Deconstructing Israel's Housing and Land Apartheid

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> *"The ideologies of States are reflected in their human settlement policies. These being powerful instruments for change, they must not be used to dispossess people from their land or entrench privilege and exploitation."*
>
> First UN Conference on Housing and Human Settlements (1976)[1]

Israel's law, policy and implementing institutions in the housing and land sectors exemplify the common strategies of other colonial and apartheid regimes to eliminate indigenous peoples physically and/or spatially from their habitats and coveted lands by various types of force. Those former systems have involved a composite of acts now classified and prohibited in contemporary law among the most-serious international crimes of apartheid[2] and population transfer.[3] While other examples of apartheid arose from already-recognized states, Israel remains unique in that the tools of apartheid are enshrined in its founding instruments and proto-state institutions. Those predate the proclamation of the State of Israel (SoI) in 1948, the same year as Israel's then close ally, South Africa, formalized apartheid under the Afrikaner ethnic National Party. However, those colonial institutions survive with their original purpose to direct housing and land policy with the tools and objectives that meet the international law definition of apartheid.

One feature of Israel's housing and land apartheid distinct from southern Africa's racist colonial regimes is the sheer scale and objective of the removals by first expelling the majority of the indigenous people, while implanting religiously and (supposed) racially distinct settlers in their place. While population transfer—with these push-and-pull factors—was being codified[4] and eventually prosecuted[5] as a war crime and crime against humanity, Israel's civilian Zionist institutions were plotting and perpetrating the same within their growing sphere of influence in Palestine, including through government bureaus in Western capitals. And despite emerging international humanitarian law (IHL) prohibitions, this violent form of spatial segregation and fragmentation of the indigenous Palestinian people has been carried out also as military doctrine of Israeli forces since 1948 by targeting Palestinian homes, shelters and shelter seekers.[6] In complementary fashion, Zionist institutions and persecuting military operations have combined to ensure an unbroken pattern of dispossession and transfer under Jewish domination over all of historic Palestine until today.

> ***Inhuman acts committed for the purpose of establishing and maintaining domination by one racial group of persons over any other racial group of persons and systematically oppressing them***
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> International Convention on the Suppression and Punishment of the Crime of Apartheid (Apartheid Convention), 1973, entered into force 18 July 1976, Article II(e)

What Apartheid?

The 1973 Apartheid Convention[7] envisages the crime of apartheid as any of a catalogue of "inhuman acts," similar—but not exclusive—to those practiced under the former racist regimes in Namibia, South Africa and Southern Rhodesia, committed for the purpose of establishing and maintaining a system of racial domination and oppression by one racial group over another.[8] These acts include: "Any legislative… and other measures calculated to prevent a racial group or groups from participation in the political, social, economic and cultural life of the country and the deliberate creation of conditions preventing the full development of such a group or groups, in particular by denying to members of a racial group or groups basic human rights and freedoms, including…the right to leave and to return to their country, the right to a nationality, the right to freedom of movement and residence…; [and] Persecution of organizations and persons, by depriving them of fundamental rights and freedoms, because they oppose apartheid."[9]

The Convention further requires declaring as criminal all organisations, institutions, and individuals involved in perpetrating the crime of apartheid,[10] while also allowing for individual criminal responsibility for members and agents of such entities that have taken part in the commission, incitement to, or abetting of said crime "irrespective of the

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motive involved."[11] The definition also refers to intent and the systemic nature of the practice on the part of the perpetrating state or organisation.[12]

With Zionism as Israel's state ideology, its military performance and institutions driving human settlement policies form the instruments of apartheid,[13] making destruction and dispossession of the indigenous Palestinian people's habitat the *raison d'état* of SoI. While the outcomes may compel observers, including even some Israelis, increasingly to draw this conclusion,[14] Israel's foundational practices of apartheid, population transfer and accompanying crimes reflect no slow glide into these strictly forbidden acts of state imposing also individual responsibility, but are rooted in an entrenched system of housing and land deprivation by policy and primordial design. Indeed, apartheid in housing and land spheres forms the dark heart of the Israeli-Palestine conflict.

How Israeli Apartheid Began

At its inception amid Europe's late-19th-Century context of racist theories and ethno-nationalisms, the Zionist Movement (ZM) sought to carve out an ethnically exclusive "Jewish state." But the ZM lacked all the classic Montevideo criteria[15] of a state: (1) a defined territory of effective control; (2) a distinct population (people or peoples) and (3) institutions carrying out public functions, including international relations.[16]

The land the ZM coveted—i.e., Palestine—rightly belonged to its indigenous Palestinian people, and the claim of representing a "Jewish people" was—and always will remain—contested.[17] Therefore, the ZM prioritized the establishment of institutions that could compel the other two statehood criteria to materialize. These foundational institutions enshrine the elements of apartheid practiced by them and SoI ever since.

Since the beginning, the World Zionist Organization (WZO), established 1897, and its 1929-founded sister institution, the Jewish Agency (JA), had sought recognition as public bodies under international public law.[18] They have long carried out public functions, including the direction and implementation of human-settlement policy[19] with funding shared[20] with the Government of Israel (GoI) since 1948.[21] Certain WZO/JA affiliates, especially the Jewish National Fund (JNF), also carry out public functions in housing, development and land administration based on principles of "racial" discrimination and separation to favour persons of Jewish faith.

The consistent WZO program and strategy have pursued "agricultural colonization [of Palestine] based on [exclusive] Jewish labour" and land acquisition, or "redeeming" land as "inalienable"; i.e., for Jewish possession "in perpetuity." To manage the material dimensions (finance and acquisitions) of colonizing Palestine, the 5th Zionist Congress (1901) founded the Jewish National Fund (JNF) as a subsidiary of the WZO and its eventual sister organization, the JA. In 1905, JNF began purchasing lands in Palestine.

The JNF's charter explicitly restricts its benefits "whether directly or indirectly, to those of Jewish *race* or descent"[22] (emphasis added). It's chartered purpose and "primary objective" were—and remain—to "acquire lands in Palestine"[23] and to "promote the interests of Jews in the prescribed region."[24]

In decoding SoI's Zionist law and policy of housing and land administration, any reference to these parastatal institutions[25] in public functions means a statutory obligation to discriminate against all others. The JNF charter also stipulates that, "upon [its] dissolution…any properties whatsoever…shall be transferred to the Government of Israel,"[26] further affirming its public and state functions.

The close working relationship of the WZO/JA and JNF to the British Mandate Administration emerged as a shadow government in Palestine, leading up to the SoI's 1948 proclamation.[27] Those specialized colonial, apartheid and population-transfer institutions were soon fused to SoI by a series of legislative acts of Knesset (parliament), including:

- World Zionist Organization-Jewish Agency (Status) Law (1952);
- Keren Kayemet Le-Israel [Jewish National Fund] Law (1953);
- Covenant with Zionist Executive (1954, amended 1971);
- Basic Law: Israel Lands [People's Lands] (1960);
- Agricultural Settlement Law (1967).

The WZO/JA and JNF remain pillars of Israel's discriminatory systems of housing, urban planning and development, and land administration. They advise, draft, promote and implement laws and policies that discriminate—not explicitly, but with deference to their apartheid charters—against the indigenous Palestinian Arab population of Israel,

comprising 20% of SoI's citizens. They likewise discriminate materially against the roughly five million Palestinians in the occupied Palestinian territory (oPt), as well as today's seven million dispossessed and dispersed Palestinian refugees and internally displaced persons, by administering those population-transfer victims' properties Israel confiscated during and after its largely JNF-funded war and ethnic cleansing of much of Palestine in 1947–49.[28]

Palestinian Refugee Land and Housing

The *Nakba* (catastrophe), beginning with the events of 1947–48, involved Zionist forces conducting 31 calculated massacres of some 5,000 Palestinians[29] in strategically located Palestinian villages to spread terror throughout the indigenous Palestinian population,[30] and the subsequent depopulation and razing of at least 531 Palestinian villages.[31] This amounted to some 154–156,000 demolished Palestinian homes,[32] among an untold number of other structures. Israeli forces imposed a closed military zone over those localities to prevent refugee return and extended martial law over the surviving Palestinian communities for the next 20 years. JNF subsequently reforested most of those former village sites to cover the crimes.[33]

In January 1949, shortly after the Armistice Agreements were signed, the GoI conferred one million dunums (100,000 ha) of the Palestinian refugees' land and other properties to the JNF and, in October 1950, another 1.2 million dunums (120,000 ha). A JNF spokesperson explained the tactical meaning of these land transfers as ensuring that JNF "will redeem the lands and will turn them over to the Jewish people—to the people and not the state, which in the current composition of population cannot be an adequate guarantor of Jewish ownership."[34]

In September 1953, the Israeli Custodian of Absentee Properties executed a contract transfering "ownership" of all Palestinian lands under his control to the Israeli Department of Construction and Development (IDCD). The price for these properties was to be retained by IDCC as a loan. Meanwhile, the Custodian conveyed the "ownership" of Palestinian houses and commercial buildings in cities to JNF affiliate Amidar, a quasi-public Israeli company founded to implant settlers,[35] and thus began an unbroken pattern of systemic "race-based" segregation and dispossession to this day. By 1953, those properties had been transferred at least three times, thus hampering the restitution, return and other forms of reparation to which the refugees and internally displaced persons (IDPs) remain entitled.[36]

Nationality vs. Citizenship

With regard to the Apartheid Convention's consideration of inhuman acts, the denial of nationality to members of a racial group, Israel's two-tiered civil status and the corresponding legal provisions are central to the housing and land apartheid practiced against the Palestinian people as a whole, but particularly against the surviving Palestinians within the SoI and Jerusalem. However, the denial of "nationality" status to Palestinians does not actually appear explicitly in the text of a single Israeli law before the 2018 Nation-State Law, but in the implicit subordination to the discriminatory principles of the parastatal organizations carrying out SoI's essential housing and land administration functions. In the absence of a defined "people" criterion of a state, the early WZO/JA and JNF promoted the dual concepts of "Jewish race or descent" and "Jewish nationality" (לאום יהודי / *le'om yahudi*) as the basis to benefit from land and housing, as well as related services. This racially charged concept of "Jewish nationality" has been upheld twice by Israel's Supreme Court as the only recognized nationality within the state.[37] That distinction remains operable despite Israel's deceptive official mistranslation of its Law of "Citizenship" (אזרחות / *ezrahūt*) as a law of nationality (לאום / *le'om*)). While common "Israeli citizenship" is variously accessible as a subordinate status in SoI, no common "nationality" is.

Israeli planning criteria for statutory recognition of villages are not published, but evident in practice. Many long-standing and populous Arab villages in the southern Naqab remain "unrecognized," while Jewish settlements, notably smaller than the legal minimum population criterion, are "recognized" with all rights, privileges and public services provided. With such a double standard for official recognition of a human settlement in Israel, it is clear that the operative criterion denying those Palestinian Arab villages their formal status and corresponding rights, including public services, is the resident citizens' lack of "Jewish nationality."[38]

The JNF's "Blueprint Negev"[39] looms as an example of an Israeli parastatal program with both private and GoI financing. It favours Jewish settlers' implantation and development in the ancestral lands and properties of the Naqab's indigenous Palestinian population, which is still living marginally among them and holding mere citizenship in the "Jewish state."

Elsewhere inside the Green Line, the SoI and parastatal institutions devote considerable resources to establishing and expanding Jewish-only towns and neighbourhoods on "state lands" under Israeli planning law. Planning law and practice embrace the discriminatory provisions of the parastatals that determine eligibility for residence and access to housing and land. In local and municipal development, Israel's racist criteria have weaponized the concepts of "social and cultural fabric" and "social cohesion" to exclude indigenous Palestinians from development opportunities.[40] The Absentees Property Law (1950) and Negev Individual Settlements Law (2011) have operated to deny Palestinians housing and land, including properties that Palestinian citizens rightfully own.

The Admissions Committees in Israeli Regional Planning Councils have long operated to provide an additional patina of planning procedure that bans Arabs from housing and land. These bodies ensure a tie-breaking JA majority vote to discriminate against non-"Jewish nationals" in hundreds of communities in Israel to reject housing applicants for their "social unsuitability." In 2009, this customary practice was enshrined in the Admissions Committees Law to prevent Arab citizens from living with Jews and enforce *de facto* housing segregation between Jewish and Arab citizens. Despite 2011 amendments to the law, restricting discrimination, and a Knesset report exposing abuse,[41] the Israeli Supreme Court dismissed numerous petitions challenging the law and discriminatory practice, ruling that the discriminatory nature of the Admissions Committees did not clearly violate constitutional rights.[42]

Unconventional Lawfare

Much of Israel's legislation and jurisprudence does not adhere to international convention for a modern state. Under Israel's two-tiered civil status of dominant "Jewish nationals" and less-privileged holders of mere citizenship.[43] The Israel Lands Law ("The People's Land") (1960) establishes that lands will be managed, distributed and developed in accord with the principles of the JNF and its apartheid charter. The Israel Land Administration, also established in 1960, rests on four "cornerstones": Basic Law: Israel Lands (1960), Israel Land Administration Law (1960), Keren Kayemet Le-Israel Law (1953) and the 1954 Covenant between SoI and the Zionist Executive (WZO/JA and JNF). The Israel Land Council (ILC) determines land policy, with the Vice Prime Minister, Minister of Industry, Trade, Labor and Communications as its chairman, while the 22-member Council is comprised of 12 government ministry representatives and ten representing the JNF, with its mandatory conditions of Jewish-only beneficiaries.

The Israel Lands Authority Law, Amendment 7 (2009) and a 2010 amendment of the British Mandate-era Land Ordinance (Acquisition for Public Purposes) (1943) introduced tactical adjustments to the land tenure system. The former authorized more powers to the JNF in its special status and role in land management. It also established the Israel Lands Authority (ILA) with increased powers, provided for the granting of private ownership of lands, and set approval criteria for the transfer of state lands and Development Authority lands to the JNF. The 2010 amendment "makes sure" that lands expropriated for "public use" do not "revert" to original owners and now can be transferred to a third party (likely the JNF). Legislation in 2010 also circumvents a precedent-setting Supreme Court judgment[44] that obliged authorities to return confiscated land if it were not used for the purpose for which it was confiscated.

According to the amendments, JNF continues to hold six of 13 executive seats in the Israel Lands Authority (which also can function with just ten members). That ensures JNF's continued key role, ensuring discrimination against indigenous Palestinians in the development of policies and programs affecting 93% of lands under Israel's control.

These amendments allow SoI and the JNF to exchange lands, facilitating "development" through the privatization of lands owned by the JNF in urban areas. Such swaps allow SoI to receive JNF such land to be privatized (in favor of Jews only), while the JNF would receive 50–60,000 dunams of land in the Galilee and the Naqab, where the indigenous population of Palestinian citizens of Israel remain most concentrated.

As in the past, JNF agreed that the new ILA manage its lands within "the principles of the JNF in regards to its lands" (Article 2). In addition, the JNF committed NIS 100 million (€20.5 million) from its own sources to further develop the Naqab.

The amendments enable further circumvention of legal oversight and legislate against equality in land-use rights. As the JNF's charter excludes non-Jews from benefiting from its land or services, any such transfer of public land to the JNF prevents citizens' equal access to land. In other words, the state could more readily "redeem" and "judaize" land and discriminate against its non-Jewish citizens in the Naqab and Galilee—and elsewhere—by transferring these lands to the JNF.

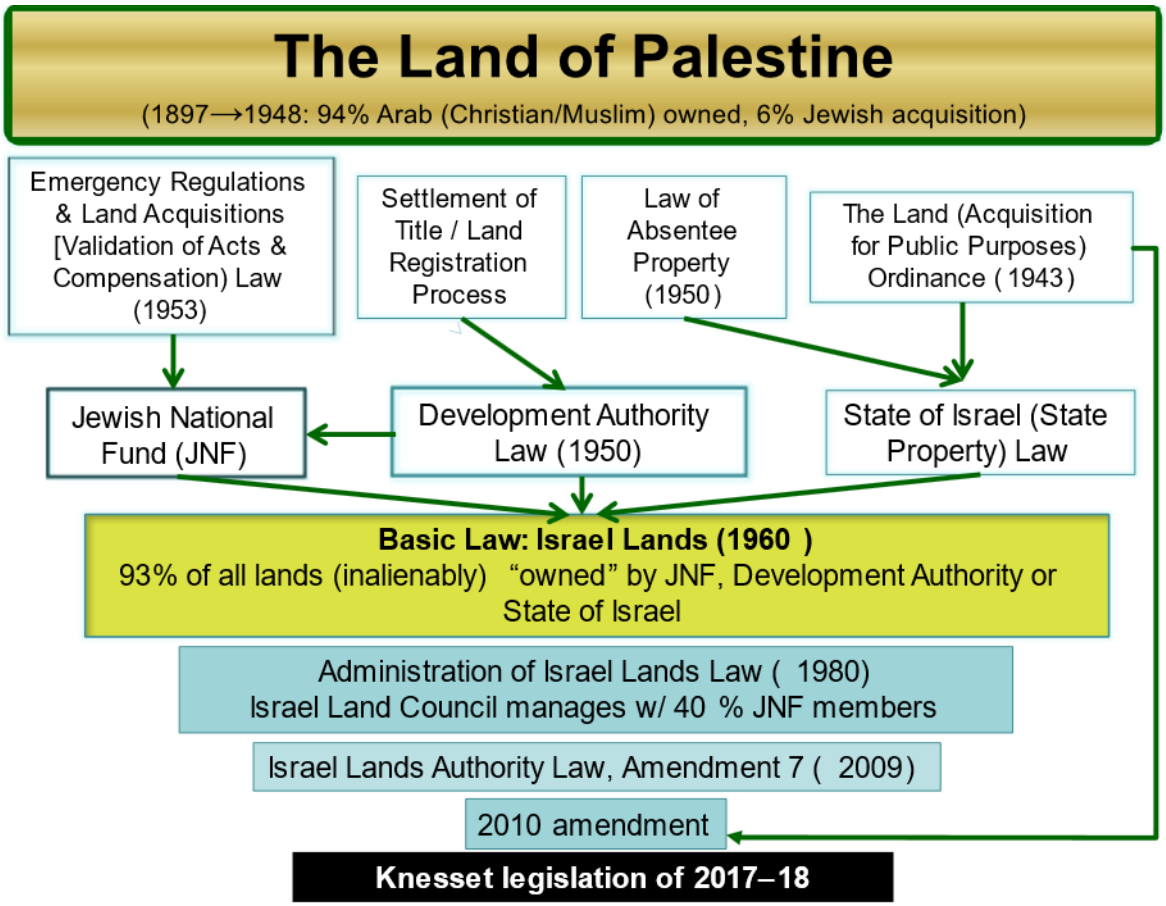


Figure 1: The evolution of Israel's land-related legislation incrementally converting indigenous Palestinian tenure, including ownership, to "Israel land" owned by either the state or parastatal Zionist institutions (e.g., JNF). Israel applies these criteria also in occupied territories in violation of Article 43 of The Hague Regulations, prohibiting the occupying Power from altering the legal system in an occupied territory. Source: Joseph Schechla, adapting analysis based on Usama Halabi, "Redeeming the National (Jewish) Fund," Jewish National Fund (winter–spring 2010), http://www.stopthejnf.org/explanatory-diagramredeeming-the-national-jewish-fund/.

The 2010 law appears to prevent—or severely impede—Palestinian citizens of Israel from ever reclaiming their Israel-confiscated land. It forecloses such a citizen's right to demand the return of her/his confiscated land if it were not used for the public purpose for which it was originally confiscated, if that ownership has been transferred to a third party, or if not used more than 25 years after confiscation. Well over 70 years have passed since Israel's confiscated the vast majority of Palestinian land inside Israel, including the Naqab, while the ownership of large tracts of land has been transferred to third parties, including Zionist institutions such as the "racially" exclusive JNF.

The ILA rationalizes its policy of restricting bids for JNF-owned lands to Jews only by citing the 1961 Covenant between the state and JNF. Under that statute, ILA is obliged to respect the objectives of the JNF, which include the acquisition of land "for the purpose of settling Jews."[45] Thus, JNF serves as SoI's subcontractor for discrimination based on a constructed "Jewish race and nationality," but not for other Israeli citizens.

Occupied Territories: Jerusalem, West Bank, Gaza Strip, Syrian Golan

Israel's housing and land regimes contravene fundamental principles of IHL, including the prohibition against the occupier altering the legal system[46] and transfer of its own population in the IHL-protected territory.[47] With the 1970 Zionist Congress decision nominally to divide WZO/JA territorial roles, WZO cooperates with JNF also to ensure demographic change and illegal settler-colony construction throughout the 1967-occupied territories.[48] The apartheid-chartered JNF only leases the lands it purchases and illegally acquires to Jews, with the help of the GoI, and currently controls over 2,500km2 of Palestinian land in Israel and over 14% of land in oPt.

In the West Bank, for example, local law empowered the High Planning Council (HPC), operating under the (Jordanian) Minister of Planning. As of June 1967, the Military Government of Israel (MGoI) began administering the occupied territory by Military Orders (M.O.s), transferring planning authority to "anyone appointed by the commander,"[49] who also appoints other members of the HPC. The HPC has maintained three subcommittees for: (1) Israeli settlement, (2) (Palestinian) house demolitions and (3) local planning and development. The first of these secretive subcommittees has organized and sanctioned transfer, demolition and settler implantation activity classified as war crimes.[50] The third of these, as its name indicates, oversees physical planning and development in Palestinian town and villages, and still operates in 61% of the West Bank designated Areas C during the Oslo II (1995) phase of occupation.[51] Traditionally rural Area C, excluding East Jerusalem, is now home to at least 385,900 Israeli settlers[52] among approximately 300,000 Palestinians.[53]

In 1971, the Israeli military commander further institutionalized discrimination and further negated the indigenous law by issuing M.O. 418. The order authorizes the Israeli HPC to "amend, cancel, or condition the validity of any plan or permit." Formalizing an arbitrary basis of discrimination, M.O. 418 authorizes the same HPC to "exempt any person from the obligation to obtain a permit required under the Law,"[54] which privilege is bestowed on Jewish settlers to facilitate their lawless construction and colonization on Palestinian territory. Israel's Apartheid Wall construction has imposed further punitive measures, including a Palestinian construction ban, also applied retroactively, across a swath of 60 m on either side of the Wall.

MGoI planning authorities lavishly allot oPt land to Jewish settlers, banning Palestinian building within a 500m radius around each colony's edge. The planning maps remain largely inaccessible to the public, and especially to the Palestinian public. However, available data indicate that occupation authorities have allotted over 40% of all West Bank land to settler colonies as building, planning and development zones.[55] WZO has been the principal factor in settler-colony—including outpost—planning and construction.[56] More recently, JNF has announced expanding its acquisition of lands and properties in Area C.[57]

Home demolitions remain the most dramatic manifestation of Palestinian housing rights denials across the country, with Israeli occupation forces razing over 55,000 Palestinian homes in the oPt since 1967.[58] In the oPt, these fall into roughly four categories: (1) Punitive demolitions (3%), including collective punishments against families of security-offense suspects; (2) administrative demolitions in East Jerusalem and Area C for lack of a building permit, which Israeli planning authorities deny to 97% of Palestinian applicants; (3) land-clearing and military operations (about 66% of demolitions since 1967), whereby Israeli forces variously clear land, including for extrajudicial executions; and (4) undefined demolitions, mainly resulting from land-clearing operations and Palestinian depopulation.[59]

Israel has concentrated on the de-Palestinianization of occupied Jerusalem, illegally annexed by Israel in 1980, for which the UN Security Council has repeatedly condemned Israel[60] and determined any resulting changes to the physical character, demographic composition, institutional structure and status to be illegal, null and void.[61] These crimes now particularly target Jerusalem Palestinian neighborhoods of Silwan,[62] Sheikh Jarrah, the eastern periphery areas E1 and Khan al-Ahmar/Abu Helu villages,[63] as well as the Old City. Since 2017 legislation has facilitated this demographic manipulation, and hampered Palestinians' access to justice.[64] These settler assaults on Palestinian tenure are facilitated by biased judges,[65] including settler/judges, as in the case of the al-Kurd family of Sheikh Jarrah.[66]

Lawfare against Palestinian Jerusalemites' housing and land rights complement draconian restrictions on their residency status in their own capital city.[67] These old and new measures involve the separation of families,[68] despite the International Law Commission determination that "the forcible transfer of members of a group, particularly when it involves the separation of family members, could also constitute genocide."[69]

In the Syrian Golan, Israel's occupation has prevented the Syrian population from using more than 30% of the lands belonging to the six villages (about 5% of the total Golan) that remained of the two cities, 163 villages and 108 farms in 1967. Israeli forces had expelled 135–150,000 indigenous Syrians, preventing their return and forbidding the remaining Syrians from movement within their own country.[70] After the 1967 War, Israel confiscated the depopulated land for exclusive Jewish use under classifications such as "state" or "absentee" lands that JNF, WZO and/or the Israeli government bodies have claimed for "Jewish nationals." To date, Israel has expropriated over 95% of the Golan (1,250k2),[71] while refusing to acknowledge the vast majority of Syrian public or private ownership of any land.[72]

Israeli planning law also establishes elected Regional Planning Councils with JA—in Golan's case, acting as WZO—as ultimate decision maker with a guaranteed majority of votes. With the WZO/JA bound by its common charter to exclude and, thereby, materially discriminate against the indigenous population as charter principle, Israel's physical-planning regime systematically denies building permits to Golan's Arab households and continuously demolishes Syrian structures, while facilitating illegal settler-colony expansion.[73] In 2016, for example, 80–90 households faced "administrative" (effectively punitive) demolition of their homes.[74]

Conclusion

With Zionism as the ideology of state, its foundational apartheid-chartered institutions largely determine housing and land law, policy and practice, ensuring these powerful instruments for change dispossess the indigenous Palestinian people from their land and housing, entrenching privilege and exploitation in favour of the dominant group of "Jewish race or decendency."

Historically and today, in any jurisdiction in which they operate, including extraterritorially, the WZO/JA and JNF also have been principal bodies promoting the concepts of "Jewish *race*" and "Jewish *nationality*," formally assigned in Israeli law and policy as the unique civil status that confers full economic, social and cultural rights. Claiming "the Jewish people" as its exclusive constituency, and with "Jewish nationality" twice upheld by the Israeli Supreme Court as the only nationality legally recognized within the state,[75] apartheid is the *modus operandi* wherever those organizations operate inside historic Palestine, or extraterritorially, where they also claim private and nongovernmental tax-exempt charity and environmental-friendly in some 50 other countries.[76]

In Israeli public parlance, "people," "public," "national," "redeeming land," "Jewish," "democracy," "law," "settlement," "citizen," and "social cohesion" have idiomatic meanings as euphemisms to conceal the apartheid reality. However, disambiguating these Zionist institutions, their charters, and SoI's corresponding legislation, policy, and military doctrine are vital to unravelling the deception that camouflages the grave damage Israeli apartheid continues to wreak on the Palestinians people as a whole, but also variously harms persons of Jewish faith and citizens of other countries.

Endnotes:

1 The Vancouver Action Plan, Preamble, para. 3, at: http://www.hlrn.org/img/documents/The_Vancouver_Declaration_19761.pdf.

2 Convention on Punishment and Prevention of the Crime of Apartheid (1973); Rome Statue of the International Criminal Court, defined as a crime against humanity in Article 7, and as a war crime in Article 8 (1998).

3 Rome Statue op. cit., defined as a crime against humanity in Article 7, and as a war crime in Article 8 (1998).

4 Resolution on German War Crimes (London Charter) (12 January 1942), *Inter-Allied Review* (15 February 1942), https://www.legal-tools.org/doc/bb0570/pdf/; Polish Cabinet in Exile (17 October 1942), in Louise W. Holborn, ed., *War and Peace Aims of the United Nations: 1 September 1939 – 31 December 1942* (Boston, World Peace Foundation, 1943), p. 462; Statue of the International Military Tribunal, Nuremberg, https://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.2_Charter%20of%20IMT%201945.pdf; Agreement for the prosecution and punishment of the major war criminals of the European Axis, signed at London 8 August 1945, https://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.2_Charter%20of%20IMT%201945.pdf; Statue of the International Military Tribunal of the Far East (19 January 1946), https://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.3_1946%20Tokyo%20Charter.pdf; draft Code of Crime against the Peace and Security of Mankind (1991), https://legal.un.org/ilc/guide/7_4.shtml; see also Aun .S. Khasawneh and Ribot Hatano, The human rights dimension s of population transfer, including the implantation of settlements, A/CN.4/2/1993/17 (6 July 1993), https://undocs.org/pdf?symbol=en/E/CN.4/Sub.2/1993/17; Ghislain Poissonnier and Eric David, "Israeli Settlements in the West Bank, a War Crime ?" *Revue des droits de l'homme*, N° 17 (2020), https://journals.openedition.org/revdh/7613.

5 See the infamous cases of Nuremberg Tribunal defendants Alfred Rosenberg and Alfred Jodl. Avalon Project, *Nazi Conspiracy and Aggression, Volume 2, Chapter XVI, Part 7, Alfred Jodl*. Available at: http://avalon.law.yale.edu/imt/chap16_part07.asp and *Judgement: Sentences*, http://avalon.law.yale.edu/imt/judsent.asp; Avalon Project, *Trials of the War Criminals before the Nuerenberg Military Tribunals Under Control Council Law No. 10.* http://avalon.law.yale.edu/imt/indict4.asp.

6 "Targeting Homes, Shelters and Shelter Seekers during Operation Cast Lead in the Context of Israeli Military Practice" submission of the Housing and Land Rights Network – Habitat International Coalition to the UN Fact-finding Mission on the Gaza Conflict, 29 July 2009, http://www.hic-mena.org/documents/Submission.pdf.

7 International Convention on the Suppression and Punishment of the Crime of Apartheid (adopted 30 November 1973, entry into force 18 July 1976) A/RES/34/27, at: https://treaties.un.org/doc/Treaties/1976/07/19760718%2003-04%20AM/Ch_IV_7p.pdf.

8 *Ibid*., Article II.

[9] *Ibid*., Article II(c) and (f).
[10] *Ibid*., Article I(2).
[11] *Ibid*., Article III.
[12] *Ibid*.
[13] Including the serious crime of population transfer, which Israel carried out on a grand scale, across borders and continuously since 1947, a feature of apartheid that, in the Israeli practice, far exceeded that of South Africa's "removals" of indigenous Africans within the jurisdiction of the state.
[14] Uri Davis, *Israel: An Apartheid State* (London: Zed, 1987 and 1990); "Apartheid Israel: The Jewish National Fund," official website (2006), http://www.uridavis-official-website.info/jewish_national_fund_apartheid_israel.htm; Michael Sfard, "The Occupation of the West Bank and the Crime of Apartheid: Legal Opinion" (Tel Aviv: Yesh Din, June 2020), https://s3-eu-west-1.amazonaws.com/files.yesh-din.org/Apartheid+2020/Apartheid+ENG.pdf; B'Tselem, "A regime of Jewish supremacy from the Jordan River to the Mediterranean Sea: This is apartheid," 12 January 2021, http://www.btselem.org/publications/fulltext/202101_this_is_apartheid; Nathan Thrall, "The Separate Regimes Delusion: Nathan Thrall on Israel's apartheid," *London Review of Books*, Vol. 43 No. 2 (21 January 2021), https://www.lrb.co.uk/the-paper/v43/n02/nathan-thrall/the-separate-regimes-delusion.
[15] See Montevideo Convention on the Rights and Duties of States (1933), Article 1, https://www.oas.org/juridico/english/treaties/a-40.html.
[16] The last of these should include government capable of asserting sovereignty and, thus, recognized by other states.
[17] See Elmer Berger, *The Jewish Dilemma* (New York: Devin-Adair, 1945); Shlomo Sand, transl. by Geremy Forman, *Invention of the Jewish People* (London and New York: Verso, 2012).
[18] The First Zionist Congress of 1897 at Basle explicitly set out to achieve that public status for the Zionist Organization and its constituents. See W. Thomas Mallison Jr., "The Legal Problems Concerning the Juridical Status and Political Activities of the Zionist Organization/Jewish Agency: A Study in International and United States Law," *William and Mary Law Review*, Vol. 9, Issue 3 (1968), pp. 558–629, esp. 566–608, http://scholarship.law.wm.edu/wmlr/vol9/iss3/3.
[19] The Basle Program of the First Zionist Congress affirmed that the Zionist Organization, like Zionism, in general, "aims at establishing for the Jewish people a legally assured home in Palestine. For the attainment of this purpose, the Congress considers the following means serviceable: 1. The promotion of the settlement of Jewish agriculturists [farmers], artisans, and tradesmen in the Land of Israel; 2. The federation [unified organisation] of all Jews into local or general groups, according to the laws of the various countries; and 3. The strengthening of the Jewish feeling and consciousness [national sentiment and national consciousness]. Preparatory steps for the attainment of those governmental grants which are necessary to the achievement of the Zionist purpose." "ZIONISM – Timeline of Events" Mfa.gov.il, reprinted in "World Zionist Organization" Wikipedia, https://en.wikipedia.org/wiki/World_Zionist_Organization#cite_ref-7; First Zionist Congress, http://www.wzo.org.il/home/movement/first.htm; Basle Program, http://www.wzo.org.il/home/movement/first.htm.
[20] Amy Teibel, "Lawsuit brings murky West Bank land deals to light," *Associated Press* (20 June 2009), at: https://www.sandiegouniontribune.com/sdut-ml-israel-disputed-deal-062009-2009jun20-story.html. In 2014, the Settlement Division received NIS130m (US$34.7m) from Israel, see Nimrod Bousso, "Israel to Allocate $35m to World Zionist Organization's Settlement Division," *Haaretz* (23 October 2014), at: Israel to Allocate $35m to World Zionist Organization's Settlement Division.
[21] Since June 1967, over 60,000 Israeli citizens have settled in some 100 locations, including East Jerusalem in clear violation of article 49(6) of the Fourth Geneva Convention. These settlements continue. The World Zionist Organization, in 1980, offered a plan calling for expenditure of $187 million to expand existing settlements and create new ones. It suggests the creation of 70 new settlements that would increase the Jewish population to 100,000. David K. Shipler, *The New York Times Magazine*, 6 April 1980; Nimrod Bossou, "Israel to Allocate $35m to World Zionist Organization's Settlement Division," *Haaretz* (23 October 2014), https://www.haaretz.com/.premium-what-will-wzo-do-with-nis-130m-1.5318862; Peace Now, "Involvement of KKL-JNF and the Settlement Division in the Settlements," 10 February 2020, https://peacenow.org.il/en/involvement-of-kkl-jnf-and-the-settlement-division-in-the-settlements.
[22] That is "to purchase, acquire on lease, or in exchange, or receive on lease or otherwise, lands, forests, rights of possession, easements and any similar rights, as well as immovable properties of any class…for the purpose of settling Jews on such lands and properties." Keren Kayemet l'Yisrael ("Permanent Fund for Israel," a.k.a. Jewish National Fund) Memorandum of Association, Appendix "B" (published in y.p. 1952 no. 354), Article 3(iii).
[23] Emphasis added. JNF Memorandum of Association, dated 1901, Article 3(a), and dated 1952, Article 3(i).
[24] *Ibid*., Article 3(g) and Article 3(vii), respectively.
[25] For example, "applying the principles of the Jewish Agency," or "consistent with the principles of the JNF in regards to its lands," etc.
[26] *Ibid*., Article 6.
[27] Report of the Anglo-American Committee of Inquiry, in Sally V. Mallison and W. Thomas Mallison, *The Palestine Question in International Law and World Order* (London: Longman, 1986), p. 100.
[28] Ilan Pappé, *The Ethnic Cleansing of Palestine* (Oxford: One World, 2007).
[29] Mark Levene, review of Pappé, *The Ethnic Cleansing of Palestine*, *Journal of Genocide Research*, Vol. 9, No. 4 (2007), pp. 675–80, esp. 677–80, https://www.tandfonline.com/doi/abs/10.1080/14623520701644465?journalCode=cjgr20.
[30] *Ibid.,* p. 258.
[31] Salman Abu Sitta, *From Refugees to Citizens at Home* (London: Palestine Land Society, 2001), "Location of Palestinian Villages," https://www.plands.org/en/books-reports/books/from-refugees-to-citizens-at-home/location-of-palestinian-villages. Zochrot cites: "678 Palestinian localities destroyed by Israel during the Nakba: 220 of them had fewer than 100 inhabitants; 428 had between 100 and 3,000; 30 towns and cities had more than 3,000 Palestinian inhabitants. 22 Jewish localities that were

destroyed in 1948; some were rebuilt that same year." Eitan Bronstein Aparicio, "Mapping the Destruction," *Zochrot* (March 2013), https://www.zochrot.org/en/article/54783.

[32] For housing units destroyed in the Nakba, we based the estimate on the number of expelled refugees divided by 5. Using Janet Abu Lughod's reliable figures (770–780K expelled), the resulting estimate would be 154–156K housing units, among other buildings. An absolute minimum round number would be 150,000. The Israeli Committee against Home Demolitions (ICAHD) cites 52,000 units destroyed, "Categories of Home Demolitions," 14 March 2020, https://icahd.org/2020/03/14/categories-of-home-demolitions/. However, this estimate is approximately one-third of the total. Note it took the Israelis 15 years to demolish them all between the 1948 to 1967 wars.

[33] Irus Braverman, "Planting the Promised Landscape: Zionism, Nature, and Resistance in Israel/Palestine," *Natural Resources Journal*, Vol. 49, No. 2 (spring 2009), pp. 317–65, https://www.jstor.org/stable/24889569?seq=1; Bill Skidmore, "Canadian charity hides history, destruction of Palestinian villages," *ricochet*, 6 March 2019, https://ricochet.media/en/2531/canadian-charity-hides-history-destruction-of-palestinian-villages?fbclid=IwAR1mj9dxN7uqRtIvqX5kRXqTELD9IX7A6me6GHU1QKb7U1CEgW2eqKNK7eU; "Greenwashing by the Jewish National Fund, Israel," *Environmental Justice Atlas*, https://ejatlas.org/conflict/greenwashing-by-the-jewish-national-fund-and-trees-as-a-weapon-of-dispossession-israel; Jesse Benjamin, M.B. Levy, S. Kershnar and M. Sahibzada, eds., *Jewish National Fund – Colonizing Palestine Since 1901*, International Jewish Anti-Zionist Network, *Greenwashing Apartheid: The Jewish National Fund's Environmental Cover Up*, JNF eBook, Vol. 4 (15 May 2011), http://www.ijan.org/wp-content/uploads/2015/10/FINAL-JNFeBookVol4.pdf.

[34] Jewish National Fund, Report to the 23rd Congress (1951), pp. 32–33 (emphasis in original), cited in Walter Lehn with Uri Davis, *The Jewish National Fund* (London and New York: Kegan Paul, 1988), p. 108.

[35] Sabri Jiryis, *The Arabs in Israel* (New York: Monthly Review Press, 1976), 77–101; Usama Halabi, "Israeli Law as a Tool of Confiscation, Planning, and Settlement Policy," *Adalah's Review*, Vol. 2 (fall 2000), pp. 7–13, at: https://www.adalah.org/uploads/Adalah_review_2_Land.pdf.

[36] UN General Assembly, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law," A/RES/60/147, 21 March 2006, http://www.hlrn.org/img/documents/A_RES_60_147 remedy reparation en.pdf.

[37] *George Raphael Tamarin v. The State of Israel* (CA 630 70), 1971, at: https://nakbafiles.org/nakba-casebook/tamarin-v-state-of-israel-ca-63070/; and *Udi Ornan et al v. Ministry of Interior* (CA 8573 08, 2013, at: https://versa.cardozo.yu.edu/opinions/ornan-v-ministry-interior.

[38] Joseph Schechla, "The Invisible People Come to Light: Israel's 'Internally Displaced' and the 'Unrecognized Villages'," *Journal of Palestine Studies* (autumn 2001), pp. 20–31.

[39] "Blueprint Negev," described on the Jewish National Fund website, http://www.jnf.org/work-we-do/blueprint-negev/.

[40] This evokes the memory of South African apartheid terminology, whereas South African Prime Minister Daniel Malan is attributed with coining the Afrikaans term "apartheid" in 1944 as state policy of racial segregation between whites and various non-white groups, Minister of Native Affairs Hendrik Verwoerd, appointed in 1950, is considered the architect of operational apartheid, euphemistically claiming it to be a policy of "good neighbourliness." *See* "Apartheid: 'A Policy of Good Neighborliness'," https://fabryhistory.com/2015/05/11/apartheid-a-policy-of-good-neighborliness/.

[41] "ועדות קבלה ביישובים קהילתיים בנגב ובגליל," Knesset Research and Information Center report, 2 May 2019, https://www.adalah.org/uploads/uploads/Knesset_research_020519.pdf.

[42] Adalah: The Legal Center for Arab Minority Rights in Israel, "Adalah demands Israel cancel illegal 'admissions committees' enforcing segregation in dozens of communities across the country," 25 June 2019, https://www.adalah.org/en/content/view/9751.

[43] Roselle Tekiner, "Race and the Issue of National Identity in Israel," *International Journal of Middle Eastern Studies*, Vol. 23, Issue 1 (February 1991), pp. 39–55, https://www.jstor.org/stable/163931?seq=1.

[44] H.C. 2390/96 *Karsik v. State of Israel* 55(2), P.D. 625.

[45] Jewish National Fund Articles of Incorporation, para. 3(1).

[46] Article 43: The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country. Laws and Customs of War on Land (Hague, IV), Convention signed at The Hague, 18 October 1907, with annex of Regulations, https://www.loc.gov/law/help/us-treaties/bevans/m-ust000001-0631.pdf. Since the Beit El case (HCJ 606, 610/78, *Suleiman Tawfiq Ayyub et al. v. Minister of Defence* et al, *Piskei Din* 33(2)), the High Court of Justice has ruled that The Hague Regulations (1907) are customary law, therefore, automatically part of municipal law and judiciable in Israel.

[47] Article 49: Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive. Geneva IV, *op. cit*. Israel ratified Geneva IV on 6 July 1949, but has since officially reneged on its application in the territories has occupied since 1967.

[48] Jerusalem, West Bank, Gaza Strip and the Syrian Golan.

[49] Order regarding the Towns, Villages and Buildings Planning Law (Judea and Samaria) (No. 418), 5731-1971 (QMZM 5732 1000; 5736 1422, 1494; 5741 246; 5742 718, 872; 5743, No. 57, at 50; 5744, No. 66, at 30), para. 8.

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

[51] World Bank, "West Bank and Gaza: Area C and the future of Palestinian economy," Report No. AUS2922, 2 October 2014, https://openknowledge.worldbank.org/bitstream/handle/10986/16686/AUS29220REPLAC0EVISION0January02014.pdf?sequence=1.

[52] Israel Central Bureau of Statistics, "Localities and Population, by Population Group, District, Sub-District and Natural Region," 2019, https://www.cbs.gov.il/en/publications/Pages/2019/Population-Statistical-Abstract-of-Israel-2019-No-70.aspx.

[53] B'Tselem, "Planning Policy in the West Bank," 11 November 2017, updated: 6 February 2019, https://www.btselem.org/planning_and_building.

[54] Military Order 418, op. cit., para. 7.

[55] B'Tselem, Acting the Landlord: Israel's Policy in Area C, the West Bank, June 2013, https://www.btselem.org/download/201306_area_c_report_eng.pdf; UN Habitat Palestine, *Spatial Planning in Area C of the Israeli occupied West Bank of the Palestinian territory: Report of an International Advisory Board*, May 2015, https://unispal.un.org/pdfs/UNHABSTUDY_MAY15.pdf; Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan – Report of the United Nations High Commissioner for Human Rights, A/HRC/46/65, 15 February 2021, https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session46/Documents/A_HRC_46_65.docx.

[56] Talia Sasson, "Summary of the Opinion Concerning Unauthorized Outposts" (Jerusalem: Prime Minister's Office, Communications Department, 10 March 2005), http://unispal.un.org/unispal.nsf/9a798adbf322aff38525617b006d88d7/956aa60f2a7bd6a185256fc0006305f4?OpenDocument&Highlight=0,outposts.

[57] Barak Ravid, "Palestine: JNF to Boost Occupied-land Purchases, *Axios* (11 February 2021), https://www.axios.com/jewish-national-fund-expand-west-bank-settlements-e88ee22c-230e-4ed1-a3cf-ad60d0d8785d.html.

[58] Based on information from the Israeli Ministry of Interior, Jerusalem Municipality, Civil Administration, UN OCHA and other UN sources, Palestinian and Israeli human rights organizations, Amnesty International, Human Rights Watch, Israeli Committee against House Demolitions (ICAHD) field work and other sources (updated as of February 2019.) ICAHD, "Categories of Home Demolitions," 14 March 2020, https://icahd.org/2020/03/14/categories-of-home-demolitions/.

[59] *Ibid.*

[60] UN Security Council (SC) resolution 476, 30 June 1980, https://unispal.un.org/UNISPAL.NSF/0/6DE6DA8A650B4C3B852560DF00663826; UN SC resolution 478, 20 August 1980, https://digitallibrary.un.org/record/25618?ln=en; https://unispal.un.org/UNISPAL.NSF/0/6DE6DA8A650B4C3B852560DF00663826; 20 August 1980, https://undocs.org/S/RES/478(1980); S/RES/2334, 23 December 2016, https://undocs.org/S/RES/2334(2016).

[61] SC has determined that "all measures taken by Israel to change the physical character, demographic composition. institutional structure or status of the Palestinian and other Arab territories occupied since 1967, including Jerusalem, or any part thereof have no legal validity," UN SC resolution 465, 1 March 1980, para. 5, https://undocs.org/S/RES/465(1980).

[62] UN Office for the Coordination of Humanitarian Affairs (OCHA), "Palestinian Family Evicted from its Home in East Jerusalem," 10 December 2020, https://www.un.org/unispal/document/palestinian-family-evicted-from-its-home-in-east-jerusalem-ocha-article/.

[63] Israeli court approves razing West Bank Bedouin village," *The Guardian* (18 May 2018), https://www.theguardian.com/world/2018/may/25/israel-court-approves-razing-khan-al-ahmar-bedouin-village?CMP=Share_iOSApp_Other; "Israeli Court OKs Razing Palestinian Village," *Middle East Eye* and agencies (24 May 2018), http://www.middleeasteye.net/news/israels-top-court-okays-demolition-palestinian-village-1074858494.

[64] The Land Regulation Law, adopted 6 February 2017, allowing SoI s to confiscate private Palestinian lands in the West Bank for settler-colony construction and grants CAP discretion to reclassify land, including all "state land" (42%) in oPt.; a bill introduced by Israeli Justice Minister Ayelet Shaked, strips High Court's jurisdiction over West Bank land disputes, blocking Palestinians' access to the High Court for claiming land ownership of land on which Israeli settlers have built, requiring claimants to petition the Jerusalem District Court first, 18 July 2018, Jacob Magid, "Bill stripping High Court's power to adjudicate West Bank land disputes advances," *Times of Israel* (25 February 2018), https://www.timesofisrael.com/bill-seizing-high-courts-power-to-adjudicate-west-bank-land-disputes-advances/; the "United Jerusalem Bill," 18 July 2018, retroactively regularizing "outposts" built on private Palestinian land, "Blocking the division of Jerusalem, *Aruts Sheva* (16 January 2017), http://www.israelnationalnews.com/News/News.aspx/231125.

[65] Enabled by Civil Service Law (Appointments) (Amendment No. 20) (Appointment of Legal Counsel to Government Ministries), 5727 – 2017. See ACRI, "Changing the Method for Appointing Legal Advisers," 27 June 2018, https://law.acri.org.il/en/2018/06/27/changing-the-method-for-appointing-legal-advisers/.

[66] Rory McCarthy, "Palestinian couple evicted from home of 50 years as Jerusalem settlers move in," *The Guardian* (10 November 2008), https://www.theguardian.com/world/2008/nov/10/israelandthepalestinians; Nir Hasson, "Court Orders Dozens of Palestinians Out of Jerusalem Homes to Make Way for Settlers," *Haaretz* (15 September 2020), https://www.haaretz.com/israel-news/.premium-court-orders-dozens-of-palestinians-out-of-jerusalem-homes-to-make-way-for-settlers-1.9157320?fbclid=IwAR0mYKz5G6geY-1D4hLoy2GYnavPak8Uixe2cPp4HNMgpuw0v7UCgBnAy7I.

[67] Amendment 30 to the Entry into Israel Law, or "breach of loyalty" legislation, 7 March 2018, allows interior minister to revoke permanent residency status of Palestinians in East Jerusalem who engage in so-called "terror," or other "anti-Israel activities" and any permanent residents involved in such acts, and allows SoI to deport anyone whose Jerusalem residency status is revoked.

[68] ILC, Draft Code of Crimes against the Peace and Security of Mankind with commentaries. 1996, *Yearbook of the International Law Commission*, vol. II, Part Two (1996), under Article 17(c), Commentary on Article 17: Genocide, para. 7, p. 46, https://legal.un.org/ilc/texts/instruments/english/commentaries/7_4_1996.pdf.

[69] International Law Commission, Draft Code of Crimes against the Peace and Security of Mankind with commentaries. 1996, *Yearbook of the International Law Commission*, vol. II, Part Two (1996), under Article 17(c), Commentary on Article 17: Genocide, para. 7, p. 46, https://legal.un.org/ilc/texts/instruments/english/commentaries/7_4_1996.pdf.

[70] Uri Davis, *Golan under Israeli Occupation 1967–1981*, Working Paper (Durham: Durham University, Center for Middle Eastern and Islamic Studies, 1983), pp. 3–10, http://dro.dur.ac.uk/138/1/18CMEIS.pdf.

[71] UN Economic and Social Council (ECOSOC), "Economic and Social Repercussions of the Israeli Occupation on the Living Conditions of the Palestinian People in the Occupied Palestinian Territory, including East Jerusalem, and of the Arab population in the Occupied Syrian Golan," A/73/87–E/2018/69, 25 May 2018, para. 115, https://undocs.org/A/73/87-E/2018/69.

[72] International Labour Organisation (ILO), *The Situation of Workers of the Occupied Arab Territories*, ILC.108/DG/APP, June 2019, para. 146, https://www.un.org/unispal/wp-content/uploads/2019/06/ILORPT2019_240519.pdf; ECOSOC,

[73] Who Profits, "House Demolition in the Syrian Golan Hyundai Heavy Industries," November 2016, https://whoprofits.org/updates/house-demolition-in-the-syrian-golan-hyundai-heavy-industries/.

[74] European Parliament, Parliamentary questions: Question for written answer E-003899-17 to the Commission (Vice-President/High Representative) under Rule 130, Hilde Vautmans (ALDE), 12 June 2017, https://www.europarl.europa.eu/doceo/document/E-8-2017-003899_EN.html.

[75] *Tamarin v. Sol, op. cit. ; Ornan et al v. Ministry of Interior, op. cit*.

[76] Argentina, Australia, Austria, Belgium, Belarus, Bolivia, Brazil, Bulgaria, Canada, Chile, Colombia, Costa Rica, Curacao, Czech Republic, Denmark, Ecuador, El Salvador, Finland, France, Germany, Greece, Honduras, Hong Kong, Hungary, Ireland, Israel, Italy, Latvia, Luxembourg, Mexico, Moldova, Netherlands, New Zealand, Norway, Panama, Paraguay, Peru, Poland, Russian Federation, South Africa, Spain, Sweden, Switzerland, Turkey, Ukraine, United Kingdom, United States of America, Uruguay, Uzbekistan and Venezuela. See *Jewish Agency for Israel Yellow Pages*, at: http://www.jafi.org.il/about/abroad.htm.