalem and Ramla, at an elevation of 250 meters above sea level. Israel gained control over part of it in 1949, and in 1967 it completed its control over the remaining portion of the area, which includes three villages: Imwas, Yalo, and Beit Nuba. Immediately after taking control, the Israeli forces demolished the three villages and displaced their inhabitants, who numbered around 10,000 Palestinians at that time. In the place of Imwas and Yalo, a large forest was planted, funded by Canadian Jewish donors, and it was named "Canada Park." As for Beit Nuba, the settlement of “Moshav Mevo Horon” was established on its lands.¹³⁸

According to the testimony of soldier Amos Kenan, who served in the Israeli occupying forces in the Latrun area during the 1967 war, the following is stated: (“We were informed that our mission was to survey the village houses. There were armed individuals who must be arrested. As for the unarmed individuals, you could give them time to pack their belongings, then inform them to go to the nearby village of Beit Sira. We were also instructed to position ourselves at the entrance of the village and prevent the entry of residents who would come out of hiding after hearing the calls to return to their villages safely through the radio. The instructions were to fire shots above their heads and order them not to enter the village”. Kenan further adds, "With a single

¹³⁷ Tom, *Ibid*, pg. 9.

¹³⁸ The villages of Latrun, whose name has become “Canada Park”: “It seems that its people have given great care to their trees” (2015). A report on the Watan News Agency website, quoting the Al-Safir Newspaper, available: <https://www.wattan.net/ar/news/140603.html>

bulldozer strike, the cypress and olive trees were uprooted, and within 10 minutes, the house was reduced to rubble along with all the belongings inside.

After three houses were demolished, the first group of refugees arrived from the way of Ramallah. We did not fire shots in the air. We prepared to form a cordon, and those of us who spoke Arabic approached the arrivals to convey instructions. Among them were elderly people barely able to walk, mumbling elderly women, infants in the arms of their mothers, and young children. The children cried and begged for a sip of water. The group raised white flags... We told them to go to Beit Sira. They said they were being expelled wherever they went, and they had been wandering on the roads for four days without food or water, and some of them had died. They requested to return to the village, saying, "We would prefer you to kill us". Kenan continues, "One man walked with a luggage bag weighing about 50 kilograms on his back. He kept walking, kilometer after kilometer. More elderly people, women, and children. They were exhausted when we asked them to sit down... Some of them had a cow or two, a calf, and all their belongings were scattered on the ground. We didn't allow them to go to the village to retrieve what was left of their belongings because the instructions were not to let them see how we destroyed their village (...) More groups arrived, reaching hundreds in number. They continued wandering on the roads like lost sheep. The helpless ones would die of exhaustion. In the evening, we learned that our leaders had lied to us; also in Beit Sira, the bulldozers started demolishing, and they weren't allowed to enter there either. We also learned that it wasn't only in our area that houses were being leveled for security reasons but in all areas". The promises we gave to the residents on the radio were not promises, and the policy was not a policy... In the morning, they moved us from there. None of us understood how the Jews could do such a thing... Even the

justifications made for the operation said that it was possible to establish a fence to gather the people, then make a final decision about them and their place of residence, and move them to their new location with their belongings... None of us understood why the farmer couldn't take his blanket and his provisions with him... Even the chickens and the hens were buried under the rubble... The fields were left exposed to the wind before our eyes, and the children who walked in the street crying will be the “partisans/ fedayeen” in the next round after about 19 years. That's how we lost twice on the same day”).¹³⁹

In his memoirs, Ze'ev Bloch, a reserve major and one of the founders of “Kibbutz Nahshon”, affiliated with the “Hashomer Hatzair Organization” and located adjacent to the village of Amwas, wrote about the expulsion: “We saw people carrying their few belongings, crying children, and elderly walking in a long line along the street... These scenes reminded me, and many reserve soldiers at that time, of not-so-distant days when we witnessed Jewish families in exactly the same situation walking in occupied Europe... It is difficult to avoid the comparison... Our hearts were shattered to see these scenes”.¹⁴⁰

3.2.3 Third Section: “De Jure Annexation”, “De Facto Annexation” and Judaization

Israeli Zionist leaders unanimously ratified the necessity of annexing vast areas of the territories occupied in June 1967, especially East Jerusalem. However, there were

¹³⁹ Mansour, Ibid, unpublished copy, pg. 83, quoted from the National Library of Israel at the following link: <https://bit.ly/3uOgC3W>

¹⁴⁰ Ofer, Aderet (2022). 55 Years Later: A Censored Kibbutz Decision About Arab Land Is Revealed, Haaretz Newspaper, available at: <https://www.haaretz.com/israel-news/2022-06-14/ty-article-magazine/.premium/55-years-later-a-censored-kibbutz-decision-about-arab-lands-is-revealed/00000181-6218-d76c-a7b9-679ce2990000>

differences in their positions regarding the extent to which this process should go. The ruling party during the first decade of the occupation, led by the “Labor Party”, adopted the “Allon Plan”, which aimed to redefine the borders of the State of Israel to include “Greater Jerusalem” and connect it to the Jordan Valley through a strip extending from west to east. The plan also proposed the annexation of the Jordan Valley from Bisan to what is known as the “Judean Desert” (Hebron Desert), with a length of 115 km and a width of 20 km. The plan avoids annexing densely populated Palestinian areas.¹⁴¹

To explain and justify his plan, Allon states: “In order to achieve the integration between the dream of the country's security (!) And maintaining a Jewish state, it is necessary to impose the Jordan River as the eastern border of the State of Israel”.¹⁴² Moshe Dayan, who was the “Minister of Defense” at the time, added to this plan the necessity for Israel to maintain control over the mountainous areas in the middle of the West Bank, overlooking both sides of the country (the coastal region and the Jordan Valley).

As a step towards implementing the “Allon Plan”, the Israeli authorities declared the areas adjacent to the Jordan River, covering an area of 400,000 dunams, as closed military zones where Palestinians were prohibited from engaging in any agricultural or urban activities. They established 90 military sites in these areas.¹⁴³

The right-wing camp, led by the “Likud party”, came to power for the first time in the early years of the second decade after the occupation (1977-1984), and later

¹⁴¹ From Occupation to Permanent Annexation: Israel's Acquisition of Palestinian Land by Force, (2019) Negotiations Affairs Department, PLO, fact sheets, available at <https://www.nad.ps/sites/default/files/11042019.pdf>

¹⁴² Sherida, Abdul Sattar (2010). The Palestinian Jordan Valley in the Threshold of Leakage, a field research study, The Arab East Center for Civilizational and Strategic Studies, August 2010, pg. 3. Available on the Miftah website <http://miftah.org/arabic/Docs/Reports/2013/Other/JordanValley082010.pdf>

¹⁴³ Ibid

participated in the "National Unity" government led by Shimon Peres and Yitzhak Shamir (1984-1988), expressed its belief in the "Greater Israel" by adopting the "Drobes Plan" prepared by Matityahu Drobes, the head of the "Settlement Department" in the "World Zionist Organization" in 1978. The plan aims to "permanently control the areas (the West Bank and Gaza Strip) and maintain the security of Jewish settlements". The plan emphasizes that "there should be no doubt about our intention to control the territories of Judea and Samaria (the West Bank) permanently... Unplanted lands should be seized immediately in order to settle the areas between the minority population clusters (Palestinians) and their surroundings, with the aim of minimizing the possibility of the emergence of another Arab state in these areas".¹⁴⁴

"Drobes Plan" was further developed with additions by Ariel Sharon, who served as the "Minister of Agriculture" in the first right-wing government (1977-1981). He devised a plan in which only a few Palestinian population communities would be subject to Israeli sovereignty, while densely populated clusters would be fragmented into cantons or isolated Bantustans. They would be separated by bypass roads, military barriers, and iron gates.¹⁴⁵

A) Annexation of East Jerusalem

The actual annexation of Palestinian territories began with the unanimous decision of the Zionist movement to annex Jerusalem. Immediately after occupying the city, Israeli authorities decided to expand the municipality of West Jerusalem by 72

¹⁴⁴ From Occupation to Permanent Annexation: Israel's Acquisition of Palestinian Land by Force, Ibid.

¹⁴⁵ LAND GRAB, Israel's Settlement Policy in the West Bank, May (2002), Betselem report. Available at: https://www.btselem.org/download/200205_land_grab_eng.pdf

square kilometers of the occupied lands, including the eastern part of the city and several surrounding villages. On June 11, 1967, an Israeli government decision was issued to annex this area to the State of Israel, and legal measures were taken to apply Israeli law to it and subject it to Israeli sovereignty. This legal status was formalized on July 30, 1980, when the Knesset enacted the "Basic Law: Jerusalem, Capital of Israel," declaring Jerusalem as the unified capital of Israel.¹⁴⁶

The Israeli authorities conducted a population census immediately after the annexation of the city, specifically targeting the Arab Palestinian residents, and granted "permanent residency" status to those included in the census. Those who were abroad during the census or were not included in it were deprived of this status and were prevented from residing in or returning to the city.¹⁴⁷ It is worth noting that "permanent residency" is a conditional and temporary status that can be revoked at any time by a decision of the Minister of Interior Affairs based on his considerations.¹⁴⁸ When this matter was brought before the Supreme Court in 1988, the Court ruled that the "permanent residency" status is conditional upon the individual proving that he/she actually resides within the boundaries of the Jerusalem municipality and that their "center of life" is in the city. The municipality conducts regular inspection patrols of residents' homes to ensure that they actually reside there, and those who fail to prove this will have their permanent residency status revoked and will be prohibited from

¹⁴⁶ Between steadfastness and confronting Judaization. In the presence of Jerusalem: the eternal capital of Palestine. The Israeli aggression against occupied Jerusalem during the year 2017, (2017). Special report, Department of Negotiations Affairs in the PLO, pg. 3. Available at: <https://www.nad.ps/sites/default/files/vreportarb-4mar.pdf>

¹⁴⁷ Ayoub, Nizar (2012). The Ethnic Cleansing of Jerusalem, Annals of Jerusalem | Thirteenth Issue | Summer 2012] p. 7. Available at <https://www.palestine-studies.org/sites/default/files/hq-articles/11462.pdf>

¹⁴⁸ It Is Apartheid, B'Tselm, Ibid.

returning to the city.¹⁴⁹

It should be clarified that “permanent residency” status is different from citizenship. While a “resident” is allowed to vote in the elections for the Jerusalem municipality (which the majority of the population boycotts in protest of the overall situation), residents are deprived of other citizenship rights. Theoretically, a “resident” can apply for Israeli citizenship, but this is subject to complex bureaucratic procedures and requires a decision from the Minister of Interior Affairs, which is rarely granted.

With such restrictive measures and strict control over issuing building permits for Palestinians, coupled with a severe housing crisis, the situation only worsens, forcing them to build without permits and leading to the demolition of their homes and displacement. As a result, their residency status is revoked. The Israeli authorities have worked to reduce the number of Palestinian residents in order to maintain a “demographic balance” that ensures a Jewish majority in both parts of the city, with a ratio of Jewish to Arab population exceeding what it was at the end of 1972 (73.5% for Jews and 26.5% for Palestinians). This recommendation was proposed by a special committee and adopted by the government in 1972, and subsequent governments have upheld it.¹⁵⁰

This policy was further implemented through land confiscation measures, allocating 13% of the annexed land for Palestinian use, while declaring 22% as “green areas” and 30% as “planning zones” where construction is prohibited. Strategic sites from the confiscated lands were allocated for the establishment of Jewish settlements, effectively surrounding Palestinian neighborhoods and impeding their urban growth and

¹⁴⁹ Ayoub, *Ibid*, pg.2.

¹⁵⁰ *A Threshold Crossed*, *Ibid*.

geographical connectivity.¹⁵¹ By 1993, the number of Jewish settlers residing in East Jerusalem reached 146,436.¹⁵² This significantly contributed to maintaining the desired “geographical balance”.

In this context, we have observed statements by Israeli officials, including statements by Miron Benvenisti, who served as Deputy Mayor of Jerusalem in 1967. In these statements, he affirms that demographic considerations form the basis for ensuring a decisive Jewish majority in the city of Jerusalem. He stated, “The (absurd) borders of Jerusalem are the result of a desire to annex as much land as possible and have the fewest number of Arabs”.¹⁵³

When preparing the first Israeli municipal plan for “unified” Jerusalem in 1975, Yisrael Kimhi, the “Director of Planning Policies at the Ministry of Interior” at the time, emphasized that the demographic issue is one of the foundations of Jerusalem's planning. He considered the government's policy to be focused on “city growth and maintaining demographic balance within it”, stating that this would be a “measure of success in enhancing Jerusalem's status as the capital of Israel”.¹⁵⁴

In a meeting of the Jerusalem municipality in early 1982, Teddy Kollek, who served as the Mayor of Jerusalem from 1965 to 1993, stated, “I am concerned with taking care of the Jewish majority (...) that’s why we are here, to take care of it”. In another meeting in 1984, he said, “As it seems to me, like all of us, I am concerned about the Arab power balance and growth in Jerusalem and its surroundings”. In an interview with an Israeli newspaper in 1990, Kollek stated, “For Jewish Jerusalem, I have done something in the past 20 years. For East Jerusalem? Nothing! What have we

¹⁵¹Between steadfastness and confronting Judaization. In the presence of Jerusalem, Ibid.

¹⁵² Israeli colonies in Palestine, (2018). Annual Statistical Report, Palestinian Central Bureau of Statistics, pg. 52, available at: <https://www.pcbs.gov.ps/Downloads/book2485.pdf>

¹⁵³ A Threshold Crossed, Ibid.

¹⁵⁴ Ibid.

done? Nothing, cultural institutions? Not a single one”. He clarified that they provided a healthcare system and water supply for the residents in Palestinian areas. However, he added, “Do you think it's for their benefit or for their welfare? Forget it. We had cases of cholera there, and the Jews were afraid of getting infected, so we installed a sewage and water system to fight cholera”.¹⁵⁵

B) The Annexation of the Golan Heights

In 1981, the Israeli Knesset approved the "Golan Heights Law," through which the Golan Heights plateau was annexed, as it had always been considered by the right-wing Zionist movement as part of “Israeli territory”. According to this law, and unlike what happened in Jerusalem, the remaining Syrian Arab residents of the plateau were granted Israeli citizenship. It is known that during the occupation of the Golan Heights in June 1967, the Israeli forces carried out a comprehensive ethnic cleansing operation, expelling almost all of the plateau's population, which numbered around 128,000 people. Only around 6,000 individuals, mostly from the Druze community, remained. Although this number has almost doubled, it remained small enough not to significantly affect the “demographic balance”.¹⁵⁶

3.4 Fourth Section: Settlements in Occupied Palestinian Territory 1967

In a flagrant violation of international law, which prohibits the transfer of civilian population by the occupying state to settle them on occupied land, Israel began building settlements in the West Bank and Gaza Strip in the early months after the 1967 war. This was done as a means to solidify its dominance over the targeted areas for

¹⁵⁵ Ibid.

¹⁵⁶ Hilay, Sion (2023). Article, Knesset Archives: Moshe Dayan opposed the occupation of the Golan, Yedioth Ahronoth newspaper.

annexation and fulfill its expansionist aspirations. During the first decade of the occupation, settlement locations were determined within the framework of the “Allon Plan”, which reveals the extent of settlement presence in Israeli expansion plans.

In early 1974, Yigal Allon stated in an interview with the “Davar” newspaper: “Israeli civilian and rural settlements, as well as permanent military bases, were established in light of the strategic importance for security requirements and as an incentive for the political struggle towards secure borders, including East Jerusalem and its old city”.¹⁵⁷ This indicates that one of the objectives of the settlements is to impose facts on the ground that reinforce Israel's demands in defining its borders in any potential future settlement.

The settlement of “Kfar Etzion” south of Bethlehem was the first settlement built under this plan in 1967, followed by the settlement of “Kiryat Arba” in 1968. By 1977, approximately 50,000 Israeli Jews were residing in settlements built in East Jerusalem. In the West Bank, until that time, 34 settlements had been established with a population of 4,400 settlers.¹⁵⁸

The victory of the right-wing, led by the “Likud party”, in 1978 opened the door for expansive settlement activities. The process of building settlements in the depths of the West Bank accelerated according to the “Drobles Plan”, which stated that “the best and most effective way to remove any doubt about our intention to retain Judea and

¹⁵⁷ Settlement projects, (n.d), Palestinian news agency "Wafa", available at: https://info.wafa.ps/ar_page.aspx?id=4113

¹⁵⁸ Arnaout, Abdel Raouf, (2016), 640,000 settlers live in 146 settlements in the West Bank, the quote from the "Peace Now" Organization, Anadolu Agency, available at: <https://www.aa.com.tr/ar/%D8%A7%D9%84%D8%AF%D9%88%D9%84-%D8%A7%D9%84%D8%B9%D8%B1%D8%A8%D9%8A%D8%A9/-640-%D8%A3%D9%84%D9%81-%D9%85%D8%B3%D8%AA%D9%88%D8%B7%D9%86-%D9%8A%D9%82%D8%B7%D9%86%D9%88%D9%86-146-%D9%85%D8%B3%D8%AA%D9%88%D8%B7%D9%86%D8%A9-%D9%81%D9%8A-%D8%A7%D9%84%D8%B6%D9%81%D8%A9-/687263>

Samaria forever is a rapid settlement campaign in these areas".¹⁵⁹ This plan was further implemented through Ariel Sharon's scheme to encircle population centers with settlements and bypass roads. It was also reinforced by the plans of the "Gush Emunim Organization", which adopted a project to establish large settlement units in fertile Palestinian areas, as well as the establishment of numerous small settlements and outposts spread across as much land as possible, such as the Jordan Valley.¹⁶⁰

According to these plans, between 1977 and 1993, another one hundred (100) settlements were established in the West Bank, and twelve (12) settlements in the Gaza Strip.¹⁶¹ The number of settlers in the West Bank (excluding Jerusalem) reached 122,320 settlers.¹⁶²

3.4.1 The Second Topic: Israeli Legislations

On June 11, 1967, the Israeli government decision was issued to annex East Jerusalem to the state of Israel. On June 27, the Knesset enacted legislation by adding a paragraph to the "Administration and Organization Law" of 1948, granting the Israeli government the authority to apply this law to any area of land it wishes to annex to the state of Israel. The Secretary of the Israeli government issued "Law and Order Proclamation No. (1) Of 1967", declaring that the land area included in the annex attached to this proclamation is subject to the jurisdiction and administration of the state of Israel. The annex includes the area of the Jerusalem Municipality, which was under Jordanian rule. By another order issued by the Israeli army on the following day, the Palestinian Jerusalem Municipality Council was dissolved, and all the assets and records

¹⁵⁹Land Grab, Ibid. P 13

¹⁶⁰Land Grab, Ibid, P.12.

¹⁶¹ Conquer and Divide, B'Tselm, (n.d). Settlements from 1977-1993. Ibid

¹⁶² The Israeli colonies in Palestine, the Palestinian Central Bureau of Statistics, Ibid, pg. 52.

of the municipality were transferred to Israeli authorities. Additionally, an amendment to the “Municipalities Law” was introduced as Amendment No. (6) Of 1967, which empowered the “Minister of the Interior” to expand the boundaries of the Jerusalem Municipality.¹⁶³

In 1968, the Israeli government began resorting to the “Public Benefit law” (based on the Land Ownership Ordinance of the Emergency Regulations of 1943, as well as the “Absentee Property Law” of 1950) to seize thousands of hectares of land in the area for the construction of settlements.¹⁶⁴

All Jewish properties that existed in East Jerusalem before 1948, which were under the custody of the Jordanian “Custodian of Enemy Property”, were transferred to the Israeli “General Custodian” under an amendment to the “Legal and Administrative Affairs Law” of 1970. This law allows Jewish owners or their legal heirs to submit a request to the “General Custodian” for the restitution of such properties. It is worth noting that the law only applies to Jewish property owners and does not include Palestinians whose properties were seized in West Jerusalem after 1948. This reflects the preferential treatment of the law towards Jewish claims for property restitution.¹⁶⁵

In the West Bank, after two days of the Israeli occupation of the West Bank and Gaza Strip, the Israeli “Military Governor” issued Military Order No. (1), declaring the authority of the Israeli army and granting it “full control to establish security and public

¹⁶³ Al-Ruwaidi, Ahmed (2016). Occupation laws to control Jerusalem, articles, Al-Jazeera news website, available at:

<https://www.aljazeera.net/opinions/2016/4/3/%D9%82%D9%88%D8%A7%D9%86%D9%8A%D9%86-%D8%A7%D9%84%D8%A7%D8%AD%D8%AA%D9%84%D8%A7%D9%84-%D9%84%D9%84%D8%B3%D9%8A%D8%B7%D8%B1%D8%A9-%D8%B9%D9%84%D9%89-%D8%A7%D9%84%D9%82%D8%AF%D8%B3>

¹⁶⁴ The History of Israeli Settlement Expansion in and around East Jerusalem from 1967 to 1993, (2022). Jerusalem Story team, available at:

<https://www.jerusalemstory.com/en/article/history-israeli-settlement-expansion-and-around-east-jerusalem-1967-1993>

¹⁶⁵ Amnesty report, Ibid, pg16.

order in the area”¹⁶⁶.

On June 7, 1967, Israel asserted its full control and governance over the West Bank by declaring its authority over the legislative, executive, and judicial powers in the occupied territory. The Israeli military issued Military Order No. (2) Of 1967, which stipulated the cancellation of any existing laws in the occupied areas if they contradicted the orders issued by the occupying authority. The power of governance, legislation, appointment, and administration regarding the area and its residents was granted solely to the commander of the Israeli army forces, or those appointed by them or acting on their behalf. The Israeli authorities issued hundreds of military orders to tighten their control over the West Bank.¹⁶⁷

To facilitate the seizure of Palestinian land, the Israeli army issued several military orders, such as Military Order No. (58) Of 1967, which granted control over absentee lands to the Israeli army. Military Order No. (59) In 1967 established the position of “Custodian of Government Property”, appointed by the army commander and authorized to confiscate land from individuals or groups by declaring it as “public land” or “state land”. Military Order No. (92) Of 1967 granted the Israeli military government the authority to establish or continue owning or operating any type of water control devices (pumps, wells, irrigation equipment, etc.), which could be withdrawn by the army at any time without the need to announce its decisions in local newspapers. In 1969, the military governor issued Military Order No. (321), which granted himself the

¹⁶⁶ Transitional stages of transferring powers and authority, changing names and their impact on the legislation in force (for the purposes of merging legislative processes), Legal Data Base Unit, Institute of Law - Birzeit University, pg. 15. Available on the university website

http://muqtafi.birzeit.edu/PDFPre.aspx?PDFPath=en/Uploads/supportive_research_and_studies/Final.pdf

¹⁶⁷ The legal situation in Palestine, (n.d). Institute of Law, Birzeit University, available at [الوضع القانوني في فلسطين](#)

right to seize Palestinian land in the name of “public service” without compensation.¹⁶⁸

One of the notable military orders through which Israeli authorities attempted to subject Palestinians in the West Bank to mass deportation or forced transfer is Military Order No. (329) of 1969, known as the “Prevention of Infiltration” order. According to this order, anyone who entered the West Bank from Jordan, Syria, Lebanon, or Egypt without permission from the military commander of the area, or who remained in the area after their permit expired, was considered an “infiltrator”. The military order also defined “illegal entry”, referring to entry without permission, and imposed penalties such as imprisonment, fines, and the possibility of deportation.¹⁶⁹

In 1981, Israel established what is known as the “Civil Administration” through Military Order No. 947 and appointed its head, who gained legislative and administrative powers. Military courts were also formed as the authority to resolve issues related to the regulation of all aspects of life, including land disputes, taxes, natural resources, and others. Since 1967, around 2,500 military orders have been issued in the West Bank and Gaza Strip, in addition to several undisclosed orders. However, the Israeli army issued a military order in 1967 stipulating the application of Israeli civil and administrative law in the settlements, thereby exempting Israeli settlers from the regulations of the “Civil Administration”¹⁷⁰. This procedure enables Israeli authorities to “exercise their powers in the settlements without being bound by the rule of law”, according to Israeli lawyer Michael Sfard. Israel also applied its military rule to the

¹⁶⁸ APARTHIED LAWS IN THE ISRAELI OCCUPIED TERRITORIES, Factsheet, It is Apartheid site, available at:

http://itisapartheid.org/Documents_pdf_etc/ApartheidLawsOccupied.pdf

¹⁶⁹ A Legal Analysis of Israeli Military Orders 1649 and 1650: Deportation and Forcible Transfer as International Crimes, (2010). Al-Haq, available at:

https://www.alhaq.org/cached_uploads/download/alhaq_files/images/stories/PDF-AR/mill1.pdf

¹⁷⁰ The Legal Status in Palestine, Institute of Law, Birzeit University, available at

<http://lawcenter.birzeit.edu/lawcenter/ar/homepage/2013-08-31-07-08-03>

Gaza Strip and simultaneously imposed its civil law on Israeli settlers who were living there at the time.¹⁷¹

According to Military Order No. 224 of 1967, the state of emergency regulations adopted by the British Mandate authorities in 1945 were declared to be in effect unless specifically revoked. As a result of the security emergency declared in the West Bank and Gaza Strip, these regulations grant broad powers to the military authorities to suspend civil rights and international law.¹⁷²

Additionally, the military ruling authorities issued a series of orders that restrict freedom of expression, assembly, demonstration, and strike. These include Order No. 50, which prohibits the publication, distribution, or importation of newspapers without approval from the military authorities. Order No. 101 prohibits organizing marches or gatherings without a license from the military governor. Order No. 128 prohibits general strikes, and Order No. 378, as amended by Order No. 815, relates to administrative detention without trial. Furthermore, Order No. 107 prohibits the circulation of a list of 55 textbooks that cover the subjects of Arabic language, history, geography, philosophy, and sociology.¹⁷³

3.4.2 The Third Topic: Inside the Green Line...Land confiscation and Subjugation of the Population

Discriminatory and oppressive practices against Palestinians who remained in the lands under Israeli control within the 1949 Armistice Lines, commonly known as the Green Line, did not cease. Even after the end of military rule in 1966, Israel continued its efforts to confiscate land and suppress the population.

¹⁷¹ Threshold Crossed report, Ibid.

¹⁷² It is Apartheid, Ibid.

¹⁷³ Ibid.

The concern for “geographic balance” remains a preoccupation for Israeli authorities, influencing their policies and plans aimed at maintaining the Jewish character of different areas in the state. For example, there is the memorandum prepared in 1967 by Israel Koenig, the “Commissioner of the Northern Region in the Ministry of the Interior”, which emphasizes the expansion and deepening of Jewish settlements in areas with a high Arab population and the reduction of existing Arab population centers.¹⁷⁴

State lands are extensively utilized for the development of Jewish towns and villages, and Israeli national bodies generally refrain from leasing lands to non-Jews and do not include them in housing projects or communities specifically established for new Jewish immigrants. It is known that 13% of the state lands in Israel, which amounts to over 2.5 million dunams, are owned by the “Jewish National Fund” and are exclusively designated for Jewish use.¹⁷⁵

On the other hand, stringent restrictions are imposed on building and development regulations in the remaining Palestinian towns within the Green Line. They are deprived of comprehensive structural plans that meet the needs of their residents, resulting in significant population density and forcing Palestinians to build without permits, putting their homes at risk of demolition.¹⁷⁶

The Negev region is a vivid example of discriminatory practices against Palestinians in terms of land and housing. Instead of recognizing Palestinian Bedouin villages in the Negev as residential areas in zoning plans, Israeli authorities have designated these villages and the surrounding lands for military and industrial purposes since the 1970s. The residents of these villages are unable to obtain building permits to

¹⁷⁴ Ibid.

¹⁷⁵ Amnesty report, Ibid, pg. 17.

¹⁷⁶ It is Apartheid, Ibid.

regulate their existing or new homes because their lands are not designated for residential purposes. As a result, entire Bedouin communities have been continuously subjected to destruction and demolition. Meanwhile, Israeli courts have approved Jewish settlements established without initial plans or building permits in the same area. Furthermore, Israel deprives these communities of essential services, healthcare, and education, while denying them registration or participation in municipal elections. The residents have no representation in various local government bodies.¹⁷⁷

Despite Palestinians within the Green Line holding Israeli citizenship, they are treated as second-class citizens, and their civil and political rights are violated, which determines the extent of their participation in political and social life in Israel, with the aim of promoting its Jewish character. While Palestinians in the 1948 territories are granted the right to vote and participate in elections, there is a condition for candidacy in the Knesset that requires candidates to recognize Israel as a “Jewish and democratic state” and refrain from incitement to racism, according to the Basic Law passed by the Knesset in 1958. Additionally, any party that denies its goals or actions, whether directly or indirectly, which includes denying the existence of Israel as a Jewish and democratic state, is prohibited from registration according to the “Political Parties Law” of 1992.¹⁷⁸ The practices of the Israeli police in response to Palestinian protests, including arbitrary mass arrests and the unlawful use of force against protesters, both within Israel and in the occupied Palestinian territories, are among these violations. For example, when the police arrest a Palestinian, they detain them pending trial, unlike Jewish protesters who are granted release on bail.¹⁷⁹

The events of Land Day, which erupted in March 1976, bear witness to the

¹⁷⁷ Amnesty report, Ibid. pg13.

¹⁷⁸ Threshold Crossed, Ibid.

¹⁷⁹ Amnesty report, Ibid. pg14.

behavior of the Israeli police and army towards Palestinian protests, where the Palestinian masses decided to respond with protests to the Israeli campaigns aimed at seizing their land and confining them to isolated enclaves.

In late 1975, the Israeli authorities confiscated 3,000 dunams of land from the village of Kafr Qasim. In early 1976, they decided to deny permits to farmers from Arraba, Sakhnin, and Deir Hanna to access their lands located in the military training area known as Al-Mal. In February of the same year, the government of Yitzhak Rabin decided to confiscate 20,000 dunams of land in Galilee as part of the “Galilee Development Plan”. These actions escalated Palestinian movements towards comprehensive protests, leading to a general strike declared on March 30, 1976, in defense of their threatened lands from confiscation and settlement.

On March 29, protests erupted in the villages of Deir Hanna and Arraba, and the Israeli police fired live ammunition at the demonstrators, with military vehicles brought in to support them. During the dawn of the strike, the police, army, and border guards raided Arab towns and villages using military vehicles, tanks, and armored vehicles and arrested prominent political activists to disperse the protests. The clashes resulted in six martyrs, around 50 Palestinians injured, and approximately 300 protesters arrested. When some of the injured demanded compensation, the “Israeli Ministry of Defense” responded by considering these confrontations as “hostile activities”.¹⁸⁰

The facts of the June 1967 war and the subsequent Israeli practices in the occupied Palestinian territory confirm that the tragedy of 1948 was not the only or final chapter of the Palestinian Nakba. The Israeli leaders are aware of this continuity and

¹⁸⁰ Bashir, Nabih (n. d). Land Day 1976, a turning point in the process of defending the Palestinian lands in Israel, the interactive encyclopedia of the Palestine Question, the Institute for Palestine Studies, available at: <https://www.palquest.org/ar/highlight/14510/%D9%8A%D9%88%D9%85-%D8%A7%D9%84%D8%A3%D8%B1%D8%B6%D8%8C-1976>

acknowledge it. Yigal Allon expressed this by saying, “The (Six-Day War) was the final stage of the 1948 war... If we had not taken control of the entire country, the 1948 war would not have reached its end”¹⁸¹.

However, Yigal Allon's optimism is not entirely accurate, as this war is still ongoing in reality until now. This is confirmed by Dr. Omar Awadallah, Assistant Minister of Foreign Affairs of Palestine, in an interview conducted with him by the researcher. He stated, “Israel's main goal has not been fully achieved as it intended”. Awadallah believes that “Israel was surprised by the swift end of the war within six days. It wanted it to continue for a longer period in order to uproot a larger number of Palestinian people. Its project aims to empty the land of its indigenous inhabitants to replace them with Jewish settlers, a goal it has been pursuing since its occupation in 1967 through the continuous perpetration of crimes against Palestinians and isolating them in Bantustans and the establishment of colonial settlements”.

The researcher believes that what has been revealed so far about this trajectory is only a small fraction of the war crimes and atrocities committed by Israel against the Palestinian people. Israel has made tremendous efforts, and continues to do so, using various diplomatic, media, security, and other means to cover up these facts. Sometimes, this is done with the same ridiculousness as that translator's act that downplayed the gravity of the soldier's words by reducing a zero!

In his response to the researcher's question about the importance of uncovering Israeli archival documents, Professor Ilan Pappé, the historian, pointed out in his interview with the researcher that “until 1978, all documents were classified and sealed for (30) years according to the law, and when they were opened, only about 2% of the

¹⁸¹ Al-Ghazi, Ibid, pg. 2.

documents related to the Nakba and the June War were revealed”. However, he confirms that they were sufficient for new Israeli historians to prove significant chapters in the Palestinian narrative of these stages. He added, “While this did not have much impact on the Jewish society in Israel, unfortunately, it brought about a change in how the Nakba is viewed and researched in the academic and civil society outside of Palestine”. Despite that, the official institution received the revealed information with a strong reaction, and a special security unit was formed to investigate the archives. Pappé affirms that almost all documents that could shed particular light on the atrocities committed by Israel have been closed off.

It seems that the reason for this goes beyond the potential harm it could cause to the image of the state and its foreign relations. In an interview with the researcher, Israeli historian Adam Raz wondered, “If Israeli youths, who are 17 or 18 years old and will serve in the Israeli army - the cornerstone of the state - knew what the army forces did in the Nakba and the June War, and continue to do in parts of the occupied Palestinian land, would they really join the military service?” He answers his own question by saying, “I don't think they would”.

4. Chapter Four:

The Nakba Continues

4.1 Preface

In 1991, after the overt negotiations on the arrangements for transitional self-governance between the Palestinian delegation, which participated as part of the Jordanian delegation, and Israel failed to reach results due to Israel's refusal to commit to a settlement freeze¹⁸², covert negotiations began in Oslo for the first time between representatives of the Palestine Liberation Organization (PLO) and Israelis. Oslo Accords' aim was to “reach a just, lasting, and comprehensive peaceful settlement and historic reconciliation through the agreed political process based on United Nations Security Council Resolutions 242 and 338”¹⁸³. These negotiations culminated in the signing of the "Declaration of Principles" (DoP)¹⁸⁴ which the Palestinian leadership sought to serve as a pathway to expedite the realization of the goal of national independence in a sovereign state with Jerusalem as its capital.

The DoP, which was adopted on September 13, 1993, serves as a framework for the relationship between the PLO and Israel during the transitional period. This period was not intended to exceed five years in which the Palestinians would establish a transitional self-governing authority in Gaza and the West Bank. Negotiations were to be conducted during this time on permanent status issues, including borders,

¹⁸² Fishbach, Michael (n.d). The First Intifada and the beginning of the Israeli-Palestinian negotiations 1987-1993, the interactive encyclopedia of the Palestine Question, the Institute for Palestine Studies, available at: <https://www.palquest.org/ar/node/31120>

¹⁸³ Declaration of Principles on Transitional Self-Government Arrangements (13 September 1993), Preamble [Declaration of Principles].

¹⁸⁴ Declaration of Principles Concerning Interim Self-Government Arrangements (Oslo Accords), (1993). General Assembly and Security Council, Forty-eighth session, available at: https://peacemaker.un.org/sites/peacemaker.un.org/files/IL%20PS_930913_DeclarationPrinciplesnterimSelf-Government%28Oslo%20Accords%29.pdf

settlements, Jerusalem, refugees, security, water, and bilateral relations. The ultimate goal was to implement United Nations Security Council Resolution 242.

The (Oslo II)¹⁸⁵, signed by both parties in September 1995, stipulated the division of Palestinian land in the West Bank into three areas known as Areas A, B, and C. Under this agreement, Area “A” would be under Palestinian civil and security administration, while Israel retained overall security control. Area “B” would be under Palestinian civil administration and joint Israeli-Palestinian security control, with the Palestinian Authority having authority over internal security. Finally, Area “C” would be under complete Israeli civil and security control, including settlements, the Jordan Valley, and strategic roads.¹⁸⁶

However, the implementation of the agreement was disrupted after the assassination of Yitzhak Rabin and the assumption of power by Benjamin Netanyahu in 1996. The steps of "redeployment" of the Israeli army practically halted, leading to successive Palestinian uprisings (Intifadas) in protest against Israel's refusal to adhere to the signed agreement. One of the notable uprisings was the Tunnel Intifada in 1996. In 1999, with the return of the “Labor Party” government, permanent status negotiations began for the first time, albeit after the end of the five-year transitional period. However, the deep divide between the Palestinian position, which calls for a complete Israeli withdrawal to the 1967 borders, including East Jerusalem, and the Israeli position, which insists on maintaining control over Jerusalem and large areas of the West Bank, supported by the United States, led to the outbreak of the second intifada in 2000. Israel violated its obligations under the agreement, invaded Palestinian areas,

¹⁸⁵Summary of Israeli and Palestinian Obligations under Previous Agreements, (2019).Memorandum, pg. 1, Department of Negotiations Affairs, PLO.

¹⁸⁶ Area C, (n.d). The Palestinian Academic Society for International Affairs, PASIA, available at: <http://www.passia.org/maps/view/151>

destroyed Palestinian Authority institutions, ended the Palestinian presence in the crossings, and reinstated the “Israeli Civil Administration”, which was dissolved under the agreement. Subsequent negotiating rounds in 2003 in Aqaba, 2007 in Annapolis, and 2013 failed due to the lack of reference and timeframe.¹⁸⁷

4.2 The First Topic: The Continuation of Israeli Policies and Practices that Violate International Law

4.2.1 First Section: The Continuation of the Seizure of Land, Resources and Property

Israel continues to have exclusive control over 61% of the West Bank in the areas known as "Area C", which Israel considers a strategic and geographic reserve for settlement building and expansion. Israel imposes strict restrictions that prevent Palestinians from accessing the rich natural resources, minerals, and fertile lands in these areas, which are considered the wealthiest regions of the West Bank. The World Bank estimated that if Palestinians were allowed to invest in their resources in “Area C”, the benefits of additional production would reach at least \$2.2 billion annually. Meanwhile, approximately three million Palestinians live in over 150 "islands" in “Areas A and B”, which constitute less than 40% of the West Bank's total area.¹⁸⁸

Palestinians are still deprived of their rights to Palestinian water resources, as

¹⁸⁷ Moving Forward: From Oslo to Pluralism, (2021). Media brief, Department of Negotiations Affairs in the Palestine Liberation Organization, PLO, available at: <https://www.nad.ps/ar/media-room/media-briefs/%D8%A7%D9%84%D9%85%D8%B6%D9%8A-%D9%82%D8%AF%D9%85%D8%A7%D9%8B-%D9%85%D9%86-%D8%A3%D9%88%D8%B3%D9%84%D9%88-%D8%A5%D9%84%D9%89-%D8%A7%D9%84%D8%AA%D8%B9%D8%AF%D8%AF%D9%8A%D8%A9>

¹⁸⁸ The economic costs incurred by the Palestinian people due to Israeli occupation: The cost of restrictions imposed in Area C, United Nations Conference on Trade and Development (UNCTAD), 2022.pg. vii and 6, available at: https://unctad.org/system/files/official-document/gdsapp2022d1_ar.pdf

they are unable to access the resources of the Jordan River and the Dead Sea. The Western Aquifer Basin has been almost exclusively allocated for Israeli use. Palestinians utilize less than 10% of the shared transboundary water resources, and the per capita water consumption for Palestinians is at best one-third of that of Israelis.¹⁸⁹

Israel resorts to various means to seize Palestinian land, including declaring it as "state land" or designating it as "closed military zones" or "firing zones" for Israeli occupation forces' training purposes. They may also declare it as "nature reserves" or "national parks," or confiscate it for "public benefit" purposes, including the seizure of archaeological sites.

Israel has declared 20% of the West Bank's area as "closed military zones," including firing zones, and has seized over 20% of the West Bank's area as "state land." Furthermore, the apartheid wall, which Israel erected in 2002, isolates 9.4% of the West Bank's area between the apartheid wall and the 1967 borders. This wall affects 170,000 dunums of fertile land, accounting for 10.2% of the total cultivated land in the West Bank.¹⁹⁰

According to an investigation conducted by Dorar Atxi and lawyer Qamar Mushreqi on behalf of the organizations "Kerem Navot" and "Haikel", a summary of which was published by Hagar Sheizaf in the "Haaretz" newspaper on June 14, 2023, Israel has issued 320 seizure orders for public benefit purposes from 1967 until 2022, through which it seized 74,000 dunums of land. Of this, 36,000 dunums, approximately half of the area, were allocated exclusively for the benefit of settlers, while the land serving Palestinians alone did not exceed 1,532 dunums, which is 2% of the total area. The remaining land is designated for projects that serve both settlers and Palestinians,

¹⁸⁹ Ibid, pg. 10.

¹⁹⁰ Summary of Israeli Violations, Ibid, pg. 7.

with most of it allocated for intercity roads that serve both populations. However, some of the land was allocated for roads connecting settlements or connecting them to Israel, as well as internal roads within the settlements themselves. However, in at least four cases, the seized land was later allocated for the construction of settlements, including “Ma'ale Adumim”, the "Mishor Adumim" industrial zone, the "Ofra" settlement, and the "Har Homa" settlement (Abu Ghneim Mountain).¹⁹¹

A) Massafer Yatta

Massafer Yatta is an example that presents a realistic picture of the true objective behind declaring lands as "firing zones". Massafer Yatta is a cluster of 12 Palestinian villages located south of Hebron's Mountain, with a population of approximately 3,000 people. Its area is about 35,000 dunams. In July 1982, Massafer Yatta was classified as "firing zone 918," and since then, its residents have been living in a state of fear and anticipation due to ongoing Israeli threats to confiscate their land and expel them from their homes. They are deprived of access to their lands, water sources, schools, medical services, and hospitals. In addition, they face direct violence from settlers on a daily basis.¹⁹²

In 1999, the army expelled all the inhabitants of these communities, numbering around 700 people, on the grounds that they were "illegally living in a firing zone". In response, the Association for Civil Rights in Israel and lawyer Shlomo Lecker filed a petition to the Israeli Supreme Court on behalf of the residents. The court issued a

¹⁹¹ Shezaf, Hagar, (2023). Half of West Bank Land Seized by Israel Exclusively for Settler Use, Haaretz, available at: <https://www.haaretz.com/israel-news/2023-06-15/ty-article/.premium/half-the-west-bank-land-seized-by-israel-used-only-by-settlers-report-says/00000188-b932-d1d6-a7b9-fbf73a8a0000>

¹⁹² Musafir Yatta (n.d). Save Yatta Traveller's website, available at: <https://savemasaferyatta.com/ar/>

temporary order allowing the villagers to return to their homes and cultivate their lands until a final verdict is reached in the case, but they were still prohibited from new construction. Since then, new petitions have been filed, and the "state" has updated its position, but the temporary order remains in effect, suspending the residents' lives for 20 years. In 2006, Israeli authorities demolished 64 houses in these communities, where 346 people, including 155 minors, were living.¹⁹³ In 2012, the Israeli occupation army reaffirmed its "right" to evacuate eight villages in an appeal submitted to the Supreme Court, with the possibility of allowing the residents of these villages to access their lands for farming and grazing on weekends and Jewish holidays. In July 2020, minutes of a session held by the "Settlement Ministerial Committee" in 1981 were presented to the court, proving that the request to declare the area a "firing zone" did not come from the army leadership but from the Ministry of Agriculture, and its purpose was to evacuate the Palestinian residents from the area.¹⁹⁴

However, in a session held by the court in August 2020, the Israeli authorities argued that the residents of these villages were not living in the area when it was declared a firing zone, and therefore, they did not have the right to continue living in their homes there. On May 4, 2022, the Israeli Supreme Court issued its final decision in the case that lasted for decades, rejecting the residents' appeal and stating that there are no legal obstacles preventing the implementation of plans aimed at evacuating the residents. The court gave the "army" the green light to forcibly displace these villages at any moment.

¹⁹³ Firing Zone 918 - An Exercise in War Crimes, (2020). Facing Expulsion, The Israeli Information Center for Human Rights in the Occupied Territories, Betselem, available at: https://www.btselem.org/video/202010_firing_zone_918_an_exercise_in_war_crimes#full

¹⁹⁴ Review the second chapter of this thesis: Akevot Institute reveals a document that exposes a plan to evict Palestinians from their homes in the southern Hebron region by declaring their lands as a "firing zone" for the training of the Israeli army, with the aim of reducing the population.

Since the time of court's decision, the occupation authorities have been pushing for a coercive and oppressive environment for Palestinians in Masafer Yatta. They demolished dozens of houses in Khirbet Al-Fakhit, Al-Markaz, and Khirbet Al-Taban. They issued a military order to confiscate lands to pave a road for their patrols in the "firing zone." They also issued more demolition orders, affecting 20 buildings in Khallet Al-Dabea, just one day after announcing a military training in the area for a month, imposing strict restrictions on the residents' movement even on days when no training took place. Palestinian villages continue to face escalating waves of demolitions and eviction orders, including villages located outside the "firing zone".¹⁹⁵

Since the beginning of 2023, the occupation authorities have continued to demolish houses in the inhabited village using bulldozers to force the citizens to leave in favor of settlement and Judaization projects.¹⁹⁶

B) Sheikh Jarrah

Sheikh Jarrah is also a model that illustrates the process of seizing Palestinian lands and properties through the claims of settlers or settler organizations, asserting that the ownership dates back to Jews before 1948. In 1970, the Knesset passed a law granting Israeli Jews the right to reclaim property in East Jerusalem that was previously owned by Jews before 1948, provided they can provide evidence of their ownership or prove that they were displaced from it by the British or Jordanians.¹⁹⁷

¹⁹⁵ Fact Sheet: Masafer Yatta Communities at Risk of Forcible Transfer (June 2022). The United Nations Office for the Coordination of Humanitarian Aid in the Occupied Palestinian Territory (OCHA), available at: <https://www.ochaopt.org/ar/content/masafer-yatta-communities-risk-forcible-transfer-june-2022#ftn1>

¹⁹⁶ The occupation demolishes 5 houses in Yatta, (2023). The Palestinian Information News Agency, Wafa, is available at <https://www.wafa.ps/Pages/Details/62189>

¹⁹⁷ Kunza, John, (2022). Sheikh Jarrah: The story behind the story, Jewish Unpacked, available at: <https://jewishunpacked.com/sheikh-jarrah-the-story-behind-the-story/>

Sheikh Jarrah is a neighborhood in Jerusalem, located east of the Old City and outside its walls. It covers an area of approximately one thousand dunams and is home to around 3,000 Palestinians. It is adjacent to the 1949 Armistice Line, making it of great strategic importance for the occupation. Since 1972, settler organizations have been filing lawsuits claiming ownership of lands and properties within the neighborhood and demanding the eviction of its residents. In 1976, an Israeli court ruled in favor of four Palestinian families, recognizing their legal presence in the neighborhood under the "protected tenant" status granted by the Jordanian government. However, the court claimed that the land had been owned by Jewish organizations since 1885, based on records in the Israeli land registry in 1972.¹⁹⁸

In 1982, a settler organization filed a lawsuit against 28 Palestinian families, seeking their eviction in order to demolish their homes and establish 200 settlement units on their land. These families were refugees who were displaced from their lands in 1948. In 1956, the UN Relief and Works Agency (UNRWA) reached an agreement with the Jordanian Ministry of Construction and Development to house them in the Sheikh Jarrah neighborhood, and the Agency donated the construction of 28 houses for this purpose. The Ministry entered into a contract with the families, leasing the land to them for a nominal rent of five piasters per year, with ownership rights to be transferred to the residents three years after the completion of construction. The residents acted as owners of the land and obtained building permits from the Jerusalem Municipality in 1964, and they continued the land survey process. However, the events of the 1967 war prevented

¹⁹⁸ Watad, Muhammad, (2021). Sheikh Jarrah. The full story of a Palestinian neighborhood fighting Judaization and settlement, Al-Jazeera news website, available at: <https://www.aljazeera.net/politics/2021/5/31/%D8%A7%D9%84%D8%B4%D9%8A%D8%AE-%D8%AC%D8%B1%D8%A7%D8%AD-%D8%AA%D8%A7%D8%B1%D9%8A%D8%AE-%D9%8A%D9%88%D8%A7%D8%AC%D9%87-%D8%A7%D9%84%D8%AA%D9%87%D9%88%D9%8A%D8%AF-%D9%88%D9%85%D8%B9%D8%A7%D9%84%D9%85>

the completion of registering the land in their names.¹⁹⁹ Since 1982, a complex legal battle has been ongoing, during which the court ruled for the eviction of three forcibly displaced families (Kurd, Ghawi, and Hanoun), while the fate of the remaining families is still pending.²⁰⁰

The other area within the neighborhood that was subjected to confiscation is the area known as "Kobanit Um Haroun", with an area of eight dunams. It has been registered as Waqf land since 1229 AH, and the Waqf is managed by Abd Rabboh Al-Saadi for the larger portion and Darwish Hajazi for the remaining portion. According to the testimonies of the Saadi and Hajazi heirs, in 1310 AH (1881 CE), Abd Rabboh Al-Saadi, with legal permission from the Ottoman Sharia Court at the time, agreed to "tahkir" the land, (to lease it for a maximum period of 90 years in exchange for an annual rent), to a Jewish immigrant from Europe Yosef Ben Rahayim Miouhas. Miouhas, in turn, divided the land into 62 small plots and sold the beneficial interest to individuals from the Jewish community. The heirs claim to possess Turkish title deeds (kushans) proving that the ownership of the land is registered under the name of the Waqf of Abd Rabboh, along with an official tahkir document for a duration of 90 years ending in 1400 AH. In 1948, the Jordanian government took hold of the land and deposited it with the "Custodian of Enemy Property" because the tahkir period had not yet expired. Later, the "Custodian" leased the land to Arab citizens who continue to reside on it until now.²⁰¹

The end of the tahkir period did not mark the conclusion of the case; rather, it sparked a legal battle in which the Saadi and Hajazi heirs fiercely defended their rights,

¹⁹⁹ Ibid.

²⁰⁰ Arnaout, Abdel Raouf (2011). Sheikh Jarrah: Guests, then tenants, then settlers, *Journal of Palestinian Studies*, Issue 85, Winter 2011, Institute for Palestine Studies, p. 3 Available at: <https://www.palestine-studies.org/sites/default/files/mdf-articles/10886.pdf>

²⁰¹ Ibid, pg. (1, 2, 3).

demanding the return of the land to the Waqf. However, on September 29, 2010, the Israeli Supreme Court rejected their appeal and registered the land under the name of the Jewish heirs who had leased it from Yosef Rahayim Miouhas. The residents of the 24 houses built on this land still face the threat of forced eviction from their homes.²⁰²

4.2.2 Second Section: The Destruction of Properties, Structures, and the Demolition of Homes Continues

During the fifty years of its occupation from 1967 to 2017, Israel demolished over 50,000 homes and structures in the occupied Palestinian territory.²⁰³ The process of home and infrastructure demolitions did not end after the signing of the Oslo Accords; in fact, it accelerated, particularly in “Area C” and East Jerusalem. For example, from January 2009 to May 2023 alone, the occupying forces demolished 9,479 Palestinian homes and structures, affecting 175,694 individuals. Additionally, 1,656 structures funded by the European Union were demolished, and 14,000 Palestinians were displaced.²⁰⁴ In many cases, owners themselves demolish their buildings at their own expense to avoid serving a specific prison term or paying hefty fines. This was evident in 2021, for instance, when the rate of self-demolition in East Jerusalem noticeably increased.²⁰⁵

The demolitions were not limited to Jerusalem and “Area C”; they extended to “Areas A and B”, where planning and building permits fall under the authority of the Palestinian National Authority according to the agreement. Hundreds of homes owned

²⁰² Ibid, pg. 3

²⁰³ The Israeli Occupation: 50 Years of Dispossession, (2017). Report, Amnesty International, available at: <https://www.amnesty.org/ar/latest/campaigns/2017/06/israel-occupation-50-years-of-dispossession/>

²⁰⁴ Breakdown of data on demolition and displacement in the West Bank, (2023). UNOCHA, available at: [Microsoft Power BI](#)

²⁰⁵ UNCTAD, Ibid, pg. 13.

by Palestinian families who are "accused" of resisting the occupation have been demolished, as a form of collective punishment. Israeli authorities persistently refused to apply this practice to settlers who were convicted in Israeli courts for committing acts of terrorism against Palestinian residents.

A) Al-Araqib

Al-Araqib is a Palestinian Bedouin village located north of Beersheba, and its inhabitants are indigenous Palestinians who have lived on their land and relied on traditional professions for over 200 years. Their families were first uprooted from their homes in 1951 when Israel took control of the land, claiming "security purposes," and used the 1953 Land Purchase Law to declare it "state land." In 1972, Israel allowed its citizens to apply for land ownership registration under the "Land Rights Settlement Law" of 1969. The families of Al-Araqib submitted ownership claims for the land, but their requests were never considered, and the legal dispute regarding ownership remained unresolved. In 1998, a large number of village residents returned to their lands out of fear of the forest plantation plan on the village's land. Since their return, Israeli authorities have made various attempts to uproot them, continued to deny them access to water, electricity, sewage, roads, schools, and clinics.²⁰⁶

Ariel Sharon had declared in early 2001, months before assuming the position of Prime Minister, that the Negev Bedouins were "encroaching on the country's land reserves",²⁰⁷ which he referred to as a "demographic phenomenon". Sharon, upon

²⁰⁶ From Al-Araqib to Susya. Forced Displacement of Palestinians from Both Sides of the Green Line, (2013). Adalah - The Legal Center for Arab Minority Rights in Israel. pg. (1 and 2), available at: <https://www.adalah.org/uploads/oldfiles/Public/files/Arabic/Publications/ATS-position-paper-ar-FINAL.pdf>

²⁰⁷ Threshold Crossed, Ibid.

becoming Prime Minister, continued to pursue a plan estimated to cost billions of dollars to increase the Jewish population in the Negev and Galilee regions, which have a significant Palestinian population. His deputy, Shimon Peres, later described the plan as a "battle for the future of the Jewish people"²⁰⁸. In December 2000, Sharon wrote, "We face a serious problem in the Negev, which is that 900,000 dunams of government land are not in our hands but in the hands of the Bedouin residents. As a resident of the Negev, I see this problem every day. It is primarily a demographic phenomenon... Due to weakness and perhaps a lack of awareness of this issue, as a state, we are not doing anything to confront this situation... The Bedouins are taking over new areas and encroaching on the state's land reserves, and no one is taking any action to address this issue"²⁰⁹.

In 2003 and 2004, the "Israeli Land Authority" began spraying the crops cultivated by the residents with a toxic substance called "Roundup", which is a lethal and effective toxin against agricultural crops, livestock, and even humans²¹⁰. In July 2010, patrols from the "Israeli Land Authority" completely demolished the village, including 46 structures, out of which 30 were homes, and uprooted around 4,500 olive trees. The residents, including more than half of them being children, were left without shelter. Since that date, the Israeli authorities have demolished the village of Al-Araqib dozens of times in order to implement the government's decision to establish two large forests sponsored by the "Jewish National Fund"²¹¹.

In June 2013, the Knesset approved the discriminatory "Praver-Begin" Bill, also

²⁰⁸ Ibid.

²⁰⁹ Ibid.

²¹⁰ From Al-Araqib to Susya, Ibid, pg.3.

²¹¹ Israel: Demolition of Bedouin Village Imminent,(2010). Urgent Action, Amnesty International, available at: <https://www.amnesty.org/en/wp-content/uploads/2021/07/mde150272010en.pdf>

known as the "Negev Development Law". This law calls for the mass expulsion of the Palestinian Bedouin community in the Negev desert and the resettlement of hundreds of thousands of Jews in the area, granting them privileges, financial incentives, and other facilities. Implementing this plan would result in the destruction of 35 "unrecognized" Arab Bedouin villages and the forced displacement of up to 70,000 citizens, along with the confiscation of their lands.²¹²

Since its first demolition in July 2010 until March 2023, Al-Araqib has been demolished 214 times by Israeli authorities, with the protection of reinforced police forces. The residents reject the financial settlement offers presented by the Israeli authorities to persuade them to leave, and they resist the policy of displacement by rebuilding their homes time and time again, tirelessly, during both summer and winter.²¹³

4.2.3 Third Section: Continued Violations of Basic Rights, Extrajudicial Killings, and Siege

Israel imposes oppressive restrictions on approximately 5 million Palestinians, impeding their freedom of movement, such as fixed and mobile military checkpoints, roadblocks, iron gates, and others. According to a Palestinian study, Palestinians lose approximately 60 million work hours annually due to military checkpoints alone,

²¹² Endorsement of the Praver-Begin Law Proposal: A New Peak in Incitement and Attempts to Delegitimize Arab Citizens, (2013). Praver Scheme, Adalah - The Legal Center for Arab Minority Rights in Israel, available at:

<https://www.adalah.org/ar/content/view/1581>

²¹³Al-Araqib has been demolished for the 214th time, (2023). Arab 1948 news website, available at:

<https://www.arab48.com/%D8%A7%D9%84%D8%A3%D8%AE%D8%A8%D8%A7%D8%B1/%D8%A3%D8%AE%D8%A8%D8%A7%D8%B1-%D8%B9%D8%A7%D8%AC%D9%84%D8%A9/2023/03/15/%D9%87%D8%AF%D9%85-%D8%A7%D9%84%D8%B9%D8%B1%D8%A7%D9%82%D9%8A%D8%A8-%D9%84%D9%84%D9%85%D8%B1%D8%A9-214>

equivalent to \$264 million, and they consume an additional 80 million liters of fuel per year, costing approximately \$135 million.²¹⁴

Since 1967, Israel has arrested around one million Palestinians under military orders, issued over 53,000 administrative detention orders that allow for the detention of individuals without charges or trial. From the beginning of 2023 until the end of May, the number of administrative detainees reached over 1,083, including three female prisoners and nineteen children, marking a high record since 2003. Israeli courts annually issue thousands of prison sentences of varying durations, based on charges ranging from what is referred to as incitement to throwing stones to resistance operations. According to the Israeli organization "Yesh Din", the conviction rate for Palestinian defendants in the Israeli military court system is 99.74%, while only 7.4% of complaints filed by Palestinians against Israeli settler terrorism are investigated. Even in rare cases of conviction, settlers often escape punishment or receive special pardons.²¹⁵

The policies and practices of arrest and harassment have been accompanied by inciting statements from Israeli officials, acknowledging that the detention system serves as collective punishment imposed on the entire Palestinian community. Among these statements is that expressed by Minister of Culture and Sports and Knesset member Miri Regev, who encouraged for the continuation of illegal actions, stating, "... It is just a punitive step in a series of steps that will deter us in confronting the

²¹⁴ Palestinians lose about 60 million working hours annually due to Israeli military checkpoints in the West Bank, (2019). Study for the Applied Research Institute - Jerusalem (ARIJ), available at: <https://www.arij.org/ar/latest-ar/%D8%A7%D9%84%D9%81%D9%84%D8%B3%D8%B7%D9%8A%D9%86%D9%8A%D9%88%D9%86-%D9%8A%D8%AE%D8%B3%D8%B1%D9%88%D9%86-%D8%AD%D9%88%D8%A7%D9%84%D9%8A-60-%D9%85%D9%84%D9%8A%D9%88%D9%86-%D8%B3%D8%A7%D8%B9%D8%A9-%D8%B9>

²¹⁵ Report of Palestinian prisoner institutions (Detainees Affairs Commission, Prisoners Club, Addameer, Higher Commission for Prisoners Affairs, and the Independent Commission) until May 2023.

despicable terrorists... We must demolish their homes and expel their family members; the terrorists must rot in prison for the rest of their lives."²¹⁶

Israel still controls the population registry and the granting of permits to enter the territories of '48 or to enter Palestinian territories from abroad, which has affected all aspects of Palestinian life, including family reunification, job loss, and access to healthcare and education. Despite the "Oslo Accords" stipulating a safe passage for Palestinians between Gaza and the West Bank, the movement between Gaza and the West Bank has become practically more difficult and nearly impossible for Palestinian residents. Furthermore, holders of Palestinian ID cards in the West Bank are not allowed free access to East Jerusalem except with a permit.²¹⁷

Israeli forces use lethal force to suppress Palestinian protests, including peaceful ones, resulting in hundreds of martyrs and thousands of wounded and disabled individuals annually. In the first twenty months of the Second Intifada, from September 28, 2000, to May 21, 2002, Israeli forces killed 1,539 Palestinian martyrs, including children like Mohammed al-Dura and Fares Odeh. Among them, 497 were martyred during the three months of March, April, and May 2002 during the "Operation Defensive Shield," in which Israeli forces invaded cities in the West Bank with tanks, destroying entire neighborhoods like the Jenin refugee camp. They also demolished Palestinian National Authority headquarters, detained tens of thousands of people, including thousands of Palestinian security personnel, and disarmed them.²¹⁸

²¹⁶ Official Israeli Incitement, (2018). Reports, The Negotiations Affairs Department, PLO, available at: <https://www.nad.ps/en/media-room/israeli-incitement-reports/israeli-official-incitement-december-2018>

²¹⁷ Summary of Israeli violations, Ibid, pg. 14.

²¹⁸ Report of the Secretary-General prepared pursuant to General Assembly resolution ES-10/10 (Report on Jenin), (2002). Tenth emergency special session, Agenda item 5, illegal Israeli actions in Occupied East Jerusalem and the rest of the Occupied Palestinian

Despite that, the Intifada continued in the West Bank and Jerusalem, and it was met with further repression by Israeli forces, who deliberately and extra judicially killed hundreds of Palestinians, including Hadil Hashlamoun, Abdel Fattah al-Sharif, Az-Zein Tamimi, Eyad al-Hallaq, and the iconic Palestinian journalist, Shireen Abu Aqleh. Israeli settlers also burned children alive, such as the Jerusalemite child, Mohammed Abu Khdeir, and the Dawabsheh family, along with others from our people. The Intifada continued at the same pace in the Gaza Strip until 2005 when Israeli Prime Minister Ariel Sharon approved the unilateral “disengagement plan”, which resulted in the redeployment of Israeli forces along the borders of the Gaza Strip and the evacuation of settlements from within it.

Since 2006, Israel has imposed an illegal blockade on the Gaza Strip and tightened restrictive measures on the movement of people and goods to and from it, effectively isolating it from the West Bank and Jerusalem. The Gaza Strip is home to 2.2 million Palestinians, with approximately 66% of them being refugees who were displaced following the Nakba of 1948. Due to the unlawful blockade, poverty and unemployment rates have skyrocketed to unimaginable levels. Around 80% of the population in the Gaza Strip relies on aid and grants, with one in every six families suffering from food insecurity. The shortage of medicines is at 47%, medical equipment at 33%, and laboratories and blood banks at 60%. The decline in healthcare services has reached 66%.²¹⁹ According to estimates by UNCTAD, the economic cost of the Israeli blockade on the Gaza Strip over the past decade is estimated at around \$16.7 billion, meaning that the per capita loss amounts to approximately \$9,000 due to the prolonged

Territory, available at:

<https://web.archive.org/web/20020806174944/http://www.un.org/peace/jenin/index.html>

²¹⁹ Suffocation and isolation. 15 years of the Israeli blockade on the Gaza Strip, (2021). The Euro-Mediterranean Human Rights Monitor, available at:

<https://euromedmonitor.org/ar/gaza>

closure, blockade, and military operations endured by the Gaza Strip during the blockade period.²²⁰

Israeli forces launched a series of brutal military aggressions on the Gaza Strip in 2008-2009, 2012, and 2014. These three military operations resulted in the martyrdom of approximately 3,649 Palestinians and the injury of over 18,042 individuals. In 2014 alone, the Israeli forces committed mass killings of innocent civilians, wiping out entire families, mostly comprised of children and women, in a total of 94 massacres. Among the most notable massacres were the (Al-Helu) family massacre in Shujaiya, which led to the martyrdom of 11 family members, the (Al-Najjar) family massacre in Khan Younis-Khuza'a with 22 martyrs, the (Al-Ghoul) family massacre in Rafah with 10 martyrs, the (Baker) family massacre in the Shati refugee camp in Gaza with 4 children martyred, and the "Al-Batsh) family massacre in Gaza with 17 martyrs. The refugees sought shelter in schools, hospitals, cemeteries, churches, mosques, and parks, fleeing from the aerial, ground, and naval bombardments. The number of newly displaced people was estimated to be over 600,000, with the majority seeking refuge in UNRWA schools and some government schools across various governorates in the Gaza Strip. The Israeli forces targeted UNRWA schools, shelling seven of them that were sought by the displaced for protection, resulting in the death of 44 people and the injury of 227. The siege and Israeli military attacks forced hundreds of Palestinians to embark on dangerous sea journeys and travel outside of Gaza in search of safety and stability. However, in September 2014 alone, at least 180 Palestinians from the Gaza Strip lost their lives

²²⁰ The Economic Costs of the Israeli Occupation on the Palestinian People: The Impoverishment of Gaza under Siege, (2020). UNCTAD, United Nations, available at: https://unctad.org/system/files/official-document/gdsapp2020d1_ar.pdf

when one of the death boats that set sail from Alexandria to European shores sank.²²¹

From March 30, 2018, until December 31, 2021, Israel intentionally killed 217 Palestinians, including 48 children, two women, and 170 refugees. They also injured 19,109 Palestinians, causing hundreds of them to suffer lifelong disabilities.²²² These casualties occurred during the “Great Return March protests”, where Palestinians peacefully protested against the illegal US decision to relocate the American embassy to Jerusalem. They demanded an end to the oppressive siege on the Gaza Strip and the end of the occupation, asserting their right to return in accordance with Resolution 194. Young medic Razan al-Najjar is one of the dozens of Palestinian martyrs who were field-executed by Israeli snipers during these protests.

In a direct call for killing instead of arrest, Israeli official voices demanded the killing of protesters, including statements by Israeli government spokesperson Michal Maayan, who said, "We cannot put all these people in prison... We are talking about hundreds of people attacking the fence".²²³

In May 2021, the Israeli forces resumed their military aggression against the Gaza Strip, killing 240 Palestinians, including 59 children and 38 women, and injuring 1,972 civilians. The Israeli military attacks and intensive shelling of civilian homes during the 2021 aggression alone caused damage to 7,680 housing units, either complete or partial damage. The number of displaced individuals due to the demolition of their

²²¹ The Palestinian Nakba in Contemporary History, (2015). Fact sheet, Department of Negotiations Affairs, PLO, available at:

https://www.nad.ps/sites/default/files/nakba_report_ar_1.pdf

²²² Statistics of the (Return March) victims from March 30, 2018 - December 31, 2021 (n.d). Al Mezan Center for Human Rights, available at:

<https://mezan.org/posts/67/%D9%85%D8%B3%D9%8A%D8%B1%D8%A7%D8%AA+%D8%A7%D9%84%D8%B9%D9%88%D8%AF%D8%A9>

²²³ Israeli Official Incitement, (2018). Reports from 1-31 May 2018, the Negotiations Affairs Department. PLO, available at: <https://www.nad.ps/en/media-room/israeli-incitement-reports/israeli-official-incitement-may-2018>

homes reached 38,020, including 17,444 children and 10,218 women.²²⁴

During the Israeli aggression in May 2023, the Israeli occupation forces killed 33 Palestinians, including children and women, and caused damage to 2,943 housing units, including 103 completely destroyed homes. More than 1,244 Palestinians were displaced as a result.²²⁵

Furthermore, since the beginning of 2023 until June 13, the Israeli occupation forces have killed 164 Palestinians, including 28 children and 6 women in the West Bank and Gaza Strip²²⁶

The official Israeli statements inciting hatred, extremism, and violence have not stopped. The calls for killing Palestinians have gone beyond mere encouragement. Statements by the Israeli Prime Minister, Naftali Bennett, instigated Israelis to carry weapons, affirming that "armed civilians should now carry their weapons to thwart terrorist attacks".²²⁷ New instructions were issued by the Israeli army to open fire on Palestinians throwing stones during, before, and after their withdrawal from the scene.²²⁸

²²⁴ The three human rights organizations publish their statistical report on losses and damages to civilians and civilian objects during the Israeli aggression on the Gaza Strip 2021, (2022). International Advocacy, Al-Haq, available at:

<https://www.alhaq.org/ar/advocacy/19476.html>

²²⁵ Israel/Occupied Palestinian Territories: Civilian Deaths and Widespread Destruction in Latest Attack on Gaza Highlights the Human Toll of Apartheid, (2023). Press release, Amnesty International, available at: <https://www.amnesty.org/ar/latest/press-release/2023/06/israel-opt-civilian-deaths-and-extensive-destruction-in-latest-gaza-offensive-highlight-human-toll-of-apartheid/>

²²⁶ Our martyrs, our livers live in the sky. The martyrs of the year 2023, (2023), the website of the Palestinian Radio and Television Corporation, available at: <https://www.pbc.ps/65984-2/>

²²⁷ Bennett Calls Israelis to Arms, (2022). Stunk Agency, Russia, available at: <https://sputnikarabic.ae/20220330/%D8%A8%D9%8A%D9%86%D9%8A%D8%AA-%D9%8A%D8%AF%D8%B9%D9%88-%D8%A7%D9%84%D8%A5%D8%B3%D8%B1%D8%A7%D8%A6%D9%8A%D9%84%D9%8A%D9%8A%D9%86-%D8%A5%D9%84%D9%89-%D8%AD%D9%85%D9%84-%D8%A7%D9%84%D8%B3%D9%84%D8%A7%D8%AD-1060668309.html>

²²⁸ New instructions for the occupation army allowing shooting at stone throwers, (2021). Wafa News Agency, available at: <https://wafa.ps/Pages/Details/38207>

4.2.4 Fourth Section: The Continued Expansion of Colonial Settlements

At the signing of the “Oslo Accords” in September 1993, the number of settlements established in the West Bank, excluding East Jerusalem, in violation of international law was 114 settlements with a population of 123,320 settlers. As for East Jerusalem, there were 7 settlements with a population of 146,436 settlers.²²⁹

The “Oslo Accords” stated that settlements would be one of the issues of negotiations on the permanent status. However, it did not include an explicit provision to halt settlement expansion at that time. The ambiguous article in the agreement, which prohibits both parties from taking "unilateral actions" that would prejudice the outcome of the permanent status issues, has been subject to varied interpretations. Israel insisted that it does not relate to settlement activity but rather prohibits Palestinian actions that would change the legal status of the occupied land, such as a measure to impose the Palestinian state sovereignty over it, for example.

Although Israel initially agreed in principle to the "Road Map" plan²³⁰ proposed by the international Quartet in 2003, which included a provision for Israel to completely halt settlement construction activities in the occupied land, including so-called "natural growth", the Israeli government announced fourteen declared reservations to its approval of the international plan. One of these reservations was regarding the mentioned article specifically related to settlements. Moreover, Israel sought to exchange concessions with the US administration under George W. Bush's presidency

²²⁹ See Chapter 2, the annexation of East Jerusalem. The number of settlements in 1993.

²³⁰ A Performance-Based Roadmap to a Permanent Two-State Solution to the Israeli-Palestinian Conflict, (2003). Road Map documents, *Journal of Palestinian Studies*, Vol. 14, No. 55 (Summer 2003), p. 157, available at: <https://www.palestine-studies.org/sites/default/files/mdf-articles/5998.pdf>

and obtained a commitment that the United States understands that the final borders to be agreed upon will take into account the "existing realities on the ground", meaning enabling Israel to annex the settlements, in exchange for the "disengagement" step outside the Gaza Strip.

The period following the end of the Second Intifada witnessed an unprecedented acceleration in the construction of settlement units, including the establishment of new settlements. It also witnessed an uncontrolled proliferation of "outpost" phenomena, which are settlements established without government authorization by settler militias such as the "Hill Youth" and "Price Tag" organizations²³¹, among others. These militias received support and encouragement from the Sharon government and other right-wing governments, which worked to provide the necessary infrastructure for these outposts, including roads, water, electricity, and sanitation. Furthermore, these outposts were gradually legalized through governmental decisions, while thousands of Palestinian homes were being demolished under the pretext of unauthorized construction.

Instead of complying with UN Security Council Resolution 2334 of December 2016, which reaffirms the "illegitimacy" of settlement activity in the West Bank, including East Jerusalem, and calls for its cessation, the settlement expansion witnessed an exceptional peak, challenging this resolution. The Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Michael Lynk, estimates that since the adoption of the mentioned resolution, the number of settlers in the West Bank and East Jerusalem has been increasing at an annual rate of

²³¹ Extremist Organizations, Movements, and Groups in Israel, (n.d). Wafa News Agency, available at: https://info.wafa.ps/ar_page.aspx?id=5032

12%.²³² As a result of this development, the number of settlements in the West Bank has increased since the “Oslo Accords” until the end of 2022 to 176 settlements and 186 settlement outposts. The number of settlers has tripled, reaching over half a million settlers. In East Jerusalem, there are currently 11 settlements with a population of 220,000 settlers.²³³

It must be added that the far-right government formed under Netanyahu's leadership in late 2022 adopted, in one of its coalition agreements, a provision that considers settlement in "Israel's land" as a "national value" and commits to enhancing settlement expansion in the "Negev, Galilee, Judea, and Samaria". The coalition program also includes a commitment to authorize and "legitimize" all existing settlement outposts in the West Bank. This government wasted no time in implementing this commitment as during the first five months of its term, it approved plans for the construction of approximately 14,000 settlement units in the West Bank and made decisions to legalize 11 settlement outposts as a first step. It also passed a law in the Knesset amending a clause of the 2005 "Disengagement Law" related to the evacuation of four settlements in the northern West Bank and allowed their settlers to return.²³⁴

The latest statements by the Prime Minister of the occupying government regarding the legalization of colonial settlements were made in early July 2013 when he affirmed that "Israel has the right to sovereignty over the areas of the West Bank (...) And that the lands on which settlements are established are the cradle of the Jewish

²³² Since the adoption of Resolution 2334, the number of settlers in the West Bank and East Jerusalem has increased by 12% (2021). UN News, United Nations, available at: <https://news.un.org/ar/story/2021/12/1090372>

²³³ Summary of Israeli violations, *ibid*, pg. 7.

²³⁴ The First 100 Days of the Sixth Netanyahu Government: Advancing Annexation & Strengthening Apartheid, (2023). Media brief, Negotiation Affairs Department, PLO, available at: <https://www.nad.ps/en/media-room/media-briefs/first-100-days-sixth-netanyahu-government>

people's history and an integral part of Israel's land". He added that "the authorized settlement outposts fall within the jurisdiction of the regional councils of West Bank settlements, and they are (state lands)".²³⁵

4.2.5 Fifth Section: Continued Annexation as an Official Policy

On January 28, 2020, when Donald Trump stood up to announce - in a press conference²³⁶ at the White House - the full text of his initiative known as the "Deal of the Century," Israeli Prime Minister Benjamin Netanyahu stood beside him to declare, with full conviction, that he had agreed with Trump that "Israel has the right to declare the annexation of settlements and the Jordan Valley to Israeli sovereignty"²³⁷. The commitment to impose sovereignty over settlements and the Jordan Valley formed part of the coalition program of the rotating government formed by Netanyahu and the leader of the "Kahol Lavan" party, Benny Gantz²³⁸. However, several factors, including the results of the US elections and the collapse of the rotating government itself, prevented the implementation of this commitment at that time.

²³⁵ Jordan's takeover is illegal.. Netanyahu: Israel has the right to sovereignty over the areas of the West Bank, (2023). Al-Quds newspaper, available at:

<https://www.alquds.com/ar/posts/77842>

²³⁶ Gearan, A., Hendrix, S., & Eglash, R.(2020). Trump announces long-awaited Israeli-Palestinian peace package amid doubts it will lead to progress, the Washington Post, available at: https://www.washingtonpost.com/politics/trump-set-to-release-long-awaited-mideast-peace-package-seen-as-generous-to-israel/2020/01/28/883e3d50-41d3-11ea-b5fc-eefa848cde99_story.html

²³⁷ Tibon, Amir, (2020). Kushner Says U.S. Won't Support Annexation Before Israel's Election, Haaretz, Israel News, available at: <https://www.haaretz.com/israel-news/2020-01-30/ty-article/.premium/jared-kushner-we-hope-israel-will-wait-until-after-election-to-annex-settlements/0000017f-e29d-d9aa-aff-fbddd7960000>

²³⁸ Times of Israel Staff (2020). After more than a year of political stalemate, Netanyahu and Gantz agree to form a government, The Times of Israel, available at: <https://ar.timesofisrael.com/%D9%86%D8%AA%D9%86%D9%8A%D8%A7%D9%87%D9%88-%D9%88%D8%BA%D8%A7%D9%86%D8%AA%D8%B3-%D9%8A%D9%88%D9%82%D8%B9%D8%A7%D9%86-%D8%B9%D9%84%D9%89-%D8%A7%D8%AA%D9%81%D8%A7%D9%82-%D8%AD%D9%83%D9%88%D9%85%D8%A9>

In fact, after the annexation of Jerusalem in June 1967, the Israeli authorities began implementing a policy of silent de facto annexation in the occupied Palestinian territories from the early months of the occupation. In July 1967, the Knesset passed a law applying the "Israeli Penal Law" to Israeli citizens residing in settlements in the West Bank. This was the first step towards subjecting settlers to "Israeli civil law", while Palestinians continued to be subjected to military rule.

Through a series of regulations and instructions, settlers began to enjoy all the rights and benefits guaranteed by Israeli law to Israeli citizens, including the right to vote, run for office, national insurance, property rights, and more. Despite Palestinians continuing to be subject to a different system of orders and military regulations, Israeli civilian ministries have increasingly gained influence in the occupied areas. This includes affecting the daily lives of Palestinians in economic and health sectors, infrastructure projects, roads, land planning, allocation, and more, albeit under the umbrella of military rule and through the newly established positions of "Government Coordinator of Activities in the Territories" and the "Civil Administration."²³⁹

The 37th government formed by this coalition under the leadership of Netanyahu adopted a program based on the principle that "the Land of Israel is the national and historical homeland of the Jewish people" and that "the Jewish people alone have the exclusive right to self-determination throughout the Land of Israel" (meaning entire historic Palestine). To further clarify the practical implications of these "principles", clauses 118-127 of the coalition agreement between "Likud" and the "Religious Zionist Party" explicitly state that "the government will work to impose

²³⁹ Scheindlin, D., & Berda, Y. (2023). Israel's Annexation of the West Bank Has Already Begun. Netanyahu Moves to "Civilianize" the Occupation, Foreign Affairs, available at: https://www.foreignaffairs.com/israel/israels-annexation-west-bank-has-already-begun?utm_medium=promo_email&utm_source=lo_flows&utm_campaign=registered_user_welcome&utm_term=email_1&utm_content=20230613

sovereignty over Judea and Samaria”. Clause 21 of the coalition agreement between “Likud” and the “Religious Zionist” Party appoints a minister within the Ministry of Defense who will have "full responsibility for the work area of the Civil Administration and the government's activities in the areas”. In implementation of this clause, the "Basic Law: Government" was amended to allow for this action, and Minister of Finance Smotrich was appointed to this position. In February 2023, a memorandum of understanding was signed between Defense Minister Yoav Gallant, Minister Smotrich, and Prime Minister Netanyahu, defining Smotrich's powers to be responsible for the "Settlement Administration," which is authorized to approve and develop settlements, allocate lands, plan and construct roads, infrastructure, energy, communications, and environmental quality in “Area C”.²⁴⁰

Clause 90 of the coalition agreement between Likud and the Jewish Power party (Otzma Yehudit) led by Ben Gvir states that "within 90 days of the formation of the government, the government will decide to separate the Border Police from the police and transform it into an independent agency with a status similar to that of the Prison Service, subject to the Minister of Public Security, and implement legal amendments accordingly”. The transfer of the Border Police, including its forces operating in the West Bank, to the authority of the Minister of Public Security means that the minister will be responsible for the tasks of the Border Police and, thus, for some aspects of law enforcement in the West Bank.²⁴¹

In a joint article published in Foreign Affairs magazine on June 9, 2023, Professor Yael Berda from the Hebrew University in Jerusalem and writer Dalia

²⁴⁰ Hyman, T., Kadoorie, A. (2023). The Israeli government is destabilizing the "status quo" in the West Bank: dangerous repercussions (last episode). Israeli National Security Research Institute, 14 June 2023, Political Source. pg. 2.

²⁴¹ Ibid, pg (4 and 5).

Scheindlin state this "administrative change is equivalent to Israel's declaration of sovereignty over the West Bank... Israel no longer needs an official announcement of annexation of the West Bank. It has already been done."²⁴²

The frequency of Israeli statements calling for the non-establishment of a Palestinian state, the promotion of colonial settlement, and the denial of Palestinian existence has increased. Examples of such statements include the "Israeli Finance Minister", Bezalel Smotrich, who claimed that "there is no Palestinian people, and this is an invention less than a hundred years old"²⁴³. These statements are a parallel translation of the occupation's policies and practices on the ground aimed at excluding Palestinians from their land and establishing sovereignty over "Greater Israel." These statements have sufficient implications for Israel to be condemned in international bodies and courts.

On the other hand, testimonies and confessions of occupation soldiers and officers regarding the crimes they have committed are no longer hidden or in need of disclosure from closed archives. They are abundantly available for those who wish to access them on the pages of various human rights organizations, especially Israeli ones, such as the "Breaking the Silence"²⁴⁴ page. It contains hundreds of testimonies from Israeli soldiers and officers who participated (as admitted by them) in committing grave violations, war crimes, and crimes against humanity during the ongoing aggression against the land and the Palestinian people throughout these years.

²⁴²Scheindlin, D., & Berda, Y. (2023). Israel's Annexation of the West Bank Has Already Begun. Netanyahu Moves to "Civilianize" the Occupation, Foreign Affairs, available at: https://www.foreignaffairs.com/israel/israels-annexation-west-bank-has-already-begun?utm_medium=promo_email&utm_source=lo_flows&utm_campaign=registered_user_welcome&utm_term=email_1&utm_content=20230613

²⁴³ Smotrich: There are no Palestinians because there is no Palestinian people.. It is an invention, (2023). Al-Ayyam electronic newspaper, available at: https://www.al-ayyam.ps/ar_page.php?id=15e3820fy367231503Y15e3820f

²⁴⁴ Breaking the Silence Page, testimonies, available at: <https://www.breakingthesilence.org.il/testimonies/database>

4.3 The Second Topic: Legislations of Annexation, Transfer, and Land Theft

The laws and legislation passed by the Israeli Knesset have been among the most prominent mechanisms and tools for implementing policies of deportation, land appropriation, annexation, and Judaisation. Israel passed the "Citizenship and Entry into Israel Law" in 2003, which prohibits Palestinian families in the West Bank, Gaza Strip, or Arab countries (Lebanon, Syria, Iraq, and Iran) from family reunification. The law also included restrictions on granting residency permits in Israel in cases of family reunification based on "security considerations". In order to circumvent the contradiction between the provisions of this law and international standards, the law is adopted as a temporary emergency measure for one year but is annually extended. In 2010, the law required non-Jewish individuals applying for Israeli citizenship to pledge allegiance to Israel as a "Jewish and democratic state".²⁴⁵ The law's latest extension was approved in March 2023.²⁴⁶

In 2011, Israel attempted to suppress political activities that exposed its occupation of the Palestinian land by enacting a series of racist laws. One of the most prominent was the "Nakba Law", which authorized the Israeli Minister of Finance to impose fines on government-funded institutions such as schools, universities, and local authorities if they organized events referring to "Independence Day" or "the

²⁴⁵ The Citizenship and Entry into Israel Law (2003). Database of Discriminatory Laws, Adalah Center, available at: <https://www.adalah.org/ar/law/view/318>

²⁴⁶ Arnaout, Abdel Raouf (2023). The Knesset approves the extension of a law that prevents the unification of Palestinian families, report, Anadolu Agency, available at: <https://www.aa.com.tr/ar/%D8%A5%D8%B3%D8%B1%D8%A7%D8%A6%D9%8A%D9%84/%D8%A7%D9%84%D9%83%D9%86%D9%8A%D8%B3%D8%AA-%D9%8A%D9%82%D8%B1-%D8%AA%D9%85%D8%AF%D9%8A%D8%AF-%D9%82%D8%A7%D9%86%D9%88%D9%86-%D9%8A%D9%85%D9%86%D8%B9-%D9%84%D9%85-%D8%B4%D9%85%D9%84-%D8%B9%D8%A7%D8%A6%D9%84%D8%A7%D8%AA-%D9%81%D9%84%D8%B3%D8%B7%D9%8A%D9%86%D9%8A%D8%A9/2838533>

establishment of the State of Israel" as a day of mourning, or if they organized events that denied the definition of Israel as a "Jewish and democratic state". Lawyer Sawsan Zaher from the Legal Center for Arab Minority Rights described it as an "ideological law aimed at erasing the national identity and collective memory of Palestinian citizens, undermining their legitimacy as equal rights citizens... The law punishes Arab citizens because of their different identity, and it may promote incitement and racism against them."²⁴⁷

In July 2011, the Knesset also passed the "Boycott Law", which imposes penalties on those who call for boycotting the "State of Israel" and requires them to pay compensation for such calls. According to Section 2/A of the law, it applies to anyone who publicly participates in calling for a boycott, such as signing petitions or making statements to the media, even if they do not personally engage in the boycott. This includes calls for boycotting settlement products and boycotting Israeli institutions in the fields of art, economy, academia, and culture, whether within Israel or in the West Bank (i.e., in settlements).²⁴⁸

The twentieth Knesset (2015-2019) witnessed an unprecedented legislative race to pass racist laws supportive of the occupation. This term concluded with the introduction of around 240 racist bills by members of parliament and the government, of which 41 laws were finally approved. By the end of the summer session, members of parliament had submitted 2,186 bills on various topics, including 88 racist and pro-occupation bills, 25 bills concerning "direct annexation" of different areas in the occupied West Bank, and 10 bills related to "creeping annexation". As for the bills

²⁴⁷ Petition to the Supreme Court against the "Nakba Law": An Anti-Democratic Law Violating Fundamental Human Rights, (2011). Association for Civil Rights in Israel, available at: <https://law.acri.org.il/ar/?p=1513>

²⁴⁸ Boycott Law (2015). Information sheet, Association for Civil Rights in Israel, available at <https://law.acri.org.il/ar/?p=4632>

related to "indirect annexation", they included the imposition of Israeli legal systems on aspects of life in the West Bank, the Al-Aqsa Mosque compound, and the Ibrahimi Mosque in Hebron. Some bills aimed to abolish the so-called "Civil Administration" and transfer its powers directly to the government, while others proposed the establishment of a special court to decide on land issues in the occupied West Bank.²⁴⁹

One of the prominent laws passed by the Knesset during this period was the "Settlement Law", which involved the confiscation and looting of private Palestinian lands seized by settlers to establish settlement outposts. Additionally, there was an extension of the "Prevention of Family Reunification Law" in the 1948 areas. Another law accelerated the demolition of approximately 50,000 homes belonging to Palestinians in the 1948 areas that were built without permits on their own lands due to Israeli authorities' refusal to expand the jurisdiction of Arab towns within Israel. There was also a law that increased penalties for stone-throwing offenses, with imprisonment ranging from 5 to 20 years. Furthermore, a law was enacted to prohibit the issuance of

²⁴⁹ Jaraysi, Barhoum (2021). With the opening of the winter session: 88 draft laws that are racist and supportive of the occupation are on the agenda of the Israeli Knesset, special reports, Madar, the Palestinian Center for Israeli Studies, available at: <https://www.madarcenter.org/%D8%A7%D9%84%D9%85%D8%B4%D9%87%D8%AF-%D8%A7%D9%84%D8%A5%D8%B3%D8%B1%D8%A7%D8%A6%D9%8A%D9%84%D9%8A/%D8%AA%D9%82%D8%A7%D8%B1%D9%8A%D8%B1%D8%8C-%D9%88%D8%AB%D8%A7%D8%A6%D9%82%D8%8C-%D8%AA%D8%BA%D8%B7%D9%8A%D8%A7%D8%AA-%D8%AE%D8%A7%D8%B5%D8%A9/9107-%D9%85%D8%B9-%D8%A7%D9%81%D8%AA%D8%AA%D8%A7%D8%AD-%D8%A7%D9%84%D8%AF%D9%88%D8%B1%D8%A9-%D8%A7%D9%84%D8%B4%D8%AA%D9%88%D9%8A%D8%A9-88-%D9%85%D8%B4%D8%B1%D9%88%D8%B9-%D9%82%D8%A7%D9%86%D9%88%D9%86-%D8%B6%D8%B5%D8%B1%D9%8A-%D9%88%D8%AF%D8%A7%D8%B9%D9%85-%D9%84%D9%84%D8%A7%D8%AD%D8%AA%D9%84%D8%A7%D9%84-%D8%B9%D9%84%D9%89-%D8%A3%D8%AC%D9%86%D8%AF%D8%A9-%D8%A7%D9%84%D9%83%D9%86%D9%8A%D8%B3%D8%AA-%D8%A7%D9%84%D8%A5%D8%B3%D8%B1%D8%A7%D8%A6%D9%8A%D9%84%D9%8A>

visas to individuals or institutions that advocate for boycotting Israel.²⁵⁰

In 2018, the Knesset also enacted the "Basic Law: Israel as the Nation-State of the Jewish People", which is a constitutional law and holds a higher status than ordinary laws in Israel. It consists of 11 clauses that summarize the fundamental direction and vision of the State of Israel. Among the notable provisions are that "the land of Israel is the historical homeland of the Jewish people, and the State of Israel was established on it", and that the "united Jerusalem" is the eternal capital of Israel and open for settlement, and that the state considers the development of Jewish settlements as a "national value" and actively encourages it. The law states that "the Jewish people have the exclusive right to self-determination in the State of Israel", which becomes the central organizing principle of the entire law, creating an ethnocentric structure that marginalizes others. It notably omits any positive mention of Arab Palestinians, and when it refers to the Arabic language, it downgrades its official status to a "special status".²⁵¹

One of the most dangerous laws enacted in 2018 is a law that allows the revocation of residency rights for Jerusalemites under the pretext of "breaching allegiance to the State of Israel". This law has the potential to expedite the displacement of Palestinians from occupied Jerusalem based on considerations such as engaging in "any terrorist act" or aiding and inciting such acts, actively participating in a "terrorist organization", or any organization that falls within the legal definition of a "terrorist organization", including political parties. Jerusalemite lawyer Moeen Odeh believes that the term "breaching allegiance" is vague and could invalidate the residency rights of a

²⁵⁰ Jaraysi, Barhoum (2017). Summary of the Record of Racist and Supportive Laws for Occupation and Settlement, the Knesset (20), (May 2015 to July 2017). The Palestinian "Madar" Center for Israeli Research and Studies - Ramallah.

²⁵¹ Ghanem, Hunaida (2018). Nationality Law, orbit of the Palestinian Center for Israeli Studies. Seminar in the city of Ramallah.

large number of Jerusalemites. However, he believes that political activists, stone-throwers, and social media activists will be the first to be affected by this law.²⁵²

Since the beginning of 2023, the Knesset has passed several laws, the most important of which is the amendment to the "Disengagement Law", which was initially approved during the government of Ariel Sharon in the summer of 2005. Under this law, settlements in the Gaza Strip, as well as four settlements in the northern West Bank, namely Ganem, Kadim, Homesh, and Sanur, were evacuated. The amended law allows settlers to return to the four dismantled settlements in 2005, as part of efforts to legitimize random settlement outposts in the occupied northern West Bank. It also stipulates the cancellation of criminal penalties imposed on settlers who enter or reside in these four settlements located on private Palestinian land.²⁵³

The second law is the "Revocation of Citizenship or Residency" law targeting Palestinian prisoners holding Israeli citizenship or permanent residency (Jerusalemites) who "receive monthly salaries from the Palestinian Authority as wages and compensation for committing hostile acts". The law grants the Israeli Minister of Interior the authority to revoke citizenship or residency from individuals convicted of a

²⁵² Jondi, Aseel, (2018). In Jerusalem. Residency in Exchange for Loyalty to Israel, Al Jazeera News Agency, available at:

<https://www.aljazeera.net/news/alquds/2018/3/8/%D9%81%D9%8A-%D8%A7%D9%84%D9%82%D8%AF%D8%B3-%D8%A7%D9%84%D8%A5%D9%82%D8%A7%D9%85%D8%A9-%D9%85%D9%82%D8%A7%D8%A8%D9%84-%D8%A7%D9%84%D9%88%D9%84%D8%A7%D8%A1>

²⁵³ Watad, Muhammad (2023). The Knesset approves the cancellation of the separation from 4 settlements in the West Bank, Arab 48 news website, available at:

<https://www.arab48.com/%D8%A5%D8%B3%D8%B1%D8%A7%D8%A6%D9%8A%D9%84%D9%8A%D8%A7%D8%AA/%D8%A3%D8%AE%D8%A8%D8%A7%D8%B1/2023/03/21/%D8%A7%D9%84%D9%83%D9%86%D9%8A%D8%B3%D8%AA-%D9%8A%D8%B5%D8%A7%D8%AF%D9%82-%D8%B9%D9%84%D9%89-%D8%A5%D9%84%D8%BA%D8%A7%D8%A1-%D8%A7%D9%84%D8%A7%D9%86%D9%81%D8%B5%D8%A7%D9%84-%D8%B9%D9%86-4-%D9%85%D8%B3%D8%AA%D9%88%D8%B7%D9%86%D8%A7%D8%AA-%D8%A8%D8%A7%D9%84%D8%B6%D9%81%D8%A9>

"terrorist" crime and receiving financial benefits from the Palestinian Authority, and deport them to the West Bank or the Gaza Strip. Additionally, the Knesset, upon the government's request, allowed the continuation of legislation that had been halted in the previous parliamentary session after its initial reading. This law amends the so-called "Acceptance Committees" law, which allows towns with fewer than 400 families to establish acceptance committees for new housing applicants to ensure that the family aligns with the "cultural and ideological atmosphere" of the town. The aim of the law is to prevent Arab housing in these towns. The amendment raises the number of families to 700, but the Knesset plenum, with the government's approval, recently approved a preliminary reading of an identical bill that increases the limit to 1000 families in these towns.²⁵⁴

²⁵⁴ Jaraysi, Barhoum (2023). The Israeli Knesset intensifies the enactment of racism and settlement laws, accusing the Netanyahu government of neglecting the deteriorating economic conditions. Reports, Madar, the Palestinian Center for Israeli Studies, available at: <https://www.madarcenter.org/%D8%A7%D9%84%D9%85%D8%B4%D9%87%D8%AF-%D8%A7%D9%84%D8%A5%D8%B3%D8%B1%D8%A7%D8%A6%D9%8A%D9%84%D9%8A-%D8%AA%D9%82%D8%A7%D8%B1%D9%8A%D8%B1%D8%8C-%D9%88%D8%AB%D8%A7%D8%A6%D9%82%D8%8C-%D8%AA%D8%BA%D8%B7%D9%8A%D8%A7%D8%AA-%D8%AE%D8%A7%D8%B5%D8%A9/10845-%D8%A7%D9%84%D9%83%D9%86%D9%8A%D8%B3%D8%AA-%D8%A7%D9%84%D8%A5%D8%B3%D8%B1%D8%A7%D8%A6%D9%8A%D9%84%D9%8A-%D9%8A%D9%83%D9%91%D8%AB%D9%81-%D8%B3%D9%86-%D9%82%D9%88%D8%A7%D9%86%D9%8A%D9%86-%D8%A7%D9%84%D8%B9%D9%86%D8%B5%D8%B1%D9%8A%D8%A9-%D9%88%D8%A7%D9%84%D8%A7%D8%B3%D8%AA%D9%8A%D8%B7%D8%A7%D9%86-%D9%88%D8%A7%D8%AA%D9%87%D8%A7%D9%85-%D8%AD%D9%83%D9%88%D9%85%D8%A9-%D9%86%D8%AA%D9%86%D9%8A%D8%A7%D9%87%D9%88-%D8%A8%D8%A5%D9%87%D9%85%D8%A7%D9%84-%D8%A7%D9%84%D8%A3%D9%88%D8%B6%D8%A7%D8%B9-%D8%A7%D9%84%D8%A7%D9%82%D8%AA%D8%B5%D8%A7%D8%AF%D9%8A%D8%A9-%D8%A7%D9%84%D9%85%D8%AA%D8%B1%D8%AF%D9%8A%D8%A9>

A) The Israeli Military Courts

The Israeli military courts, which have been operating since the beginning of the Israeli occupation in 1967, are one of the main mechanisms and tools of the occupation system. To this day, hundreds of thousands of Palestinians appear before these courts for trial in the West Bank, after their activities were suspended in Gaza following the Israeli withdrawal in 2005. The military courts have the authority to try those who commit offenses in the West Bank, including settlers. However, since the 1980s, the Attorney General of the Israeli government decided that Israeli citizens should be tried in civilian courts inside Israel, according to the provisions of Israeli criminal law, even if they reside in the occupied territories, and even if the offense was committed against the residents of those territories. The person is tried for the same offense that is committed in the same area under two different laws, where the Palestinian is represented before a military court and is prosecuted according to military orders, while the settler is represented before a civilian court inside Israel and is tried according to Israeli law.²⁵⁵

B) The Continuation of Racist Legislation Within the Green Line

The Knesset enacted Law No. 6 of 2009 to amend the "Israel Land Authority Law" of 1969 on August 3, 2009. This law establishes extensive privatization of land owned by refugees or Palestinians who hold Israeli citizenship and were displaced from their destroyed villages. The "State of Israel" manages these lands under the definition of "Absentee Property". The law allows for the sale of these lands and also exempts them from any future claims for restitution. Additionally, the law enables the exchange

²⁵⁵ Military Courts, (2017). The Israeli Information Center for Human Rights in the Occupied Territories, B'Tselem, available at: https://www.btselem.org/arabic/military_courts

of lands between the "State" and the Jewish National Fund, designating them exclusively for the "Jewish people."²⁵⁶

Israel has used "personal settlement" as a tool to transfer hundreds or thousands of dunams (a unit of land area) from Palestinian lands to specific Jewish families for their exclusive use, keeping them out of reach of Arab citizens in the Negev. This has been done through the amendment of Law No. 4 of 2010 on the "Authority for the Development of the Negev" (1991), which established personal settlements.²⁵⁷

The Knesset also approved Amendment No. 3 (2011) to the "Israel Land Law " (1960) in 2011, which prohibits any individual or public/private institution from selling or leasing land for a period longer than five years, or transferring or bequeathing private ownership rights in Israel to "strangers". According to the law, the definition of "stranger" includes anyone who is not a resident or citizen of Israel, or who is not Jewish. Under the law, Palestinian refugees are considered "strangers" like any other person (except Jews) who is not a citizen or resident of Israel. Previously, the Israeli law considered Palestinian refugees as "absentees", and Israel assumed responsibility for their properties as a "custodian" to preserve their rights until a political solution to the conflict between Israel and the Palestinians is reached.²⁵⁸

The Israeli laws mentioned in the previous paragraphs have an impact on approximately 957,000 Palestinian refugees who were displaced during the 1948 Nakba, and more than 433,000 Palestinians who were displaced during the 1967 war. The number of their descendants today amounts to millions. Palestinian refugees, totaling

²⁵⁶ New Discriminatory Laws and Projects in Israel, (2012). Legal paper, Adalah Center, p. 4, available at:

<https://www.adalah.org/uploads/oldfiles/Public/files/October%20Updated%20-%20Discriminatory%20Laws.pdf>

²⁵⁷ Ibid, pg. (4 and 5).

²⁵⁸ New discriminatory laws and projects in Israel, Ibid, pg. 6.

around seven million individuals, constitute approximately 50% of the total Palestinian population worldwide. In its 2017 report on apartheid, the United Nations Economic and Social Commission for Western Asia (ESCWA) concluded that "Israel's refusal to allow forcibly displaced refugees to return ensures that the Palestinian population will never achieve the demographic weight that could challenge Israel's military control over Palestinian land or provide them with the demographic leverage within Israel to demand full democratic rights that outweigh the Jewish character of the state of Israel. Simply put, this ensures that Palestinians will be unable to change the system."²⁵⁹ The official ESCWA report of 2017 explains that Israel maintains a system of apartheid over the Palestinian people as a whole through the administration of Palestinians under different sets of laws, referred to as "legal domains". The first domain is the administration of Palestinian citizens of Israel under Israeli civil law. The second domain is the administration of Palestinians in occupied East Jerusalem through the status of "permanent residency," which is precarious. Thirdly, Israel, as the occupying power, governs Palestinians in the occupied territory, excluding occupied East Jerusalem, under military laws treating them as "permanent resident aliens." The fourth domain applies to Palestinian refugees and exiles abroad, who are deprived of their right to return to their homes, lands, and properties that remain under Israeli control.²⁶⁰

The researcher believes that the facts revealed in this chapter and the previous chapters confirm that the Nakba was not a separate and concluded historical event, but rather an ongoing and continuous process. Its chapters continue to unfold, although the mechanisms, means, and tools may vary. Israel's goal, the occupying authority, is to rid

²⁵⁹ ESCWA, *supra* note 4, at 48; see also, Al-Haq et al, Joint Parallel Report to the United Nations Committee on the Elimination of Racial Discrimination on Israel's Seventeenth to Nineteenth Periodic Reports 100th Session (10 November 2019) para. 63.

²⁶⁰ *Id.*, at 37-38.

itself of the indigenous population and control the land in order to satisfy its expansionist aspirations throughout entire historical Palestine. Furthermore, she asserts that the practices employed by the occupying authority in the context of this process constitute a blatant challenge to international law and involve a series of war crimes and crimes against humanity, which represent a clear violation of international treaties and norms.

The researcher also views the silence of the international community and the culture of impunity fostered by Western complicity, especially by the United States, with Israel, as a major factor in the paralysis of international will and its failure to confront Israeli violations. This has played a decisive role in enabling Israel to continue on this aggressive path, resulting in continuous and bitter suffering for the Palestinian people and the denial of their fundamental rights.

Promoting the Israeli narrative that denies the Nakba and conceals its facts or evades responsibility for the historical injustice inflicted upon the Palestinian people and the destruction of their present and future, contributes significantly to maintaining this silence and international paralysis. Therefore, the denial of the Nakba is part of the ongoing crime against the Palestinian people, and the international community must free itself from the responsibility for it by recognizing the Nakba and criminalizing its denial.

The Fifth chapter of this thesis will examine the mechanisms and legal means capable of achieving this within the framework defined by international law.

5. Chapter Five:

Legal Analysis

5.1 Preface

The current chapter examines the practices of Israeli occupation since the 1948 Nakba, and explores their legal classification, as well as the available international legal mechanisms and means for accountability for the violations committed since the first Nakba. Specifically, the chapter aims to establish an international legal framework for prosecuting Israeli perpetrators before a temporary International Criminal Tribunal to hold them accountable for all ongoing crimes, and to explore the extent to which this can be applied to the Palestinian situation in light of international judicial precedents in this matter.

2.5 The First Topic: Israeli Violations of International Law

This section reviews the most prominent ongoing Israeli violations of international law and relevant international agreements since the 1948 Nakba.

2.5.1 First Section: Israeli Violations of International Law During the 1948 Nakba

During the Nakba of 1948, Zionist militias committed numerous violations against hundreds of thousands of Palestinians. The international community recognized the illegality of these violations under international treaties, yet failed to take adequate measures to halt them. We will shed light on the principles of international law that were in effect at the time of the Nakba, such as the “First Geneva Convention” of

1864,²⁶¹ “the Hague Conventions”²⁶² of 1907, “the Geneva Convention on Prisoners of War”²⁶³ of 1929, “the United Nations Charter”²⁶⁴ of 1945, “the Universal Declaration of Human Rights”²⁶⁵ of 1948, and the “Statute of the International Military Tribunal at Nuremberg”²⁶⁶ of 1945. By examining these conventions, we can ascertain the nature of these violations.

A) Violations of International Humanitarian Law

The explicit violations of the provisions of the "First Geneva Convention" of 1864 highlight the non-compliance with Article 5, which stipulates the obligation to "respect the inhabitants of the country who provide assistance to the wounded... and the duty of the generals of the warring states to notify the population... and the neutrality granted by humanitarian conduct." Additionally, there is non-compliance with the second paragraph of the same article, which states the obligation to "ensure the protection of the wounded combatant receiving care in a home."

Despite that Article 5 of the "Geneva Convention on Prisoners of War" stating that individuals falling into enemy hands are entitled to the protection provided by the convention until their status is determined by a competent tribunal, and despite the

²⁶¹ See Convention for the Amelioration of the Condition of the Wounded in Armies in the Field. Geneva, 22 August 1864, available at <https://ihl-databases.icrc.org/en/ihl-treaties/gc-1864>

²⁶² See Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land. The Hague, 18 October 1907, available: <https://ihl-databases.icrc.org/en/ihl-treaties/hague-conv-iv-1907>

²⁶³ See the Geneva Convention on Prisoners of War, <https://www.ohchr.org/en/instruments-mechanisms/instruments/geneva-convention-relative-treatment-prisoners-war>

²⁶⁴ See the UN Charter at: <https://www.un.org/en/about-us/un-charter/full-text>

²⁶⁵ See the Universal Declaration of Human Rights at: <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

²⁶⁶ Agreement for the prosecution and punishment of the major war criminals of the European Axis. https://www.un.org/en/genocideprevention/documents/atrocitycrimes/Doc.2_Charter%20of%20IMT%201945.pdf

significance of Article 13 of the same Convention, which states that prisoners of war must be treated humanely at all times and prohibits the detaining state from committing any unlawful act or omission that may cause the death of a prisoner in its custody, and emphasizes the obligation to protect prisoners of war at all times, testimonies from militia members involved in the Tantura massacre, for example, demonstrate the violation of all these provisions. You can refer to the testimony of Israeli soldiers like "Haim Levi," who confirmed "one of the unit members went to a group of 15 or 20 prisoners of war and killed them all".

As for Article 14, which states "(...) women prisoners shall be treated with all the regard due to their sex and shall in all cases benefit by treatment as favorable as that granted to men", it was violated by Zionist militias when a soldier confirmed that "after capturing 52 men, they tied them together, dug a pit, threw them in it, and opened fire on them. They also raped three women, including a 14-year-old girl".

Regarding the provisions of the "Hague Convention" of 1907, which were in effect during the 1948 Nakba, Article 23 (a) prohibits "the use of poison or poisoned weapons". However, Israeli archival documents mentioned in the previous chapter revealed the "Send to Your Brother" campaign led by Moshe Dayan, which involved poisoning water sources in Acre and several other locations, contaminating them with infectious diseases. Paragraph (b) prohibits "killing or wounding enemy individuals or soldiers by resorting to treachery", and we can refer here to the killing of innocent civilians and their execution against the wall. Paragraph (c) also prohibits "the use of weapons, projectiles, or material causing unnecessary suffering or injuries", which reminds us of the soldier who confessed to his actions in the Tantura massacre, stating

that the soldiers “placed a large number of civilians in tin barrels and fired at them with a machine gun. They remember the blood flowing from the bullet holes in the barrels”.

As for paragraph (g), which prohibits “destroying or seizing enemy property unless necessitated by the necessities of war”, Israel flagrantly violated it by leveling more than 531 Palestinian villages to the ground.

Article 25 prohibits “attacking or bombarding towns, villages, dwellings, or buildings not protected, regardless of the means used”. It is sufficient to mention just one example of the blatant violation of this article, which is the bombing carried out by Israeli warplanes for the first time during the war on Lydda and Ramla as a prelude to their occupation.

Article (28), which prohibits “subjecting a town or locality to pillage, even when it is taken by assault”, was blatantly violated by individuals and organized groups of Zionist militias. The first Prime Minister of Israel even admitted, “These acts of theft have revealed that most Jews are thieves”.

B) Violations of International Law of Human Rights

Israel's violations of international law of human rights are evident in its disregard for the principles and purposes of the United Nations (1945), including Article (1/2/3). However, a clear violation is manifested in Article (2/4), which prohibits the acquisition of land by force. Israel also flagrantly violated United Nations Resolution (181)²⁶⁷ by occupying parts designated for the Palestinian state and forcibly displacing its inhabitants. Resolution 181 also obligated both the Arab and Jewish states to grant citizenship to residents regardless of their religion or ethnicity. However, with the

²⁶⁷ UN Partition Plan, 1947, Paving the Way to the Impending Nakba, (n.d), Interactive Encyclopedia of the Palestine Question, available at: <https://www.palquest.org/en/highlight/159/un-partition-plan-1947>

establishment of the state of Israel and the enactment of the Israeli "Nationality Law," Palestinians were denied citizenship, and all Palestinian refugees were denied their right of return to the newly established state.²⁶⁸ Israel further violated General Assembly Resolution (194/3), which explicitly recognizes the right of Palestinian refugees to return to their original homes and villages from which they were displaced and to be compensated.²⁶⁹

In fact, Article (51) of the UN Charter grants the Palestinian people “the inherent right to self-defense against armed aggression and resistance to Zionist occupation until the United Nations takes necessary measures to restore international peace and security”. However, the United Nations has failed to take any actions that would restore international peace and security, allowing the occupying force to continue its ongoing crimes to this day.

The “Universal Declaration of Human Rights”, adopted in January 1948, was created to prevent the repetition of crimes and atrocities committed during World War II and to ensure rights for individuals everywhere. Its articles addressed the issue of human rights as a comprehensive system, including the right to life, liberty, fair trial, freedom from torture, and the right to return to one's country of origin whenever desired. However, Israel has completely violated these rights.

Israel violated the “Convention on the Prevention and Punishment of the Crime of Genocide”²⁷⁰ of 1948, which defined genocide with definitions that applied to the Palestinian situation at the time, especially Article (1/a/b/c). It imposed punishment for

²⁶⁸ Raed Abu Badawia, Ibid, p.132.

²⁶⁹ Abu Badawia, Ibid.

²⁷⁰ See the Convention on the Prevention and Punishment of the Crime of Genocide at: https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.1_Convention%20on%20the%20Prevention%20and%20Punishment%20of%20the%20Crime%20of%20Genocide.pdf

the perpetrators of the acts carried out by its militias mentioned in Articles (3 and 4). Article (6), which concerns us in this context, stipulates that “Persons charged with genocide or any of the other acts enumerated in art 3 shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction. The contracting parties have recognized their jurisdiction”. This legal provision calls for the necessity of holding the individuals and leaders of Zionist militias accountable before the mentioned tribunals and ensuring they face the appropriate punishment.

This is also supported by the legal basis found in Article 6 of the “International Convention on the Elimination of All Forms of Racial Discrimination”²⁷¹ of 1965, which guarantees that “Each State Party shall assure to everyone within its jurisdiction the right to seek from its competent national tribunals and other State institutions adequate protection and effective remedies against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek reparations or satisfaction for any damage suffered as a result of such discrimination, through the mentioned courts”.

In this regard, it is necessary to mention the serious violations (crimes) committed by the colonial occupation during the Nakba. These ongoing crimes encompass physical, moral, and criminal intent aspects, and they have not ceased. We will delve into the details of these violations within their chronological framework.

²⁷¹ See the International Convention on the Elimination of All Forms of Racial Discrimination at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-elimination-all-forms-racial>

C) Violations of International Criminal Law

The concept of individual criminal responsibility in international law developed in the aftermath of World War II with the establishment of the "International Military Tribunal in Nuremberg" under the "London Agreement" signed in August 1943, which announced the establishment of the tribunal. According to the "Moscow Declaration" issued in October of the same year regarding German crimes in occupied Europe, it was declared that Nazi party members, officers, and soldiers who intentionally participated in these crimes would be extradited to the countries where the crimes were committed for prosecution under their laws. Subsequently, individual criminal responsibility also emerged in the "Tokyo Tribunal" after Japan signed the instrument of surrender, and its first trials were held in 1946, concluding in 1948 with the conviction of 28 defendants on various charges.²⁷²

For the purposes of this research, we will consider the "Nuremberg Charter"²⁷³ which are the foundational principles of the "International Military Tribunal in Nuremberg" that prosecuted Nazi criminals involved in the planning, execution, and participation in war crimes. The aim is to apply these laws to adapt the crimes and grave violations of international law committed by Zionist militias before and during the 1948 Nakba. Precedents in judicial proceedings play a crucial role in international criminal justice, particularly in the adaptation of international crimes, including war crimes and crimes against humanity, in terms of their elements, components, and individual

²⁷² Defenders of Right, Jordan Lawyer, (2021). The individual's international criminal responsibility is available at: <https://jordan-lawyer.com/2021/09/26/international-criminal-responsibility-of-the-individual/>

²⁷³ See the Agreement for the prosecution and punishment of the major war criminals of the European Axis, available at: https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.2_Charter%20of%20IMT%201945.pdf

criminal responsibility. It is worth noting that the Statute of the “Permanent International Criminal Court”, which entered into force in 2002, drew heavily from the Nuremberg Charter during the discussions held at the “Rome Conference of the Diplomatic Envoys” in 1998, leading to the establishment of the “International Criminal Court”. This explains the importance and necessity of referring back to the Nuremberg Charter in the prosecution of international crimes.

Art (6) of Nuremberg Charter provides for “the trial and punishment of crimes against peace, war crimes, and crimes against humanity”. Crime against humanity included in its definition, according to the Tribunal jurisprudence, the crime of genocide. As the jurisdiction of that Tribunal was held over three crimes according to the aforementioned provision, the Nuremberg Charter defined these crimes as follows:

“a) Crimes against peace: planning, preparation, initiation or waging of a war of aggression or a war in violation of international treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing” b) War crimes: violations of the laws of war. These violations include murder, ill-treatment or deportation..of civilian population of or in occupied territory, killing the hostages, plunder of public or private property,... wanton destruction of cities, towns or villages, or devastation not justified by military necessity. C) Crimes against humanity: murder, extermination, ..deportation, inhuman acts committed against any civilian population, before or during a war, or persecution on political, racial or religious grounds ..”²⁷⁴

This classification of international crimes mentioned in the Nuremberg Charter is a clear indication of the stance of international criminal law towards the criminal acts

²⁷⁴ Ibid.

committed by Zionist militias and the legal adaptation of Israeli crimes. It is important to emphasize that the Nuremberg Tribunal played a prominent role in the emergence and development of international criminal law, deterrence, and accountability for war crimes and crimes against humanity, ensuring that perpetrators do not escape punishment, and seeking justice for the victims.

5.2.2 Second Section: Israel's Violation of International Law After 1967 Occupation

A) Violations of International Humanitarian Law

Efforts to fill the existing gap in the "Geneva Convention" and the "Hague Convention" began in April 1947. The principles for a new Convention on the protection of civilians in times of war were developed in the "Geneva Conventions" of 1949, which entered into force on October 21, 1950. The adopted Convention in 1949 aimed to provide protection for civilians, including those in occupied territories. It is worth noting that the rules of international law had started to solidify and expand in the field of relations between states after taking their initial steps after 1948.

Further, it should be noted that these agreements were in effect during the June 1967 war, as affirmed by the "International Court of Justice" in its advisory opinion on July 9, 2004. The Court noted "for the purpose of determining the applicability of the Fourth Geneva Convention, it must be observed that, according to common Article 2 of the four Conventions of August 12, 1949: in addition to the provisions which shall be implemented in peacetime, the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them, and the

Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance”.²⁷⁵

Article 49(1) of the “Fourth Geneva Convention”²⁷⁶ prohibits “forcible transfer or deportation of protected persons to a territory under the occupation of a State”. This provision was violated, resulting in the forced displacement of over 430,000 Palestinians. Furthermore, Article 49(6) prohibits “the transfer by the occupying power of its own civilian population into the territory it occupies”. However, Israel systematically replaced the original Palestinian population with Jewish settlers, resulting in the presence of 123,320 settlers in the West Bank and 146,436 settlers in East Jerusalem by 1993, as mentioned in the second chapter of this research.

Article 53 of the Convention criminalizes the “destruction of property, including civilian objects, unless such destruction is rendered absolutely necessary by military operations”. This article reminds us of one example among many, such as the destruction of villages in the Latrun area, where 10,000 Palestinians were uprooted and their villages razed to the ground. It also includes the demolition of the Moroccan Quarter with its inhabitants. Additionally, Article 33 prohibits pillage in all circumstances, yet Israel confiscated the remaining land of historical Palestine within the 1967 borders, plundered its resources and natural wealth, and seized them for the benefit of colonial settlement.

Most importantly, Article 147 of the Convention considers the following as grave breaches, such as “willful killing, torture or inhuman treatment, causing great suffering

²⁷⁵ See the details of this advisory opinion through item No. (91) issued regarding the request for the opinion of the International Court of Justice on the apartheid wall at: <https://www.icj-cij.org/sites/default/files/case-related/131/1677.pdf>

²⁷⁶ See Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949, at <https://ihl-databases.icrc.org/en/ihl-treaties/gciv-1949>

or serious injury to physical or mental health, unlawful deportation or transfer, unlawful confinement, denying a protected person the right to a fair and impartial trial, destroying or seizing property not justified by military necessity and carried out unlawfully and wantonly, and rape". These serious violations apply to the occupying power that must be held accountable.

B) Violations of International Law of Human rights

Israel violated the purposes and principles of the United Nations Charter, as stated in the first requirement, and annexed Jerusalem "de jure" in 1980. It sought to annex more, as acknowledged by the Deputy Mayor of Jerusalem who stated that "the (absurd borders) of Jerusalem were a result of the desire to annex as much land as possible with the fewest number of Arabs".

Israel also violated the Universal Declaration of Human Rights, particularly Article 13, which grants the right to return for individuals, as affirmed by UNGA Resolution 194. However, Israel killed and threatened anyone attempting to return and labeled them as "infiltrators". This was confirmed in an official report presented by Moshe Dayan to the Israeli government in August 1967 regarding the prevention of refugee return and the killing of those attempting to return.

Furthermore, the Palestinian people were deprived of their right to self-determination, contradicting the provisions of both the "International Covenants on Civil and Political Rights and on Economic, Social, and Cultural Rights".

With the establishment of human rights treaties addressing systematic violations of civil, political, social, and economic rights, including the right to return, citizenship, equality, family rights, freedom of expression, and others, all of which have been

violated by the occupying authority through the enactment of a series of racist laws depriving Palestinians of these rights, the violations by the occupying authority necessitate punishment and international criminal accountability. These violations include the following:

According to Article (1) of the “Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity”²⁷⁷ “No statutory limitation shall apply to the following crimes, irrespective of the date of their commission: a War crimes as they are defined in the Charter of the International Military Tribunal, Nurnberg, of 8 August 1945 and confirmed by resolutions 3 (I) of 13 February 1946 and 95 (I) of 11 December 1946 of the General Assembly of the United Nations, particularly the "grave breaches" enumerated in the Geneva Conventions of 12 August 1949 for the protection of war victims; (b) Crimes against humanity whether committed in time of war or in time of peace as they are defined in the Charter of the International Military Tribunal, Nürnberg, of 8 August 1945 and confirmed 2 by resolutions 3 (I) of 13 February 1946 and 95 (I) of 11 December 1946 of the General Assembly of the United Nations, eviction by armed attack or occupation and inhuman acts resulting from the policy of apartheid , and the crime of genocide as defined in the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, even if such acts do not constitute a violation of the domestic law of the country in which they were committed”. Undoubtedly, this Article applies to the occupation leaders and authorities.

²⁷⁷ See the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity, at: https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.27_convention%20statutory%20limitations%20warcrimes.pdf

In addition, according to the provisions of the “International Convention on the Suppression and Punishment of the Crime of Apartheid”²⁷⁸, more specifically Art (3) that “International criminal responsibility shall apply, irrespective of the motive involved, to individuals, members of organizations and institutions and representatives of the State, whether residing in the territory of the State in which the acts are perpetrated or in some other State, whenever they (a) Commit, participate in, directly incite or conspire in the commission of the acts mentioned in article II of the present Convention; (b) Directly abet, encourage or co-operate in the commission of the crime of apartheid”. Thus, Israel, as the occupying authority, bears the responsibility under international criminal law according to Articles (1 and 2).

“Apartheid” has been and continues to be practiced on both sides of the Green Line. This has become evident through the few examples provided in the previous three sections.

In this context, we should refer to the fact that the expansion of the practices of apartheid by the Israeli occupation authorities against the Palestinian people led the “United Nations General Assembly to issue Resolution 3379”²⁷⁹ in 1975. In this Resolution, it was acknowledged, “Zionism is a form of racism and racial discrimination”. It should be noted that, “The racist regime in occupied Palestine, as well as the two racist regimes in Zimbabwe and South Africa, are all based on a common colonial origin... and are inherently linked in their policies aimed at undermining human dignity and sanctity”. Furthermore, it emphasized the need to

²⁷⁸ See the International Convention on the Suppression and Punishment of the Crime of Apartheid at: https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.10_International%20Convention%20on%20the%20Suppression%20and%20Punishment%20of%20the%20Crime%20of%20Apartheid.pdf

²⁷⁹ See the United Nations General Assembly to issue Resolution 3379 in 1975, at: <https://ecf.org.il/issues/issue/1320>

achieve liberation, national independence, and the eradication of colonialism, new colonialism, foreign occupation, Zionism, apartheid, and all forms of racial discrimination, in order to meet the requirements of peace and international cooperation, as well as recognizing the dignity of peoples and their right to self-determination”.

Additionally, the “Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment”²⁸⁰ of 1984 in its Article (2) obliges “every state party to take effective legislative, administrative, judicial or any other measures to prevent acts of torture. In any territory subject to its jurisdiction” and prohibited the permissibility of “invoking any exceptional circumstances whatsoever, whether these circumstances be a state of war, a threat of war, internal political instability or any other public emergency as a justification for torture”. In order to ensure criminal prosecution of acts of torture, it stressed in Article (4) the need for “every state party to ensure that all acts of torture are crimes under its criminal law”. In its third paragraph, it codified the obligation to “make these crimes punishable by appropriate penalties that take into account their serious nature by each State Party”.

C) Violations of International Criminal Law

After reviewing the aforementioned treaties, we can conclude that the grave violations committed by Israel, the colonial occupying authority, amount to war crimes and crimes against humanity under the individual criminal responsibility, as they meet the elements and criteria of these international crimes as established in the precedents of

²⁸⁰ See the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading>

the Nuremberg Tribunal and its Statute. These are ongoing international crimes, with their elements and criteria intact that require prosecution and punishment under international criminal law, especially since they are based on the "Nuremberg Charter" in their legal adaptation and the elements and criteria of criminal responsibility applicable to those responsible for these "ongoing" international crimes perpetrated by the Israeli occupation forces, which were planned by the leaders of the occupation, such as the plans developed by Alon, Drobles, Sharon, and others, and their participation in the execution of the expansionist aggressive war waged by Israel and carried out by Israeli officials.

Therefore, these ongoing international crimes, with their legal adaptation, criminal activities, elements, and manifestations, fall within the jurisdiction of the "Permanent International Criminal Court", as we will later see in the analysis presented in this study.

This has led the researcher to consider more than one option for criminal accountability, including the establishment of a temporary international criminal tribunal to hold the leaders and officials of the colonial occupation involved in international crimes accountable, similar to the Nuremberg Trials, in addition to the option of the "Permanent International Criminal Court", to ensure accountability, punishment, and justice for the victims.

5.2.3 Third Section: Israel's Violations of Oslo Accords and International Law After 1993

Despite the stated objective of the "Oslo Agreement" to achieve a permanent settlement based on United Nations Security Council Resolutions 242 and 338, and its

inclusion of several agreed-upon provisions, this very agreement violated international law according to Articles 8 and 47 of the Fourth Geneva Convention and Article 53 of the Vienna Convention on the Law of Treaties. Moreover, the Israeli occupation authority itself violated the provisions of this agreement.

Regarding Israel's violations of the Oslo Accords and international law, we will summarize the most significant breaches, considering that the occupying authority has committed countless violations of international law, which cannot all be listed in this research:

A) Israeli Violation of the Agreement on Israeli Withdrawal from the West Bank:

The transitional agreement included four stages of Israeli withdrawal (redeployment) from the West Bank. The first stage involved Israel's redeployment from the Palestinian-populated areas in the West Bank, which corresponds approximately to the current classification of Area A. The main violation of the agreement lies in Israel's failure to implement any additional redeployments (FRDs), except for limited transfers of areas classified as "C" to "B" and some areas from "B" to "A" under the Wye River Memorandum (1998). When the occupying authority attempts to annex the occupied territories to its own land, it constituted a blatant violation of Article 2(4) of the United Nations Charter, as well as resolutions 242, 2334 of the Security Council, and numerous other resolutions that prohibit the acquisition of territory by force.²⁸¹

B) Dissolution of the Israeli Civil Administration: According to Article 5 of the Declaration of Principles (DoP), Israel was obligated to dissolve the Israeli Civil Administration and withdraw the Israeli military governor from the West Bank

²⁸¹ Memorandum of Israeli Violations of the Oslo Accords and International Law, Ibid.

following the establishment of the Council. The fundamental violation of this commitment is outlined in Annex I (Article 1, Section 5), where Israel not only failed to dissolve the Civil Administration but also fully reactivated it after thirty years of the agreement. Additionally, this action contradicts the provisions of Article 43 of the “Hague Regulations”, which state that “the occupying power shall take all the measures in its power to restore, and ensure, as far as possible, public order and safety while respecting, unless absolutely prevented, the laws in force in the country...” Moreover, the Israeli authorities utilized “legislations” to institutionalize apartheid in violation of international law.

C) Continuation of Land Confiscation, Settlement Construction, and House Demolitions: According to the "Wye River Memorandum," "neither side shall initiate or take any step that will change the status of the West Bank and Gaza Strip pending the outcome of the permanent status negotiations." The "Sharm El-Sheikh Memorandum" also includes similar provisions. However, today, more than 650,000 Israeli settlers are living illegally in settlements in the occupied West Bank, with 226,000 of them residing in East Jerusalem. The settlements occupy approximately 2.7% of the West Bank's territory, and their expansion continues unabated. Settlement construction has significantly escalated since 2017.²⁸² These settlements constitute a grave violation of the “Fourth Geneva Convention” and its First Protocol, and they are considered a war crime under the jurisdiction of the International Criminal Court.

Furthermore, the colonial settlement system and its infrastructure, including land confiscation, resource plundering, house demolitions, property destruction, seizure and

²⁸² Ibid

expropriation, population displacement, and the construction and expansion of the Apartheid wall for settlement purposes, constitute grave violations of international humanitarian law and human rights law, as we have previously explained. These ongoing and systematic violations, committed on a wide scale, amount to war crimes and crimes against humanity according to the “Rome Statute” in Articles 7 and 8.

D) The Violation of the Agreement on the Release of Prisoners is another aspect to consider. The first paragraph of Article 16 of the Interim Agreement (1995) and its Appendix VII (“Release of Palestinian Prisoners and Detainees”) stipulate the release of Palestinian political prisoners, as well as the release of political prisoners from Arab countries. The release of these batches of prisoners was supposed to occur in three stages, with the last stage taking place during the negotiations on the permanent status. However, Israel continued to engage in arbitrary arrests, including administrative detentions, as a systematic policy for political purposes, targeting Palestinian resistance. This constitutes grave violations of the “Third and Fourth Geneva Conventions” and the “First Protocol”.²⁸³ The major violations of international humanitarian law regarding Palestinian prisoners and detainees are manifested in Articles 76 and 78 of the Fourth Geneva Convention, among others. These violations include the prohibition on transferring protected persons to the occupying state and the prohibition on administrative detention as a systematic policy, depriving detainees of their rights and guarantees of fair trial. The same applies to prisoners of war who are members of the Palestinian resistance, as they are deprived of their rights and guarantees of fair trial. Additionally, sick prisoners are subjected to mistreatment. Currently, more than 5,000

²⁸³ Ibid.

Palestinian prisoners and detainees, including administrative detainees, children, and women, are held in 23 prisons inside Israel, the occupying state, except for “Ofer” Prison near Ramallah and “Etzion” Detention Center near Hebron.²⁸⁴ The crimes committed against Palestinian prisoners and detainees, including forced transfer, torture, inhumane treatment, deprivation of fair trial, apartheid, persecution, and other crimes, are considered grave violations under Article 85 of “Protocol I” relating to international armed conflicts. They also constitute war crimes and crimes against humanity under Articles 7 and 8 of the “Rome Statute”.

5.3 The Second Topic: The International Mechanisms for Accountability and Remedies

5.3.1 First Section: Internationalizing the Palestinian Nakba and the United Nations Mechanisms for Recognition

The United Nations has granted the issue of Palestinian refugees a special legal status that distinguishes them from other refugees around the world. This is evident through numerous international resolutions that affirm the legitimacy and right of Palestinian refugees and displaced persons to return to their original homes and self-determination. One of the most prominent of these resolutions is Resolution 194, issued by the United Nations General Assembly on December 11, 1948. Its eleventh paragraph states that “the General Assembly emphasizes that the refugees who wish to return to their homes and live at peace with their neighbors should be permitted to do so at the

²⁸⁴ Question and answer on Palestinian political prisoners, (n.d). Department of Negotiation Affairs, PLO.

earliest practicable date, and that compensation should be paid for the property of those choosing not to return”.²⁸⁵

The significance of this Resolution lies in its explicit recognition of the necessity for Palestinian refugees to return to their original homes and villages from which they were displaced. It acknowledges them as a people expelled from their land, entitled to the right of return as a collective entity, rather than individuals affected by wars like many other cases.²⁸⁶

The Resolution went beyond affirming the right of return and extended to creating mechanisms for implementing this right. It called for the establishment of the “United Nations Conciliation Commission” to facilitate the return of Palestinian refugees and their economic and social rehabilitation. Furthermore, it led to the establishment of an international relief agency, UNRWA (United Nations Relief and Works Agency for Palestine Refugees), to provide assistance to the refugees until their return. These measures aimed to address the material and moral losses suffered by the refugees and to support their reintegration into society.

Resolution 194 is characterized by its binding nature in international law, as it is based on principles and provisions found in international humanitarian law, international human rights law, and in the majority of international and regional instruments, including the “Fourth Geneva Convention” of 1949, the “Convention on Indigenous and Tribal Peoples” of 1989, the “Fourth Protocol to the European Convention on Human Rights” of 1963, the “Universal Declaration of Human Rights”, the “International Covenant on Civil and Political Rights” of 1966, and the

²⁸⁵ Documents on commemorating the 75th anniversary of the Nakba, (2023). Introductory booklet about the Nakba, Department of Refugee Affairs, Ramallah.

²⁸⁶ Abu Badawia, Ibid.

‘International Convention on the Elimination of All Forms of Racial Discrimination’ of 1965.

The resolutions of the United Nations General Assembly have linked the rights of the Palestinian people to self-determination and the right of return, considering them closely interconnected. In this context, the United Nations has issued numerous resolutions that contain specific provisions regarding Palestinian refugees and their situation, affirming their legitimate right to return to their original homes. Examples of such resolutions include Resolution 2535 paragraph 2 of 1969, Resolution 3089 of 1973, Resolution 3236 of 1974, Resolution 31/20 of 1976, and many others.²⁸⁷

However, the General Assembly has not issued any resolution recognizing the Palestinian Nakba, which resulted in these Palestinians becoming refugees. Instead, every year during its regular session, the General Assembly continues to reaffirm all the previously adopted resolutions. The latest of these resolutions was issued in December 2022, regarding “Palestinian Refugee Properties and their Revenues”, as well as the renewal of the mandate of UNRWA for an additional three years until June 30, 2026. Other resolutions include increasing the United Nations’ allocations to support UNRWA's budget and supporting the right of the Palestinian people to self-determination.²⁸⁸

²⁸⁷ Refugees and the Right of Return, (n.d). Summary, our position. Negotiations Affairs Department, available at:

<https://www.nad.ps/ar/%D9%85%D9%88%D9%82%D9%81%D9%86%D8%A7%D8%A7%D9%84%D9%84%D8%A7%D8%AC%D8%A6%D9%88%D9%86-%D9%88%D8%AD%D9%82-%D8%A7%D9%84%D8%B9%D9%88%D8%AF%D8%A9>

²⁸⁸ International consensus at the United Nations on 4 resolutions in favor of Palestine, (2022). Al Jazeera News Agency, available at:

<https://mubasher.aljazeera.net/news/politics/2022/12/12/%D8%A5%D8%AC%D9%85%D8%A7%D8%B9-%D8%AF%D9%88%D9%84%D9%8A-%D9%81%D9%8A-%D8%A7%D9%84%D8%A3%D9%85%D9%85-%D8%A7%D9%84%D9%85%D8%AA%D8%AD%D8%AF%D8%A9-%D8%B9%D9%84%D9%89-4-%D9%82%D8%B1%D8%A7%D8%B1%D8%A7%D8%AA>

A) The UN General Assembly

For the first time since 1948, the United Nations decided to officially commemorate the Palestinian Nakba on May 15, 2023, at the UN headquarters in New York City. This decision was made based on the authorization granted by the UN General Assembly through a resolution issued on November 30, 2022. The commemoration involved organizing two events at the UN headquarters, with a majority of 90 votes in favor, 30 opposing votes, and 47 abstentions. In this context, this commemoration shed light on the longest-lasting and escalating refugee crisis in the world, as refugees continue to seek a just and lasting solution to their plight.²⁸⁹

In light of this international event that reaffirmed our people's right to independence and self-determination, and with the availability of numerous UN resolutions affirming the right of Palestinian refugees to return to their homes, it is of utmost importance for the State of Palestine and Arab and friendly governments to immediately embark on opening a legal horizon that complements and builds upon this event. This can be achieved through organizing a comprehensive legal and political mobilization with Member States, international and regional organizations, in order to issue a General Assembly resolution recognizing the Nakba of 1948, legally describing it, criminalizing its denial, and establishing mechanisms of accountability and effective redress for Palestinian victims. It is also important to keep the Nakba file under the follow-up of the Secretary-General.

Professor Michael Lynk, in his response to the researcher's question about the legal description of the Palestinian Nakba and the possibility of recognition by the international community, affirmed that if the Nakba were to occur today, its legal status

²⁸⁹ United Nations General Assembly Resolution (23/77 A/RES), (November 30, 2022). Available at <https://news.un.org/ar/story/2023/05/1120367>

would be clear and unequivocal: it is illegal. It can be legally classified as a war crime and a crime against humanity. He explained that the ongoing crimes committed by the Israeli occupation are also illegal, and it is possible to hold Israel accountable on an international level based on this foundation. Lynk described the Nakba as “not an event, but an ongoing crime”, he continued “the UN's official recognition of the Nakba cannot be separated from the establishment of the State of Israel; they are organically linked to each other”. The international expert supported the issuance of a General Assembly resolution recognizing the Nakba. He believes that going back to 1948 as a starting point could open up new chapters and discussions, especially since Israel erases the Green Line and clearly ignores the 1967 borders and the establishment of a Palestinian state.

Assistant Minister of Foreign Affairs, Dr. Omar Awadallah, however, warned that before the diplomatic, political, and legal mobilization for the issuance of a General Assembly resolution recognizing the Nakba, the starting point lies in defining the international community with the term “Palestinian Nakba” first, and understanding the factors that led to its occurrence secondly. He emphasized that “although the State of Palestine commemorated the Nakba this year at the United Nations, and despite our ability to use the term Nakba today in the General Assembly, we still need to solidify it”. He stressed the need to accomplish national tasks first, such as achieving national consensus on the concept of the Nakba, enacting Palestinian legislation that formalizes this definition, commemorating the anniversary, enacting a law that criminalizes its denial, establishing monuments in Palestinian cities to signify the Nakba crime, honoring Palestinian heroes who were part of the resistance during the Nakba, and enriching Palestinian curricula with the Palestinian narrative, including the period

preceding the Nakba. Then, the focus should shift to the international community to work on issuing a General Assembly resolution recognizing the Palestinian Nakba, documenting its terminology internationally, and transferring its legal adaptation to international legislation.

Awadallah highlighted the need to invest efforts and benefit from the sources and information of the “International Conciliation Committee” regarding the properties and rights of refugees, and the utilization of what comes from these rights over the years. He emphasized the importance of establishing a classified and integrated database with an action plan, which contributes to the issue of compensation for these crimes and proves that the Nakba is an international crime. He called for the General Assembly to form a team of specialized investigators under the United Nations (evidence exploration committee) to gather evidence of the crimes committed since the Nakba until today, collecting them criminally to determine responsibility thereafter. He provided an example of documenting “Tantura” film, stating that Palestinians need such international documentation for the purpose of pursuing the establishment of a future international criminal tribunal. According to Awadallah, the Nakba is a crime against humanity and an ongoing suffering, and this entails two aspects: firstly, it is a crime against peoples, and secondly, which is legal, it is an international criminal that does not expire and requires the holding of those responsible accountable.

Shawan Jabarin emphasizes the importance of issuing a resolution that recognizes the Nakba and commemorates it internationally before the United Nations General Assembly. He considers this recognition as a crucial preliminary step for any subsequent actions in addressing its repercussions. He emphasizes the importance of describing the Nakba and holding in-depth legal and academic discussions about it. He

points out that the topic of “genocide” in the context of the Nakba is a growing subject of discussion among interested parties around the world and prominent figures.

Regarding the description of the Nakba, Jabarin states that what happened to the Palestinians before and after the establishment of the State of Israel is a crime against humanity and genocide. He believes that a legal symposium should be held to discuss the legal description and description of the Nakba. Jabarin believes that it is time to use legal language and describe the Nakba as a crime against humanity or genocide. He hopes that the UN Committee on the Exercise of the Inalienable Rights of the Palestinian People will supervise and organize this legal symposium periodically, making it an integral part of the efforts to commemorate the Nakba. He also calls for activating the role of this committee, particularly within the framework of providing advisory opinions to the “International Court of Justice” regarding the nature of Israeli occupation.

Dr. Moutaz Qafisha²⁹⁰, an expert in international law, explains that commemorating the Nakba this year at the United Nations constitutes recognition of the Nakba, and it should lead to holding the international community responsible for this issue and transforming this responsibility into obligations on states to pressure Israel to acknowledge the Nakba. Qafisha proposes immediate collaboration with Arab countries, international and regional organizations, and friendly alliances to include the “Law of Criminalizing the Nakba” in their legislations. He believes that a resolution

²⁹⁰ Moutaz Qafisha is an Associate Professor of International Law and former Dean of the Faculty of Law and Political Science at Al-Khalil (Hebron) University. He is also the Director and founder of the Legal Clinics at the university. He holds a doctoral degree in International Law from the Graduate Institute of International and Development Studies in Geneva, Switzerland. Previously, he served as the Head of the Arab Gulf Region Office at the United Nations in Geneva, Deputy Director of the Middle East Region at the United Nations Office of the High Commissioner for Human Rights in Beirut, and the head of the Office of the United Nations High Commissioner for Human Rights in Ramallah.

from the General Assembly will not be sufficient, as the General Assembly issues non-binding recommendations. Instead, he suggests concluding international agreements with states that would enable Palestine to later resort to international courts to hold accountable anyone who denies this crime.

Again, Awadallah points out that the United States, its allies and those complicit with it will use their veto power to prevent recognition of the Palestinian Nakba, and will employ their tools to hinder any Palestinian efforts in this direction. He states, “If the world recognizes the Nakba, it means it is essentially acknowledging the establishment of the State of Israel on the massacre of the Palestinian people, striking at the foundations of its existence, which was built by depriving the Palestinian people of their right to self-determination and their land. The modern world will not accept the existence of a criminal state among its members”. Therefore, he adds, “Significant American efforts will be exerted to prevent the recognition of the Nakba or linking the refugee issue to Israel's perpetration of its massacres, as it would eventually lead to holding Israel accountable and debunking its false narrative on which it has been based for the past seven and a half decades”.

It is possible to work with Member States to diplomatically boycott Israel and impose sanctions that the General Assembly has against Israel, in order to compel it to end its ongoing crimes such as settlements, annexation, and apartheid. This includes the possibility of suspending Israel's membership based on the commitments and obligations it undertook when applying for membership in the United Nations, in accordance with Articles 5 and 6 of the UN Charter.

B) The UN Human Rights Council

Palestine can also utilize the human rights protection system and the tools employed by the United Nations and its affiliated organs, including the Human Rights Council, to enhance the state of human rights. This can be achieved by highlighting the issue of the Palestinian Nakba and internationalizing it through various means, such as the periodic reports to human rights treaty bodies, including the “International Convention on the Elimination of All Forms of Racial Discrimination”, which includes both Palestine and Israel as parties. This Convention allows complaints to be submitted to the Committee regarding Israel's violation of the Convention, as outlined in Article 11. Israel's systematic practice of racial discrimination, resembling apartheid, in the context of the Nakba can be demonstrated by the Palestinian official reports' focus on this issue in their periodic reports, as well as by civil society parallel reports (shadow reports) submitted by non-governmental organizations to the United Nations Committee on the “Elimination of Racial Discrimination” (the treaty committee) regarding the apartheid system in the occupied Palestinian territories. This can be done during the discussion of the official Palestinian reports and the discussion of the official Israeli reports.

A concerted effort by Palestinian and regional civil society for the international community to address Israel's discriminatory laws, policies and practices as comprising an apartheid regime on both sides of the Green Line, saw the submission of a comprehensive joint legal submission to the UN Committee on the Elimination of Racial Discrimination (CERD) in a shadow report to Israel's periodic review in 2019.

²⁹¹ On 27 January 2020, the responding CERD Concluding Observations of Israel, was the first time that an international UN treaty body recognised that Israel was obliged to prevent, prohibit and eradicate policies and practices of racial segregation and apartheid, as proscribed in the general recommendation 19 (1995) on article 3 of the Convention. More specifically the CERD urged Israel to “give full effect to article 3 of the Convention to eradicate all forms of segregation between Jewish and non-Jewish communities and any such policies or practices that severely and disproportionately affect the Palestinian population in Israel proper and in the Occupied Palestinian Territory”.²⁹²

Also in 2019, the Committee on Economic, Social and Cultural Rights issued its Concluding Observations on the Fourth Periodic Report of Israel, highlighting the discriminatory effect of Israel’s Basic Law the Nation State of the Jewish People. The Committee urged Israel “to review the Basic Law with a view to bringing it into line with the Covenant or to repealing it and to step up its efforts to eliminate discrimination faced by non-Jews in their enjoyment of Covenant rights, particularly the rights of self-determination and non-discrimination and to cultural rights”.²⁹³ It further recommended that Israel adopt anti-discrimination legislation to ensure that it “prohibits all direct, indirect and multiple forms of discrimination, on all grounds, including language, colour, social origin, property, sexual orientation, birth or other status, and provides for

²⁹¹ Al-Haq, BADIL Resource Center for Palestinian Residency and Refugee Rights, the Palestinian Center for Human Rights (PCHR), Al Mezan Centre for Human Rights, Addameer Prisoner Support and Human Rights Association, the Civic Coalition for Palestinian Rights in Jerusalem (CCPRJ), the Cairo Institute for Human Rights Studies (CIHRS), and Habitat International Coalition – Housing and Land Rights Network (HIC-HLRN), *Shadow Report*.

²⁹² CERD/C/ISR/CO/17-19, Committee on the Elimination of Racial Discrimination, [Concluding observations on the combined seventeenth to nineteenth reports of Israel](#), (27 January 2020) para. 23.

²⁹³ E/C.12/ISR/CO/4, Committee on Economic, Social and Cultural Rights, [Concluding observations on the fourth periodic report of Israel](#) (12 November 2019), para 17.

effective remedies for victims of discrimination”.²⁹⁴ The recommendations were mirrored the following year in 2022, in the Concluding Observations of the UN Human Rights Committee which:

[R]eiterates the recommendations made by the Committee on the Elimination of Racial Discrimination and the Committee on Economic, Social and Cultural Rights that the State party review and amend the Basic Law: Israel – The Nation-State of the Jewish People with a view to eliminating its discriminatory effect on non-Jewish people and ensuring the equal treatment of all persons within its territory and subject to its jurisdiction, in conformity with the Covenant²⁹⁵

UN Special Rapporteur on the situation of Human Rights in the Palestinian territories occupied since 1967 Francesca Albanese laid out the limitations to examining the crime of apartheid on its own and advanced instead a more contextualised analysis of the situation in Palestine. The report stressed that the Palestinian people must be treated as a whole including those “displaced, denationalised and dispossessed” between 1947-1949.²⁹⁶ Second, that the occupation itself constitutes an illegal occupation, and an analysis of apartheid alone should not evade this finding. Third, there are significant limitations inherent in the apartheid frame which:

[D]oes not address the “root causes” of the web of racially discriminatory laws, orders and policies that have regulated daily life in the occupied Palestinian territory since 1967 and Israeli animus (intention) in seizing land while subjugating and

²⁹⁴ Ibid. para 19

²⁹⁵CCPR/C/ISR/CO/511, Human Rights Committee, Concluding observations on the fifth periodic report of Israel (5 May 2022), para. 11.

²⁹⁶ A/77/356, [Situation of human rights in the Palestinian territories occupied since 1967](#) (21 September 2022) p. 5.

displacing its indigenous people and replacing them with its nationals. This is the hallmark of settler-colonialism, and a war crime under the Rome Statute.²⁹⁷

In condemning Israel's settler colonial practices denying the Palestinian people the exercise of their right to self-determination, the Special Rapporteur recommends that “[t]he General Assembly develops a plan to end the Israeli settler colonial occupation and apartheid regime”²⁹⁸

Palestine can also engage with the Special Procedures of the United Nations Human Rights Council, including the Special Rapporteurs and human rights experts. Specifically, they can collaborate with the “Special Rapporteur on the situation of human rights in the occupied Palestinian territory since 1967”, “Special Rapporteur on the right to adequate housing”, “Working Group on Arbitrary Detention”, “Special Rapporteur on the human rights of internally displaced persons”, and other relevant Special Rapporteurs. Coordination with these experts can be established to implement their mandates in highlighting the issue of the Palestinian Nakba in their respective reports submitted to the General Assembly. Furthermore, this can be accomplished through the presentation of documents, petitions, holding meetings, conferences, and periodic workshops aimed at raising awareness and promoting the Palestinian Nakba. Utilizing recently disclosed Israeli documents, including the film “Tantura” and other authenticated Israeli testimonies in these meetings and events can further support the cause.

The statement issued by the United Nations Special Rapporteurs in June 2023 “The Right of Return for Palestinian Refugees Must Prioritized over Political

²⁹⁷ Ibid. p.6.

²⁹⁸ Ibid. p.23.

Considerations”²⁹⁹ emphasizes the “need for the world not to overlook the legacies of colonization and racism that persist in the treatment of refugees, internally displaced persons and migrants”. It highlights that “75 years of the Nakba have shattered the lives of Palestinian refugees, severed their ties to their land during the establishment of the State of Israel, and deprived them of their rights to self-determination and compensation”. It further emphasizes, “The geographical and political fragmentation of the Palestinian people, through administrative control based on residency and ethnicity amounting to apartheid, has hindered the exercise of the right of return and self-determination”. This statement underscores that these practices serve the Israeli colonial settlement project and carries significant legal and political weight in raising global awareness about the Palestinian Nakba.

On the other hand, it is important to focus on the Palestinian Nakba and its consequences, as one of the “underlying root causes of recurring tensions, instability, and prolonged conflict, including systematic discrimination and repression based on national, ethnic, racial, or religious identity”.³⁰⁰ It is necessary to highlight these issues in the reports submitted by the “Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem and Israel” - established by the Council in 2021 - to the Human Rights Council and the General Assembly of the United Nations.

²⁹⁹ See the statement of UN experts: The Right of Return for Palestinian Refugees Must Prioritized over Political Considerations at: <https://www.ohchr.org/en/statements/2023/06/right-return-palestinian-refugees-must-be-prioritised-over-political>

³⁰⁰ Human Rights Council Resolution No.: A/HRC/RES/S-30/1, at https://www.ohchr.org/sites/default/files/2022-04/ToRs_COI-OPTEJ-IL_Arabic.pdf

C) Third States Interventions

It is imperative to intensify work with third-party states in the United Nations Human Rights Council and harness positive interventions from friendly countries to influence other nations. These countries include Algeria, Bolivia, Brunei Darussalam, Indonesia, Iran, Libya, Malaysia, Mauritania, Namibia, Pakistan, South Africa, Syria, and Venezuela. Additionally, international governmental organizations such as the Organization of Islamic Cooperation (comprising its 57 member states), the Arab Group (an international parliamentary union consisting of 20 member states), the African Group (including Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cape Verde, and Cameroon), and others should be engaged to highlight the issue of the Palestinian Nakba and internationalize it through individual and joint statements, as well as written and oral interventions. Furthermore, it is essential to utilize the interactive dialogue under agenda item seven and agenda item nine.

5.3.2 Second Section: National Accountability Mechanisms

A) Decree by law criminalizing the denial of the Palestinian Nakba

Based on the principle of universal jurisdiction in prosecuting international crimes under domestic criminal law, regardless of the place of their commission or the nationality of the perpetrator (jurisdiction here is based on the gravity of the crime), and since jurisdiction over crimes committed within the territory of any state, whether they are international or domestic crimes, lies with the competent authorities to prosecute and try those responsible for committing these crimes, furthermore, affirming the Palestinian judicial jurisdiction over the crime of the Nakba, and based on the principle of the legality of crimes and punishments as a firmly established principle in Palestinian

basic law (no crime or punishment without a legal provision, and no punishment without a judicial judgment) the State of Palestine issued a “decree by law criminalizing the denial of the Nakba” on May 8, 2023, under the commemoration of the Nakba. The law stipulates that “denial of the Nakba as a crime against humanity is punishable by imprisonment, and the competent judicial authorities of the state are responsible for pursuing the perpetrators both within and outside the state”.³⁰¹

While the provisions of the “Decree by Law Criminalizing the Denial of the Nakba” largely align with the requirements of universal jurisdiction and the content and concept of hate speech within the framework of international law, as indicated by the “International Criminal Tribunal for Rwanda” in the Nahimana case³⁰², stating that “it is a form of discriminatory aggression aimed at destroying human dignity and attacking a group”, and it also conforms to the concept of hate speech in the “International Covenant on Civil and Political Rights”³⁰³, specifically in Article 20, it should be noted that the Law itself, which considers the Nakba a crime against humanity, does not impose deterrent penalties commensurate with the severity of this international crime.

³⁰¹ Decree by law commemorating the Nakba, Ibid.

<https://ultrapal.ultrasawt.com/%D8%A7%D9%84%D8%AA%D8%B1%D8%A7-%D9%81%D9%84%D8%B3%D8%B7%D9%8A%D9%86-%D9%8A%D8%AD%D8%B5%D9%84-%D8%B9%D9%84%D9%89-%D9%86%D8%B5-%D9%82%D8%B1%D8%A7%D8%B1-%D8%B1%D8%A6%D8%A7%D8%B3%D9%8A-%D8%A5%D9%86%D9%83%D8%A7%D8%B1-%D8%A7%D9%84%D9%86%D9%83%D8%A8%D8%A9-%D8%AC%D8%B1%D9%8A%D9%85%D8%A9-%D9%8A%D9%8F%D8%B9%D8%A7%D9%82%D8%A8-%D8%B9%D9%84%D9%8A%D9%87%D8%A7-%D8%A7%D9%84%D9%82%D8%A7%D9%86%D9%88%D9%86/%D8%A7%D9%84%D8%AA%D8%B1%D8%A7-%D9%81%D9%84%D8%B3%D8%B7%D9%8A%D9%86/%D8%A3%D8%AE%D8%A8%D8%A7%D8%B1>

³⁰² See (THE PROSECUTOR V. FERDINAND NAHIMANA JEAN-BOSCO BARAYAGWIZA HASSAN NGEZE Case No. ICTR-99-52-(2003) available at: https://adsdatabase.ohchr.org/IssueLibrary/ICTR_Prosecutor%20v.%20Ferdinand%20Nahimana.pdf

³⁰³ See International Covenant on Civil and Political Rights at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

Instead, it considers it a "misdemeanor" punishable by a maximum of two years' imprisonment, as stated in Article 3(1): "Denial of the Nakba is considered a crime punishable by law with imprisonment for a period not exceeding two years, and the competent authorities in the state shall prosecute its perpetrators according to the law, both within and outside the country"³⁰⁴. Therefore, it requires more deterrent criminal punishment.

In order to achieve the objectives of the "Decree by Law Criminalizing the Denial of the Palestinian Nakba", several measures should have been taken to ensure the practical and effective implementation of the Law without any debate:

Firstly, the general provisions of the Law should have included a clear definition of the Palestinian Nakba agreed upon by Palestinians, as indicated by the experts we have interviewed. It should have addressed the elements of this international crime, the principles of international criminal responsibility and accountability under international law, the non-applicability of the statute of limitations, and effective ways to provide redress for the Palestinian victims of the Nakba.

Secondly, it should have reaffirmed the jurisdiction of the Palestinian judiciary over this crime, in accordance with the principle of legality of crimes and punishments as a fundamental principle in the Palestinian Basic Law.

Thirdly, it should have documented international crimes according to United Nations monitoring standards, and fostered networking, alliance-building, and advocacy with human rights institutions at the local, regional, and international levels.

³⁰⁴ Decree by Law, Ibid.

Fourthly, it should have included the criminalization of the denial of the Palestinian Nakba in the legislation of states under the principle of universal jurisdiction and accountability for this international crime.

Fifthly, it should have pursued international accountability and justice through United Nations mechanisms and international law, holding UN bodies and third parties responsible for their obligations in this regard.

Sixthly, it should have cooperated and worked with the countries of the world to adopt a resolution in the United Nations Security Council to establish a temporary international criminal court, considering that the crime of the Nakba is ongoing. This legislation should have included monitoring and oversight mechanisms to ensure effective implementation on the ground.

It is also important to work concurrently on enacting Palestinian legislation that defines and adapts to these international crimes. Developing a comprehensive domestic law that specifically addresses international crimes, including the denial of the Palestinian Nakba, would provide a solid legal framework for prosecuting and punishing individuals involved in such acts. This law would enable the Palestinian judicial system to effectively address these international crimes within the domestic legal context, complementing and reinforcing international efforts in combating impunity and ensuring justice for the victims.

B) Enactment of the Palestinian “Law of International Crimes”

The Palestinian Nakba encompasses numerous incidents that are considered grave violations and international crimes as defined by international criminal law. These crimes are recognized under the statutes established for temporary international criminal

tribunals (such as the Nuremberg Tribunal) and the permanent International Criminal Court (ICC). In accordance with Palestinian Decree by Law, it is necessary to incorporate these incidents within the framework of a Palestinian Law specifically addressing the punishment of the most serious crimes, such as war crimes and crimes against humanity as ongoing crimes. The Law should provide legal provisions for the adaptation and definition of these crimes as international crimes, taking into account the crimes enumerated in the “Rome Statute”, to which Palestine has acceded. The Law should also impose deterrent penalties commensurate with the gravity of these crimes.

It is strongly necessary for these crimes to fall within the jurisdiction of the Palestinian national judiciary because these international crimes are ongoing. Since our national judiciary is “unable” to hold Israeli perpetrators accountable and punish them for their crimes (the principle of complementarity), jurisdiction is transferred according to the “Rome Statute” of the “International Criminal Court (ICC)”. Therefore, the matter goes beyond the denial of the Nakba; it involves activating the role of the national judiciary in prosecuting these crimes. As Palestine, after joining the “Rome Statute” has not harmonized its domestic laws or amended the “Palestinian Penal Code” to include the most serious crimes and their punishment, it is incumbent upon the State of Palestine to align its legal strategy in the ICC with essential internal measures that demonstrate its commitment to international law. This can be achieved by immediately harmonizing its legislation with the “Rome Statute” and enhancing national capacity to prosecute these crimes by working on enacting an “International Crimes Law”. The Palestinian government had previously initiated work on this project but halted it for unknown reasons.

C) The Jurisdiction of the Palestinian Judiciary over International Crimes

The legal principles underlying national accountability for holding Israeli perpetrators of crimes accountable are based on explicit provisions guaranteed by the Palestinian Basic Law. Firstly, the right to litigation is protected and ensured for all individuals, as stated in Article 30, which states: “1- Litigation is a preserved and guaranteed right for all people, and every Palestinian has the right to resort to their natural judge, and the law regulates the litigation procedures to ensure expeditious resolution of cases...”³⁰⁵

Regarding the regional jurisdiction of Palestinian courts, the “Palestinian Code of Criminal Procedure”, in Article 163, states: “Jurisdiction shall lie in the place where the crime was committed, or where the accused resides, or where they were arrested”. This means that the “rules of Palestinian criminal law” allow for the prosecution of Israelis for crimes committed in Palestinian territory. However, the provisions of the “Palestinian Penal Code” applied in the West Bank or Gaza Strip only punish ordinary crimes covered by those laws and do not contain provisions related to international crimes.³⁰⁶ This highlights the importance of enacting a Palestinian law specifically addressing international crimes.

The Oslo Agreement (2) of 1994 restricted the jurisdiction of the Palestinian judiciary to prosecute Israelis. This agreement stipulated, “the jurisdiction of the Palestinian Authority shall cover all matters within its territorial, functional, and personal jurisdiction, covering the Gaza Strip and the Jericho Area as defined in Article 1, with the exception of settlements and military installations. Functional jurisdiction

³⁰⁵See the provisions of the Palestinian Basic Law at: <http://muqtafi.birzeit.edu/pg/getleg.asp?id=14138>

³⁰⁶ Thabet, Nasser, does Palestine have the right to sue the Israelis in its courts? A legal reading in the light of the statements of the Palestinian Minister of Justice to try the Israelis. <https://law4palestine.org/ar>

shall include all powers and responsibilities as defined in this agreement. However, it does not include foreign relations, internal security, the overall settlement regime, and the area of military and Israeli security”. Article (4/3/A/B/C) explicitly stated, “The territorial jurisdiction of the Palestinian Council's judicial authority extends to all individuals except Israelis”³⁰⁷. This provision indicates that the Palestinian courts do not have jurisdiction over Israelis, whether on a personal or objective basis, including settlers with deep regret.

With the confirmation of the conflict between the Oslo Agreement and international law (Fourth Geneva Convention and the Vienna Convention on the Law of Treaties), as previously explained, and the affirmation in the statute of the International Criminal Court (ICC) that international crimes do not have a statute of limitations, and that leaders and heads of state cannot claim official capacity or immunity before the ICC, establishing the Palestinian jurisdiction and the jurisdiction of the ICC over these international crimes becomes of utmost importance. This is particularly significant after the enactment of the Palestinian “Law of International Crimes”, which should encompass the forms, elements, and components of the crimes of the Palestinian Nakba and impose deterrent punishments commensurate with their grave nature, in line with the requirements of the ICC. This requires the Palestinian government to harmonize its “Penal Code” and domestic legislation with international conventions, and for Palestinian jurisdiction to become effective in prosecuting the perpetrators of Israeli crimes, including settlers, ultimately leading to the International Criminal Court.

D) Diplomatic Efforts and the Internationalization of the Palestinian Nakba

³⁰⁷ See the Oslo Agreement (2), Cairo, 4/5/1994 (n.d). Documents, Wafa News Agency: https://info.wafa.ps/ar_page.aspx?id=4924

Extending the Palestinian diplomatic and human rights work requires mobilizing legal and political efforts with Member States of the United Nations to issue a UN resolution acknowledging the Nakba. It also involves utilizing mechanisms for human rights protection in the Human Rights Council, as mentioned earlier, and coordinating with the Office of the United Nations High Commissioner for Human Rights. Collaboration with international organizations such as “Human Rights Watch” and “Amnesty International” is essential, as well as tightening cooperation with Palestinian human rights organizations and supportive Israeli human rights centers. Activating embassies, consulates, and Palestinian communities worldwide, through official diplomatic campaigns and advocacy in the UN Human Rights Council and other international bodies, is crucial to raising awareness about the Nakba and the ongoing crimes. Presenting Israeli films and documentaries that provide audiovisual evidence can also play a role. All of this calls for the establishment of a strategic plan to institutionalize and internationalize the terminology and the crime itself, as indicated by the interviews included in this matter.

5.3 Third Section: International Criminal Jurisdiction

First: International Criminal Tribunals

International criminal law provides three mechanisms for prosecuting and punishing war criminals. The first mechanism involves the establishment of a temporary international criminal tribunal. The second mechanism is the universal jurisdiction, and the third mechanism is the prosecution and punishment of war criminals through the permanent “International Criminal Court” (ICC). In this regard, we will focus on the first means after we have reviewed the various Israeli crimes committed since the

Palestinian Nakba in 1948, as discussed in the earlier sections of this study. These crimes amount to war crimes and crimes against humanity in their practical sense. Due to their ongoing nature, Israel, as an occupying power, bears responsibility in all its civil and criminal forms for these violations and crimes under the relevant international conventions.³⁰⁸ This leads us to explore the trial of Israeli perpetrators before a temporary international criminal tribunal, similar to the tribunals in Kosovo, Rwanda, and elsewhere.

According to the United Nations Charter, the Security Council has the primary authority to initiate this mechanism. We then move on to the third mechanism, which is the permanent International Criminal Court for accountability for international crimes.

A) The Legal Basis Governing the Mechanism for Establishing A Special Criminal Tribunal

The legal basis governing the mechanism for establishing a special criminal tribunal dates back to international legal principles stipulated in the relevant international agreements, such as Article 147 of the Fourth Geneva Convention. It also includes provisions like Article 6 of the “Convention on the Prevention and Punishment of the Crime of Genocide” of 1946, Article 6 of the “International Convention on the Elimination of All Forms of Racial Discrimination”, Article 1 of the “Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity” of 1968, and Articles 2 and 4 of the “Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment”. These international

³⁰⁸Dr. Bouziane, Ibid, pg. 705

agreements provide the legal framework for prosecuting war criminals in general and specifically for holding Israeli criminals accountable for their ongoing crimes.

Accordingly, the establishment of a temporary criminal tribunal finds its basis through two means: Firstly, through the Security Council, and secondly, based on a decision by the United Nations General Assembly. Therefore, it is necessary to clarify each legal basis individually and its applicability to the Palestinian case, as follows:

*The first means: Formation of a special criminal tribunal through the Security Council

It is internationally recognized that the primary mandate of the Security Council is to maintain international peace and security. It carries out this mission based on the provisions of Article 39 of the United Nations Charter in Chapter VII, which “empowers the Council to recommend appropriate measures or actions to settle disputes peacefully in accordance with the provisions of Chapter VI, or to use the powers granted to it under Chapter VII if it determines the existence of a threat to international peace and security, an act of aggression, or a breach of peace”. Additionally, the Secretary-General has the right to alert the Council to any matter that he deems may threaten international peace and security, as stated in Article 99 of Chapter XV.

This general framework serves as the international legal basis for the establishment of a temporary criminal tribunal. Based on international judicial precedents in this regard, it is evident that the case of Kosovo (Yugoslavia) involved the issuance of resolutions by the Security Council, numbers 808/827, considering that the situation in this case constituted a threat to international peace and security. The establishment of a special criminal tribunal was seen as a means to put an end to the violations committed in Yugoslavia.³⁰⁹

³⁰⁹ Hunaidar, *Ibid*, pg. 173.

According to the provisions of Chapter VII of the United Nations Charter, the Security Council can issue a resolution to establish a special international criminal tribunal to prosecute perpetrators of crimes against humanity and ongoing war crimes committed by Israelis since the Nakba as ongoing crimes, similar to the cases of Rwanda and former Yugoslavia. At that time, the Council affirmed that leaving the criminals unpunished would threaten international peace and security.³¹⁰

In order to address the Palestinian situation and bring it under the framework of Chapter VII, it is necessary for it to fall within the scope of the description provided therein. The current situation in Palestine constitutes a threat to international peace and security, as it involves acts of aggression characterized by the ongoing Israeli military occupation, including the invasion of Palestinian cities and towns such as Nablus, Jenin, and their camps, as well as the aggression against and blockade of the Gaza Strip and the annexation of territories through the use of force. This chapter alone is sufficient to affirm the necessity of establishing a special international criminal tribunal to prosecute Israeli war criminals. This is also applicable to Articles 40-51, which deal with the measures that the Security Council can take when the conditions specified in Article 39 are met. Article 39 states that “the Security Council shall determine whether the situation constitutes a threat to the peace, a breach of the peace, or an act of aggression and shall make recommendations or decide what measures shall be taken in accordance with Articles 41 and 42 to maintain or restore international peace and security”. In the context of such a key to Chapter VII of the Charter, and in order to issue a resolution by the Security Council for the establishment of a temporary international criminal tribunal, the Council must issue a resolution stating that the situation in Palestine

³¹⁰ Osmani, Laila, (2012). The Israeli Aggression on Gaza, the Criminal Responsibility of Israeli War Criminals, Journal of Law, Kuwait University - Academic Publishing Council, Volume: 36, Issue 1, pg. 633.

constitutes a threat to international peace and security, or a breach thereof, or that it constitutes an act of aggression under the United Nations Charter.

However, Omar Awadallah, during the interview conducted by the researcher, believes that the mechanism of Security Council decision-making under Chapter VII is the most challenging. To overcome this challenge, it is necessary to open dispute with the United States and Britain as partners in the crime, as they contributed to the occurrence of the Nakba and the deprivation of the Palestinian people of their right to self-determination. Opening this dispute will entitle them to exercise their veto power over the resolution. He emphasized that the issuance of a decision by the International Court of Justice regarding the nature of the occupation will help address the issues of the Nakba and the Palestinian narrative. It will also assist in the establishment of the special criminal tribunal and determining the responsibility of the parties involved and the United Nations in addressing these issues.

According to the assessments of the figures interviewed by the researcher in this context, this solution and its feasibility for the Palestinian situation would be extremely challenging under the current political circumstances. It requires a resolution from the Security Council, which means that such a resolution will only be issued if the resolution aligns with the interests of the five permanent members of the Security Council, especially the United States and Britain. This is nearly impossible. Aida Toma stated that the global Zionist movement and its arms, primarily the United States, would exert various pressures on the Palestinian Authority to prevent this and combat Palestinian human rights institutions. She pointed out to Israel's decision to close these institutions after the Palestinian referral to the International Criminal Court. Dr. Mu'taz Qufisha agreed with Toma regarding international pressures on Palestinian decision-

makers, especially from the United States and the European Union. He said, “Palestine will face pressures in financial matters including the general budget, funding for UNRWA, and human rights institutions”. He explained that similar pressures were exerted when Palestine was pressured to withdraw the case it filed against the United States in the International Court of Justice regarding the transfer of the US embassy from Tel Aviv to Jerusalem, even though it was a highly promising case. He also mentioned that this pressure extends to other issues, including the Nakba and the formation of a special tribunal. Qufisha believes that there is currently no Palestinian technical, legal, diplomatic, or financial readiness to engage in a risky endeavor with unpredictable outcomes.

Omar Awadallah also raised a central challenge regarding how to hold the Israeli system committed these crimes accountable, as the old leaders are practically non-existent (deceased), and how to formulate the Palestinian question and work with international law to hold the current criminals accountable for committing the same crimes as their predecessors. They are part of the system and continue to commit the same crimes. He considered the importance of establishing a special criminal tribunal, with two main objectives. The first is to address the damages suffered by Palestinians, including non-refugees, who have been affected by the Nakba and ongoing crimes, and who continue to suffer under the colonial occupation as a form of ongoing Nakba. The second objective is to ensure that this crime is not repeated and to hold those responsible accountable in order to seek justice for the rights of the victims.

The Assistant Minister of Foreign Affairs explained that there are two mechanisms that can be utilized to establish a special international criminal court. This court can be formed after the collection and preservation of evidence. He elaborates,

“For example, evidence has recently emerged, such as the poisoning of wells, where Zionist gangs have introduced biological agents into the wells of Palestinians to force them to leave. This means that criminal intent and purpose are evident in the evidence. When the documentation is available, the criminal intent can be proven in crimes of exterminating part or all of the Palestinian people”.

Therefore, all these challenges lead us to explore the alternative option, which is to approach the General Assembly to obtain a resolution to establish a Temporary International Criminal Tribunal.

*The second means: A resolution from the General Assembly of the United Nations to establish a special tribunal

In addition to the responsibilities of the Security Council as the primary body responsible for international peace and security, the General Assembly has the right to discuss any matter related to international peace and security, as stipulated in Article 11/2 ³¹¹of the UN Charter. It also has the authority to recommend necessary measures to settle international disputes and restore harmony in international relations.

The General Assembly can use Resolution 377, also known as the “Uniting for Peace” resolution, to avoid the use of the veto power and replace the Security Council in case it fails to take action to establish a special international criminal tribunal to

³¹¹Article 11 states that: The General Assembly shall consider the general principles of cooperation in maintaining peace and international security, including principles related to disarmament and arms regulation. It has the authority to make recommendations regarding these principles to the members or to the Security Council, or both. 1. The General Assembly shall discuss any matter related to the maintenance of international peace and security that is brought to its attention by a member of the United Nations, the Security Council, or a non-member state, in accordance with the provisions of paragraph 2 of Article 35. Except as provided in Article 12, it may make recommendations regarding these issues to the state or states concerned, or to the Security Council, or both. Any matter mentioned in this regard shall require some action, and the General Assembly shall refer it to the Security Council before or after its consideration. 2. The General Assembly may draw the attention of the Security Council to any situation that may threaten international peace and security.

prosecute Israelis. However, this approach has not been followed before, and there have been no legal precedents in this matter, as evidenced by the Lebanon and Cambodia tribunals, which were established in agreement with the General Assembly and the respective states, in addition to the establishment of the Lebanon Tribunal by the Security Council under Chapter VII.³¹²

Until the State of Palestine is able to establish a temporary criminal tribunal, it is advisable to continue diplomatic efforts to influence and pressure Member States and mobilize the General Assembly under the precedent of United Nations General Assembly Resolution 377, “Uniting for Peace” resolution, to impose sanctions on Israel and compel it to end its ongoing crimes against the Palestinian people since 1948. These sanctions can include various actions such as military sanctions, economic and trade boycotts, cultural boycotts against Israel, suspension of economic, financial, and technological aid, particularly to settlements, banning Israeli products and institutions, and holding international companies involved in supporting and perpetuating settlements enlisted in the United Nations database accountable. Additionally, cooperation with Israel should be halted, and refraining from obtaining any weapons or equipment from them.³¹³

According to international expert Michael Lynk, the mechanism for establishing a temporary tribunal to hold Israel accountable for its ongoing crimes since 1948 is seen as a very long road. Instead, he suggests the establishment of a historic or political committee to review the issue of the Nakba in order to place it on the international political agenda, with the hope that the Palestinians can accumulate support for this. He

³¹² Osmani, *Ibid*, pg. 635.

³¹³ Shtayyeh, Mohamed Abdel-Fattah, (2022). The crime of settlement in the Occupied Palestinian Territories and mechanisms to confront it, *Comparative Studies Generation Journal*, p.: 14, pg. 124.

further emphasizes that in order to attempt to establish a specialized legal tribunal regarding the consequences of the Nakba, political and social understandings must be created first. He also proposes turning to the existing International Criminal Court (ICC) to legally prosecute those responsible for crimes committed after the 1967 occupation, such as accountability for crimes like annexation, which is recognized as a crime of aggression under the ICC's statute.

Director General of Al-Haq, Jbarin, suggests initiating work similar to the "Russell Tribunal" to legally discuss and revive the situation regarding Palestine. He calls for the prosecution of surviving officials involved in international crimes since 1948, referring to these crimes as international crimes against humanity in which official figures are held accountable due to their systematic nature and representation of official policies. Jbarin explains that the current "International Criminal Court" does not address crimes that occurred before its establishment, despite the fact that the crimes have been ongoing since before 1948. However, he emphasizes the importance of readiness for the establishment of such a tribunal and being ready to pursue these criminals, at the very least by naming and shaming their names and officially exposing their committed crimes by the state and the responsible individuals within it. Dr. Moataz Qafisha reveals that there is nothing preventing the establishment of a specialized international criminal tribunal, but it requires political will from states. Historian Ilan Pappé also calls for the formation of a tribunal similar to the "Russell Tribunal," but he believes that the establishment of a specialized international criminal tribunal to hold perpetrators accountable for their actions is also acceptable.

B) Mandate and Organization of the ICTY

The Tribunal's mandate is to bring to justice those responsible for serious violations of international humanitarian law committed in the former Yugoslavia since 1991, and to contribute to the restoration and maintenance of peace in the region. According to its statute, the ICTY has jurisdiction over the territory of the former Yugoslavia from 1991 onwards. Pursuant to Article 1 of the Statute of the Court, it has jurisdiction over persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991 and has no jurisdiction over individuals but not organizations, political parties, army units, administrative entities or other legal subjects. Although the Tribunal has joint jurisdiction over serious violations of international humanitarian law committed in the former Yugoslavia, it can claim precedence and may take over national investigations and proceedings at any stage if it is found to be in the interests of international justice. It can also refer its cases to the competent national authorities in the former Yugoslavia. The Court has the power to prosecute and try individuals for four categories of crimes: grave breaches of the 1949 Geneva Conventions, violations of the laws or customs of war, genocide, and crimes against humanity according to Articles 2 to 5 of the Statute. The Court has no power to prosecute states for aggression or crimes against peace.³¹⁴ Its statute also strongly states that the official position of the accused, whether as head of state or government or as a responsible government official, does not absolve him from criminal responsibility or mitigate the sentence. Most importantly, Article 7 provides that a person who has planned, abetted, ordered, committed or otherwise aided and abetted the planning,

³¹⁴ Mandate and Crimes under ICTY Jurisdiction, (n.d). United Nations International Criminal Tribunal for the Former Yugoslavia, available at: <https://www.icty.org/en/about/tribunal/mandate-and-crimes-under-icty-jurisdiction>

preparation or execution of an offense referred to in Articles 2 to 5 shall be individually responsible for the offense.³¹⁵

The Tribunal consists of the President, three trial chambers, the appeals division, the public prosecutor's office consisting of the public prosecutor, the prosecution office, the direct office, the appeals chamber, the registrar, the judicial support service section, the direct office, the chambers' legal support section, and the administrative division.³¹⁶

C) Case Study: The International Criminal Tribunal for the former Yugoslavia (ICTY)

The ICTY is a legal tribunal established by the United Nations to address war crimes committed during the conflicts in the Balkans in the 1990s. It was created in May 1993 by the United Nations under Chapter VII of the UN Charter in response to the mass atrocities and heinous crimes committed in Croatia, Bosnia and Herzegovina, including killings, torture, sexual violence, forced displacement, and destruction of property. It is the first international war crimes tribunal since the Nuremberg and Tokyo tribunals. The main objective of the ICTY is to prosecute individuals responsible for these atrocities, such as murder, torture, rape, enslavement, and destruction of property, among other crimes listed in the Tribunal's statute. By bringing perpetrators to trial, the ICTY seeks to deter future crimes, achieve justice for thousands of victims and their families. It has brought charges against more than 160 individuals, including heads of states like Slobodan Milošević, prime ministers, chiefs of staff, interior ministers, and

³¹⁵ Ibid.

³¹⁶ Organisational Chart, (n.d), United Nations International Criminal Tribunal for the Former Yugoslavia, available at: <https://www.icty.org/en/about/tribunal/organisational-chart>

numerous high-ranking and mid-level political, military, and police leaders from various parties to the Yugoslav conflicts.³¹⁷

The tribunal was created to focus on the most serious crimes and the individuals most responsible for them. Its jurisdiction encompassed any serious violations of international humanitarian law occurring in Kosovo, and it had the authority to investigate these crimes, including war crimes and crimes against humanity. Later, its jurisdiction expanded to include the crime of genocide. The first case before the ICTY particularly focused on notorious detention camps. At that time, many of the early witnesses were victims who had fled from Bosnia and Herzegovina and found themselves as refugees in other countries. They were detained in detention camps and subjected to “ethnic cleansing”, and many of them had harrowing stories of personal tragedy and immense suffering. Despite the denial of Serbian authorities and others of any crimes, the investigators of the tribunal relied on the testimonies of survivors, satellite imagery, forensic scientists, anthropologists, canine teams, and a variety of specialized teams and experts to search for evidence of mass executions and mass graves. The investigations conducted by the Office of the Prosecutor revealed dozens of mass graves containing the remains of thousands of civilians, many of whom had their hands bound behind their backs with wire, blindfolded with a cloth, and a bullet hole in the back of their heads. The results of the exhumation program conducted by the tribunal, which began in the summer of 1996, proved crucial in the prosecution's case against the individuals who were subsequently tried and convicted for their role in the genocide committed by Serbian forces. Additionally, during the same period, there was

³¹⁷ ICTY, (n.d). About the ICTY, United Nations International Criminal Tribunal for the Former Yugoslavia, available at: <https://www.icty.org/en/about>

a wave of confessions and acknowledgments of guilt, which helped alleviate the burden of escalating cases.³¹⁸

D) The Case of Dragan Nikolic³¹⁹

The accused, Dragan Nikolic, is a 46-year-old Bosnian Serb who was the first person indicted by the tribunal on November 4, 1994. The initial amended indictment was confirmed on February 12, 1999, and included 80 charges of committing crimes against humanity, grave breaches of the Geneva Conventions, and violations of the laws or customs of war. This case specifically addressed his individual responsibility for the heinous crimes committed in the Susica detention camp near the town of Foca in the municipality of the same name. Nikolic was a commander in this camp, which was established by Serbian forces in June 1992.

The accused participated in creating an atmosphere of systematic terror and sadism in the camp against Bosnian Muslims and other non-Serb detainees. Nikolić personally killed nine individuals and tortured and beat other prisoners. Women of all ages were subjected to rape or sexual assault under his command. On November 4, 1994, arrest warrants were issued against him after the failure to execute previous arrest orders, and proceedings commenced under Rule 61 on May 16, 1995. On October 20, 1995, the Trial Chamber issued its decision finding reasonable grounds to believe that Dragan Nikolic committed all the crimes listed in the indictment. Finally, the Stabilization Force (SFOR) apprehended the accused on April 20, 2000, in Bosnia and Herzegovina and promptly transferred him to the tribunal on April 21, 2000.

³¹⁸ Ibid.

³¹⁹ Judgement in the Case: The Prosecutor v. Dragan Nikolic, (2003). United Nations International Criminal Tribunal for the Former Yugoslavia, available at <https://www.icty.org/en/sid/8131>

Dragan Nikolic pleaded guilty on September 4, 2003, to the charges in the third amended indictment, which included individual criminal responsibility for murder (Count 2), aiding and abetting rape (Count 3), and torture (Count 4) as crimes against humanity. It should be noted that at the time of the accused's admission of guilt, his trial had already commenced, and the first witnesses were scheduled to arrive in The Hague to testify during the week of September 1-5, 2003. Nikolić was sentenced to 23 years in prison.

E) The Case of Duchko Tadic³²⁰

On May 7, 1997, Duchko Tadic was convicted of committing crimes against humanity on six charges and violations of the laws or customs of war on five charges. The verdict stated that these crimes included murder, beating, and forcible transfer committed by Tadic either as a principal or as an accomplice, as well as his participation in the attack on the town of Kozarac in Opstina Prijedor, northwest Bosnia.

Before determining the actual sentence, the Trial Chamber made the following findings: “The prohibited conduct, constituting a crime against humanity, with the awareness that the conduct forms part of a widespread and systematic attack against the civilian population, is considered a more serious crime than ordinary war crimes (...), and that Tadic was aware that his acts were part of the crime against humanity committed by the Bosnian Serb forces against the non-Serb population in Opstina Prijedor and contributed to it”. The Trial Chamber II pronounced sentences on the charges of crimes against humanity, sentencing him to twenty years' imprisonment for

³²⁰ Dusko Tadic sentenced to 20 years' imprisonment, (1997). United Nations International Criminal Tribunal for the Former Yugoslavia, available at <https://www.icty.org/en/press/dusko-tadic-sentenced-20-years-imprisonment>

various acts of persecution, including the killing of several persons and the beating of detainees during their deportation from the villages of Jaskici and Sivci. It also rendered sentences on charges of violations of the laws and customs of war.

The Trial Chamber further examined the circumstances of the crimes and Tadic's role regarding each of the victims in terms of the harsh treatment and inhumane acts, and stated: "Tadic was an active participant and a willing participant in the crime... and of particular concern is his use of a lethal weapon to cause great harm and suffering, and the worrying factor is the number of victims". It affirmed that "while Tadic was not convicted of killing any prisoners, his participation in the beatings of prisoners encouraged the beatings of other prisoners by camp guards and visitors under such circumstances that could indeed result in death, aggravating the nature of his crime".

The Trial Chamber also considered "Tadic's willingness to commit crimes and contribute to the attack against non-Serb civilian population (...) which formed the basis for the crimes against humanity committed (...). His awareness and enthusiastic support for the attack against non-Serb civilian population (...) manifested in his acts, lead to his responsibility for crimes against humanity and not only war crimes, which is an important factor in imposing the penalty..." that was decided as twenty years' imprisonment.

It is evident from these previous examples that the International Criminal Tribunal for the former Yugoslavia did not compromise in dealing with the most serious crimes and deterring them to ensure their non-recurrence in the future and achieve justice for the victims and their families.

If this tribunal had jurisdiction to prosecute crimes of cruel treatment, inhumane acts, torture, forced displacement, and other crimes that constitute war crimes and

crimes against humanity, then the situation in Palestine calls for immediate action to establish similar special international criminal tribunal to the former Yugoslavia tribunal. This is especially true since the ongoing nature of the international crimes committed against the Palestinian people for the past 75 years, in all its forms and manifestations, means that those involved in committing these crimes are always present, awaiting accountability, prosecution, punishment, justice for the victims, and an end to impunity.

Testimonies and confessions by Israeli occupation soldiers and their leaders serve as criminal evidence and expose of the facts, including, for example, uncovering mass graves as mentioned in the earlier sections of this study, deliberate killings, forced displacement of civilians, destruction of properties, water contamination, and other grave violations that amount to war crimes and crimes against humanity.

Upon the establishment of a special tribunal for Palestine, hundreds of UN reports documenting Israel's violations and the occupying authority's infringement on Palestinian human rights can be utilized and presented to the tribunal. It can rely on the findings of international investigative committees and make use of the information provided by friendly countries, non-governmental organizations, humanitarian agencies operating in the region, as well as the information released by national and international media outlets regarding these violations. Additionally, there should be readiness to document all criminal evidence, documents, and testimonies, including those of victims and survivors of the Nakba, and record them through official data that would serve as the basis of evidence in the tribunal.

To ensure the success of this tribunal if established, it is essential to enhance political and diplomatic support and international cooperation between countries and

non-governmental organizations in successfully presenting cases to the tribunal. This path will undoubtedly contribute to peacebuilding efforts, ultimately leading to a lasting peace in the region.

Second: Universal Jurisdiction

International treaties take on the task of addressing certain crimes that concern the international community, requiring the parties to these treaties, based on the principle of sovereignty, to incorporate those crimes into their domestic legislation. Sovereignty and jurisdiction are closely linked, stemming from the necessity of cooperation and mutual coordination between states and the application of international law without duplication, as is the case in the special international laws of each country.³²¹

The aim of the principle of universal jurisdiction in the international arena is to combat the most serious crimes, apprehend any person accused of committing such crimes, and try them according to its laws, regardless of their nationality, the direct interest affected, the nationality of the perpetrator, or the location of the crime³²². In light of this, the legal basis of this principle must be clarified, which could be applied to the Palestinian situation in light of judicial precedents, such as the international agreements, including the 1949 “Geneva Conventions” and its protocols, the “Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity” of 1973, and the “Convention against Torture”.

³²¹ Dr. Fouad, Mostafa Ahmed, (2014). Public International Law, International Criminal Law, Part Six, Tanta University Faculty of Law Press, pg. 50.

³²² Dr. Al-Wadiah, Sameh Khalil, (2009). International Responsibility for Israeli War Crimes, first edition, Al-Zaytouna Center for Studies and Consultations, Beirut, pg. 76

Accordingly, all states are bound by the provisions of this treaty to exercise their criminal jurisdiction against the perpetrators of war crimes and crimes against humanity committed by Israelis, without any statute of limitations affecting the right to prosecution and punishment. The passage of time does not prevent the criminalization of these acts, and the location does not hinder accountability. The criminal can be pursued wherever they are found, and international cooperation to combat international crimes, seek justice for the victims, and hold Israeli leaders accountable is a duty of states. The exercise of universal jurisdiction by a state prevents Israeli leaders from escaping punishment for their actions.

To examine the international application of the principle of universal jurisdiction, one can refer to previous experiences before national criminal courts in countries that have applied this principle. One prominent example is the Belgian judicial experience, which was associated with the application of the principle of universal jurisdiction through the "Law of Universal Jurisdiction" of 1993, which stated that "Belgian authorities are competent to prosecute crimes defined in this law regardless of the place where they occurred". This law was linked to violations of the Geneva Conventions of 1949 and the two Additional Protocols of 1977. Under this law, arrest warrants were issued for several war criminals in Rwanda who committed their crimes on Rwandan territory.³²³

However, the law underwent several amendments, leading to the amended law of 2003, following pressures exerted on the Belgian authorities, particularly by the United States and Israel, out of fear of prosecuting American soldiers by the Belgian

³²³ Ramadan, Ibrahim El-Sayed Ahmed, (2017). The principle of universal jurisdiction in international criminal law, Egyptian Society for Political Economy, Statistics and Legislation, Journal of Contemporary Egypt, Volume: 108, Issue: 526, pg. 347.

judiciary for their involvement in war crimes in Iraq³²⁴. The main reason for amending this law was, in fact, the prosecution charges brought by the Belgian Public Prosecutor's Office against Prime Minister Ariel Sharon in June 2001 for committing war crimes, crimes against humanity, and genocide. The case was referred to the Appeals Court for consideration following the lawsuit filed against Sharon by Palestinian survivors of the “Sabra and Shatila” massacre, holding him responsible for these massacres committed against Palestinians during the Israeli invasion in 1982.³²⁵

A) The case of Benjamin Ben Eliezer

In the same context, there were other legal proceedings before the Spanish judiciary, which accepted a complaint filed by the “Palestinian Center for Human Rights” regarding the Israeli aggression on the Gaza Strip on July 22, 2002. The Center accused former Israeli Defense Minister Benjamin Ben Eliezer and a group of officers in the Israeli occupation army of committing crimes against humanity and war crimes. However, on April 2, 2009, a decision was issued by the Prosecutor's Office to close the file on the grounds that there was a pending legal action by the Israeli judiciary on the same matter. After the Israeli judiciary procrastinated, the Spanish judge reopened the investigation on May 4, 2009, based on the lack of evidence or indications of any investigation taking place in Israel. However, due to the political pressures exerted by Israel against the Spanish judicial authorities, the Spanish Supreme Court issued a final decision to close the file of this case.³²⁶

³²⁴ Manal, Hanider, (2014). Criminal responsibility for the perpetrators of Israeli war crimes in Gaza, master's thesis, Faculty of Law (Ben Aknoun), University of Algiers, pg. 183.

³²⁵ Ibid, pg.184.

³²⁶ Ibid, pg.187.

B) The Case of Livni, Ya'alon and Barak

The “Westminster Court” issued an arrest warrant against former Israeli Foreign Minister and leader of the “Kadima party”, Tzipi Livni, who was scheduled to participate in a conference by the Jewish National Fund in December 2009. However, the court withdrew the arrest warrant after it became apparent that Livni was not present on British soil. In the same year, Moshe Ya'alon, Deputy Prime Minister and Minister of Strategic Affairs, canceled a planned visit to Britain out of fear of being arrested by the British authorities on charges of committing war crimes. This was due to his role as the Chief of General Staff of the Israeli army during the bombing of the Daraj neighborhood in Gaza City in July 2002, which resulted in the killing of “ Hamas” leader Salah Shehadeh and 14 other Palestinian civilians. A similar arrest warrant was also issued against Israeli Defense Minister Ehud Barak by the “Westminster Court”, after British lawyers requested his arrest under the “Criminal Justice Act” of 1988, which allows British courts to prosecute individuals for war crimes even if they are not British or residents of Britain. However, Barak managed to evade arrest after the British Foreign Ministry informed the court that he was a minister and that he would be holding meetings with his British counterparts. The court, based on that information, decided that he enjoyed immunity under the “State Immunity Act” of 1978.³²⁷

The researcher proposes that Palestinian refugees in Palestine and in exile initiate criminal lawsuits against Israeli leaders for crimes of apartheid and persecution, for denying their natural and legal right to return to their original lands and seek compensation for ongoing crimes against humanity. The State of Palestine should

³²⁷ Look at these case at:

<https://www.aljazeera.net/news/2009/12/17/%D8%AF%D8%B9%D8%A7%D9%88%D9%89-%D8%B6%D8%AF-%D9%85%D8%B3%D8%A4%D9%88%D9%84%D9%8A%D9%86-%D8%A5%D8%B3%D8%B1%D8%A7%D8%A6%D9%8A%D9%84%D9%8A%D9%8A%D9%86>

provide them with the necessary financial and moral support. Local, regional, and international human rights organizations that work to prosecute and hold perpetrators of international crimes accountable should also support them in seeking remedies for the victims.

Third: The International Criminal Court (ICC)

The international community had initiated extensive and profound discussions on the establishment of a permanent International Criminal Court, in contrast to the ad hoc international criminal tribunals for the former Yugoslavia and Rwanda. This work led to the adoption by over 120 states of the “Rome Statute”³²⁸, the foundational instrument establishing the International Criminal Court. In 1998, for the first time in history, these states decided to accept the jurisdiction of a permanent International Criminal Court to prosecute individuals responsible for the most serious crimes committed within their territories or by their nationals, after the entry into force of the “Rome Statute” on July 1, 2002. This Court does not replace national courts but operates on the principle of complementarity, as established by the “Rome Statute”. According to the statute, it is the “duty of every state to exercise its criminal jurisdiction over those responsible for international crimes”, and the “International Criminal Court” can only intervene when a state is “unable or unwilling” to genuinely conduct investigations and prosecutions of the perpetrators. The mission of the Court is to help put an end to impunity for the perpetrators of the most serious crimes of concern to the international community as a whole, thereby contributing to the prevention of such crimes. These crimes include crimes against humanity, war crimes, genocide, and the

³²⁸ See the Rome Statute provisions at: <https://www.icc-cpi.int/sites/default/files/RS-Eng.pdf>

crime of aggression.³²⁹ The “International Criminal Court” derives its legal basis from the “Rome Statute” of 1998. However, it is worth noting that the issue of temporal jurisdiction of the “International Criminal Court” under Article 11 poses a legal obstacle for the State of Palestine in seeking justice for war crimes and crimes against humanity committed prior to the enforcement of this system. On the other hand, the ongoing nature of these crimes makes prosecution and accountability a possibility.

On January 1, 2015, the State of Palestine submitted a declaration under the provisions of the third paragraph of Article 12 of the Rome Statute of the “International Criminal Court”, accepting the jurisdiction of the Court from June 13, 2014. On January 2, 2015, Palestine deposited its instrument of accession to the Court with the Secretary-General of the United Nations and became a party to the “Rome Statute”. On the same day, the Registrar of the “International Criminal Court” accepted the declaration submitted by Palestine in accordance with the provisions of Article 12(3) of the “Rome Statute”. Based on this declaration, the Prosecutor of the “International Criminal Court”, Fatou Bensouda, conducted a preliminary examination of the situation in Palestine.³³⁰

On May 22, 2018, the State of Palestine submitted a “Referral regarding the Situation in Palestine” to the Office of the Prosecutor in the Court, calling for an immediate investigation into the grave crimes committed by the Israeli occupation against Palestinians under Article 14 of the “Rome Statute”. The referral included Israeli leaders who should be prosecuted for past, ongoing, and future war crimes against the Palestinian people. The referral also included the illegal settlement enterprise, including all policies and practices aimed at forcibly displacing Palestinians

³²⁹ M. N. Shaw (2008). *International law*, sixth edition, Cambridge. Pg. (410-417)

³³⁰ Abdeen, Isam, (2015). A reading of the Prosecutor's announcement to open a preliminary study of the situation in Palestine, Al-Haq, available at: <https://www.alhaq.org/ar/advocacy/2442.html>

and allowing the transfer and establishment of Israeli settlers in the occupied Palestinian territory. These practices and policies encompass planning, construction, renovation, security provision, development of settlements and their infrastructure, including the separation wall and the blockade imposed on the Gaza Strip.³³¹

In 20 December 2019, the Prosecutor announced that she would submit her request to the Pre-Trial Chamber I ("the Chamber") for a ruling on the territorial jurisdiction of the Court in the situation in Palestine. The Office detailed its submission in this request on 22 January 2020 to clarify its legal position. On 5 February 2021, the Chamber, by majority, decided that the Court has jurisdiction over the alleged crimes committed in the situation in Palestine, and that the territorial jurisdiction extends to Gaza and the West Bank, including East Jerusalem. However, the Chamber, after considering the observations submitted by States, international organizations, and other stakeholders, unanimously found that Palestine is a State party to the Rome Statute, and it also decided, by majority, that Palestine's referral of the situation obliged the Office to open an investigation. The Office found a reasonable basis to proceed with an investigation in accordance with the Rome Statute's criteria.³³²

In this context, Dr. Mu'taz Qafisha called for "working towards criminalizing certain practices described as ongoing Nakba, such as crimes committed after 2002, which require a declaration from the International Criminal Court (ICC) granting retroactive jurisdiction". He called for "submitting a new declaration from the State of Palestine in this regard". Qafisha also highlighted the "necessity of addressing the

³³¹ The Jurisdiction of the International Criminal Court in Palestine, (2020). Questions and Answers, Al-Haq, available at: <https://www.alhaq.org/ar/advocacy/16807.html>

³³² Statement of the Prosecutor on March 3, 2021, available at: <https://www.icc-cpi.int/fr/news/declaration-du-procureur-de-la-cpi-mme-fatou-bensouda-propos-dune-enquete-sur-la-situation-en>

ongoing crimes, which apply to the Palestinian refugee situation and the crime of displacement perpetrated against them and their non-return”. “Non-return is a violation of international humanitarian law, human rights law, and international criminal law, which gives jurisdiction to the International Criminal Court”, He added. “Since the violation is ongoing until this moment, it can be considered a current crime, and temporal jurisdiction applies to non-return as a form of displacement. Palestine can initiate a claim in this context, and we can be supported in this by the Jordan, as it is a party to the International Criminal Court”.

Despite the significance of the State of Palestine's proceedings before the International Criminal Court (ICC), this was not be effective or translated into tangible steps on the ground. The case of Ukraine provides an example, as despite not being a party to the Rome Statute, the Prosecutor, Karim Khan, believed “there is a reasonable basis to believe that crimes within the jurisdiction of the Court have been committed in Ukraine”³³³ and expressed his determination to “conduct a full investigation into crimes committed in Ukraine and instruct[ed] his team to explore all opportunities for preserving evidence”.³³⁴ This leads the researcher to firmly believe that the ICC Prosecutor applies double standards between the cases of Palestine and Ukraine in terms of the urgency of investigations and flexibility in accepting jurisdiction, among other factors.

Therefore, it is incumbent upon the Prosecutor to take practical and concrete steps to complete the criminal investigation, such as sending an investigation team to Palestine or opening an investigation office there, as has been done in other countries

³³³ The Prosecutor of the International Criminal Court announces the opening of an investigation into the situation in Ukraine, (2022). UN News, United Nations, available at <https://news.un.org/ar/story/2022/02/1095182>

³³⁴ Ibid.

like Ukraine, Sudan, and some African states. The Prosecutor must fulfill his duty and enforce his jurisdiction on the territory of the State of Palestine, as Justice delayed is justice denied. Every hour that passes without holding the perpetrators accountable costs the Palestinian victims further losses of lives and property.

On the other hand, the researcher calls on the State of Palestine to continue and intensify the submission of referrals regarding the ongoing Israeli crimes by both official bodies and the Palestinian civil society, as well as their partners around the world. According to the proposal put forward by our interviewees, it is preferable for the families of the victims of the Nakba or its survivors to file complaints with the court to assert their right to justice for the ongoing crime of preventing them from returning to their homes and seeking compensation. Third countries, international organizations, and companies can also review their contracts with Israeli settlements and other military institutions, refusing to grant them legal status as a condition for continuing their relationship with the occupying authority. They can also ban travel on individuals involved in war crimes and crimes against humanity, among other measures.

A) Mechanisms for Compensations

If a criminal case is initiated against Israel based on one of the methods outlined in Article 13, the victims will then be able to pursue their rights to compensation in accordance with the provisions of Article 75/1 and the rules set forth in Articles 94-99 of the procedural rules of the Statute concerning the rights of victims. According to these rules, the requirements and conditions for victims and affected persons of war crimes and crimes against humanity to claim their rights are divided into two ways:

Firstly, the victim may submit a claim for compensation: Direct victims, the families of the victims, as well as individuals who have suffered harm while intervening to assist a victim in danger or to prevent them from being endangered, are entitled to seek compensation. The Statute also grants this right to victim organizations and entities, as stated in Article 85/2. The victim should submit the compensation request to the Registry of the Court, and the request is then sent to the Pre-Trial Chamber as the recipient of the submission. The Chamber will decide whether the victim's description applies to the claimant, whether harm has been suffered, and whether there is a causal relationship between the harm and the committed crime. If the victim is granted the status, he/se become a party to the ongoing proceedings, and the request is referred to the Court's Registrar, who handles the remaining procedures.³³⁵

Secondly, the determination of compensation by the Court is authorized under the “Statute of the International Criminal Court”. The Court has the authority to determine compensation based on the harm and losses suffered by the victim or their family, even if the victims have not submitted any requests, as stated earlier. The Court initiates the proceedings for determining compensation by inviting the victims or the convicted person to provide relevant information regarding the process of determining compensation and repairing the harm for the victims. This process is known as the notification procedure, and the Court takes all possible measures to notify the victims, their legal representatives, or the relevant individuals. Additionally, according to Article 9 of the provisions related to the cooperation of States Parties in the Statute, the Court

³³⁵ Fateha, Khalidi, (2021). Efforts of the International Criminal Court to compensate victims of serious international crimes, *Journal of Comparative Legal Studies*, Issue: 7, Volume: 2, pg. 716.

may seek assistance from international governmental organizations to widely publicize the claim for reparations before the Court using all possible means.³³⁶

The researcher believes that the optimal method for holding Israel accountable for all the international crimes it has committed since the Nakba of 1948 until now begins with implementing a series of steps at the international legal and political level. This starts with a General Assembly resolution recognizing the Palestinian Nakba and harmonizing Palestinian legislation accordingly. Building upon this resolution, which will undoubtedly have an echo and impact on addressing the consequences of the Nakba, the next step is to establish a temporary international criminal tribunal by a resolution of the Security Council or the General Assembly, “United for Peace”. This tribunal ensures Israel's recognition of its historical responsibility for creating the refugee problem, as it serves as the gateway to the final stage of accountability, punishment, and redress for the rights of the victims. This includes compensating and indemnifying the victims and their families for the material and moral damages and losses they have suffered. In this way, we would have the outline of a “national action plan” that requires clear roles, responsibilities, a specific timeframe, and ongoing evaluation to achieve the desired outcome.

³³⁶ Ibid.

6. Chapter Six:

Conclusions and Recommendations

6.1 Conclusions

- Israel, the state of colonial occupation based on annexation and apartheid, has operated since 1948 until today within a complex and parallel-levels system to serve the central goal of the Zionist movement, which is the uprooting and displacement of the Palestinian people and the replacement of Jewish settlers in their place. The first level represents the policies and deliberate plans to forcefully seize land and displace (deport) the population. The second level involves practices of mass displacement, looting, intentional killings, destruction of properties, demolishing villages, erasing their landmarks, altering the natural, geographic, environmental, and demographic landscape, and imposing a systematic apartheid regime. These practices systematically deprive the Palestinian people of their basic human rights, constituting grave violations of international law and described as war crimes and crimes against humanity under international criminal law. The third level, which crowns the previous two levels, consists of the racist laws that legalized these policies and practices, attempting to make them a reality. All of these elements demonstrate the presence of intent (criminal intent) in the past and present, particularly regarding demographic change and the significant number of Palestinian victims.
- The official documents held by the Israeli archives, along with thousands of Palestinian and other Israeli documents and testimonies, both written and oral, provided by Palestinian and Israeli historians, reveal the contradictory position to the narrative of the occupying state that denies the Nakba. The Israeli confessions serve

as a primary reference and evidence of war crimes and crimes against humanity committed by Zionist militias and continued by the occupying state in its various forms, showing the presence of criminal intent in a systematic and wide-ranging manner, from before its establishment until today.

- Despite the fact that Resolution 194 carries a binding nature in international law, in addition to hundreds of documents and resolutions reaffirmed annually, and after examining dozens of important resolutions adopted by the General Assembly regarding the Palestinian issue since its inception, it is evident that no resolution has been adopted to recognize the Palestinian Nakba, criminalize its denial, establish mechanisms for accountability for the international crimes resulting from the Palestinian Nakba, and achieve effective justice for the victims, despite the fact that the Palestinian refugee issue represents the longest refugee case in the modern era.
- The false narrative promoted by the Zionist movement, claiming that Palestinian refugees left voluntarily, fled at the request of Arab states, or to avoid the harm caused by legitimate military operations, serves as an enabling factor to undermine international will and dissuade it from providing international protection for the Palestinian people. It encourages a reluctance to secure their national rights guaranteed by relevant international resolutions, allowing Israel to continue its occupation, ethnic cleansing, and racial segregation. Therefore, the denial of the Nakba itself falls within the framework of criminal participation in international crimes under international criminal law, by concealing or covering up this international crime (the Nakba) and its criminal manifestations, and inciting its perpetuation, thus incurring criminal responsibility for incitement to international

crimes, which constitutes an aggression against the Palestinian people's right to self-determination.

- The silence and reluctance of the international community to take concrete measures to hold the occupying authority accountable and curb its grave violations and international crimes have contributed to the persistence of the latter in the plundering of land and the violation of the inalienable rights of the Palestinians, until its racist settler colonial occupation has escalated to the stage of actual undeclared annexation (silent).
- Israel, the occupying power, bears direct responsibility for its grave violations and systematic crimes. It is obliged to fulfill its duties as an occupying force, stop these violations, and provide full compensation to the victims. The parties to the Geneva Conventions are obligated to ensure the implementation of this commitment under the common Article 1.
- After 75 years of the Palestinian Nakba and the ongoing Israeli military occupation, the Palestinian legislative system still falls short in addressing the Palestinian Nakba and its manifestations as international crimes that warrant the identification of their elements, legal adaptation, criminalization, accountability, and effective justice for the Palestinian people.
- The obstacles facing Palestinian efforts to obtain international recognition of the Nakba, criminalize its denial, and establish an international criminal court specifically for Israel lie in the efforts exerted by the Zionist movement and its accomplices, led by the United States and Britain, as well as the Western colonial mentality that puts pressure on Palestinian and Arab decision-makers and hinders their efforts in international forums through various means, including the use of the

"veto power". Other legal challenges also exist in terms of ensuring accountability for the Israeli occupation since 1948, in addition to research and scientific challenges, documentation difficulties, and logistical obstacles related to the qualified human resources and limited financial resources resulting from international pressures. This necessitates the presence of a national plan, delineation of roles and responsibilities, effective tools, and continuous evaluation of the plan.

- The Nakba is not a past event but an ongoing international crime that encompasses various forms constituting ongoing international crimes. It is legally classified as war crimes, crimes against humanity, a grave violation of the United Nations Charter, and a threat to international peace and security. Israel initiated these crimes before 1948 and they continue to this day, with its settler colonial occupation and apartheid representing its most horrific manifestations.
- A lasting and just peace cannot be established without recognizing the crime of the Nakba, apologizing for it, settling its consequences, ensuring that it will not recur, and redressing the victims.

6.2 Recommendations

In accordance with Article 8 of “the Fourth Geneva Convention”, which does not allow protected persons (Palestinians) to waive, in any circumstances, partially or entirely, the rights granted to them under this Convention or under any special agreements referred to in the previous article, if any, **and in accordance with Article 47**, which stipulates that "persons under occupation (Palestinians) shall not waive their rights, in any case, either because of any change that occurs as a result of the occupation of territories on the institutions of the said territory or its government, nor by any

agreement concluded between the authorities of the occupied territories and the occupying Power, nor by any annexation by the latter of the whole or part of the occupied territory", **the researcher recommends the following:**

- Confronting the Israeli, American, and European efforts with a Palestinian national effort that establishes a counter systematic and continuous legal, political, diplomatic, and media movement based on the rights to land, existence, and the true historical narrative. This movement should work to expose Israel, the occupying authority, and the Israeli archive documents (and stigmatize them with shame) as a member whose leaders, officials and soldiers that commits war crimes and crimes against humanity, necessitating its isolation from the international system and holding it accountable for the international crimes it has committed, as well as ending its colonial occupation of Palestine.

To manage this Palestinian movement, it is hoped that a national team led by the Palestine Liberation Organization (PLO) will be formed, with the following objectives:

1. Highlighting and monitoring the facts that confirm the establishment of the state of Israel as a "Jewish" state that has been accompanied by extensive, ongoing, and systematic operations of ethnic cleansing and apartheid in which hundreds of thousands of refugees were victims. This means that any resolution to the conflict must be based on the recognition of the criminal responsibility, punishment, apology, and comprehensive settlement for the consequences of these actions.
2. Emphasizing that the ongoing practices of ethnic cleansing and apartheid crime in the areas occupied since 1967, especially in East Jerusalem, are a continuation of the ongoing Nakba that began in early 1948.

This National Team Should Undertake Multiple Tasks and Responsibilities, Including:

- Working to mobilize legal and political efforts with member states of the United Nations to issue a resolution in the General Assembly that recognizes the Nakba, criminalizes its denial, establishes mechanisms of accountability, and provides effective redress for Palestinian victims. As well as keeping the issue of the Palestinian Nakba on the agenda of the Secretary-General. Enhancing international human rights work through international and regional mechanisms to protect human rights.
- Working to suspend Israel's membership as the only state in the world that was established based on a conditional international resolution, namely Resolution 181, which required acceptance of its membership by implementing Resolutions 181 and 194 regarding partition and allowing the return of Palestinians to their homes. Due to Israel's persistent violation of the principles of the United Nations Charter and its commission of international crimes since that date, the State of Palestine and its allies in the Arab, Islamic, and Non-Aligned countries should work to urge the Security Council and the General Assembly to adopt a resolution to suspend Israel's membership in the United Nations in accordance with Articles 5 and 6 of the United Nations Charter.
- Ensuring that the denial of the Nakba is explicitly criminalized in the Palestinian law, and defining proportional penalties to address its severity. This is one of the necessary requirements to secure international recognition of the Palestinian Nakba, criminalize its denial, identify those responsible, and hold them accountable. It will

enhance the Palestinian people's right to international justice and their journey towards self-determination, as well as partially serve as a moral compensation for the ongoing historical injustice they have endured.

- Enact Palestinian legislation to define and adapt international crimes, including all forms of the Palestinian Nakba, and activate the jurisdiction of the Palestinian national judiciary over the ongoing international crimes committed by individuals and leaders of the occupation, including settlers, and try them before national courts. Additionally, Palestinian legislation, including the "Palestinian Penal Code," should be aligned to include the most serious crimes and punishments in accordance with the obligations of the State of Palestine under the Rome Statute of the International Criminal Court, in order to enhance the role of the Court in investigation and prosecution.
- Hold accountable those responsible for committing international crimes against the Palestinian people that have been ongoing since the Nakba of 1948 by working with countries around the world to influence and pressure the Security Council to establish a special international criminal court for Palestine. The objective jurisdiction in the statute should encompass all forms of international crimes resulting from the Palestinian Nakba, considering them as war crimes and crimes against humanity. If the Security Council fails to act due to the US and UK veto, resort to the formula of "Unity for Peace" to convene an emergency special session of the General Assembly of the United Nations, in order to protect international peace and security.
- Utilize the mechanisms of international jurisdiction over ongoing international crimes due to the Nakba, including the Permanent International Criminal Court,

through lawsuits seeking justice for the families of Nakba victims and survivors of those international crimes, and preventing the right of return for Palestinian refugees to their original homes, considering it a form of forced displacement.

- Launch a wide-ranging diplomatic and media campaign in coordination with international, regional, and Palestinian human rights organizations, Israeli human rights advocacy centers, "MADAR" center, international and Israeli historians, to obtain all testimonies and documents that prove the Palestinian narrative. Translate them from Hebrew into Arabic and English, as well as other major languages such as French, Spanish, and German, and distribute them through Palestinian institutions to international official partners, diplomats, civilians, and the international press. Organize advocacy and mobilization tours in parliaments, international and human rights bodies, including the Human Rights Council, political parties, universities, and research centers around the world to raise awareness about the Nakba and the ongoing international crimes committed by the occupying authority and to display Israeli films and documentaries on this matter.
- Support the efforts of carried out by the "Akevot" Center and Israeli human rights institutions in pressuring the occupying government to extract available documents for review from the archives, taking advantage of the expiration of the publication ban law. Also, work on requesting those documents through the International Criminal Court, utilizing international jurisdiction, the International Criminal Court, and the proposed special court, as these documents constitute "criminal evidence" of ongoing international crimes that require accountability and justice for Palestinian victims.

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الملخص

يسلط البحث الضوء على مشكلة عدم إقرار المجتمع الدولي وإسرائيل، السلطة القائمة بالاحتلال، بالنكبة الفلسطينية منذ 75 عاماً، ومشكلة غياب الإرادة الدولية والإجراءات القانونية للإقرار بها وإنصاف ضحاياها.

يسعى هذا البحث إلى إبراز الحقائق التي تؤكد أن جريمة النكبة لم تتوقف بعد نهاية الحرب عام 1949، بل استمرت في ظل الاحتلال الإسرائيلي عام 1967، وتوقيع إتفاقية أوسلو وبعدها. يصاحب هذه الحقائق عرضاً لوثائق تاريخية وإقرارات هامة لمسؤولين وجنود إسرائيليين تم الكشف عنها من الأرشيف الإسرائيلي في السنوات الأخيرة تؤكد الرواية الفلسطينية الأصيلة.

يبحث الفصل القانوني في طبيعة الجريمة ويستكشف تكييفها القانوني وتسخير أدوات القانون الدولي لتدويل النكبة الفلسطينية والاعتراف بها وتجرم إنكارها، وينظر في سبل المساءلة القانونية ومحاسبة المسؤولين عن الجرائم والإنتصاف للضحايا عبر استثمار أدوات القانون الدولي عامة والقضاء الجنائي الدولي بشكل خاص.

يستخلص البحث أن النكبة ليست حدثاً إنقضى بل جريمة دولية تتضمن العديد من الصور التي تشكل بحد ذاتها جرائم دولية مستمرة، وتصنف قانونياً على أنها جرائم حرب وجرائم ضد الإنسانية وإنتهاك خطير لميثاق الأمم المتحدة وتهديد للسلم والأمن الدوليين، بدأتها إسرائيل منذ ما قبل عام 1948 وما زالت مستمرة ولم تنته حتى اليوم، ويشكل إحتلالها الإستعماري الإستيطاني والفصل العنصري أشع تجلياتها. ويوصي البحث على الصعيد الدولي بحشد الجهود القانونية والدبلوماسية والسياسية لإستصدار قرار من الجمعية العامة للأمم المتحدة يعترف بالنكبة الفلسطينية، ويوصفها قانونياً ويجرم إنكارها ويضع آليات المساءلة وسبل الإنتصاف الفعال للضحايا الفلسطينيين، وإبقاء الموضوع (النكبة) قيد المتابعة لدى الأمين العام، وتشكيل محكمة جنائية دولية مخصصة لمساءلة مرتكبي الجرائم على أفعالهم لإجبار إسرائيل على الإقرار بالجريمة والإعتذار عنها وجبر الضرر اللاحق بضحاياها. على الصعيد الوطني، يوصي البحث بتشكيل فريق وطني محترف يعمل على تحشيد الجهود الدولية المذكورة، وسن قانون فلسطيني للجرائم الدولية بما يشمل كافة صور جريمة النكبة الفلسطينية، وتفعيل ولاية القضاء الوطني الفلسطيني على الجرائم الدولية المستمرة التي يرتكبها أفراد وقادة الإحتلال بمن فيهم المستوطنون، ومحاكمتهم أمام المحاكم الوطنية، ومواءمة التشريعات الفلسطينية بما فيها (قانون العقوبات الفلسطيني) ليشمل الجرائم الأشد خطورة والمعاقبة عليها.