



Crimes of neocolonialism in modern Palestine: land and freedom

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ABSTRACT

Based on a field visit. I aim to explore aspects of “crimes of neocolonialism” in modern Palestine from the mid-20th century till the present. Oppression, displacement, and colonization take place mainly through land confiscation and denial of use and access, and (Israeli) state suppression and criminalization are a usual answer to Palestinian resistance. Using a personal narrative too, I will try to present the mechanisms, uncover their consequences of the above and connect with concepts such as neocolonialism, war crimes, and crimes against humanity.

Keywords: crime, neocolonialism, oppression, displacement, land confiscation

1. Introduction: A visit to Palestine.

In February 2019, I decided to visit Palestine and the University of Bethlehem, as a visiting Professor via the Erasmus program. My decision was driven by my need to experience myself and interview people who experience every day how to live without being able to go to the next city, without being able to travel outside of their own country, to drive through damaged roads while forbidden highways exist, passing by Israeli soldiers when to move from one neighborhood to another in the same city, steal your property, build walls around you, beat you, rape and kill you, living in an open-air prison.

There, I met Bilal, a colleague, who owns a car with green plates and a green card. Bilal cannot go to either Jerusalem or Tel Aviv Airport. If he wants to travel to another city in Palestine, he spends many hours because he is subject to a lot of checks from Israeli soldiers who control all areas outside of each city (and several neighborhoods within every city). Bilal is married to a Palestinian woman from Jerusalem (who has a car with yellow plates and a blue card). Bilal can't go to see his wife and his two children. His wife and children can visit him in Bethlehem but can only stay there, one night per week. They have arranged to meet Thursday. This is their usual life...

When I was in Bethlehem, I went to a Palestinian refugee camp. “We were born here, but we will not die here”. This is what the refugees who continue to live there said to me. It has been 71 years since the creation of this camp! 16,000 people are living in a land, less than half a square kilometer. About 8 million refugees reside in and around 95 Refugee camps, in Palestine and neighboring countries. The government, the political parties, and the academy are not talking about them. Israeli soldiers are making raids there regularly, two or three times per week, beating, mutilating,

imprisoning, and even killing people (even in the camps that are ‘inside’ Palestine). Each ‘house’ in every camp has its martyrs, photos or drawings of them exist in these house’s walls. The last one, a 14-year-old kid, is dead. 71 years are too many, two generations living in there with the hope of seeing their real homes sometime in the future. They asked me to pass a message: talking about the right to return is not enough. We have to act upon, to make it happen.

When I was in Palestine, I wanted to travel to other cities. First, I read a university study that shows that \$ 400 million is the annual cost of the Palestinian economy from delays in checkpoints and damaged roads in the country compared to the roads used by Israelis. Then I traveled to Ramallah (22 Kms from Bethlehem) and spend one whole day, for a round trip. My colleagues decide to cancel my (other) trip to Hebron. It is not safe for my life, they told me. Israeli soldiers just raid the city.

A colleague in the University told me about the Israeli apartheid policies: water and land. By controlling water, you control life. He told me that the average daily use of water for Palestinians is 73 liters while that of Israeli settlers is 369 liters per person. The Israelis control the Jordan river, and spring inside (independent) Palestine, thus provoking a deterioration in the quality of life as a conscious political practice.

The spatial aspect of apartheid policies is something that is witnessed by Palestinians as a more extreme state crime. It is not only the control (700 closed-circuit cameras only in the Old City of Jerusalem). People are trapped in the territories occupied by Israel but refuse to leave their homes. Then either the state does not grant you a renovation permit, houses collapse eventually, and residents leave. Or suddenly a Jewish family comes to your house and stays in a room. In the common areas, the ‘guests’ move around with weapons. Eventually, you will leave because of fear. Another Palestinian



family went to a wedding. When the family returned home, saw all belongings outside the house and the locks changed. The 'new residents' celebrate their new house by putting the Israeli flag on the house. And finally, a good Palestinian friend tells you "transcribe your house as my property to take care of it for you, since the police and Israeli authorities are looking for you and want to criminalize you". You do it because you understand the masked threat. Your compatriot is an Israeli collaborator.

All the above cases, that I witnessed in my interviews, are case studies of the forced transfer and displacement of Palestinians. A displacement because of unbearable living conditions created by the occupying power lead the population to leave the given territory to look for normal, safety, security, and development elsewhere. This is the result of policies such as institutionalized racial discrimination against the Palestinians, the confiscation of their lands, or prohibiting them of using or benefiting from their lands and natural resources, the demolition of their homes, enforcing impediments on construction - denying growth and development, imposition an arbitrary system of permits. But most important it is the result of the neocolonial situation in modern Palestine and its manifestation: Israel established 236 colonies inside 1967 occupied Palestinian territory and 224 colonies in the West Bank; 12 colonies exist only in the city of Jerusalem. The number of Israeli colonizers in the 1967 occupied Palestinian territory has doubled since 2000, reaching today 650,000 people. They control 70 percent of the total territory.

Marx told us that colonialism presented capitalism in naked form, stripped the decorous clothing of European bourgeois society (Marx and Fernbach, 1973, p.324) and Sartre added that colonialism denies human rights to people it has subjugated by violence, and whom it keeps in poverty and ignorance by force, therefore in a state of 'sub humanity'....Since the natives are sub-humans, the Declaration of Human Rights does not apply to them, conversely, since they have no rights, they are abandoned without protection to the inhuman forces of nature, to the "iron laws of economics" (Sartre, 2001, p.3). Economics is by far the most common tool used in neocolonialism that is defined as a description of the economic and other lengths that one country might go to expedite the cultural assimilation of a foreign territory. The practices of neocolonialism can be carried out between cultures with no historical colonial connection as in the current case; the neocolonialist dominates by taking control of the resources and low-cost labor from the neo- colonized who becomes dependent within its borders.

One valuable resource island which is more valuable in the case of a neocolonialist state that wants to multiple its population and in the same time resources are being stretched thin.

2. Oppression, displacement, and colonization through land confiscation

Land confiscation and denial of use and access have been one of the main tools used historically by Israel to seize Palestinian land and constitute one of the root causes of the ongoing forced population transfer of Palestinians today. While certain instances of confiscation, home demolitions, or blocked access are covered by the media, these reports rarely contextualize these actions as part of a broader Israeli policy of forced displacement of Palestinians. The Israeli policy of land confiscation encompasses an array of mechanisms designed to transfer Palestinian ownership or rights of ownership, particularly access of land, to Israeli bodies and authorities, Zionist organizations such as the Jewish National Fund, and Jewish-Israeli individuals (BADIL, 2017b). These mechanisms can be divided into two types: *de jure* and *de facto* confiscation. While *de facto* land confiscation does not immediately change the ownership status but rather reflects the situation on the ground, *de jure* confiscation constitutes the official transfer of ownership. In situations of *de facto* confiscation, Israel is in control of the land and applies numerous measures that seriously hinder or deny the landowner's use and access to the land or property. Such limitations can come in the form of laws or Israeli military orders that designate parcels of land as closed military zones, nature reserves, national parks, seam zones¹, and/or the building of the Annexation and Separation Wall, colonies, checkpoints, and by-pass roads. The owners are subsequently forbidden from using or accessing that land, even though the official ownership has not been transferred. This *de facto* confiscation is what is commonly known as denial of use and access and in most cases is utilized as an intermediary step that eventually results in *de jure* confiscation, when the transfer of ownership does occur.

Confiscation of land and denial of use and access in Mandate Palestine has taken place in various stages and through various mechanisms. During the British Mandate, it was suggested that all uncultivable land be registered in the name of the High Commissioner of Palestine, providing that it would be used for the good of the community (Kishk, 1981). Following the 1948 War, known as the 'Nakba'(catastrophe in Arabic) and the forcible displacement of over 750,000 Palestinians to what came to be called the oPt (occupied Palestinian territories) and to neighboring countries, Israel established itself on 78 % of the territory of Mandate Palestine. After 1948, Israel as the successor sovereign 'inherited' all the land that was registered in the High Commissioner's name from the British government, which became dubbed as Israeli 'state land'². Moreover, the properties of all the forcibly

¹ Seam zones are sections of Palestinian land within the oPt which have been isolated because of the construction of the illegal Israeli Annexation and Separation Wall, with their location falling in- between the Wall and the 1949 Armistice Line (Green Line) and are thus cut off from the rest of the West Bank. For more information, see BADIL Resource Center, Seam Zones, available at: http://www.badil.org/phocadownload/pap/Badil_docs/bulletins-and-briefs/Bulletin-25.pdf

² One of the most effective legal instruments is the use of the classification of 'state land'. Israel inherited the land that was registered in the British High Commissioner's name from the British government after 1948. In addition, Israel modified the 'state land' concept/definition



displaced Palestinians were declared 'absentee property' and were transferred to a Custodian. An almost identical process took place in the oPt in the aftermath of the 1967 War when Israel occupied the remaining 22 % of the land of Mandate Palestine. Israel also claimed as 'state land' all the land that Jordan had designated as such during its administration of the West Bank.

Following the 1967 occupation, Israel proceeded to acquire Palestinian lands in the oPt by applying several approaches simultaneously: expropriations for specific purposes, like military or public use; claiming additional land as 'state land'; and private purchases³ (BADIL and Centre on Housing Rights and Evictions, 2015). Also, in 1967, Israel annexed 70.5 km² of East Jerusalem, using one-third of this newly acquired land for colonies, in contravention of international law. Today, 87 % of East Jerusalem is slated for colonial use (United Nations Office for the Coordination of Humanitarian Affairs - occupied Palestinian territory, 2014). As with other discriminatory policies and practices, the purpose is to forcibly transfer Palestinians through the denial of use of land and property.

In 1995, the Oslo II Accords divided the West Bank into Area A, comprising 17 % of the West Bank, Area B, 23 % of the West Bank, and Area C, the remaining 60 % of the West Bank (Israel Ministry of Foreign Affairs, 1995). The Oslo Accords provided that the Palestinian Authority (PA) exercise full control over civil and security matters in Area A. In Area B, the PA is responsible for civil matters and public order, but security and military functions remain under Israeli control. Area C is under full Israeli military and administrative control. This area contains all Israeli colonies and related infrastructure, as well as Israeli nature reserves and national parks, military firing zones, and the Annexation and Separation Wall (B'Tselem, 2019). By utilizing a wide range of military orders and other practices, Israel confiscates and denies Palestinians use and access to their lands and properties throughout the West Bank.

One more 'modern' mechanism of land confiscation is legalizing acts of denial of use and access, or de facto confiscation carried out by colonizers and colonizers' organizations. For example, several official Israeli colonies were initially established by colonizers and private organizations and were retroactively sanctioned by Israel. This support is sometimes direct, by providing protection or infrastructure to these outposts, or tacit, by not dismantling the colonies or removing these colonizers from the oPt.

While not identical to the process of privatization, Israel's sanctioning of the illegal de facto confiscation perpetrated by non-state actors has become far more significant in recent years. On 6 February 2017, for example, the Israeli Knesset passed the 'Regularization Law', legalizing around 4,000 housing units in 55 colonial outposts built on private Palestinian land in the West Bank (BADIL, 2017a; Al-Haq, 2017). This law retroactively legalized any colonial outposts built on private Palestinian land under Israeli law, effectively allowing the illegal expropriation of private Palestinian land and cementing colonization within the Israeli legal system.

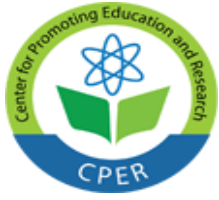
The de facto confiscation of land by non-state actors and posterior legalization is a way for Israel to gain control over privately-owned lands without infringing upon its laws. Since Israel cannot always confiscate private Palestinian lands through legislation alone, it allows non-state actors to do so despite being a violation of Israeli laws. The ongoing impunity enjoyed by Jewish- Israeli colonizers hinders the possibility of prosecuting them and since Israel itself has no direct role in the confiscation, it is exempt from any liability. This mechanism, therefore, allows for regular unlawful confiscations of Palestinian property that go unchallenged. Once the land is under their permanent control, Israel legalizes the situation and acquires the property through *de jure* confiscation.

3. Suppression and criminalization as an answer to resistance: "crimes" and Crime

To all the above, resistance comes naturally. So, is suppression. The Israeli policy of suppression of Palestinian resistance is implemented through a combination of legislation, physical force, and psychological pressure. From 1967 on, no fewer than 500.000 people out of a population of 1.500.000 have spent some time in jail (Moughrabi, 1992). As of July 2019, Israel is holding 5.150 Palestinians as political prisoners, including 460 in administrative detention, 210 children, and 38 women and girls (War on Want, 2020). Palestinian detainees can be interrogated indefinitely, and they can be denied access to legal representation for 60 days after the arrest. During interrogation, detainees are often subjected to cruel, inhuman, or degrading treatment, physical and/or psychological torture. Confessions extracted through such practices are allowed as evidence in military court, as are confessions written in Hebrew and signed by detainees who do not speak or read the language. Forms of torture and ill-treatment used against detainees include beatings, tying prisoners in "stress positions", interrogation sessions lasting up to 20 consecutive hours, sleep and other sensory deprivation, isolation and solitary confinement, and threats against the lives of relatives. In the past detainees have died in custody as a result of torture. Palestinians arrested from the West Bank and Gaza Strip are tried in Israeli military court where the judge, prosecutor, clerks, and even the translators are active-duty soldiers and military personnel. There is no semblance of due process or impartiality in these courts. As a result, Palestinians are

to expand its applicability to other categories of Palestinian lands. By exploiting the traditional land registry system of, introducing new definitions of 'state land' through numerous military orders and deliberate misinterpretation of historic relevant provisions, Israel has blurred the line between state land and other categories of lands. The Israeli concept of 'state land' has been designed to encompass public lands, other categories of uncultivated land and private but unregistered lands (Al-Monitor, 2013; BADIL, 2013). In 1980 Israel declared all uncultivated and unregistered lands as 'state land', including all land that had not been cultivated for more than 10 years (Tamim, 1995). This and other modifications as well as laws enacted since the 1950s apportioned 93 % of the land in Israel to be under governmental control (Knesset, n.d.). These state lands are owned directly by the Israeli government or by quasi- governmental bodies: Israel owns 67 %, the Development Authority owns 13 %, and the Jewish National Fund (JNF), 13 % (Mahajneh and Mahajneh, 2010).

³ Privatization is the process by which the ownership of properties or land is transferred from the authorities and quasi-government organizations to the private sector. By privatizing land originally owned by Palestinians, Israel aims to make the confiscation permanent and erase possibilities of reversing the process within Israeli legal systems. Privatization is mainly used inside Israel, in cities such as Haifa, Acre or Jaffa, and but also in East Jerusalem against properties that belong to the Palestinian refugees and internally displaced persons (IDPs) who were or are residents of those cities.



compelled to plead guilty to be eligible for plea bargains to limit their sentences. Since they will end up with a record either way, and chances of being exonerated are almost nil, prisoners feel they have no other practical option. The Israeli military boasts over a 99% conviction rate in its military courts.

Administrative detention is a procedure that allows the Israeli military to hold detainees on 'secret evidence' without charging them or allowing them to stand trial. Since 1967, at least 50,000 administrative detention orders have been issued by Israeli military officials and courts (Kates, 2014). Administrative detention orders can last for six months but are renewable indefinitely. Administrative detention orders are frequently renewed on or just before the expiry date. An average of 700 Palestinian children (under 18 years old) from the West Bank are arrested, interrogated, and detained by the Israeli military each year. The most common charge against children is throwing stones, punishable by up to 20 years in prison. There are no special interrogation procedures for children detained by the Israeli military, nor are there provisions for an attorney or even a family member to be present when a child is questioned. A majority of children report being subjected to ill-treatment in Israeli detention. Most children report that they are physically or verbally abused. Sexual harassment and abuse are also prevalent during interrogations. Forced confessions are often extracted this way, and children are often compelled to sign confessions in Hebrew, a language most of them don't know (War on Want, 2020).

Apart from the above, West Bank residents live under Israeli rule but are not afforded the rights and privileges of Israeli citizenship (for example, voting, residency, etc.) Instead of regular civilian laws, they are subject to thousands of Israeli military orders which govern their lives. These laws include prohibitions against political activity, and those who are accused of breaking those laws are arrested and detained.

The main goal of this suppression goes beyond mitigating security threats or restoring public order, to establishing an intricate system of domination and control over the Palestinian people throughout Mandate Palestine. Grave breaches of international law such as extrajudicial killings, torture, or excessive use of force, aim to punish anyone who opposes the Israeli regime and foster an atmosphere of fear to deter future resistance. This physical retaliation, coupled with collective punishment, expands the impact of the actions of those who resist the whole community, inducing feelings of guilt and blame, which leads to the destruction of the collective identity and solidarity among Palestinians. Attacking Palestinian civil society and human rights movements leaves Palestinians without mechanisms to denounce these violations, seek protection, or build cohesiveness and unity against the

Israeli regime. Israeli policies aimed at undermining Palestinian culture, identity, and education, impose a regime of institutionalized discrimination and force a sense of inferiority on any initiative challenging the dominating Israeli narrative, traditions, and even language. The combination of all these individual policies results in a widespread system of persecution against any kind of opposition to the illegal status quo; resistance is criminalized. Suppressing and criminalizing resistance does not only hinder Palestinian attempts to realize their rights, but also facilitates the ongoing implementation of policies of colonization, apartheid, and forced displacement by Israel.

Considering the legal framework applicable to the Israeli suppression of Palestinian resistance, it can be concluded that this policy, and the individual acts and measures that it involves, constitute some of the most serious violations and breaches of international law. Whether through *de facto* or *de jure* confiscation, using force, legislation, or recognition of the illegal actions of non-state actors, Israeli land confiscation is policy-violating international laws and principles. Moreover, the following cases demonstrate how the confiscation of Palestinian land is a discriminatory policy motivated by political aims that are used to displace Palestinians from their lands and homes. Forced Population transfer is a War Crime as it is a grave breach of the Geneva Conventions, and might even constitute an international crime: "Grave breaches [...] shall be those involving any of the following acts if committed against persons or property protected by the present Convention: [...] unlawful deportation or transfer..." (Article 147 of the Fourth Geneva Convention Relative to the protection of civilian persons in Time of War). "The Occupying Power shall not deport or transfer parts of its civilian population into the territory it occupies... 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" (Article 49 of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War). Furthermore, according to Article 8 of the Rome Statute of the International Criminal Court "the transfer, directly or indirectly, by the Occupying Power of parts of its civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory". Additionally, forced population transfer is a crime against humanity as according to Article 7 of the Rome Statute of the International Criminal Court "deportation or forcible transfer of population" means forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law.



VOL: 4, ISSUE: 2

February/2022

<https://ijssppnet.com/>

E-ISSN: 2663-7200

DOI: 10.33642/ijsspp.v4n2p1

Center for Promoting Education and Research (CPER) USA

www.cpernet.org

4. Conclusions-What shall be done

According to Moughrabi (1992), Israel's war against the Palestinians is waged at three levels. One level is designed to produce 'social death' by outlawed Palestinian symbols, while Palestinians persistently keep exhibiting these symbols as a way of affirming their own national identity. A second level is the 'political policing', designed to produce 'political death'. The third level is designed to produce 'economic death' by trying to control infrastructures and confiscating land⁴. This level is central to the present text as is central to Palestinians' and Israeli's modern life and destiny. It is easy to conclude how the first two levels of 'war' produce resistance which is criminalized by the authorities. However, it is important to show that the third, 'hidden', level of war produces the same results. It is important to show the centrality of the land issue and its effects. But it is equally important to 'use' this crucial 'case study' to reflect our criminological studies. What is a crime and what are its real causes in this case? Accordingly, we should reveal and fight against the real crimes of our time (that bring social harm to freedom, democracy, and human rights) and in this case, state crimes of neocolonialism and try to present a solution and an answer to the question 'what shall be done.

'Native' language is very important when you try to do an ethnographic case study and should be presented as raw as it takes. In the specific case, I feel obliged to use the 'native language' and re-present the recommendations to the international community and civil society according to a

brochure published by the Resource Centre for Palestinian Residency and Refugee Rights BADIL (2014) and given to me on my visit there. These are to study and address the root causes of the ongoing forcible displacement of Palestinians by Israel; to develop mechanisms and take effective measures to bring Israel into compliance with international law. Responsibility and accountability for injuries, loss of life and property should be pursued through investigations, ensuring reparations and prosecuting those guilty of serious international human rights and humanitarian law violations; to improve response mechanisms in the occupied Palestinian territory by focusing efforts not only on short-term emergency aid, but also on preventing forced displacement through filling protection gaps as medium and long term needs; to lobby governments to cease diplomatic, military and economic support of and cooperation with the state of Israel; to develop solidarity movement approach by institutionalizing and regulating solidarity with Palestinians/ Palestine, supporting comprehensive human-rights based solution ensuring the fundamental rights of Palestinians (self-determination, return and equality), lobbying governments to provide Palestinians including those in exile with protection they are need to in accordance to international standards, conducting awareness-raising campaigns in face of Israeli propaganda and violations; to ensure reparation and remedies for Palestinian victims, through practical measures to facilitate housing and property restitution and compensation by Israel.

Apart from that, we (researchers) should look closely at ourselves and work, and answer the main question(s) without fear, laziness, or indifference: whose side are we on?

⁴ In this level, international actors take part too. The EU recently notified the Palestinian Civil Society Organizations (PCSOs) of an additional condition to the annex attached to the EU's funding contracts, namely that civil society organizations are obligated not to deal with individuals or groups designated as "terrorist" by the EU. Many Palestinian resistance movements and various individuals and families will be affected by the addition to the policy. For example, people who were arrested at some point in their past, including those held in internationally denounced administrative detention and currently engaged in civil society activism, can be classified as "terrorists" and therefore disqualified from receiving funding (Dana, 2020).



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