

# ACQUISITION OF LAND IN PALESTINE

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## INTRODUCTION

The purpose of this study, which falls into two main parts, is to give the reader an opportunity to appraise the policies, practices and measures adopted by the Israeli authorities since 1948 which have proved prejudicial to the fundamental rights of the Palestinian people.

As a result of these acts, land and property belonging to the Palestinians who had left their country fell into the hands of the Israeli population and authorities after the Arab-Israeli war of 1948.

This study on the Jewish acquisition of land in Palestine shows that there were several stages in the dispossession of the Arabs and that this was effected despite the objections of the international community, which had recommended in General Assembly resolution 194 (III) that Palestinian Arabs wishing to return to their homes and live at peace with their neighbours should be permitted to do so.

The history of the acquisition of agricultural land in Palestine and of the land cultivation system before partition will give the reader same idea of the disparity between Jews and Arabs with respect to land ownership in Palestine. The State of Israel has perpetuated this disparity, mainly through the confiscation of land belonging to the Palestinian Arabs and its policy of Jewish settlements, which is also discussed in this study. The acquisition of land in Palestine cannot be discussed without giving the background to the ownership of agricultural land in the country.

## ACQUISITION OF LAND IN PALESTINE

From the time of the Romans to the nineteenth century, the land tenure and land cultivation systems in Palestine had two main features: first, there were no laws or regulations on the management and cultivation of land in Palestine that were not completely out of date and, secondly, the big landowners owned nearly all the land. Most of the big landowners belonged to the privileged upper class (the "nobles") who generally lived away from their land; that is to say, they were absentee landlords whose agricultural land was cultivated by the fellahin for a pittance. This system of tenant farming, known as fief under the Turkish occupation, became less frequent towards 1858, when the authorities of the Ottoman Empire decided to establish a land registry, the Defterkhané, 1/ the main effect of which was to improve the management of land in Palestine so as to make it more profitable. One of the characteristics of this period is the relatively high land taxes the fellahin had to pay the Ottoman government and the big landowners. Side by side with this system of land cultivation, there were others under which the land was managed by the community (Mash'a) and the Moslem religious institutions (waqf). A third type of land ownership - and one that assumed considerable importance under the British Mandate, was that of the common lands, which were considered to be public property and were administered by the Mandatory Power.

Consideration of the systems of cultivation and land ownership in Palestine shows that most of the land was under the control either of the Ottoman government (Ottoman fiefs) or Turkish nationals, or of a minority of the Palestine Arab population, most of whom lived outside Palestine and had interests that did not conflict with those of the occupying power. The members of this minority group are even said to have made profit sales of land prior to and immediately after the First World War. It can therefore be said that very little land was acquired by the Jewish minority, whose holdings had been practically negligible up to then, and they did not make any sizeable acquisition of land until the Jews of Eastern Europe, lured by the promise of a Jewish homeland in the Balfour Declaration, started to immigrate into Palestine under the pressure of the social and economic conditions obtaining in the countries in which they were living. Two periods may be distinguished in the Jews' acquisition of land in Palestine. During the first of these, extending from 1880 to 1920, the Jews were small landowners, and the amount of land they owned was not very large compared with that of the Palestine Arab majority. 2/ The main feature of the second period, which began soon after the Balfour Declaration of 1917 and extends from 1921 to 1947, is the establishment of Jewish settlements, the Kibbutzim, with the encouragement of such Jewish institutions as the Palestine Jewish Colonization Association,\* the Palestine Land Development Company and the Jewish National Fund. The purpose of these three institutions was to transfer the Jewish populations of Europe to Palestine and provide them with facilities, homes, jobs and especially land in the new host country. It has been estimated that by about June 1947, the Jewish minority in Palestine had taken over 1,850,000 dunams\*\* out of a total of 13 million dunams, mainly as a result of transactions between the above-mentioned Jewish institutions and the big Arab landowners of Palestine.3/ The remainder of the land in Jewish hands came either from the Mandatory Power (cessions) or from religious charitable organizations. The land ceded by the Mandatory Power was considered to be publicly owned; in some cases it could be made available to a specific community.

In its Village Statistics, 4/ the Mandatory Power estimates the total area of land owned by Jews in 1945 to be 1,491,699 dunams, compared with about 13 million dunams owned by Arabs in Palestine. This disparity with respect to the ownership of land persisted until the country was partitioned in 1947, and it provided arguments for the Members of the United Nations Organization that were opposed to the partition plan.5/ One of the features of the partition plan for Palestine was that the Arab populations in both states envisaged in the plan should own and enjoy most of the land (see Annex I); the role played by land in the formation of the State is no secret. This disparity between the Arab and Jewish populations with respect to land ownership disappeared after the military operations of 1948, when land and whole villages belonging to Palestinian Arabs fell into the hands of the State of Israel and its inhabitants.

\*The Palestine Jewish Colonization Association (PICA), an association of Jewish interests, established mainly on the initiative of Baron Edmond de Rothschild, which was active in Palestine long before the Zionist organization became operational.

\*\* A dunam: a unit of area equal to 1,0(X) square metres.

## THE MILITARY OPERATIONS OF 1948 AND THE DYNAMICS OF LAND ACQUISITION

One of the features of the State of Israel is that its boundaries have never been fixed. Part II, Section B, of the partition resolution (181 (II) of 29 November 1947) of course assigns to the Jewish State its own de jure boundaries; and it may be said that they were duly taken into account when, in May 1948, the Provisional Government of the Jewish State proclaimed the birth of the State of Israel. It was also with the boundaries assigned to it by the partition resolution 181 (II) of 29 November 1947 that the Jewish State was accorded international recognition. All these factors tend to confer a permanent character on the boundaries of the new State thus created; but this was not to be so, for the military operations and the successive wars that have taken place in Palestine and the Middle East since 1948 have resulted in a territorial status quo with respect to Israel's boundaries. And so two basic parameters which are in fact constant seem to characterize the region of Palestine. The first is the absence of permanent boundaries for the State of Israel and its corollary, the policy of territorial occupation. It was this policy which led, immediately after the military operations of 1948, to land acquisition by seizure through the establishment of Kibbutzim and Jewish settlements.

After the military operations of 1948 and before the signing of the Armistice Agreements, the State of Israel had taken over the sub-districts of Jaffa, Ramleh, Haifa, Nazareth, Beisan and Tiberias and a substantial part of those of Acre and Safad. The Jewish forces were also occupying the coastal area of the sub-district of Tulkarm and the western sector of Jerusalem. Thus, about 20 million dunams of land in all, 7/ including some of the land reserved for the Arabs in the 1947 partition plan, that is to say, just over three-quarters of all the land in Palestine, came under the control of the military forces of the State of Israel. The military occupation of Arab-owned lands started in the first few months of 1948 and was stepped up in April of that year, when whole towns like Beisan, Jaffa, Acre, Lydda and Ramleh and the Arab sections of the towns of Haifa, Safad and Jerusalem were taken over by the Haganah forces.8/ In May of the same year - 1948 - in view of the enormous number of Palestinians that had been driven from their land and property by the military operations, the United Nations appointed a Mediator, one of

whose main tasks was to promote the well-being of the inhabitants of Palestine with the aid of the United Nations specialized agencies. In December of the same year, the United Nations General Assembly adopted resolution 194 (III), the operative part of which called upon the Provisional Government of Israel to permit and facilitate the return of the Palestinians to their homes, their land and their property.

By the same resolution, the United Nations General Assembly established a Conciliation Commission, one of whose main tasks was to assist in securing the implementation of resolution 194 (III). Another of the Commission's tasks was to achieve conciliation between the different parties to the conflict and to facilitate the return of the Palestinian Arabs to their homes, their land and their property. The Conciliation Commission made efforts to mediate over a period of years, the last of these efforts being made in 1951 (Paris Conference), but it was not successful in achieving a solution that would be acceptable to all the parties to the conflict. And so about 700,000 <sup>9/</sup> Palestinian Arabs were forced to live away from their homeland, the only exceptions being a few thousand Arabs who were authorized by the Israeli authorities to rejoin their families in Israel. Although there is disagreement about the actual area of the land abandoned by the Palestinians, all the analysts agree that it is between 16 and 20 million dunams in area. <sup>10/</sup> In the Negev, for instance, somewhat more than 12 million dunams, <sup>11/</sup> fell into the hands of the Israeli authorities. And despite the controversy about it, the analysts all agree also that more than 4 million dunams of the land abandoned by the Palestinians is fertile and very favourable to agriculture and that it is the private property of Palestinian Arabs.

#### THE DYNAMICS OF THE ACQUISITION OF LAND AND PROPERTY

Following the military operations of 1948, the 1949 Armistice Agreements were signed by the different parties to the conflict. Those Agreements were submitted to the Security Council for appraisal in August 1949, and in its resolution 73 (1949) the Council noted that the Armistice Agreements constituted "an important step toward the establishment of permanent peace in Palestine".

As the above-mentioned Security Council resolution makes clear, the Armistice Agreements constituted only one step in the process that was intended to lead to a final solution of the Palestinian problem. The transitional character of the Armistice Agreements as just one in a series of steps towards a permanent peace in the region is emphasized also in the report of the Count Bernadotte who, incidentally, had already discerned a change of position on the part of the Provisional Government of Israel with regard to Israel's boundaries. The United Nations Mediator wrote in his report:

"Although the general position of the Provisional Government of Israel rests broadly on the foundation of the Assembly resolution [181 (II)], it is now being urged that boundaries should be modified to take more fully into account both the present military situation and the necessity for more readily defensible frontiers".

Although at that time the intentions of the Provisional Government of Israel could not be stated with any certainty or clearly defined, during the negotiations under the auspices of the Conciliation Commission it had always adduced security reasons <sup>14/</sup> for opposing the return of the Palestine "refugees" to their homes and property. There is one incontrovertible fact, however: after the signing of the Armistice Agreements, the territory reserved for Palestinians under resolution 181 (II) of 29 November 1947 was under the control and administration of Israel, Jordan and Egypt.

Under the Armistice Agreements, <sup>15/</sup> the sub-districts of Jaffa, Ramleh, Haifa, Nazareth, Beisan and Tiberias and quite a large part of the sub-districts of Acre and Safad were under the military occupation of the Israeli authorities. The western sector of Jerusalem and the coastal areas of the province of Tulkarm were also occupied by Israel. This means that a total area of 20 million dunams <sup>16/</sup> of land belonging to the Palestinian Arabs was under the Israeli military occupation.

The *de facto* acquisition of land in the above-mentioned districts under Israeli military occupation was all the easier because there was no precise legislation governing the management of land abandoned by the Arabs. It was not until 1950 that the Knesset (the Israeli Parliament) adopted laws which were supposed to legalize the *de facto* acquisition of land <sup>17/</sup> that had been the practice up to then. The institutions responsible for the management of land abandoned by the Palestinians, such as the Custodian of Absentee Property and the Jewish National Foundation, which had been improvising measures of expediency for acquiring the Palestinians' abandoned land, found a justification for the measures they had taken with respect to the use of this land in the Absentee Property Law of March 1950.

It is estimated that between 15 May 1948 and the end of 1951 more than 684,000 Jewish immigrants settled in Israel on a substantial part of the land abandoned by the Palestinians. <sup>18/</sup>

Of the 370 Jewish settlements established between 1948 and the beginning of 1953, 350 were established on land abandoned by the Palestinians. <sup>19/</sup> In 1954 more than one-third of Israel's Jewish population, plus 250,000 new Jewish immigrants, settled in whole cities that had been completely deserted by the Palestinians as a result of the military operations of 1948. Jaffa, Acre, Lydda, Ramleh and Beisan were some of them. As to the Palestinian Arabs who had remained in Israel, restrictive measures amounting to dispossession were taken by the Custodian of Absentee Property, who was inclined to interpret the Absentee Property Law of 1950 rather too broadly. The custodian, who was responsible for applying the March 1950 Law governing the management and administration of land and property that was supposed to have been abandoned by the Palestinians, subsequently transferred responsibility for the management of this property to another institution, the Development Authority, which had been established under a new law, the Development Authority Law. Under this law, the Development Authority was empowered to acquire land and property from the Custodian and make them available to the State. The State, which thus became the owner of the so-called "abandoned" land and property, was entitled to dispose of them as it saw fit. In the majority of cases, the State put this so-called "abandoned" property up for sale or leased it. This had the advantage of indirectly giving the authorities of the Provisional Government of Israel the right to inspect the management and administration of the "abandoned" land and property. Until then, what was done with this property had been a matter of indifference to the State of Israel, an indifference which enabled the Jewish agricultural communities, the *Kibbutzim*, to seize land owned by Palestinians during the months immediately after the military operations of 1948.

It would appear that the Provisional Government of Israel felt its attitude was justified by the fact that the mediation efforts of the Conciliation Commission were continuing and were centred on paragraph 11 of resolution 194 (III), dealing with the repatriation of the Palestinians and the return of their property. By the beginning of 1952, it was practically certain that the land and property of the hundreds of thousands of Palestinians on whom the United Nations had conferred the status of

refugees would never be returned to them. This is confirmed by the report of the Conciliation Commission, on which the General Assembly adopted its resolution 512 (VI), which clearly showed that the efforts of the Conciliation Commission were not leading to any solution that would restore their land and property to the Palestinians. The State and the Parliament of Israel had now taken over responsibility for the land and property formerly managed and administered by the military authorities. Under an agreement between the Custodian and the Development Authority signed on 29 September 1953, the Development Authority took over most of the "abandoned" land and property. The Development Authority, which then took over the functions of the Custodian, was entitled to issue title deeds for the "abandoned" land and property and, in certain cases, could decide they should be sold. In most cases, the State of Israel was given preference by the Development Authority where purchases were concerned.

In 1953, the Knesset (the Israeli Parliament) enacted a new law, the Land Acquisition Law (Validation of Acts and Compensation), the purpose of which was to permit the final disposal of the "abandoned" Palestinian land and property. Under this law, the entire question of the land, property and goods abandoned by the Palestinians after the military operations of 1948 could be finally liquidated. And after the Israeli memorandum to the Conciliation Commission of 9 October 1953 informing it that the disposal of property had been authorized by the Government of Israel and effected in accordance with the provisions of the Absentee Property Law of 1950, it was not difficult to see what the Israeli authorities intended to do with the abandoned property. The new law gave legal sanction to the acts and measures that had already been taken to dispossess the Palestinians of their so-called "abandoned" property. By virtue of the powers it conferred on the Minister of Finance, the title deeds for the "abandoned" land and property could be transferred to the State of Israel through the Development Authority. The State thus became the legal owner of most of the property the Palestinians were supposed to have abandoned. The outstanding feature of this law compared with the two earlier ones - the Absentee Property Law and the Development Authority Law - was that it gave the State priority over any other institution as far as the management and administration of the land and property abandoned by the Palestinians was concerned. From that time forward, the State was the legal owner of most of the abandoned land and property, and it could avail itself of the new laws to justify any expropriation of Palestinian-owned real estate. In a debate in the Knesset (the Israeli Parliament), the Minister of Finance explained the implications of the new law as follows:

"To legalize certain actions taken during and after the war. ... And when the authorities started to take possession of absentees' property that had been earmarked for essential security or development requirements, other areas were expropriated for the same purpose. Basically, in agricultural areas the ownership rights were not sufficiently clear and there are reasons connected with the security of the State and the execution of essential development projects which make it impossible to return these lands to their owners."

Because of the broad legal powers it gives the State authorities, particularly the Minister of Finance, the Land Acquisition Law is one of the most important legal acts of the Israeli Knesset. 23/ Henceforth, the Israeli authorities - particularly the State through the Land Acquisition Law - alone are responsible for the real estate abandoned by the Palestinians after the military operations of 1948.

Thus, it took three years, during which plans and measures were worked out, for the State of Israel to take permanent possession of the land and property belonging to the Palestinians, and they, in the meantime, had become the responsibility of the international community. The continuing good offices of the United Nations Conciliation Commission, which strove without success to mediate, are apparently the explanation for the reluctance of the State of Israel to do anything whatever about the dispossession of the Palestinians who had fled from their land as a result of the military operations of 1948. Some transitional measures had, however, been taken by the military authorities that were responsible for the administration of the land that had fallen into the hands of Haganah after the military operations of 1948. For instance, the military administrators had adopted measures and issued ordinances to take over land and property abandoned by the Palestinians, mainly on the ground of "reasons connected with security and defence". The first of these ordinances - the Abandoned Areas Ordinance - was intended mainly to authorize the various actions to despoil the Palestinians of their property, including their land, and to co-ordinate these actions.

Another series of measures taken by the military authorities in 1948 - the Defence Regulations - empower the military government to declare specific parts of the occupied territories closed areas. These areas, which the public was forbidden to enter for "security reasons", are vast and mainly in the public domain. This ordinance, which is modelled on the special legislation in force under the Mandate, could sometimes be interpreted too broadly and used to prevent Palestinians who wished to do so from returning to their villages after the military operations of 1948. Article 25 of this ordinance, which makes the military government the only authority, was invoked in February 1950 to expel 24/ the inhabitants of Al-Ghabisiya, in Galilee, whose village had been declared a closed area. Several other villages, mostly in Galilee, which include Amqa, Faradiya, Karf-Inan, Suffuriya, Al Manusra and Al-Majdal, were declared prohibited areas 25/ under Defence Regulations (Security). Another measure of no less importance taken by the Israeli authorities in the occupied territories after the military operations of 1948 is the Emergency Regulations (Security Zones), adopted in 1949. This ordinance gives the Minister of Defence, with the approval of the foreign affairs and security committees of the Knesset, the power to declare any area a protected area. The areas covered by this measure lay mostly in frontier areas near the borders with Syria and Lebanon. 26/ The whole area of the Triangle in the central portion of Israel, which is populated mainly by Palestinian Arabs, was declared a security zone, which meant that the inhabitants could not return to it without a permit. And the permits, which are issued by the Minister of Defence, are practically unobtainable. Several areas of the Gaza Strip and in the region between Jaffa and Jerusalem have been declared security zones in this way. 27/

Of course, areas that are declared security zones eventually become state property. In this connexion, let us mention the example of the inhabitants of the district of Igrit, in Galilee, near the Lebanese frontier, who were expelled from their village in 1948 never to return despite the ruling of the Supreme Court in their favour in 1951.

A fourth ordinance adopted by the military authorities in 1949 following the 1948 military operations was the Emergency Regulations (Cultivation of Waste Lands).

The immediate purpose of this ordinance was to prevent land suitable for agriculture that had been deserted by its owners after the hostilities of 1948 from falling into disuse, and it authorized the Minister of Agriculture to take over the land and make it pay. Article 24 of this ordinance empowered the Minister of Agriculture to legalize the *de facto* acts of expropriation which occurred during and immediately after the 1948 war, for which the Jewish agricultural organizations and the youth organizations of the Kibbutzim and the Nahal were mainly responsible. The Emergency Regulations also authorized the Minister of Finance - i.e., the State - "to take over lands that had been declared closed areas by the military authorities under

the defence and security ordinances provided for in the Defence Regulations.

And so, when lands belonging to Palestinians (living either in or away from their villages) which had been declared closed areas or security zones under the military government's defence and security ordinances remained uncultivated for a certain period of time, they were handed over to the Ministers of Finance and Agriculture for development purposes.

Another ordinance adopted by the Israeli military authorities after the 1948 war was the Emergency Land Requisition Law. Under this ordinance on the requisitioning of land, adopted in 1949, the Israeli authorities could order buildings belonging to Palestinians to be assigned to Jewish immigrants, who numbered, as stated above, some 700,000 immediately after the military operations of 1948 - 1949. This ordinance, which was originally intended to remain in force for only three years and applied mainly to urban areas, was extended from 1949 to 1958, when the military authorities decided, for "security reasons", to confiscate some of the buildings that had been requisitioned under the ordinance.

#### PHASED DISPOSSESSION

As is clear from the preceding chapters, the Palestinians were dispossessed of their land and other assets in stages, the most important of which was that of 1953, when the laws on the acquisition of land and other property were adopted. This legislation, which authorizes the State of Israel to take over direct legal ownership of land and other assets owned by Palestinians, gives the State and State bodies preference over any other institution as far as the acquisition and exploitation of Palestinian-owned land and property are concerned. Since the adoption of the Land Acquisition Law in 1953, the State has become the owner of most of the land and property belonging to the Palestinian Arabs. Prior to the adoption of this law, what might be called measures of expediency for coping with the situation were taken, in the form of ordinances, immediately after the cessation of hostilities in 1948. These measures, most of which were not submitted to the Knesset for approval, were issued by the military authorities, which gave "reasons" connected with security and defence as their justification. These measures also served to "legalize" the *de facto* dispossessions that had taken place immediately after the military operations, for which the agricultural organizations known as the *Kibbutzim* and a number of Zionist organizations were responsible. While the ordinances were being issued by the military authorities, negotiations under United Nations auspices with the aid of conciliating the different parties to the conflict were under way or had just been started. This doubtless explains the absence of any appropriate legislation relating to the property of Palestinians in the years immediately after 1948. By the beginning of 1952 it was already clear that the Conciliation Commission's efforts at negotiation had been unsuccessful <sup>29/</sup> and that there had been great changes in the land and other property owned by the Palestinians; these changes, particularly population changes, were to dominate the situation in Palestine up to 1967, when there was a fresh outbreak of hostilities.

#### MILITARY OPERATIONS OF 1967 AND OCCUPATION POLICY

After the military operations of 1967, all the Palestinian territory within the boundaries laid down in Part II, Section A, of the partition resolution (181 (II)) was transferred from Jordan and Egypt to Israel, together with some Syrian and Egyptian territory (the Golan Heights and Sinai). As to the city of Jerusalem, the western sector of which had been under Israeli control since the 1948 hostilities, the Knesset decided on its *de jure* annexation by the vote of 29 June 1967, in the face of the opposition of the international community.

A few days after this action by the Israeli Parliament and other measures taken by the Israeli Government with respect to Jerusalem, the General Assembly adopted resolution 2253 (ES-V), in which the international community declared these measures "invalid" and called upon Israel to "rescind all measures already taken and to desist forthwith from taking any action which would alter the status of Jerusalem".

The annexation of the city of Jerusalem a few days after the cessation of the 1967 hostilities apparently had the approval of the people of Israel and its leaders, who welcomed the Knesset's decision to annex it *de jure*. The following passage from an article in *The Jerusalem Post* of 13 July 1967 gives some idea of the Israelis' reactions to the annexation of Jerusalem:

"A decisive turning point in the history of the Jewish people and of Israel has taken place before our eyes ... Our ancestral heritage [was] liberated and Jerusalem redeemed to become once more a city that is one."

But the international community took a different view and in another resolution, adopted on 14 July 1967, it deplored "the failure of Israel to implement" the resolution mentioned above, which called upon it to rescind all measures already taken and to desist forthwith from any action which would alter the status of Jerusalem. In view of the international status of Jerusalem and the nature of the present study, we will not deal exhaustively with the case of Jerusalem, the annexation of which, decided upon a few days after the cessation of the 1967 hostilities, was followed by the expulsion and dispossession of Palestinians: Thousands of Palestinians were expelled and dispossessed of their houses and apartments in the Old City. Six hundred Palestinian-owned buildings were confiscated and used to shelter Jewish immigrants. <sup>30/</sup>

#### THE ISRAELI GOVERNMENT'S OCCUPATION POLICY

Despite the international status of Jerusalem, which was placed under international trusteeship by resolution 181 (II), and despite the repeated condemnations of the United Nations, the city, which had been under the administration of Jordan up to then, was annexed by a vote of the Israeli Parliament on 29 June 1967.

A few days after the outbreak of the 1967 hostilities, the United Nations Security Council adopted resolution 233 (1967), which "called upon the Governments concerned to take forthwith as a first step all measures for an immediate cease-fire and for a cessation of all military activities in the area".

The substance of these resolutions, that is to say the appeal to the parties to the conflict to observe an immediate cease-fire and to cease all military activity, was reiterated by the Security Council in its resolutions 235 (1967) and 237 (1967).

By the time the hostilities ceased, the Israeli military forces were in possession of the whole of mandated Palestine. Indeed, the military forces of the Jewish State occupied not only the part of Palestine assigned to Israel by the United Nations in resolution 181 (II) but also all that part of Palestine which was to constitute the Arab State. Part of this territory had been occupied ever since the military operations of 1948. At the end of the 1967 hostilities, the Israeli military forces occupied some Syrian and Egyptian territories as well as the Golan Heights and Sinai. And, as we have seen, the city of Jerusalem had been annexed.

As a result of the 1967 hostilities, the future of Palestine and its inhabitants was bound up with the question of the Middle East, which has been a source of constant concern to the international community. On 22 November 1967, the international community adopted resolution 242 (1967), in which the Security Council:

**"Emphasizing** the inadmissibility of the acquisition of territory by war and the need to work for a just and lasting peace in which every State in the area can live in security,

**"1. Affirms** that the fulfilment of Charter principles requires the establishment of a just and lasting peace in the Middle East which should include the application of both of the following principles:

- i) withdrawal of Israeli armed forces from territories occupied in the recent conflict;
- ii) termination of all claims or states of belligerency and respect for and acknowledgement of the sovereignty, territorial integrity and political independence of every State in the area and their right to live in peace within secure and recognized boundaries free from threats or acts of force;"

What happened to that resolution and how it was interpreted by either side are a matter of record. However, it must be recognized that resolution 242 (1967) does not mention the plight of the Palestinians, and their rights even less. These rights were, however, to be recognized subsequently in Part B of General Assembly resolution 2535 (XXIV) of 10 December 1969, in which the General Assembly:

**"Desirous** of giving effect to its resolutions for relieving the plight of the displaced persons and refugees,

**"1. Reaffirms** the inalienable rights of the people of Palestine; "

The inalienable rights of the Palestinian people, which the international community has reaffirmed every year since 1969, consist mainly of their right to return to their homes and property and their right of self-determination. However, the well-being of the population of the occupied territories has been a subject of constant concern to the United Nations, which in 1968 - one year earlier - had established the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Populations of the Occupied Territories. On 10 November 1975, the international community, concerned at the disregard of its resolutions on the inalienable rights of the people of Palestine, established the Committee on the Exercise of the Inalienable Rights of the Palestinian People.

It is relevant here to recall that the State of Israel and some other States Members of the United Nations opposed the establishment of this Committee, whose recommendations on the Palestinian people's right to return to their homes and their right of self-determination have been clearly formulated and widely publicized.

In formulating its recommendations, the Committee emphasized the difficulties it had encountered in carrying out its mandate.

For instance, in his correspondence with the Secretary-General of the United Nations, the Chairman of the Committee drew attention to several factors which had impeded the Committee's efforts to carry out the mandate it had been given by the General Assembly. One of these was the policy applied by the State of Israel in the occupied territories, a policy which has been condemned by the international community. The main feature of this policy is the establishment of Jewish settlements and the violation of fundamental human rights in the occupied territories.

The establishment of Jewish settlements in the occupied territories is only the logical consequence of implementing a policy based on two concepts regarding the future of those territories. Those who hold these concepts, which will be discussed in the next paragraph, have never ceased proclaiming their position with respect to the occupation of the Arab territories. Their occupation of Palestinian land and the policy they apply there continue to meet with the condemnation of the international community and the Committee on the Exercise of the Inalienable Rights of the Palestinian People. In a letter to the Secretary-General, the Chairman of this Committee said:

"If statements by the Prime Minister of Israel to the Israeli Parliament, as reported in the press, to the effect that Israel would never return to the pre 5 June 1967 frontiers and that Jerusalem would never be the capital of the Israeli State and that there would never be a Palestinian State on the West Bank of the Jordan and in the Gaza Strip, are to be believed, it can be stated that Israel continues to oppose resolutions of the General Assembly and the Security Council on the question of Palestine and is carrying out actions that are contrary to the spirit and the letter of those resolutions, and to the principles of international law".

The disapproval expressed by the Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People in the paragraph quoted above contains several elements, the most important of which are the inadmissibility of the acquisition of territory by war and the application of the principles contained in the Geneva Convention of 1949 relative to the Protection of Civilian Persons in Time of War. The establishment of Jewish settlements in the occupied territories is contrary to Article 49 of that Convention, the sixth paragraph of which reads as follows:

"The Occupying Power shall not deport or transfer parts of its civilian population into the territory it occupies".

Despite the international community's opposition to the Israeli policy of establishing Jewish settlements, the number and population of these settlements have steadily grown, to such an extent that 27,000 families of Jewish settlers are expected to settle on the West Bank of the Jordan in the next three years. <sup>32/</sup>

#### ORIGIN AND AIM OF THE POLICY OF JEWISH SETTLEMENTS

The first Jewish settlements were established in the years preceding or immediately following the First World War, when Jews were immigrating into Palestine. It must be noted, however, that this immigration was linked to the concept of a "Jewish homeland in Palestine" contained in the declaration made by Lord Balfour in 1917 and to the social and political events that were taking place in the countries of Europe prior to the Soviet Revolution of October 1917. However, although the Arab people of Palestine naturally objected to and strongly opposed this immigration, it was not tied up with dispossessing the Palestinians of their land and other property, as was the case after the military operations of 1948 and 1967. The picture of the acquisition by Jews of land and property in Palestine after the hostilities of 1948 outlined in this study reveals that there were three main stages in the process of dispossession. During the first of these stages, which followed immediately on the 1948 hostilities, the Jewish population illegally seized land and property belonging to the Palestinians. The dominant feature of the second stage is the military ordinances sanctioning the *de facto* acquisitions of land and property by the *Kibbutzim* and other Jewish organizations and authorizing the requisitioning of land and other property on grounds of security and defence.

The third stage is characterized by the increasing intervention of the State in the acquisition of the so-called "abandoned" Palestinian property through such legal formalities as those provided by the Land Acquisition Law of 1953.

It is estimated that more than 684,000 Jewish immigrants <sup>33/</sup> settled in Palestine in the years immediately following the military operations of 1948 and that most of them took advantage of the practical measures and of the existing legislation to take over the land and other property belonging to the Palestinians.

The main feature of this period is the complete absence of any direct action by the State that would indicate practical and rational use of the Palestinians' abandoned land and other property, which enabled agricultural youth organizations and religious groups to take it over. However, Israel was more concerned at this time with finding ways of taking over the Palestinians' property which would preserve its credibility. Credibility might become essential because of the negotiations between the parties to the conflict which were proceeding under United Nations auspices.

It is not until 1967 that it is possible to detect several different currents of ideas about the Jewish settlements and the use that should be made of the property seized by the Israeli authorities after the 1967 hostilities. Two of these currents are significant and they continue to underlie Israel's political life. One is *Eretz Israel*, which is concerned with the territorial imperatives of the Jewish State, and the other is the *Judenstaat*, which is concerned with its demographic composition. The partisans of the former see no objection to the occupied territories being incorporated in the State of Israel and forming an integral part of it. These people, who are also known as annexationists, mainly belong to the *Gahal*, a political group which includes the *Herut* party of the present Prime Minister. The others, who are concerned with the demographic composition of the Jewish state, favour a policy that would lead to a state with a mainly Jewish population. For the advocates of this idea, the incorporation or annexation of the territories occupied by Israel would pose the problem of integrating the 1,600,000 Palestinians, most of whom live in the West Bank and Gaza to say nothing of the few hundred thousand who live in Israel. The advocates of the *Judenstaat* argue that, since population growth is greater among the Palestinians, the Jewish State would eventually have an Arab majority; they are therefore opposed to annexation, but they do not absolutely reject any idea of incorporating some pieces of territory in the State of Israel.

The advocates of this school of thought are drawn from the ranks of the Israeli Labour Party - *Mapai* - and particularly from *Mapam*, a political group belonging to the *Mapai* coalition.

It is from the debate between the two that any political formula for the future of the occupied territories must emerge. The political debate between the supporters of *Eretz Israel* and, the *Judenstaat* has not been entirely productive since it has led to proposals regarding the occupied territories. These are the plans proposed by the ministers Allon and Dayan who were members of Mr. Eschkol's Labour Government. <sup>34/</sup>

#### SETTLEMENT OF THE OCCUPIED TERRITORIES: THEORY AND PRACTICE

The outcome of the political debate concerning the territories that had been occupied after the 1967 hostilities was two concrete proposals formulated by the ministers Allon and Dayan. In rough outline, the Allon plan provided for an Arab enclave on the West Bank of the Jordan which would be linked with Jordan by corridor extending from the district of Ramallah to the town of Jericho and the Allenby Bridge. The enclave reserved for Palestinians in the Allon plan would be bounded on the east by the Jewish settlements in a part of the West Bank over which Israel would exercise national sovereignty.<sup>35/</sup> The special feature of this plan, according to its author, is that it makes the Jordan a political boundary, thus giving the State of Israel a certain advantage from the security point of view.

The plan put forward by the then Minister of Foreign Affairs, on the other hand, provided for the gradual integration <sup>36/</sup> of the Palestinian populations of the West Bank and Gaza in the life of Israel through the daily contacts they would have with its inhabitants. In order to facilitate such contacts, the author of this plan envisaged the construction of a road and railway network to be shared by the Israeli and Palestinian populations. That would mean that such a network, which would have its

nerve centre in Israeli territory, would form a link between Israel and the occupied territories and would, at the same time, encourage the establishment of industrial enterprises and social and economic facilities that would be managed by Israelis.<sup>37/</sup> The plan, known also as the integrationist plan, did not rule out the establishment of Jewish settlements in the occupied territories, as the Allon plan did. The policy on the establishment of Jewish settlements will therefore emerge from the debate between the advocates of the Judenstaat and Eretz Israel, on the one hand, and the integrationists and annexationists, on the other. Whatever their ideas about the future of the occupied territories, most of the Israeli political groups of this period agreed that there should be a Jewish presence in part or all of the territories under military occupation. And, in addition to the Israeli defence forces, this presence would involve the establishment of Jewish settlements in the occupied territories; this is what was envisaged by the State bodies, and it had the support of the Israeli public.

#### JEWISH SETTLEMENTS IN THE OCCUPIED TERRITORIES

The establishment of Jewish settlements in the occupied territories after the military operations of 1967 may be said to be the practical application of an idea that is the common denominator of all the proposals and all the thinking about the future of the occupied territories. And, as has been shown in the preceding chapters, this common denominator is the unanimous agreement of all the Israeli political groups that there must be a Jewish civilian presence in part or all of the occupied territories. This unanimous agreement, to which the Jewish populations of Israel had no objection, was to provide the main-spring for the application of a dynamic Jewish settlement policy in the occupied territories. Just as was the case after the hostilities of 1948, the first Jewish settlements to be established after the hostilities of 1967 were on land which the Jews, most of whom were members of religious organizations, had seized illegally. This de facto acquisition of Palestinian land and other property was to continue to be the practice up to 1970, when the plans for the final disposal of the territories under Israeli occupation were formulated. And from 1967 onwards, the Israeli authorities, following in the footsteps of the Nahal youth organizations, took the initiative in establishing settlements in the occupied territories.

The reasons usually advanced to justify such settlements are always directly connected with the security of the State, although there are grounds for scepticism in certain cases in view of the statements made by Israeli politicians. For instance, one of the reasons given by Mr. Abba Eban is that "in the negotiations on the establishment of its boundaries, Israel hopes to succeed in keeping its settlements within the borders that will be recognized when peace comes".

Another opinion which arouses scepticism about the reasons put forward to justify the settlements was expressed by Mrs. Golda Meir <sup>39/</sup> in an address to Jewish immigrants that were to settle on the Golan Heights: "the boundary is wherever Jews are living, not a line on the map".

In any event, whatever the reasons given to justify the Jewish settlements in the occupied territories, such settlements are contrary to the spirit and the letter of Article 49 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, which states that "the Occupying Power shall not deport or transfer parts of its own population into the territory it occupies".<sup>40/</sup>

From the end of the 1967 hostilities onward, the Israeli authorities' efforts to establish Jewish settlements were directed mainly at the occupied territories, although vast areas of the Negev and Galilee remain uninhabited to this day. In 1967, two settlements had already been established on the Golan Heights <sup>41/</sup> and two in Sinai, one in the area of Hebron, while a start was being made on building a Jewish city in the Arab sector of Jerusalem. 1968 was a year of great expansion, although the main thrust was in the area of the Golan Heights, which it had already been decided unofficially not to return to Syria. Eight settlements were established in that area in 1968, compared with only three in the rest of the occupied territories.

In 1969, eight new settlements were established, while efforts to consolidate the existing ones continued. In 1970, the efforts were directed mainly at making the Allon plan operational, a plan which provided for the annexation of a third of the West Bank,<sup>42/</sup> including the Jordan Valley. Five of the six settlements established by Israel that year were in the fertile valley of the Jordan. Seven new settlements were established in 1971, and six more in 1972. If only two were established in 1973, that was mainly due to the preparations for the construction of the town of Yamit, in the district of Rafah south of the Gaza Strip, which had had to be interrupted for several months because of the war. The new settlements were mainly Kibbutzim (collective villages), the others being Moshavim (co-operative villages) or ordinary villages: most of them went to the Labour Party and the remainder to religious groups.<sup>43/</sup> Most of these settlements were established either on Palestinian lands from which the owners had fled as a result of the 1967 War or on common lands. In Jerusalem and Hebron, land was requisitioned for the construction of the Jewish quarters. In the Jordan Valley and around Kfar-etzion, some of the local farmers' land was also requisitioned. Another method was also employed which gave rise to protests in Israel. In January 1972, the army expelled 6,000 Bedouin from where they had been living for decades,<sup>44/</sup> in the north-east of Sinai, in the Rafah salient. It demolished their houses, stopped up their wells and enclosed the area (about 4,000 hectares) with barbed wire, all with a view to establishing a Jewish settlement there.

The October War did not prevent the expulsion of a thousand other Bedouin from their land (3,600 hectares) in the same area or the destruction of their dwelling.<sup>45/</sup> The operation was carried out on 8 October 1973.

In March 1972, the authorities employed other means when the inhabitants of the village of Akraba refused to leave their land, which had been requisitioned by a decree of the military government of the West Bank: Piper Cub aircraft were used to spray the land with a chemical that destroyed the entire crop. The land was placed at the disposal of the new settlement of Nahal Gitt later in the year.

It is estimated that the Labour government decided on and facilitated the establishment of more than ninety Jewish settlements, twenty-two in the Gaza District and Sinai, thirty-six on the West Bank of the Jordan and about a dozen residential quarters in the eastern sector of Jerusalem (see Annex II).<sup>46/</sup>

The present government of Israel is credited with officially recognizing the three settlements that already existed in the West Bank, Kaddum, Offra and Ma'ale Adumin. <sup>47/</sup> It is to be noted that religious groups like Gush Emunim sometimes establish settlements without any prior authorization from the State authorities who, for their part,



continue to apply the policy of Jewish settlement in the occupied territories regardless of the objections of the international community.

Although Mr. Begin's government has done no more than continue the policy of establishing Jewish settlements in the occupied territories laid down by the Mapai authorities, it is nevertheless true that this policy has the approval of the present government, which has even broadened it.

A committee has been set up whose main task is to apply the Israeli Government's Jewish settlement policy; it will henceforward be concerned with the management of the existing settlements.<sup>48/</sup> Mr. Ariel Sharon, the chairman of this committee, who is the Minister of Agriculture, is reported to have announced a plan for the Jewish settlement of the occupied territories covering a period of about twenty years under which two million Israeli Jews could be absorbed. <sup>49/</sup>

## CONCLUSIONS

The acquisition of land and other property in Palestine by Jews has been discussed in the preceding chapters. Prior to the military operations of 1948 and 1967, the land had been acquired by the traditional market methods, but these were subsequently replaced by less orthodox methods and the Palestinians' abandoned land and other property was simply seized by the Jews. For instance, after the military operations of 1948, the military occupation authorities took emergency and other measures to seize the Palestinians' lands and property. These measures, which have been described in detail in the foregoing chapters, all have the same characteristic: they are always taken for "security reasons". Subsequently, and particularly after these measures came into force, the State felt it had to justify the acts resulting from the application of these measures.

In order to do so, it enacted a series of laws, the most important of which - the Land Acquisition Law - enabled it to give a legal character to all the abuses arising out of the emergency and other measures taken by the military authorities. The Land Acquisition Law also authorized the State of Israel to take over abandoned land and property, which had not been the practice before this law was enacted.

This law, of which the State is the main beneficiary since it owns most of the land and other real property in Palestine, was subsequently to facilitate the direct intervention of the State in the administration and management of the land and other real property owned by the Palestinians.

Once the land and property had been acquired thanks to the Land Acquisition Law, this intervention of the State was to continue under the guise of the establishment of Jewish settlements.

Obviously, the State had to develop the land it had taken over and prevent bankruptcies; and so it introduced the policy of establishing settlements that would be State-run.

Like the steps taken or envisaged by the Israeli authorities to change the status, the geographical nature and the demographic composition of the occupied territories, this policy has been a matter of constant concern to the international community, which, in a resolution adopted on 28 October 1977, called upon the Government of Israel to "desist forthwith from taking any action which would result in changing the legal status, geographical nature or demographic composition of the Arab territories ... including Jerusalem".<sup>51/</sup>

This United Nations injunction had no effect, and the policy of establishing Jewish settlements in the occupied territories broadened in scope daily. A recent extension is the authorization to establish a new settlement near Nablus, in the West Bank given to a group of militants by Mr. Begin's government.<sup>52/</sup> This authorization also permits them to confiscate land belonging to Palestinians. This act on the part of the Government of Israel is only one link in a chain of measures going back to the cessation of hostilities in 1948 which has clearly led to the establishment of Jewish settlements in the occupied territories and to the Palestinians being dispossessed of their land and property.

In the view of the international community, such measures are invalid since they are contrary to the letter and the spirit of Articles 49 and 53 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War.

It is estimated that about eighty Jewish settlements, with a population of between 5,000 and 6,000 inhabitants, have been established in the West Bank since the end of the military operations of 1967.<sup>53/</sup>

These settlements, and their raison d'être, which varies according to the analyst, have not been such as to promote good relations between Jews and Palestinians. In some cases they have even contributed to a deterioration of these relations in which, owing to the occupation, there are anomalies which the Palestinian Arabs refuse to accept. The Palestinian Arab populations have always refused to allow the future to be dictated or controlled by elements outside the organic whole they constitute. And there has never been a case recorded in history of passive resistance to colonization. Such resistance is justified in the case of the Palestinian populations, particularly as the inalienable rights of the Palestinian people were recognized by the United Nations General Assembly in its resolution 2535 S (ES-VII) of 10 December 1969. These rights, including the right of self-determination, give the Palestinian people the psychological and physical strength to take their future into their own hands. In doing so and in opposing or resisting settlement, the Palestinians have to face the extremely harsh measures taken against them by the occupying power, which is anxious to reduce if not destroy all such resistance.

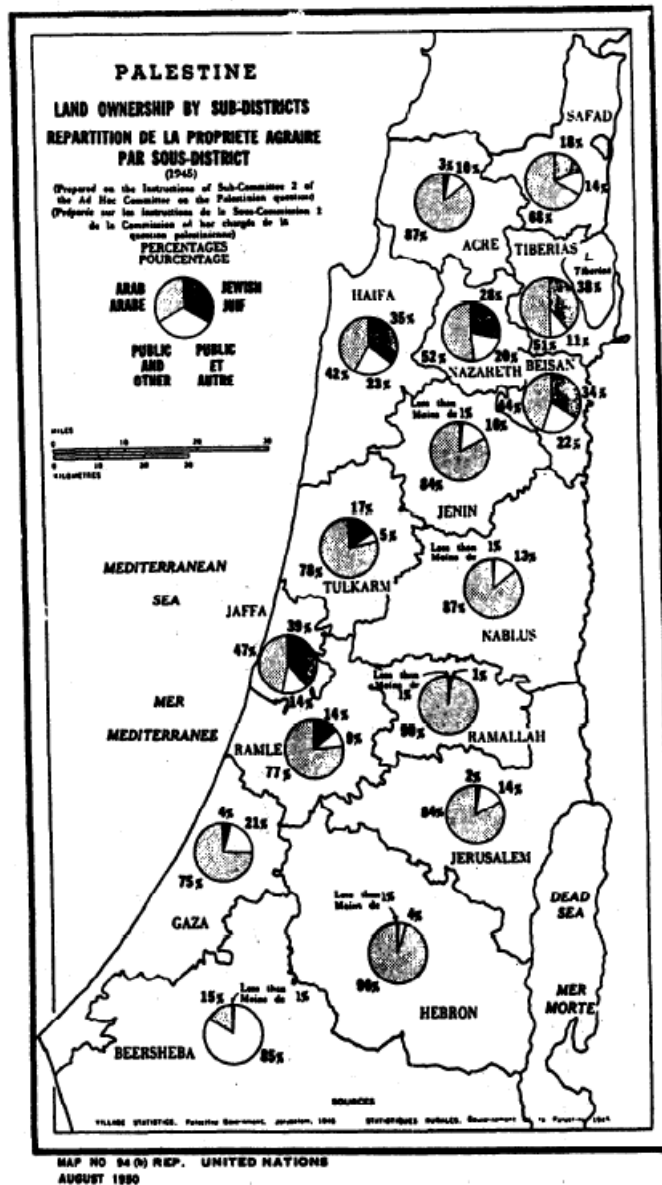
It is a well-known fact that the methods and practices of the occupying power are harsh and excessive and that they sometimes go as far as systematic repression.<sup>54/</sup> And the Israeli authorities who continue to be the occupying power in the Arab and Palestinian territories are also guilty of this practice, which is that of all colonial and occupying powers. By its very nature, occupation involves repression.

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ANNEX I

