

“1948-2024: The Ongoing Palestinian Nakba”
Panel Discussion
Convened by the
Committee on the Exercise of the Inalienable Rights of the Palestinian People (CEIRPP)
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“The Nakba and the UN’s Permanent Responsibility for the Question of Palestine”

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Your excellences, ladies and gentlemen,

1. I should like to offer my thanks to the Committee on the Exercise of the Inalienable Rights of the Palestinian People, and the Division for Palestinian Rights, for all of the work you do. And for this opportunity to address you today.

2. It is exceedingly difficult to speak about the Nakba in a manner that sufficiently captures the enormity of the Palestinian predicament, a long-festering wound upon the conscience of these United Nations. Ethnically cleansed. Denationalized. Dispossessed. Occupied. Racially discriminated against. And now the target of what the International Court of Justice has determined is a risk of irreparable harm to their right to be protected from genocide. It is as though the Palestinian people have been made to endure an endless calvary, as Edward Said once put it, incessant, unremitting, unforgiving.

3. As we gather to mark 76 years of Nakba, under the long shadow of Gaza, the theme of continuity is ever present. What the Palestinian people has been enduring for three quarters of a century – uniquely on full display in real time on social media feeds as we speak – is a singular experience of unmitigated disaster; of the sustained and concerted effort to do away with their collective and national existence in their native land. The Nakba continues because it is the logical culmination of Zionist settler colonialism in Palestine, which has yet to complete its task, with its insatiable drive to displace and replace Palestine’s natives, as foretold and proclaimed by its founding fathers, institutions and present-day adherents.¹

4. As Patrick Wolfe has noted, settler colonialism involves a “logic of elimination”. This logic strives for the dissolution of native societies while it erects new colonial societies in their place. In this sense, “settler colonizers come to stay”, with invasion and colonization constituting “a structure not an event.”²

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¹ For example: Theodor Herzl, Josef Weitz, Ze’ev Jabotinsky, Chaim Weitzman, David Ben Gurion, the Jewish National Fund, the Israel Lands Authority and others. As proudly proclaimed by Josef Weitz, a senior director of the Jewish National Fund in the Mandate period and an early architect of the ethnic cleansing of Palestine: “Among ourselves it must be clear that there is no place in the country for both peoples together... With the Arabs we shall not achieve our aim of being independent people in this country. The only solution is Eretz Israel [i.e. Palestine] ... without the Arabs... and there is no other way but to transfer the Arabs from here to the neighbouring countries, transfer all of them, not one village or tribe should remain. ... Only with this transfer could the country absorb millions of our brothers. There is no other alternative.” Davis, U. *Israel: An Apartheid State* (Zed, 1987) at 5.

² Wolfe, P. “Settler Colonialism and the Elimination of the Native” (2006) 8(4) *Journal of Genocide Research* 387 at 388.

Your Excellencies,

5. The Nakba is a structure, not an event. This structure is in overdrive as we speak, with a pace and fervor never before seen. It is happening publicly. Its authors openly admit its aims. And yet little to nothing is being done to stop it by those in a position to do so. It is being actively colluded in by a small number of western States and political elites, led by the United States. It has cast serious doubt over the continued viability of the post-WWII international legal order. These western states have fashioned all manner of Orwellian justifications for their collusion with the Nakba in Gaza, whether nonsensical arguments about Israel's so-called right of self-defence (dismissed by the ICJ 20 years ago), Israel's purported purity of arms (belied by countless *tik tok* videos of sadistic IDF soldiers on the ground), and acquiescence in spurious Israeli claims that UNRWA, the lifegiving, life-saving humanitarian arm of the UN in Gaza, was somehow involved in 7 October (debunked by a high level independent review panel). The vacuousness of these western justifications is rooted in one simple truth that runs like a thread throughout: The consistent denial of the very humanity, agency and political rights of the Palestinian people, a people for whom the United Nations has a permanent responsibility until their plight is resolved in accordance with international law.

6. The UN's permanent responsibility for the question of Palestine is often spoke of in these hallowed halls. But what is not spoken of as often or at all are the *reasons* as to why that responsibility actually exists.

7. For that, it is essential to discuss the fateful decision made by the then western dominated UN General Assembly to recommend partition of Palestine against the will of the country's indigenous majority population through resolution 181 of 29 November 1947. A review of the terms of the partition plan and the accompanying UN record – recounted in my recently published book on the UN and the Question of Palestine³ – reveals that the plan was illegal under prevailing international law. This illegality helped lay the ground-work for the Nakba of 1948 and its painfully unjust results that have continued and, indeed, accelerated ever since.

Your Excellencies,

8. As many of you know, resolution 181 provided for the partition of Palestine into an Arab State and a Jewish State in economic union, with the city of Jerusalem and its environs established as a *corpus separatum*. Both states were required to adopt democratic constitutions, establish government on the basis of universal suffrage, and guarantee to all persons equality before the law. Sounds good, doesn't it? But by any objective assessment, the terms of the partition plan revealed an absolute contempt for the principle of self-determination of peoples as applied to Palestine as a Class A mandated territory, rooted upon the idea of majority democratic rule.

9. Territorially, the plan allotted the Jewish State 57 per cent of Palestine, including its most fertile land, despite the Jewish settler population comprising only 1/3 of total of the country and possessing only 5.6 percent of registered land ownership. Demographically, although the proposed Arab State would include a clear majority of approximately 725,000 Arabs to 10,000 Jews, the proposed Jewish State would contain a total population of 1,080,800, consisting of 509,780 Arabs and 499,020 Jews. This meant that, based on the UN record, minority rule would prevail in the purported Jewish State from the outset. This, despite the terms of 181 requiring that the Jewish state be democratic, ensure universal suffrage and guarantee equality before the law.

³ Imseis, A. *The United Nations and the Question of Palestine: Rule by Law and the Structure of International Legal Subalternity* (Cambridge University Press, 2023).

10. The UN partition plan was a glaring anomaly under prevailing international law. As I outline in my book, only two courses of action were legally open to the Assembly at the time: (1) immediate independence of the whole of Palestine in line with the wishes of the majority of its inhabitants; or (2) UN trusteeship. Put simply, if the new UN Charter system was to prevail, partition could never be legal without the freely expressed consent of the governed.

11. The UN record demonstrates that partition was not based on these international legal considerations. Rather, it was driven by hegemonic European states and their settler-colonial affiliates for political reasons. The UN record shows that the declared goal of these states was to rectify Europe's centuries-old 'Jewish question' in the wake of the Holocaust and to do so at the expense of the innocent third-party Palestinians. As noted by the permanent representative of Yemen at the time: "If Jews were persecuted in Europe what have the people of Palestine to do with that?"⁴

12. The UN record demonstrates that partition was accompanied by a complete contempt for principles of self-determination and democratic governance as applied to Palestine as a class A mandate. For instance, in its majority report recommending partition to the Assembly, the UN Special Committee on Palestine (UNSCOP) expressly noted that:

*"With regard to the principle of self-determination, although international recognition was extended to this principle at the end of the First World War and it was adhered to with regard to the other Arab territories, at the time of the creation of the 'A' Mandates, it was not applied to Palestine, obviously because of the intention to make possible the creation of the Jewish National Home there. Actually, it may well be said that the Jewish National Home and the sui generis Mandate for Palestine run counter to that principle."*⁵

13. Astoundingly, none of this gave the UNSCOP majority reason for pause. An even more animated rationale in support of partition came from one of its members who unabashedly asserted on the floor of the General Assembly on 10 October 1947 that:

*"Palestine was no more Arab than certain Spanish countries of Latin America were Indian. [T]he Jews had made a pleasant and healthy country out of a land in which a sparse and rachitic population had merely vegetated. It was incomprehensible that the Arabs should adduce their numerical superiority as an argument...an ignorant majority should not be allowed to impose its will."*⁶

Your Excellencies,

14. One could go on, but you get the point. For the Western dominated UN, the Palestinian people did not matter when it came to the application of international law in 1947. Their claims, let alone

⁴ See statement of H.R.H. Prince Seif El Islam Abdullah (Yemen), UN GAOR, 2nd Sess., 124th Plen. Mtg. at 1316, A/PV.124, 26 November 1947. See also, Ad Hoc Committee on the Palestinian Question, Summary Records of Meetings 25 September – 25 November 1947, UN GAOR, 2nd Sess., 18th Mtg. at 120, 18 October 1947, where a representative of the Arab Higher Committee stated: "Nations which had initiated or permitted anti-Semitism had no right to ask tiny Arab Palestine to pay by the loss of its rights for the mistakes of others;" and UN GAOR, 2nd Sess., 126th Plen. Mtg. at 1385, A/PV.126, 28 November 1947, where Ernesto Dihigo (Cuba) stated: "With regard to the Jewish or non-Jewish refugees now in camps for displaced persons, a problem on which so much emphasis has been laid by those in favour of partition...it should be solved by good will on the part of all United Nations, each of which should receive a proportion of refugees in accordance with its ability to do so and in the particular conditions in each country. But we do not see why Palestine should be expected to solve the whole problem alone, especially as that country had no hand in determining the circumstances which originally caused the displacement of all these persons."

⁵ UNSCOP, Report to the General Assembly, 2nd Sess, Vol I, A/364, supplement 11, at 35, 3 September 1947.

⁶ Statement of Ambassador Garcia-Granados (Guatemala), Ad Hoc Committee on the Palestinian Question, Summary Records of Meetings 25 September – 25 November 1947, UN GAOR, 2nd Sess, 10th Mtg. at 56-58, 10 October 1947.

existence, were not taken seriously by the western powers. Like all colonial peoples, they were treated with racist contempt and as mere impediments to more noble European interests that were to be pursued come what may.

15. Why, one might ask, does any of this matter when we speak of the 1948 Nakba and the UN's permanent responsibility for the question of Palestine? Well, the UN record shows that UNSCOP and the western dominated General Assembly suffered from a cognitive dissonance as to the inevitability of violence befalling the Palestinian people following passage of the partition plan. We now know that the 1948 Nakba consisted of innumerable acts of widespread, premediated and systematic violence aimed at expelling or encouraging the mass flight of the indigenous Palestinian population from the country. These acts included the wholesale and indiscriminate bombardment, siege and expulsion of the Palestinian population from cities, towns and villages,⁷ at least 31 confirmed massacres of Palestinian civilians (including use of mass graves as means of concealment),⁸ rape and other forms of sexual and gender based violence,⁹ psychological terror campaigns broadcasting horrors to befall the population if it did not flee,¹⁰ biological warfare,¹¹ and a host of scorched earth tactics, including the deliberate destruction of between 392 and 418 Palestinian villages whence at least half of the refugees were expelled.¹²

16. And as the ethnic cleansing was unfolding, and well before the last armistice agreement was signed in 1949, the new state of Israel consolidated its conquest by seizing, looting, and settling Palestinian refugee and state property.¹³ On the eve of the Zionist offensives in April 1948, David Ben Gurion, said that “we shall enter the empty villages and settle in them... In peace time we would not have been able to do this.”¹⁴ Accordingly, “[a]bout 135 new [Jewish] settlements were established” during the 1948 war, most of which on Arab-owned land, including dozens on territory earmarked by the UN partition for the Palestine Arab State.¹⁵ Tens of thousands of new Jewish settlers were moved by Israel into Palestinian Arab refugee houses that remained intact.¹⁶ They and their descendants remain in that property to this day. It is not without reason then that when Israeli leaders now call for the re-settlement of the Gaza Strip, the people of Palestine shudder in fear of what is to come.

Your Excellencies,

⁷ For example, in mid-July 1948, 50,000 Palestinian inhabitants of the cities of Lydda and Ramleh were expelled by the Hagana under command of Yigal Allon and Yitzhak Rabin, the latter of whom would become prime minister of Israel. See Pappé, *supra* note 70, at 166-169. Morris affirms that “[t]here was an almost universal one-to-one correspondence between Jewish attacks in specific localities and on specific towns and Arab flight from these localities and towns.” See Morris, B., *1948 and After: Israel and the Palestinians* (Oxford, 1994) at 31.

⁸ See Pappé, I. *The Ethnic Cleansing of Palestine* (One World, 2006) at 258, where the author indicates an additional six massacres may have taken place. This is a conservative figure. Salman Abu Sitta has documented 141 “massacres and atrocities”. See Abu Sitta, S. *Atlas of Palestine, 1948* (Palestine Land Society, 2004), at 65. Some of the more notorious massacres took place at Deir Yasin (9-10 April 1948; Tantura (22 May 1948); Safsaf (29 October 1948); and al-Dawayima (29 October 1948). See Pappé, *id.*, at 90-92, 133-137, 184, 195-198.

⁹ Pappé, *id.* at 208-211.

¹⁰ See, e.g. Morris, B. *The Birth of the Palestinian Refugee Problem Revisited* (Cambridge, 2004).at xvi-xx, 230.

¹¹ Morris, B. & Kedar, B. “Cast Thy Bread: Israeli Biological Warfare During the 1948 War” (2022) *Middle Eastern Studies*, DOI: [10.1080/00263206.2022.2122448](https://doi.org/10.1080/00263206.2022.2122448).

¹² The figure of 392 is given in Morris, *Birth Revisited*, *supra* note 10, at xvi-xxii. The figure of 418 is offered in Khalidi, *All That Remains* (IPS, 1992) at 585.

¹³ Khalidi, *id.* at xxxii. Writing of the Palestinian refugees, Khalidi notes, at xxxii: “Their immovable assets – commercial centers, residential quarters, schools, banks, hospitals, clinics, mosques, churches, and other public buildings, parks and utilities, all passed *en bloc* into the possession of the citizens of the nascent State of Israel. Also appropriated intact by Israelis were the personal movable assets: furniture, silver, pictures, carpets, libraries, and heirlooms”.

¹⁴ Morris, *Birth Revisited*, *supra* note 10, at 370-371.

¹⁵ *Id.*, at 369.

¹⁶ Morris, *id.*, at 395, reports that by April 1949 at least “110,000 [new Jewish settlers] had been settled in abandoned Arab houses”. See also Khalidi, *All That Remains*, *supra* note 12 at xxxii.

17. Palestine's initial ethnic cleansing in the 1948 Nakba was consolidated by an Israeli cabinet decision of 16 June of that year to bar return of the Palestinian refugees to their homes and property.¹⁷ This was followed by various administrative acts (e.g. the blocking of Palestinian refugee bank accounts) and the passage of legislation aimed at giving the imprimatur of legality to it all (including the Emergency Regulations (Absentees' Property), the Law of Return (1950), and the Citizenship Law (1952)).

18. Israel's ethnic cleansing of the Palestinian refugees, its wholesale dispossession and usurpation of their property, its mass-denationalization of that population and its denial of the right of those refugees to return and restitution constitute gross and systematic violations of relevant international law which continue to the present day. For over almost eight decades they have been compounded by myriad actions of Israel – administrative, legislative, judicial and military – all of which have been animated by what Israeli human rights organization B'Tselem has declared is a regime of Jewish supremacy between the river and the sea; an apartheid regime. Literally no facet of Palestinian life has been left untouched.

19. Which brings us to the Nakba of today. Even before 7 October, Gaza had been shorn by Israel of anything remotely capable of sustaining a dignified life of one person, let alone 2.3 million. 56 years of illegal Israeli military occupation, compounded by 16 years of Israeli blockade, multiple Israeli military assaults resulting in tens of thousands of casualties, including the killing and maiming of thousands of children. A multi-decade process of de-development and deindustrialization, resulting in a 45 percent unemployment rate and a 60 percent poverty rate, with 80 percent of the population dependent on some form of international assistance. 97 percent of drinking water unfit for human consumption and a health care system on its last legs for having been suffocated by the blockade.

20. All this to say, and as noted by the Secretary General on 25 October: the events of 7 October did not happen in a vacuum. Since that fateful day, Israel has deployed a level of violence not seen anywhere this century. Total war has descended upon Gaza. According to UN OCHA, approximately 35,000 Palestinians have been killed so far, 2/3 of whom women and children, and another 78,000 are injured, many for life. A further 1.7 million (almost 80% of the population) have been forcibly displaced, with indiscriminate bombardment, scorched earth tactics and starvation as a tool of war deployed against them. Humanitarian aid is in frighteningly short supply, as objects indispensable for the survival of the civilian population continue to be arbitrarily withheld by the occupying Power – life saving medicines, anesthetics, food, fuel, water, electricity. According to the International Court of Justice, famine is setting in in Gaza and, as mentioned, there is a risk of irreparable harm to Palestinian rights to be protected from genocide. Gaza – a place I once called home – is being ground to dust. No place is safe. No home, no hovel, no refugee camp, no hospital, no school, no UN shelter, not in the north, not in the middle, not in the south. Nowhere.

Your Excellencies,

21. I have often wondered what I would have done had I lived during the time of the 1948 Nakba. Would I have acted on my conscience to stop the atrocities unfolding before me? Or would I have remained silent, as much of the world did?

22. It would appear that fate has now presented us all with such a moment in Gaza. Israeli leaders are now openly boasting that Israel is now “rolling out the Gaza Nakba”. Their soldiers are planting flags in Gaza vowing to re-establish Israeli colonies there. But the world is watching. In the words of one sitting member of the ICJ:

¹⁷ Ben-Gurion told his cabinet: “we must prevent at all costs their return”. Morris, *Birth Revisited*, supra note 10 at 318-319. The prohibition of return included Palestinians internally displaced within the new State of Israel.

“The alarm has now been sounded by the Court. All the indicators of genocidal activities are flashing red in Gaza. An injunction has been served for ending the atrocities. The provisional measures indicated by the Court are binding. They are not something that a State party to the Convention is free to respect or to ignore according to its own pleasure. They must be implemented.”

Your excellencies, ladies and gentlemen,

23. The question is: will they be implemented? It is clear that the answer to this has already been given by Israel: The answer is “No”. Not when the Court issued its first provisional measures order on 26 January, nor when it issued its last one on 28 March. Just as international law was trampled on in the 1948 Nakba, so too is it being trampled on in the 2024 Nakba. The historical record is clear. If change is to happen, it must come from elsewhere.

24. And this means you. This means all of us. If the words “never again” are to mean anything; if these United Nations are to honour the legacy of those for whom those words were initially fashioned, we must summon the courage to apply them at all times and in all places, without fear or favour. If anything is clear, that time and that place is the Gaza ghetto. That time and that place is now. The people of Palestine demand nothing less. Our humanity does too.

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