

9 A century of cultural genocide in Palestine

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Introduction

Throughout their long struggle for national liberation and self-determination, the Palestinian people have been subjected to policies that have often been described as genocidal and are aimed at destroying their national culture, political autonomy, and national will. This chapter examines the theoretical framework and empirical evidence for the case of cultural genocide against Palestine.

The term genocide, as used in international law, is attributed to the Polish jurist and academic Raphael Lemkin. He first explored the origins of the term in 1933 at the Fifth International Conference for the Unification of Penal Law in Madrid and later developed it in his groundbreaking work, *Axis Rule in Europe*. Genocide, he wrote, is a term used to denote an old practice in a modern context; it stems from the Greek word *genos* (race, tribe) and the Latin root *cide* (killing).¹ It signifies a coordinated plan of different actions designed to destroy the essential foundations of the life of national groups. Lemkin identified eight dimensions to the objectives of genocide. These are the

disintegration of political and social institutions, of culture, language, national feelings, religion, and the economic existence of national groups, and the destruction of the personal security, liberty, health, dignity, and even the lives of the individuals belonging to such groups.²

Lemkin argued that there are two phases to genocide; the first is the “destruction of the national pattern of the oppressed group” and the second is “the imposition of the national pattern of the oppressor.”³ This imposition, he noted, “may be made upon the oppressed population which is allowed to remain, or upon the territory alone, after removal of the population and the colonisation of the area by the oppressor’s own nationals”.⁴

This dual paradigm of destruction and imposition is especially noticeable in Palestine where, in March 1948, the Zionist leaders in the country decided to implement their master plan, Plan *Dalet*, or Plan D, which was drawn up to expel as many Palestinians as they could from their towns and villages. The orders given to their paramilitary forces specified the following methods to bring about

expulsion: intimidation, a siege on villages, bombing of neighbourhoods, setting fire to houses and fields, and the planting of TNT to prevent the return of villagers.⁵ Ultimately, the Zionists expelled 750,000 Palestinians from their villages in 1948. With this expulsion of three-quarters of the Palestinian population, a total of 531 towns and villages were depopulated and destroyed.⁶

Given the declared intent of the Zionist leaders, this wholesale destruction and depopulation of Palestinian villages fit easily with the definition of genocide as cited in the Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention). In discussing the specific crime of cultural genocide, this chapter adopts the definition used by Lawrence Davidson; that it is the “purposeful destructive targeting of out-group cultures so as to destroy or weaken them in the process of conquest or domination”.⁷ Accordingly, cultural genocide involves the following acts:

- a Prohibiting the use of language of the group;
- b Destroying the books, publications, or texts printed in the language of the group or of religious works or the prohibition of new publications;
- c Destroying or preventing the use of the libraries, museums, schools, historical monuments, places of worship, or other cultural institutions and objects of the group;
- d Forced exile of members of the group; and
- e Forced dislocation.⁸

In this context, it must be emphasised that there are two interdependent components of cultural heritage. The first, which is tangible, includes: artistic creations, buildings, monuments and other physical products of human endeavour that are regarded as culturally significant by a given society. The second component is intangible; it includes: practices, representations, expressions, knowledge, skills, language, rituals and festive events that have been transmitted from one generation to another.⁹ The destruction of a people’s cultural heritage, in whole or in part, results in the same consequences, cultural genocide. Kevin Chamberlain summed it up thus: “The destruction of a people’s cultural heritage amounts to the destruction of a people’s memory, its collective consciousness and identity. In other words it is ethnic cleansing by another name.”¹⁰

Cultural bareness

Despite the Nakba (Catastrophe) of 1948, 150,000 Palestinians remained in their homeland, becoming in the process Palestinian citizens of Israel (PCI). Throughout the period 1948–1966, the Israeli establishment imposed a system of military rule on the PCI, severely limiting their freedom of movement, livelihoods and expression. In effect, they were subjected to what Lemkin referred to as “the imposition of the national pattern of the oppressor”. Land which formed the bedrock of their local economy was gradually taken away from them as the Israeli state passed a series of laws to transfer Palestinian land to state ownership or control.

These acts were not accidents of history or consequences of war; they were, in fact, carefully planned and executed. Like other strands of European colonialism, Zionism considered any territory “empty” and available if its people had not achieved national independence and statehood. For them, it was simply a matter of finding this open empty space – open not in a physical sense but in the form of “cultural bareness”.¹¹ In the case of Palestine, it was deemed barren and devoid of culture and the Palestinian people were portrayed as marginal and uncultured. The Zionist mission was, therefore, to ethnically cleanse the land. Theodore Herzl, the movement’s founder, was convinced that the fulfilment of their dream would result in the acute suffering and misery for the indigenous population. On 12 June 1895, he wrote in his diary, “We shall try to spirit the penniless population across the border by procuring employment for it in the transit countries, while denying it any employment in our own country.”¹²

Israel Zangwill, another leading Zionist, who is often acclaimed for popularising the slogan “a land without a people for a people without a land”, was even more explicit when he told a gathering in Manchester in April 1905, “We must be prepared either to drive out by the sword the [Arab] tribes in possession as our forefathers did or grapple with the problem of a large alien population, mostly Mohammedan and accustomed for centuries to despise us.”¹³ In retrospect, it was evident that the early Zionist leaders did not see their project as a Jewish liberation movement; it was, for all practical purposes, a “Jewish movement for colonial settlement in the Orient”.¹⁴

The project to colonise Palestine was thus conducted on the premise of more land for Jews and less land for Arabs. Yosef Weitz, director of the Settlement Department of the Jewish National Fund (JNF), and later head of the Israeli government’s official Transfer Committee, wrote in his diary on 20 December 1940:

Between ourselves it must be clear that there is no room for both peoples together in this country.... We shall not achieve our goal of being an independent people with the Arabs in this small country. The only solution is Palestine, at least Western Palestine [west of the Jordan River] without Arabs.... And there is no other way but to transfer the Arabs from here to the neighbouring countries; to transfer all of them; not one village, not one tribe should be left.¹⁵

So, in an apparent attempt to delete Palestine from history and cartography, Israeli leaders replaced historical place names with that of Hebrew names. Former defence minister of Israel, Moshe Dayan, in an address to students at the Technion University in Haifa on March 1969, was cited in *Haaretz* on 4 April 1969 as saying:

Jewish villages were built in the place of Arab villages. You do not even know the names of these Arab villages, and I do not blame you because geography books no longer exist, not only do the books not exist, the Arab villages are not there either. Nahlal arose in the place of Mahlul; Kibbutz

Gvat in the place of Jibta; Kibbutz Sarid in the place of Huneifis; and Kefar Yehushu'a in the place of Tal al-Shuman. There is not one single place built in this country that did not have a former Arab population.¹⁶

Significantly, the process of erasing Arab place names and replacing them with Hebrew names started as early as the 1920s; this was conducted by what was referred to as the "naming committee". In 1949, this committee became a subdivision of the Jewish National Fund (JNF) which, with the help of the archaeologists, geographers and religious scholars, accelerated the "Hebraising" of Palestine.¹⁷

The Palestinian Nakba was unparalleled in modern history. The wholesale emptying of the country of its population was, according to Zionist officials, their way of solving what they termed the Arab demographic problem. In order for Israel to emerge as a Jewish State, according to the vision of its founding fathers, three requirements had to be fulfilled. It had to be, first and foremost, a state for all the Jews in the world. They had to become its majority population and, at the same time, be afforded special privileges and preferential laws. The upshot of such exclusivist claims was two-fold: one, it precluded by definition the return of the refugees expelled in 1948 and 1967, and two, it facilitated the emergence of an apartheid system throughout historic Palestine.

Vandalising Palestinian institutions

The targeting of Palestinian cultural institutions and identity did not stop with the establishment of the state of Israel. It has continued until today, taking various forms in Palestine as well as against Palestinians in the diaspora. From the occupied territories, Israeli soldiers and civilians have removed numerous objects of historical, cultural and archaeological importance. The data and objects obtained from the Israeli excavations, in violation of international law, were never made accessible to Palestinian researchers. Instead, they were used to reinforce the illegitimate occupation.¹⁸

Geographically speaking, Palestine is unique for several reasons. It lies at the crossroads of three continents – Asia, Europe and Africa – and its association with the three monotheistic faiths Judaism, Christianity and Islam, has rendered it the spiritual and religious heritage of more than half of all humanity. Excavations near Jericho have revealed artefacts which suggest that it may be the oldest city in the world. It was here, in Jericho, that humankind made the transition from hunter-gatherer to stable lives of food production around 6000–7000 BCE.¹⁹ Recent surveys have revealed that there are more than 12,000 archaeological and cultural heritage sites in the occupied West Bank (including Jerusalem) and the Gaza Strip alone.²⁰

Since 1967, the Israeli occupation has dominated and assumed effective control of exploration, excavation, protection and preservation in the occupied territories.²¹ Under the Oslo Accords, the West Bank was divided into three zones (A, B, C), which, in hindsight, has aided Israel's control and expropriation

of Palestinian archaeological sites. Area C, which falls entirely under Israel's control and represents about 60 per cent of the West Bank, contains 53 per cent of the archaeological sites in the West Bank. This predominance over Palestinian cultural heritage has "placed thousands of artefacts discovered in archaeological excavations in the custody of the Israeli Authority, and beyond the reach of Palestinian Archaeologists or the general public".²² Not only do such acts fall under the definition of cultural genocide, they are also a violation of Article 49 of the Fourth Geneva Convention, which specifically states, "The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies."

One of the most grotesque acts of vandalism recorded in the occupied West Bank took place in the Ministry of Culture in 2002. The new multistorey building located in the centre of El Bireh was occupied by the Israeli army for most of April that year. When the soldiers left at the beginning of May, the employees were shocked by the sheer vindictiveness of what had occurred. The Israeli journalist Amira Haas recorded the carnage in graphic terms:

All the high-tech and electronic equipment had been wrecked or had vanished – computers, photocopiers, cameras, scanners, hard disks, editing equipment worth thousands of dollars, television sets. The broadcast antenna on top of the building was destroyed.... In every room of the various departments – literature, film, culture for children and youth books, discs, pamphlets and documents were piled up, soiled with urine and excrement.... There are two toilets on every floor, but the soldiers urinated and defecated everywhere else in the building, in several rooms of which they had lived for about a month.... Someone even managed to defecate into a photocopier.²³

At the height of the Al-Aqsa Intifada, 2003–2004, Israel's occupation forces repeatedly attacked the historic city of Nablus with rockets, shells, and tanks; large areas were cleared by military bulldozers, causing widespread destruction to historical and archaeological sites. Nablus, which was built around 72 AD, derives its name from the ancient Roman town of Neapolis. An estimated 310 buildings were destroyed or damaged, including mosques, churches, monuments and other historic buildings.²⁴

Just 20 kilometres north-west of Hebron city, the historic site at Tell Qilla also witnessed similar acts of extreme vandalism in 2003. Israeli bulldozers moved into the area and demolished large parts of the walls of the Canaanite city, which were later smuggled onto the illicit market. Unsurprisingly, the occupation forces prevented Palestinian police from stopping the pillage. According to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, the term "cultural property" covers, irrespective of origin or ownership:

Movable or immovable property of great importance to the cultural heritage of every people, such as monuments of architecture, art or history, whether

religious or secular; archaeological sites; groups of buildings which, as a whole, are of historical or artistic interest; works of art; manuscripts, books and other objects of artistic, historical or archaeological interest; as well as scientific collections and important collections of books or archives or of reproductions of the property defined above.

The Hague Convention is regarded as the most important international instrument for the protection of cultural property. As a state party to the Hague Convention, Israel is obliged to prevent the exportation of cultural property from the occupied territory. Article 4(3) stipulates:

The High Contracting Parties further undertake to prohibit, prevent and, if necessary, put a stop to any form of theft, pillage or misappropriation of, and any acts of vandalism directed against, cultural property. They shall refrain from requisitioning movable cultural property situated in the territory of another High Contracting Party.

Although Israel signed the UNESCO Recommendation on International Principles Applicable to Archaeological Excavations of 1956, it has refused to ratify the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. It chose instead to interpret international law to claim that there is no prohibition of excavation in occupied territories. Had it adhered to this principle it would not have been able to proceed with its settlement programme in the territories, which involves large excavations to build bypass roads and other infrastructure.²⁵

Destruction of cultural property

Numerous properties have been irreversibly destroyed or damaged by Israel's occupation. Immediately after the capture of East Jerusalem in 1967, Israel proceeded to destroy the Moroccan Quarter, including the four Muslim religious sites it contained. It was established in 1193 by Al Malik Al Afdal, the son of Salah al Din al Ayubi. As a *waqf*, or inalienable pious endowment, it served as a residential quarter for North African pilgrims. Additionally, Al Afdal had established a school on the site for advanced religious studies, which was later called Al Afdaliyah after him.²⁶

Literally, the term *waqf* means prevention or restraint. In Islamic law, however, it refers to a property which, having been made into a pious foundation, is protected from being alienated and safeguards in perpetuity the use of its usufruct for the benefit of mosques, schools, hospitals, maintenance of scholars and assistance to the poor.²⁷ The demolition of the Moroccan Quarter was by no means restricted to the Islamic endowments. The Harat ash-Sharaf and parts of the Armenian Quarter, and the lands owned by the Syrian (Jacobite) convent, were also decimated. Furthermore, in recent years, there has been an upsurge in attacks on Christian holy sites in Jerusalem. The Ma'amadaniya Church in West

Jerusalem was set ablaze after an arson attack by Jewish settlers in October 2010. Other churches were similarly attacked in what appears to be an attempt to eliminate any Christian presence in the west of the city. Under these circumstances, the percentage of Christians in Jerusalem dropped from 20 per cent in 1948, to 2.9 per cent in 1988, and to 1.9 per cent in 2009.²⁸

Should current trends continue, it is very likely that the Christian presence in Jerusalem will soon come to an end.

The scale of usurpation was so extensive that the Palestinian historian Abdul Latif Al Tibawi observed it was reminiscent of the worst practices of the Middle Ages.²⁹ Scores of archaeological finds from the Palestine Archaeological Museum in East Jerusalem were seized and sent to the Israel Museum in West Jerusalem. Because the affected area was connected to the Haram ash-Sharif, institutions linked to every facet of life were affected. They included: schools (*madrasahs*), retreats for meditation (*zawiyahs*), hostels for pilgrims (*ribats*), public drinking fountains (*sabils*), public baths (*hammams*), traditional inns (*khans*) and traditional markets (*sucs*).³⁰

In June 2002, the Israeli authorities began constructing a 700-kilometre “security wall” across the occupied West Bank. During the construction, hundreds of Palestinian archaeological sites were cut off and annexed to Israel.³¹ Palestine’s cultural heritage suffered irreparable damage after Israel demolished a number of classified buildings in the old towns of Hebron and Nablus in 2003 and 2004.³² The construction of the Israeli wall and settlements in the occupied territories often required large-scale archaeological excavations which cannot be identified as “salvage” or “rescue” excavations. It is believed an estimated 1,100 archaeological landmarks were ruined and destroyed by the erection of the wall. Kevin Chamberlain argues that:

When a site is uncovered the Israelis institute a “salvage excavation”, i.e. the rapid removal and recording of artefacts before the site is covered up. In most cases this results in the destruction of the site, treasure hunting for objects, although occasionally some sites are covered up. Others are lost to all future investigation, which is often the case, among others, of exposed mosaic floors. Furthermore, the effect of these so-called ‘salvage excavations’, is the fact that the all-important context of the site is destroyed, and the knowledge that it yields is lost forever.³³

Still, in the West Bank, the Israeli wall has had similar devastating consequences on the village of Al Walaja. Its tragedy began in 1948 when Zionist militias forced most of its inhabitants into exile; many ended up in refugee camps in Jordan. The village, which is about 5,000 years old, is famous for its water resources, its breathtaking landscapes and agricultural terraces. Al Walaja is watered by 18 natural springs; one of its most famous, Ain al-Haniyeh, has arches, buildings and Byzantine mosaic floors. In December 2016, the Israeli authorities announced plans to move the permanent checkpoint between the occupied West Bank district of Bethlehem and Jerusalem further into Palestinian

territory. The Palestinian Authority called on UNESCO and other international organisations to intervene because the move was going to block Palestinian access to the area and isolate several hundred acres of privately-owned Palestinian land in the outskirts of the village.

According to the United Nations Relief and Works Agency (UNRWA), Al Walaja used to span more than 17,793 dunums (4,400 acres).³⁴ However, decades of Israeli drilling, exploration, theft of artefacts and, more recently, expropriation by the Israeli wall have resulted in a loss of almost 85 per cent of Al Walaja's agricultural and cultural heritage. Responding to a request from the United Nations General Assembly in July 2004, the International Court of Justice (ICJ) issued an advisory opinion declaring that the construction of the Israeli wall was illegal and should stop immediately. The ICJ observed that "the construction of the wall and its associated régime created a 'fait accompli' on the ground that could well become permanent, and hence tantamount to a de facto annexation". It noted that Israel was obliged "to return the land, orchards, olive groves and other immovable property seized from any natural or legal person for purposes of construction of the wall in the Occupied Palestinian Territory".³⁵

In conclusion, the ICJ ruled that "Israel cannot rely on the right of self-defence or on a state of necessity in order to preclude the wrongfulness of the construction of the wall."³⁶ With regard to the legal obligations of states in relation to Israel's actions, the ICJ asserted that

States are under an obligation not to recognise the illegal situation arising from the construction of the wall, not to render aid or assistance in maintaining that situation and to cooperate with a view to putting an end to the alleged violations and to ensuring that reparation will be made therefore.³⁷

By August 2009, there were 25 disclosed excavation sites beneath Al Aqsa Mosque and its surroundings. These include residential, commercial and religious buildings. During the period from 21 August 2009 to 21 August 2010, the number of excavations beneath and around Al Aqsa Mosque increased from 25 to 34, which have led to a number of cracks and fissures in the mosque and its surroundings.³⁸ A section of Wadi Halwa Street, south of the mosque, collapsed in January 2010. Likewise, fissures and erosions were discovered in the walls of the Marwani prayer area.³⁹

The Islamic endowments and religious sites were not the only targets of the occupation. The Israeli aggression in Jerusalem has even extended to the cemeteries. The city's municipality has approved the construction of a "Museum of Tolerance" in Maman Allah Cemetery, which is located about 2 kilometres west of Al Khalil Gate. This is an Islamic endowment which bears the remains of several companions of the Prophet Muhammad, the generation of his successors and thousands of Islamic scholars. Maman Allah is the largest Islamic cemetery in Jerusalem and covers an area of 200 dunums. The project, which is financed by the Simon Wisenthal Centre, is estimated to have cost some \$200 million.

The process of transforming the cemetery has been gradual. In 1985 the Israeli ministry of transportation built a car park on a section of it. Between 1985 and 1987, a number of excavations and a network of drains were constructed to expand the car park. Work on the “Museum of Tolerance” began in January 2005. Ninety-five percent of the graves have been exhumed to build the car park and a public park.⁴⁰

Article 56 of The Hague Regulations prohibits “all seizure of, and destruction, or intentional damage” done to institutions dedicated to religion, charity, education, the arts and sciences, historic monuments, and works of art and science. More recently, the violation of this provision was included among the violations of the laws and customs of war in the Statute of the International Criminal Tribunal for the Former Yugoslavia. Furthermore, under the Statute of the International Criminal Court, destruction of buildings dedicated to religion, education, arts, science, or charitable purposes and historic monuments, and destruction and seizure that is not imperatively demanded by the necessities of the conflict constitute war crimes in both international and non-international armed conflicts.⁴¹

Several resolutions have been passed by the Security Council and UNESCO calling on Israel to end its excavations and damage to historical sites, but it has refused to comply. Under international law, excavations by the occupier in occupied land are strictly forbidden. The excavations are now dangerously close to Bir Al Waraqa and Bir Al Ka’as, beneath Al Aqsa Mosque, destabilising its foundation. These excavations cover an area of almost 10 dunams. They have not stopped since the occupation began; on the contrary, they have intensified.

These innumerable acts of vandalism, to use Lemkin’s term, that were just described include the destruction of the Moroccan quarter in the old city of Jerusalem, the transfer of artefacts from the Palestine Archaeological Museum in East Jerusalem to the Israel Museum in West Jerusalem, and the destruction and demolition of classified buildings in the old towns of Hebron and Nablus, especially in 2003 and 2004.⁴² These activities, which are often described as “salvage excavations”, do not in the least conceal the fact that they amount to crimes against Palestine’s cultural heritage.

The theft of archives and libraries

Two broad categories of Palestinian cultural property have been destroyed and looted on an industrial scale since 1948. They include the items listed in Article 1(a) of the 1954 Hague Convention which were detailed above, as well as those listed in Article 1(b): “buildings whose main and effective purpose is to preserve or exhibit the movable cultural property defined in sub-paragraph (a) such as museums, large libraries and depositories of archives...”⁴³

Of course, the Hague Convention did not emerge out of the blue from a vacuum. It was, on the contrary, a response to the excessive destruction of historic buildings and works of art during the Second World War. In the aftermath, UNESCO, whose mandate includes the preservation of cultural heritage,

assumed the responsibility to organise legal provisions to protect “all objects of cultural value”.⁴⁴ Both the 1954 Convention and the 1954 Protocol are considered integral parts of international customary law; that is to say their provisions are binding on all parties to conflict regardless of whether they are signatories to these instruments.⁴⁵

In its 2005 Compendium of Rules, the International Committee of the Red Cross (ICRC) adopted in Rule 38 the view that “Property of great importance to the cultural heritage of every people must not be the object of attack unless imperatively required by military necessity.”⁴⁶ Further, Rule 41 notes, “The occupying power must prevent the illicit export of cultural property from occupied territory and must return illicitly exported property to the competent authorities of the occupied territory.”⁴⁷ During the 1948 ethnic cleansing of Palestine, several private collections of manuscripts and tens of thousands of books were looted by the Zionist militias. While conducting research in a number of Israeli state archives, Gish Amit, an Israeli PhD student at Ben Gurion University, discovered that an estimated 60,000 books were looted during that period. They included the private collection of the renowned Palestinian educationist Khalil Al Sakakini (1878–1953).⁴⁸ When members of his family tried to retrieve the stolen books from Israel’s National Library they were told, “You have no right to anything because each volume individually, and all of them together, are abandoned property.”⁴⁹ This was, no doubt, a breach of Rule 41 of the Protocol of 14 May 1954, which calls for the return of cultural property to the competent authorities of the occupied territory from which they came.⁵⁰ There are currently about 6,000 looted Palestinian books held in Israel’s National Library; their spines bear the label AP, which means “abandoned property”. Apart from these, there some 30,000 other books stolen from private Palestinian libraries, also kept in the National Library. They were not incorporated in the library’s general catalogue and are thus more difficult to locate.⁵¹

Another prominent family, Al Barghouti, also suffered a similar loss of valuable books, documents and memoirs. Omar Saleh Al Barghouti was a renowned lawyer and leading figure in the Palestinian resistance against the British occupation. During the 1948 war, he was forced into exile and hundreds of books were looted from his home in Jerusalem. Many of this prized collection were, according to his granddaughter Rasha, found in Israel’s National Library. The library director, Oren Weinberg, told Al Jazeera Network that the books were stored there for the Custodian of Absentee Property.⁵²

Although Palestinian urban centres like Haifa, Jaffa, Nablus, Hebron, Nazareth and Gaza were recognised as important cultural and intellectual centres, Jerusalem was, undoubtedly, the main hub in the decades prior to 1948. Many of the formally educated resided in Jerusalem; hence the city became a main target for the looters. Before the Nakba, the port city of Haifa provided a railway line that linked Palestine with Damascus and Cairo. There was a constant coming and going of theatre troupes, poets, educators, jurists and literary critics.⁵³ Far from being ordinary mass-produced fiction, Mermelstein observed that most of the books that were looted from Palestinian families were in fact scholarly volumes.⁵⁴

The War of 1948–1949 left the Palestinians dispossessed, stateless and scattered. Faced with an enemy that was far better organised and equipped, the Palestinians failed to achieve the statehood and independence they long aspired to. As far as the new state of Israel was concerned, the process of cultural obliteration was incomplete. In 1958, ten years after the Nakba, the Israeli authorities ordered the eradication of 27,000 books. Amit said they were sold to a paper plant. He described the act as “a cultural massacre undertaken in a manner that was worse than European colonialism, which safeguarded the items it stole in libraries and museums”.⁵⁵ The Israelis claimed the books posed a threat to the state.

The formation of the Palestine Liberation Organisation (PLO) in 1964 was, for all intents and purposes, the first major attempt after the Nakba to provide the Palestinian people with a national leadership. They had been, throughout the preceding decade, bereft of any formal political and social representation. National identity and culture were to become key components in the reconstruction of their nationalism. In 1965, a leading Palestinian intellectual, Dr Fayez Sayigh (1922–1984), founded the Palestine Research Centre in Beirut. The PLO provided most of the funding for the Centre, which later became a major repository of Palestinian archives. Sayigh had himself written over 500 works and possessed a personal library of over 5,000 volumes, hundreds of tape recordings, and films which were lodged with the Centre.⁵⁶ Apart from the collection of documents and manuscripts, the Centre also published hundreds of scholarly works, as well as an academic periodical, *Shuun Filastiniyah*, which became its main organ.

Destroying Palestinian culture beyond Palestine

The crimes committed by Israel were not confined to Palestine. They were transnational, threatening other states in the region and the wider international community. During its 1982 invasion of Lebanon and the attendant massacre at Sabra and Shatila refugee camps, the Israeli army systematically destroyed and looted tens of thousands of documents, artefacts and books associated with the Palestinian people. That pillage includes the destruction of the Palestine Research Centre and the Beirut-based Institute for Palestine Studies, whose entire archives were stolen. Dr Sabry Jiryis, director of the Research Centre, said the troops took away its entire library of 25,000 volumes in Arabic, English and Hebrew, a printing press, microfilms, manuscripts and archives. To add insult to injury, Jiryis said they even smashed filing cabinets, desks and other furniture and made off with telephones, heating equipment and electric fans.⁵⁷

The International Commission of Enquiry into the Violations of International Law by Israel during its invasion of Lebanon reported that it had documented evidence that Israeli forces destroyed schools, training centres, museums and even hospitals.⁵⁸ The Commission pointed out that the Palestinians in Lebanon had built up a considerable infrastructure to provide economic and social support for the refugees, as well as educational training, medical services and institutions

to “preserve memories and traditions”.⁵⁹ The majority members of the Commission concluded that all the evidence submitted to it substantiated “the allegation of deliberate destruction of the national and cultural rights and the identity of the Palestinian people and that that this constitutes a form of genocide”.⁶⁰

Still on the issue of genocide, the Commission noted that governments rarely, if ever, document genocidal plans as the Nazis did. The matter of intent, they argued, was reflected in the effect of governmental policies. So, while the term genocide as applied to the Palestinians did not involve their systematic killing as it occurred in the Holocaust, there was evidence of measures adopted to destroy their national will and culture in the context of their struggle for liberation and self-determination.⁶¹

The 1982 theft of Palestinian archives and libraries from Beirut was not the last of its kind. In August 2001, Israeli police closed Orient House in East Jerusalem along with nine other Palestinian institutions in the city. They confiscated its entire archive and other valuables. The office of its director, Faisal Al Hussein, who had passed away three months earlier, was emptied completely. Another institution, the Arab Studies Society, which was housed in the same building, was also looted. Numerous documents, photographs and maps were taken by the Israelis. The Society’s document centre contained 200,000 hard copies of documents and 300,000 on microfilm and microfiche.⁶² The collection documented the latter years of Ottoman rule and was classified into areas such as politics, economy, education and land ownership.

The closure and looting of Orient House was a serious setback for Palestinians in Jerusalem. It was their only internationally recognised political institution in the city. The Israelis had themselves also undertaken to respect its legitimacy. In a letter dated 11 October 1991, former Israeli foreign minister Shimon Peres explicitly acknowledged to his Norwegian counterpart Johan Jørgen Holst the “great importance” of Palestinian institutions in Jerusalem and promised that “[Israel would] not hamper their activity.”⁶³

More recently, similar acts of wilful destruction were carried out in the Gaza Strip where no less than three universities, seven United Nations schools and an estimated 141 locally-run schools suffered severe damage in the month-long offensive launched by Israel against the Islamic Resistance Movement (Hamas) and other groups in the summer of 2014. Justice Mary McGowan, who headed a UN Independent Commission of Inquiry into the conflict said, “The extent of the devastation and human suffering in Gaza was unprecedented and will impact generations to come.”⁶⁴

There are other aspects of the Palestinian reality that strengthens the case for cultural genocide. They include the systematic denial and attempts to erase Palestinian history and the prohibition of the use of the Arabic language, even though 20 per cent of Israel’s population is Arab. In July 2009, the minister of transport in Israel announced that road signs would no longer be written in Arabic and would appear in Hebrew only.⁶⁵ Since then, municipal officials and members of the national parliament have worked concertedly to eradicate the use of Arabic in public life. In 2012, the Mayor of Tel Aviv, Ron Huldai, rejected

demands to adopt Arabic on the city's official logo; this was three years after English was added. Tel Aviv is said to be one of Israel's most cosmopolitan and liberal cities. If this is the attitude displayed to the country's second official language, it leaves no doubt as to what happens in more conservative municipalities. The upshot has been an incremental reduction in the appearance of Arabic in public services, including government ministries, welfare offices, hospitals, universities, Inland Revenue, the national electricity company, the post office, and sports and leisure centres. Jamal Zahalkha, a Palestinian member of the Israeli parliament for Al Balad Party, told Al Jazeera Network, "The hostile attitude of official bodies, including municipalities like Tel Aviv, encourages a general climate that treats Arabic as an alien and despised language."⁶⁶

The process of removing Arabic from the public sphere was accompanied by a similar assault on Palestinian history. In July 2009, the Israeli ministry of education ordered the removal of the word *Nakba* – Arabic for the catastrophe of the 1948 war – from school textbooks for young Arab children. Since 1948, Palestinians at home and in the diaspora have commemorated the Nakba, which they view as a tragedy from which they have never recovered. The loss of their land, the pain of exile and the denial of return has left an indelible scar on their national psyche. In his book *The Disinherited*, Fawaz Turki summed up the experience: "The nation of Palestine ceased to be. Its original inhabitants, the Palestinian people, were dubbed Arab refugees, sent regular food rations by the UN, and forgotten by the world."⁶⁷

The world may have forgotten, but the Palestinians have not. They have commemorated the Nakba every year on 14 May to keep the hope of return and self-determination alive. Without its commemoration their cause would not have passed from one generation to another. It is in this context that Israel has, since 2011, criminalised the marking of Nakba Day.

Conclusion

All told, it may be concluded that cultural genocide was an inevitable consequence of the Zionist settler colonialist project in Palestine. From the beginning, both the British and Zionists took as their point of departure the cultural view that the Arab need not be heard. Indeed, they sought to reduce them to a non-existent population or strip those who remained to the status of a silent coolie class.⁶⁸ Those who were displaced from their villages and towns in 1948 and were not allowed to return were classified as "present absentees", a metaphorical and actual legal term used by the Israeli establishment. Although they were present by virtue of citizenship in the newly created state, they were considered "absent" according to the 1950 Absentee Property Law. The overriding feature of this peculiar legal infrastructure was its discriminatory measures as applied to areas such as land ownership, housing, municipal planning, education and immigration.⁶⁹

Historically, European settler colonialism was premised on the popular notion of the "white man's burden" to civilise the darker races. In his attempt to impress

European leaders, Herzl claimed that Jews returning to their “historic fatherland” would act as representatives of western civilisation. “For Europe”, he said, “we could constitute part of the wall of defence against Asia; we would serve as an outpost of civilisation against barbarism”.⁷⁰ The Zionist settler project was not as benign and altruistic as it sounded. It had no intention of leaving Palestine after its inhabitants were supposedly endowed with the virtues of western culture and civilisation; it was a structure and not an event.⁷¹ But, in order to replace the existing culture, it had to destroy it. Herzl wrote, “If I wish to substitute a new building for an old one, I must demolish before I construct.”⁷² That objective was realised in 1948 when, in the words of Edward Said, Palestine was “rebuilt”, “reconstituted” and “re-established” as the state of Israel.⁷³ Hence, the accompanying process of cultural genocide in Palestine was the natural outcome of the project to destroy and replace.

Throughout its 70-year history, the Genocide Convention has failed to prevent or punish those responsible for the destruction of Palestinian cultural heritage, which by Lemkin’s definition and that of the UN Secretariat and the Ad hoc Committee on Genocide would be considered cultural genocide. The consensus view on the shortcoming is that is a direct consequence of the restrictive definition adopted in the 1948 Convention. Therefore, there are growing calls from international human rights organisations, including those working in Palestine, for a broader working definition of genocide to protect Palestinian cultural heritage.⁷⁴ While acknowledging that the Convention has enabled the arrest and punishment of the perpetrators of genocide in the former Yugoslavia, Rwanda and Cambodia, the time has come to adopt effective legal instruments and enforcement mechanisms for the protection of Palestinian cultural heritage as well as the prosecution of those individuals and entities involved in its destruction.⁷⁵ Although there are a number of international treaties that aim, in theory, to protect cultural rights, property and heritage, they are not equipped with the necessary instruments of criminal law to punish those who commit acts of cultural genocide, whether through the establishment of special criminal tribunals or through the International Criminal Court (ICC).⁷⁶

Surely the international community can no longer afford to perpetuate its fixation with body counts when it comes to genocide while ignoring the destruction of the cultural characteristics that have made the Palestinian people unique and distinct. As long as the rule of law remains in abeyance and universal principles of human rights are disregarded, justice in Palestine will continue to be an illusion.

Ultimately, Israel remains a belligerent occupier of the Palestinian West Bank (including Jerusalem) and the Gaza Strip; in law, this means that Israel has no sovereign rights over said territories. Consequently, all the excavations, removals and destruction of archaeological and religious sites conducted since 1967 in these territories have been in clear breach of the 1954 Hague Convention and its associated Protocol, which is regarded as the principal instrument of international humanitarian law for the protection of cultural property in armed conflict. Israel ratified the Convention in 1957 and the Protocol in 1958. Moreover,

it is also bound by the Fourth Geneva Convention of 1949, the 1977 Additional Protocol, as well as the 1907 Hague Regulations to safeguard cultural property from plunder and vandalism.

As the occupying power, Israel bears full legal responsibility for the crimes committed against the Palestinian people and their cultural heritage. Israel might be tenuously protected from the scope of the Genocide Convention, but the Geneva Conventions of 1949 hold that States party to the Conventions must prosecute individuals, regardless of nationality, for serious breaches of their provisions. There is no doubt that failure to identify leaders, institutions, instigators and accomplices who planned and executed these crimes will erode trust in the international community and its institutions and undermine all efforts to bring about a peaceful resolution of the conflict in Palestine.

Notes

- 1 Raphael Lemkin, *Axis Rule in Occupied Europe* (New Jersey: The Lawbook Exchange, 2008), 79.
- 2 Ibid.
- 3 Ibid.
- 4 Ibid.
- 5 Ilan Pappé, *The Biggest Prison on Earth* (London: One World, 2017), 9.
- 6 Salman Abu Sitta, *From Refugees to Citizens at Home* (London: The Palestinian Return Centre, 2012), 12.
- 7 Lawrence Davidson, *Cultural Genocide* (New Brunswick: Rutgers University Press, 2012), 1–2.
- 8 Tye Tavaras, “The Case for Cultural Genocide: The Formulation of a Working Definition” (Masters Thesis, The American University in Cairo, 2011), 54. <http://dar.auc-egypt.edu/handle/10526/2172>.
- 9 http://portal.unesco.org/en/ev.php-URL_ID=17716&URL_DO=DO_TOPIC&URL_SECTION=201.html (accessed 13 July 2018).
- 10 Kevin Chamberlain, “Stealing Palestinian History”, *This Week in Palestine*, no. 196, August 2014. <http://archive.thisweekinpalestine.com/details.php?id=1451&ed=107&edid=107> (accessed 13 July 2018).
- 11 Maxime Rodinson, *Israel: A Colonial-Settler State?* (New York: Monad Press, 1973), 40.
- 12 Nur Masalha, *Expulsion of the Palestinians* (Washington, DC: Institute for Palestine Studies, 1992), 9.
- 13 Daud Abdullah, *A History of Palestinian Resistance* (Leicester: Al Aqsa Publications, 2005), 18.
- 14 Edward Said, “Zionism from the Standpoint of its Victims”, *Social Text*, no. 1, 1979, 23.
- 15 Rodinson, op. cit., 16.
- 16 From an address given to Technion University students on 19 March 1969. A transcript was published in *Haaretz*, 4 April 1969, quoted in Edward Said, *The Question of Palestine* (London: Routledge & Kegan Paul, 1980), 14.
- 17 Davidson, op. cit., 78.
- 18 Ahmed Rjoob, “The Impact of Israeli Occupation on the Conservation of Cultural Heritage Sites in the Occupied Palestinian Territories: The Case of ‘Salvage Excavations’”, *Journal of Conservation and Management of Archaeological Sites*, 11, nos. 3–4, 2009, 215. www.tandfonline.com/doi/pdf/10.1179/175355210X12747818485367?needAccess=true (accessed 15 December 2017).

- 19 Mohsen Saleh, *Tareeq ila Al Quds* (London: Filistine Al Muslimah, 1995), 17.
- 20 Rjoob, op. cit., 215.
- 21 Ibid., 233.
- 22 Ibid., 234.
- 23 Amira Haas, "Someone Even Managed to Defecate into the Photocopier", *Haaretz*, www.haaretz.com/1.5290075 (accessed 9 May 2018).
- 24 Rjoob, op. cit., 226.
- 25 Ibid., 218.
- 26 Abdul Latif Tibawi, *The Islamic Pious Foundations in Jerusalem* (London: The Islamic Cultural Centre, 1978), 13.
- 27 Ibid., 10–11.
- 28 Mohsen Saleh (ed.), *The Palestinian Strategic Report 2010* (Beirut: Al Zaytouna Centre, 2011), 252.
- 29 Tibawi, op. cit., 39.
- 30 Ibid.
- 31 Rjoob, op. cit., 214.
- 32 Ibid.
- 33 Chamberlain, "Stealing Palestinian History", op. cit.
- 34 UNRWA, "Mini Profile; Al Walaja, Bethlehem Governorate". www.unrwa.org/userfiles/image/articles/2013/The_International_Court_of_Justice_AlWalaja_mini_profile.pdf (accessed 29 April 2018).
- 35 International Court of Justice, "Legal Consequences of the Construction of a Wall in the Occupied Palestinian territory, Advisory Opinion", 9 July 2004, 66. www.icj-cij.org/files/case-related/131/131-20040709-ADV-01-00-EN.pdf (accessed 9 May 2018).
- 36 Ibid., 63.
- 37 Ibid., 64.
- 38 Saleh, *Palestinian Strategic Report 2010*, op. cit., 252.
- 39 Ibid., 254.
- 40 Mohsen Saleh, *Mu'anaat Al Quds wa Al Muqadasaat Tahta Al Ihtilal Al Israeli* (Beirut: Al Zaytouna Centre, 2011), 54.
- 41 ICC Statute, Article 8(2)(b)(ix) (§ 19) and Article 8(2)(b)(xiii) (cited in Vol. II, Ch. 16, § 55), Article 8(2)(e)(iv) (cited in Vol. II, Ch. 12, § 19) and Article 8(2)(e)(xii) (cited in Vol. II, Ch. 16, § 56).
- 42 Rjoob, op. cit., 215.
- 43 Kevin Chamberlain, *War and Cultural Heritage* (London: Institute of Art and Law, 2013), 24.
- 44 Ibid., 20.
- 45 Ibid., 16–17.
- 46 Jean-Marie Henckaerts and Louise Doswald-Beck, *Customary International Humanitarian Law*, Vol. I (Cambridge: Cambridge University Press, 2009), 127.
- 47 Ibid., 135.
- 48 Aimee Shalan, "The Nakba Law: Censoring Palestinian Culture and History", *Caabu*, 6 April 2011. www.caabu.org/news/blog/nakba-law-censoring-palestinian-culture-and-history (accessed 10 February 2018).
- 49 Ibid.
- 50 Henckaerts and Doswald-Beck, op. cit., 135.
- 51 Hannah Mermelstein, "Overdue Books: Returning Palestine's 'Abandoned Property' of 1948", *Journal of Palestine Studies*, no. 47, 2011, 48.
- 52 Dalia Hatuqa, "Israel's 'Great Book Robbery' Unravelling", *Al Jazeera*, 29 January 2013. www.aljazeera.com/indepth/features/2013/01/201312114556875749.html (accessed 7 March 2018).
- 53 Ibid.
- 54 Mermelstein, op. cit.

- 55 Nur Masalha, *The Palestinian Nakba: Decolonising History* (London: Zed Books, 2012), 139.
- 56 Ibid., 142.
- 57 Ihsan Hijazi, "Israel Looted Archives of PLO: Officials Say," *New York Times*, 1 October 1982. www.nytimes.com/1982/10/01/world/israeli-looted-archives-of-plo-officials-say.html (accessed 20 January 2018).
- 58 Sean MacBride (chair), *The International Commission of Enquiry into the Violations of International Law by Israel During its Invasion of Lebanon* (London: Ithaca Press, 1983), 196.
- 59 Ibid.
- 60 Ibid., 197.
- 61 Ibid., 194.
- 62 Masalha, *The Palestine Nakba*, op. cit., 146.
- 63 Ibid., 147.
- 64 UN News, "UN Report Cites Possible War Crimes by Both Israel and Palestinian Groups in 2014 Gaza Conflict". <https://news.un.org/en/story/2015/06/502282-un-report-cites-possible-war-crimes-both-israel-and-palestinian-groups-2014> (accessed 10 February 2018).
- 65 Davidson, op. cit., 78.
- 66 Jonathan Cook, "Israel's War on the Arabic Language", *Al Jazeera*, 7 April 2016. www.aljazeera.com/news/2016/04/israel-war-arabic-language-160404102325547.html (accessed 20 April 2018).
- 67 Fawaz Turki, *The Disinherited: Journal of a Palestinian Exile* (New York: Monthly Review Press, 1972), 29.
- 68 Said, "Zionism from the Standpoint of its Victims", 8.
- 69 Ben White, "The Palestinian Nakba Goes Far Beyond One Day in 1948", 21 May 2016. <https://benwhite.org.uk/2016/05/21/the-palestinian-nakba-goes-far-beyond-one-day-in-1948> (accessed 13 February 2018).
- 70 Ibid.
- 71 Patrick Wolfe, "Settler Colonialism and the Elimination of the Native", *Journal of Genocide Research*, 8, no. 4, 2006, 388.
- 72 Ibid.
- 73 Said, "Zionism from the Standpoint of its Victims", 8.
- 74 Stefania Negri, "Cultural Genocide in International Law: Is the Time Ripe for Change?" *Transnational Dispute Management*, 10, no. 5, 2013, 7. During the drafting processes of the Convention in 1948, several countries supported Lemkin's view that cultural genocide was inseparable from physical and biological genocide. They included: Pakistan, Egypt, Saudi Arabia and China. In his initial draft, which was prepared with Professors Vespasian Pella and Henri Donnedieu de Vabres, Lemkin and several UN delegations argued strongly that Britain and the UN did have a case to answer for genocide in Palestine by creating the State of Israel. See Douglas Irvin-Erickson, *Raphaël Lemkin and the Concept of Genocide* (Philadelphia: University of Pennsylvania Press, 2017), 185, 217.
- 75 Tavaras, op. cit., 37.
- 76 Negri, op. cit., 5.

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