

## From Plunder to Plunder: Israel and the Property of the Palestinian Refugees

By Suhad Bishara<sup>1</sup>

Everyone knows that the State of Israel denies the story of Palestinian refugees. It is no secret. However this denial reaches new heights when the State of Israel itself is prepared to violate its own laws and the relevant international law in regard to safeguarding the property of the refugees. The laws of war stipulate that it is permissible for a state to freeze the property of "enemy" refugees, but it forbids a state from fully expropriating these assets. The state must promise to safeguard the property and return it when the war is over. This principle was also stipulated in the Nuremberg trials.<sup>2</sup> In 1950, the State of Israel declared the establishment of the institution of the Custodian of Absentees' Property in order to safeguard this property. More than once, Israeli courts have confirmed that this act entails safeguarding the property and not expropriation. This is also the official position of the State of Israel. But recently, in the plan for privatizing lands, the State of Israel has engaged in activity that is contrary to its official commitments. This activity is defined by international law as "plunder" and violates, inter alia, Regulation 46 of the regulations attached to the Hague Convention Respecting the Laws and Customs of War (1907), which asserts the need to respect the right of private property and explicitly prohibits the expropriation of this property.

During the 1948 War, more than half of the Palestinian population (around 800,000 people) was expelled from the territory of Mandatory Palestine. They became refugees in the neighboring Arab states. Israeli forces also destroyed about 531 Palestinian villages. The Palestinian refugees left substantial property behind them, including their homes and lands, businesses and factories, private and business bank accounts, and considerable moveable assets. In 1950, the Knesset enacted

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<http://www.haokets.org/default.asp?PageID=10&ItemID=4516>

<sup>2</sup> Case No. 10 of the Nuremberg trials, **US Military Tribunal at Nuremberg, US v. Alfried Krupp et al.**, addressed the expropriation of property after the conclusion of World War II. The court ruled, inter alia, that expropriation constitutes a violation of Section 46 of the Hague Convention, which prohibits the expropriation of private property.

the Absentees' Property Law – 1950 (hereinafter: Absentees' Property Law), which transferred all of the property owned or held by the Palestinian refugees, as well as the property the refugees "enjoyed" to the control of the State of Israel. When this legislative proposal was presented in the Knesset plenum, (former) MK Yosef Lamm noted the main objective of the law, explaining that, inter alia: "This law intends to safeguard the property of the absentees for purposes that will be determined by the Knesset [...] the backbone of the law is without doubt – to safeguard the absentees' property."<sup>3</sup>

In 1954, the Custodian of Absentees' Property reported that it controlled about 4,450,000 dunams of absentees' property,<sup>4</sup> including some 3,310,000 dunams of agricultural land, about 1,000,000 dunams in Arab-populated villages, and about 150,000 dunams of urban land. Immediately after the war, some 146,000 Jews settled in buildings that belong to Palestinian refugees in cities such as Akka (Acre), Jaffa, Haifa and Jerusalem.<sup>5</sup>

<sup>3</sup> **Knesset Record**, Vol. 4, p. 952.

<sup>4</sup> A number of assessments of the assets of the Palestinian refugees were conducted, as summarized in the following table:

Source	Estimate of the scope of property of the Palestinian refugees (dunams)
<b>Estimates by the United Nations</b>	
UNCCP (1951) not including the Be'er Sheva region	4,186,012
including the Be'er Sheva region	16,329,707
UNCCP (1964) detailed assessment	7,069,091
<b>Estimates by Palestinians</b>	
Sa'ad Ba'ids (1951)	9,300,000
Yusuf Sa'ij (1966)	6,611,250
<b>Israeli estimates</b>	
Weitz, Danin, Lifshitz Committee (1948)	2,008,114
Yosef Weitz (1950), not including the Be'er Sheva region	3,584,600
Custodian of Absentee's Property (properties under this office's control in September 1954)	4,450,000
Israeli Ministry of Agriculture (1949) not including the Be'er Sheva region	16,593,000 4,093,000

All of these estimates are provided in: Michael R. Fishbach, *Records of Dispossession – Palestinian Refugee Property and the Arab-Israeli Conflict*, (New York: Columbia University Press, 2003).

<sup>5</sup> See Michael R. Fishbach, *Records of Dispossession*, p. 11

And who could resist the temptation? The nascent State of Israel immediately began to reap the fruits of this property for its economic prosperity. The Custodian of Absentees' Property held some 21,487 leasing contracts during the years 1948-1949 in the urban sector, which brought about 501,000 Israeli pounds into the new state's coffers. During the years 1952-1953, some 60,504 properties were leased, yielding revenues of 3,583,543 Israeli pounds for the state. A total of 244,564 properties in the urban sector were leased during the years 1948-1953, producing revenues of 11,453,543 Israeli pounds.<sup>6</sup> The state obtained these handsome sums from assets it plundered from the Palestinian refugees. These sums were gained in addition, of course, to the revenues from agricultural crops that the Palestinian refugees did not have time to reap. The Custodian of Absentees' Property wrote to the prime minister on 24 March 1949:

"Moveable assets were collected in the cities and abandoned villages and brought to warehouses. After they were registered and assessed by experts, most were sold to the Israel Defense Force, government departments, the Jewish Agency and individuals.

[...]

Most of the industrial facilities and workshops (lathes, etc.) were transferred to the military industry – other types of various industrial facilities in the cities, flour mills and ice factories, etc., were operated by cooperative institutions and by individuals.

The lands are leased to agricultural settlements and farmers by the Ministry of Agriculture – some of the orchards are tended by this department and some are leased by the Ministry of Agriculture to agricultural settlements and to individuals.

This department tended broad expanses of olive orchards (50,000 dunams) and thus achieved several objectives:

- A. We supplied 500 tons of oil to the state's economy.
- B. [We supplied] some of the product (150 tons) to the United States in exchange for a division.
- C. We employed thousands of fellahim in this work, who earned a livelihood from harvesting the olives.

**A. An important economic branch was conquered and integrated into the state's economy.**

[...] The Village Department coordinated the tractors. After first providing the army with what it needed, the rest were distributed to agricultural settlements as approved by the Ministry of Agriculture.

[...]

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<sup>6</sup> Ibid, p. 33.

**The revenues from liquidating the moveable assets, rents, and from the agricultural sector at the end of February add up to nearly 3 and ¾ million Israeli pounds.<sup>7</sup>**

(bold emphasis added here)

But the plunder did not stop here. In August 1951, in the framework of the *Monetary Report for the Year Ending March 31, 1951*, the Custodian of Absentees' Property reported to the minister of finance that: "The large revenues in the section are collected at the expense of the absentees, with a total of 582,000 Israeli pounds withdrawn from the absentees' deposits in Barclays Bank."<sup>8</sup>

Today, during a time of global economic crisis, the government of Israel is taking another step in the process of plundering the refugees' property. This time the plunder is taking the form of a liquidation sale of some of this property in the framework of reform processes in the Israel Land Administration. On 3 August 2009, Israel's Knesset passed the Israel Land Administration Law (Amendment No. 7) – 2009 (hereinafter: the Land Reform Law), which in practice comprises a comprehensive reform in the management of lands owned by the State of Israel, the Development Authority and the Jewish National Fund (Keren Kayemet Leyisrael), which account for 93% of the state's land. In the framework of the reform, the State of Israel will initiate a process of privatizing lands in built-up areas and in areas earmarked for development in the state. The privatization process means transferring ownership rights for these lands, currently held by the state, to private hands. The scope of lands slated to undergo this privatization process is estimated at about 800,000 dunams (4% of the state's territory). The new law will lead to the privatization of many properties that belong to the Palestinian refugees and which are currently held by the Custodian of Absentees' Property and the Development Authority.<sup>9</sup>

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<sup>7</sup> See Letter of D. Shafir, The Custodian of Absentees' Property to the Prime Minister, 24.3.1949, Israel State Archive, File 5440/1578 [Hebrew]

<sup>8</sup> See The Monetary Report for the Year Ending March 31, 1951, by P. Porat, The Custodian of Absentees' Property, 21.8.51, Israel State Archive, File 5440/1582 [Hebrew]

<sup>9</sup> See Adalah Position Paper, Critique of Draft Bill – Israel Land Administration Law, July 2009, available at: [http://www.adalah.org/newsletter/eng/jul09/Position\\_Paper\\_on\\_Land\\_Reform\\_Bill\\_july\\_2009.pdf](http://www.adalah.org/newsletter/eng/jul09/Position_Paper_on_Land_Reform_Bill_july_2009.pdf)

In addition to the fact that this privatization process will undermine any future possibility of returning these lands to their original owners, it will also violate their constitutional right to property and will be contrary to both Israeli law and international humanitarian law. This sale will again bring handsome sums of money into the coffers of the not-so-new state in the new economic era. Further, not only the assets of the absentees are involved, but also the lands of the Jewish settlements in East Jerusalem and in the Golan Heights, occupied since 1967, which are subject to the Land Reform Law by virtue of their (illegal) annexation to the territory of the State of Israel.<sup>10</sup>

Therefore, the opposition to the return of Palestinians apparently derives not only from the need to maintain a Jewish majority within the Green Line, as the State of Israel contends, but also from the need to reap profits from the assets of the refugees. The need to preserve a Jewish majority not only justifies historical injustices such as "creating Palestinian refugeeeness," but also justifies the continued perpetration of injustices. The Israelis ignore this activity of plunder, which does not receive the slightest mention in public discourse, yet they still wonder why the Palestinians are unwilling to recognize Israel as a Jewish state. The State of Israel is apparently allowed to deny the "Nakba," which constitutes one of the formative foundations in the history of the Palestinian people, and it also seeks to prohibit the Palestinian citizens of Israel from commemorating it. Yet, at the same time, it wants the victim to recognize the formative foundation of the State of Israel, which led it to become a victim – all while the State of Israel continues to run roughshod over international humanitarian law pertaining to the rights of the Palestinian refugees.

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<sup>10</sup> See Adalah Position Paper on the Privatization of the Lands of the Settlements on the Golan Heights and In east Jerusalem, August 2009 available at: [http://www.adalah.org/features/land/Position\\_Paper\\_on\\_Land\\_Reform\\_and\\_EJ\\_and\\_GH\\_settlements\\_English\\_Final%5B1%5D.pdf](http://www.adalah.org/features/land/Position_Paper_on_Land_Reform_and_EJ_and_GH_settlements_English_Final%5B1%5D.pdf)