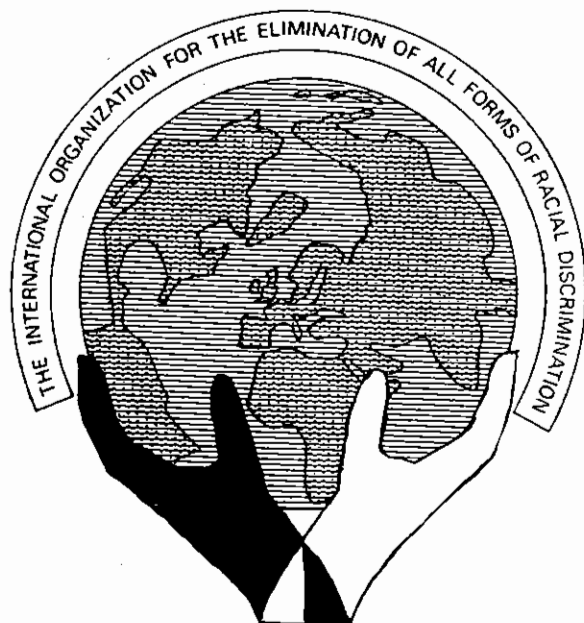


**THE INTERNATIONAL ORGANISATION
FOR THE ELIMINATION OF ALL FORMS OF
RACIAL DISCRIMINATION
(EAFORD)**

Paper No. 17



**ZIONISM AND THE LANDS
OF PALESTINE**
by
Sami Hadawi and Walter Lehn

The views expressed in this Paper are those of the author, and do not necessarily represent those of EAFORD.

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Universal Declaration of Human Rights

Zionism and the Lands of Palestine*

Sami Hadawi and Walter Lehn

For three decades now Israel has defied and treated with contempt the international community by violating the provisions of the UN Charter, numerous resolutions dealing with the conflict over Palestine, the Universal Declaration of Human Rights, to say nothing of the 1949 Geneva Convention Relative to the Protection of Civilian Persons in Time of War. An indication of Israel's attitude toward the UN was provided by the display her delegate put on in the General Assembly just before the vote in November 1975 identifying Zionism as "a form of racism and racial discrimination." As a measure of his respect for the UN and its member states, he tore up a copy of the draft resolution and declared: "For us, the Jewish people, this is no more than a piece of paper, and we shall treat it as such!"¹ His action demonstrated the extent of Israeli arrogance and disrespect for the human rights of other peoples, a consequence and revealing index of the racism inherent in political Zionism.

The purpose of this paper is not to provide a catalogue of Zionist land acquisitions in Palestine but to survey the techniques employed, before and after the establishment of Israel in 1948, to acquire land. As background, a brief account of population and landownership in Palestine prior to the mandate and of the claims of Zionism to Palestine are included.

Palestine Prior to the Mandate

Palestine is a small country. Its total area is 27,027 square kilometers (10, 435 square miles). Of this, 26,323 square kilometers (10,164 square miles) are the land area, and 704 square kilometers (271 square miles) are under water: half of the Dead Sea, and Lake Tiberias (also known as the Sea of Galilee) and Lake Hulah.

Physically Palestine consists of four main subregions: the coastal plain, the plateau region, the Jordan valley, and the southern desert. The coastal plain varies in width from four miles in the north to twenty miles farther south, except at Haifa where it widens into the Plain of Esdraelon, which stretches from the coast to the Jordan valley. The plateau region is

*Reprinted from *Zionism & Racism*, published by EAFORD, 1977.

intersected by the Plain of Esdraelon, with the hills of Galilee to the north and those of central Palestine to the south. South of Hebron the plateau falls and blends into the southern desert. The Jordan valley extends from Lake Hulah in the north to the Dead Sea in the south; most of the valley is below sea level.

The land area comprises 26,323,023 dunums (4.5 dunums equal 1 acre), of which approximately 2.5 million are hilly wilderness and 12.5 million are desert. The balance of the land varies widely in agricultural potential. In general, the plains consist of good and the plateau of medium land. The Jordan valley varies from medium to poor, except south of Lake Tiberias where the land is good.²

Reliable population statistics for Palestine prior to the mandate do not exist. And however inadequate Turkish and British figures may be, they are still our best source of information and subject to less bias than estimates from more partisan sources. A 1914 Turkish census³ shows a total population of 689,275; whether or not the nomads were included in this is not clear. Of this total, Arthur Ruppin, an official of the Zionist Organization and hence not uninvolved, estimated that 57,000 to 62,000 (i.e. 8.3 to 9 per cent) were Jews.

The first census using modern demographic techniques was conducted by the British as of 31 December 1922. This census (in which the *nomads were not counted*) shows a total of 757,182 persons: 590,890 Muslims, 83,794 Jews, 73,024 Christians (including British and other Europeans), and 9,474 "others," mainly Druze. Since virtually all of the Muslims and the "others," and the overwhelming majority of the Christians were Arabs (persons whose mother-tongue is Arabic), these figures can be fairly summarized as 673,388 (89 per cent) Arabs and 83,794 (11 per cent) Jews. Of the latter, about 75 per cent were concentrated in the urban areas of Jaffa and Jerusalem,⁴ hence neither farmers nor engaged in other rural pursuits (Zionist claims about "Jewish farmers" and "tilling the ancient soil" notwithstanding).

Reliable information on landownership for this period is even more difficult to obtain.⁵ The mandate government accepted the figure of 650,000 dunums for total Jewish ownership prior to October 1920,⁶ noting that this estimate "is generally accepted." This represents 2.47 per cent of the land of Palestine.

Thus on the eve of the award to Britain of the Mandate for Palestine by the League of Nations, Jews constituted 10-11 per cent of the population of Palestine and owned about 2.5 per cent of the land.

Zionism's Claim to Palestine

Although Theodor Herzl appears to have given some thought to locations

other than Palestine as the site of his proposed *Judenstaat*, and even recognized several disadvantages of Palestine—"its proximity to Russia and Europe, its lack of room for expansion as well as its climate"⁷—Palestine had one advantage which outweighed all other considerations: "the mighty legend."⁸ The legend of Palestine as the ancestral home of all Jews was accepted generally by Christians⁹ and Jews, whose support for his proposal could thus be more easily ensured. In any event, the choice of Palestine was settled at the Sixth Zionist Congress (Basle, August 1903) where it was decided that the Jewish National Fund was to acquire land for Jewish colonization only "in Palestine and the immediately adjoining countries."¹⁰

Herzl seems to have been much more concerned with aspects other than boundaries of his proposed state. In fact he appears to have thought little about them on his own. In April 1896 he was instructed "for hours on end" by a South-African born British Christian clergyman, William Hechler, on the area the Zionists should seek: "The northern frontier ought to be the mountains facing Cappadocia [in Turkey]; the southern, the Suez Canal."¹¹ Hechler also suggested the slogan: "The Palestine of David and Solomon."¹² Herzl appears to have been an apt pupil of Hechler, for just over two years later in October 1898, he recorded approvingly the suggestion of his associate Max Bodenheimer: "from the Brook of Egypt to the Euphrates."¹³

While the 1917 Balfour Declaration¹⁴ was hailed by most Zionists,¹⁵ it gave no indication of the precise territory involved, only committing the British to using "their best endeavors to facilitate" the "establishment in Palestine of a national home for the Jewish people." By the time of the Paris Peace Conference in 1919, the Zionists had tempered their claim and asked only for the territory encompassed within a line running east from (in current terms) Sidon, Lebanon to close to Damascus, Syria, then south to Amman, Ma'an, and Aqaba, Jordan, then west to Al-'Arish, Egypt.¹⁶ As a result of negotiations, notably between Britain and France, with the concurrence of the USA, the boundaries of Palestine were in due course established, and the Mandate for Palestine¹⁷ was approved by the League of Nations' Council in July 1922. The following year, under authority granted in article 25 of the mandate, Britain limited the area in which the Jewish "national home" provisions were applicable to that west of the Jordan River, a territory significantly smaller than that claimed by the Zionists, and which thereafter alone was known as Palestine. Therewith the "charter," long but unsuccessfully sought by Herzl, was in the hands of the Zionists, and thus the stage was set for large-scale Jewish colonization of Palestine.

The ignored people in all of these negotiations and machinations were the indigenous Arabs of Palestine, unrecognized as a people and unworthy

of consultation about their homes and lands and future. In a long memorandum dated 11 August 1919, Arthur James Balfour, then British Foreign Secretary discusses with disarming candor the mandates system and article 22¹⁸ of the League of Nations' Covenant which declared that "the wishes of these communities [formerly belonging to the Turkish Empire] must be a principal consideration in the selection of a mandatory," and notes that as far as Palestine is concerned,

the contradiction between the letter of the Covenant and policy of the allies is . . . flagrant For in Palestine we do not propose even to go through the form of consulting the wishes of the present inhabitants The four great powers are committed to Zionism. And Zionism, be it right or wrong, good, or bad, is rooted in age-long traditions, in present needs, in future hopes, of far profounder import than the desires and prejudices of the 700,000 Arabs who now inhabit that ancient land. In my opinion that is right.¹⁹

The Palestinian Arabs, in short, were presented with a Hobson's choice. If they selected Britain as the mandatory power and if they approved Britain's "national home" policy, then they would have their choice.

The phrase *national home* typifies the dissimulation that was an inherent and an essential part of Zionism's claim to Palestine. It was used as an equivalent (though it is not a translation) of the German *Heimstätte*, which was chosen to mask Zionist intentions and thus not to evoke opposition. In 1920 Max Nordau wrote:

I did my best to persuade the claimants of the Jewish state in Palestine that we might find a circumlocution that would express all we meant, but would say it in a way so as to avoid provoking the Turkish rulers of the coveted land. I suggested *Heimstätte* as a synonym for "state" It was equivocal, but we all understood what it meant. To us it signified *Judenstaat* then and it signifies the same now.²⁰

Zionist colonization is usually seen as part of the larger European colonial movement. While this is undoubtedly correct, it tends to lose sight of several features of Zionist colonialism which distinguish it from other colonialisms. First, Zionism did not seek to expand on an existing state, but to establish one for a people held to be without a state, a homeland. Second, Zionism did not seek new markets and increased resources, both natural and human, which could be profitably exploited, but a "land without a people" where a state for a "landless people" could be built.

To justify or legitimize such an enterprise, to both Jews and non-Jews, Zionism emphasized (a) the notion of *return*—Jews were only seeking to return to a land from which they were all held to have been expelled—and (b) *antisemitism*, which, to serve the intended purposes, had to be pictured as inherent and immutable in all non-Jews. Antisemitism was

presented as responsible for the expulsion from their homeland and for the subjugation of Jews in exile. The only solution (to the Zionists) was a return, preferably to an unpeopled land. Since the land they sought, Palestine, did not so qualify, it had to be made to qualify: It had to be emptied of its inhabitants. Thus the latter would not be exploited (apparently a greater evil than expulsion), and the whole enterprise thereby became not just acceptable, but right and good, even sacred!

Thus the Zionists' claim to Palestine was staked out and justified, enabling them to enlist the support of Britain and of the western world in general in eventually taking over Palestine emptied of its indigenous inhabitants, who, in any case, were viewed not as a people but merely a collection of uncivilized tribes and nomads.

Palestine Under Mandate

Although the final text of the mandate was submitted by Britain to the League of Nations and approved in July 1922, and became effective in September 1923, for all practical purposes the mandate administration begins in 1920. In April 1920, at the San Remo Conference, the victors in World War I agreed on the disposition of the territories of the former Turkish Empire and that the mandatory for Palestine was to be Britain. This agreement was implemented by Britain in establishing in Palestine a civil administration in July 1920, taking over from the earlier military administration.

The military administration had often been accused by the Zionists of pursuing policies inimical to the objectives of Zionism, and even of being antisemitic. Examination of the record of the administration, however, plus the fact that a number of the officers involved later became officials in the civil administration, with the evident approval of the Zionists, suggests that such charges were unfounded. The military administration felt constrained by the rules of war and saw itself as administering occupied enemy territory. Thus it generally did its best to maintain the status quo in Palestine and accordingly closed the Land Registry Offices in November 1918 and did not facilitate—though it did not stop—Jewish immigration. However during its tenure, Hebrew was adopted as an official language and the Zionist Commission was allowed to tour the country and to plan developments. Since the civil administration did not feel at all constrained to maintain the status quo in Palestine, indeed it was committed to changing it, the Zionists welcomed the new administration in 1920.

The mandate was palpably drafted to accommodate the objectives of the Zionists. Not only was the Balfour Declaration incorporated in the preamble, but articles 2, 4, 6, 11, 22, and 23²¹ were formulated clearly in

the Zionists' interests. Consistent with such a policy, the civil administration was studded with Zionists, both Jewish and non-Jewish. Among the former were the High Commissioner, Herbert Samuel,²² "one of the founding authors of the mandate,"²³ and the Attorney-General, Norman Bentwich, (whose wife was Samuel's niece, and) whose responsibilities included being legal advisor to all government departments, supervising the courts and the land registration offices, and drafting legislation. In addition were the Director of Immigration, Albert Hyamson; an official in the same department, Dennis Cohen (a former employee of the Zionist Organization in Britain); the Principal Assistant Secretary to the government, Max Nurock; the Director of Commerce and Industry, Ralph Harari; and the Controller of Stores, Harold Solomon. Among the non-Jews, the Chief Secretary to the government, Wyndham Deeds, and his successor Gilbert Clayton, are described by Bentwich as "steadfast friends of the Jewish national home."²⁴

Among the first actions of the new government were a new Immigration Ordinance in July and a Land Transfer Ordinance in September, the effect of which was to facilitate the purchase of land by Jews, and was later judged to have been a contributory cause of the May 1921 Palestinian Arab uprising.²⁵ The Land Registry Offices were reopened in October, permitting transfer of ownership, and a new system of settlement of land-titles—a highly intricate matter in Palestine and difficult to disentangle—was introduced. The effect of this was to make it easier, faster, and less costly for the Zionists to acquire land.

All of these measures, in effect if not always in intent, served to further Zionist objectives. A good example of this is the Land Transfer Ordinance, ostensibly intended to protect tenant-cultivators from eviction by landlords. It had in fact the opposite effect mainly because most of the large tracts of land were owned by absentee landlords. Whereas relations between landowner and tenant had, until then, been relatively good, the new law gave the tenant the impression (encouraged by Zionist land-brokers) that he no longer needed to pay the rent, since the law gave him certain "tenancy rights" under ambiguously worded provisions. The landowner, placed in the unenviable position of owning land but realizing little return from it, and burdened with taxation, found himself in a difficult situation. The Zionist land-broker would then step in, offer to buy the land and rid the landowner of his troubles.

Other measures favoring the colonists were the granting to Jewish companies of concessions over state lands and the natural resources of the country, such as irrigation, electricity, and the extraction of potash and other minerals from the Dead Sea. No concession of any kind was granted to a non-Jew, and those which existed prior to the mandate—e.g. the Jerusalem Electricity and the Hulah Concessions—were eventually

acquired with clandestine government assistance, although the former went to a so-called British company. The only concession which remained in Arab hands was the Himmah Hot Springs. Suleiman Nasif, the concessionaire, told one of the authors (Hadawi) that he was under great pressure to sell out if he did not want his concession canceled.

Apart from substantive matters such as these, measures were adopted which, while largely symbolic in significance, were irritants and reminders to the Arabs of their subordinate role and ultimate dispossession. A stamp issued in Palestine in October 1920 bore in surcharge the word *Palestine* in Arabic at the top, in English in the center, and in Hebrew at the bottom. The latter was followed by the Hebrew letters *aleph* and *yod*, signifying *Eretz Yisrael*. As related by Bentwich, in this way "Samuel ingeniously gave official recognition to the Jewish traditional name."²⁶ Bentwich adds that an Arab nationalist group tried to challenge this action in the courts, but "the court refused to interfere with an administrative action."

In addition to positive actions in furtherance of Zionist objectives, the administration did nothing to prevent open and outright discrimination against the non-Jewish Palestinians. Thus the Jewish National Fund (*Keren Kayemeth Leisrael*) was allowed to purchase land and place totally restrictive covenants on it, making it inalienable in perpetuity and prohibiting its leasing to non-Jews; a Jewish lessee had to agree in the lease not to employ or to do business with non-Jews. The Jewish Agency, provision for which as a quasi-governmental body was made in the mandate (articles 4, 6, 11), and which was simply "another name for the Zionist Organization,"²⁷ adopted a constitution in August 1929 which stated (article 3):

Land is to be acquired as Jewish property . . . [and] held as the inalienable property of the Jewish people. The Agency shall promote agricultural colonization based on Jewish labor, and in all works or undertakings carried out or furthered by the Agency, it shall be deemed to be a matter of principle that Jewish labor shall be employed.²⁸

Similarly, the repayment agreements entered into by Jewish colonists for capital advanced by the Palestine Foundation Fund (*Keren Hayesod*) specified (article 7) that "the settler hereby undertakes that . . . if and whenever he may be obliged to hire help, he will hire Jewish workmen only."²⁹ And the General Federation of Jewish Labor (the *Histradrut*), at that time, not only did not represent Arab workers, but prohibited them from joining a union belonging to the Federation and did its best to prevent their employment by pressuring Jewish non-Zionist employers to replace them with Jewish workers.³⁰ In the words of Uri Avnery, editor of *Ha'olam Hazeh*, Israel's leading newsweekly:

Hebrew Labor meant, necessarily, No Arab Labor. The "redemption of the land" often meant, necessarily "redeeming" it from the Arab *fellahin* who happened to be living on it. A Jewish plantation owner who employed Arabs in his orange grove was a traitor to the cause, a despicable reactionary who not only deprived a Jewish worker of work, but even more important, deprived the country of a Jewish worker. His grove had to be picketed, the Arabs had to be evicted by force. Bloodshed, if necessary, was justified.³¹

Avnery further notes that Arab tenants "were simply evicted when the land was redeemed by the Jewish National Fund in order to set up a *kibbutz*."

Given the climate thus created, with "helpful" personnel and "facilitating" legislation, and not very serious or, in any case, effective efforts by the government to ensure "that the rights and position of other sections of the population [i.e. the Arabs] are not prejudiced" (article 6 of the mandate), it is hardly surprising that the Zionists acquired land and established colonies. Indeed what is surprising is that Jewish landownership did not grow more rapidly and to a higher fraction of the lands of Palestine.

During the mandate the major mechanism of land acquisition was purchase, with a small amount acquired through lease from the government. The last complete statistics on landownership compiled by the mandate administration were in 1946 for the Anglo-American Committee of Inquiry, based on figures as of the end of 1945. These were made public in *Village Statistics 1945*,³² and are based on (1) the land settlement records for areas where final settlement of land-titles had been completed (about 5 per cent of the area of Palestine); and (2), for other areas, the lists of taxpayers prepared by village tax distribution committees appointed under the Rural Property Tax Ordinance. According to these, total Jewish ownership was 1,491,699 dunums, i.e. 5.67 per cent of the land of Palestine. If we accept, as the government did, 650,000 dunums (2.47 per cent) as the amount owned prior to October 1920, then during the period in question Jewish ownership increased by 841,699 dunums (3.2 per cent).

Since the *Village Statistics* were based on recorded ownership and tax records, they did not include under Jewish ownership land purchased through Arab middlemen (the owners of record but not of fact) under an irrevocable power-of-attorney. This method was used particularly to acquire land in the "restricted zones" set out in the Land Transfer Regulations published in February 1940, but effective as of May 1939.³³ A limited measure of the discrepancies thus introduced into the question of Jewish landownership is seen in that from 1939-44, inclusive, the Jewish National Fund alone claimed to have purchased 325,742 dunums, whereas government records for the same period show only 110,140

dunums for all Jewish purchases.³⁴

Based on the *Village Statistics*, but apparently making allowance for these discrepancies, the mandate government prepared the *Survey of Palestine* (also for the Anglo-American Committee of Inquiry). This shows total Jewish ownership as 1,588,365 dunums³⁵ (6.03 per cent), yielding a total of 938,365 dunums (3.56 per cent) acquired during 1920-45. Amounts acquired annually varied considerably; the low was in 1920 with only 1,048 dunums, the high in 1925 with 176,124, for an average of 36,091 dunums per year from 1920-45 inclusive.

In addition to these purchases, Jews also held under lease about 195,000 dunums of state domain.³⁶ Naturally these were not registered as owned by Jews, although figures in Zionist sources often include them as Jewish land.

Somewhat later and larger figures are given by Abraham Granott, a long-time official and 1945-46 chairman of the Board of Directors of the Jewish National Fund. As of the end of 1947, Granott claims Jews owned 1,734,000 dunums³⁷ (6.59 per cent), yielding a total of 1,084,000 dunums (4.12 per cent) acquired during the mandate. Given Granott's obvious motivation for maximizing Jewish holdings, this figure may be taken as the maximum; the actual figure may have been lower. In any case, the government's and Granott's figures do not differ greatly. We can therefore conclude safely that Jewish landownership in Palestine by the end of the mandate was at most 7 per cent.

This conclusion immediately raises two questions: (1) Given the facilities provided under the mandate, why was Jewish ownership at the end of this period not much higher, say 60-70 instead of 6-7 per cent? (2) Who were the vendors of land bought by Jewish organizations and individuals? The answers to these questions are, in part, probably not unrelated.

To our first question there is no single or simple answer. Lack of funds may at times have been a factor. To the extent it was, on the whole it appears to have been a relatively minor one. Doubtless more significant was the fact that early Zionist predictions (apparently accepted by the British government) about the rate of Jewish immigration, colonization, and development in Palestine were naive and/or gross overestimations, motivated by hopes and dreams, not realities either in Europe or in Palestine. The much longer-than-foreseen time thus required allowed other factors (not all unforeseen, but generally underrated) to come to the fore. Most significant among these was the growing Palestinian Arab resistance and demands for independence, one of the two obligations assumed by Britain under the mandate. This caused increasing British qualms about the mandate and the "national home" enterprise, leading the Peel Commission—after the Arab uprising beginning in April

1936—to conclude in its June 1937 report: “To put it in one sentence, we cannot—in Palestine as it now is—both concede the Arab claim to self-government and secure the establishment of the Jewish national home.”³⁸

There is at least one other important part of the answer, which also relates to our second question. The Zionists were unable to purchase more land because the overwhelming majority of the small Arab landholders were unwilling to sell, and could not be induced to sell even at attractive prices. Above all else this testifies to their attachment to the land, a fact amply underscored by subsequent events. That the Zionists were, and remain, unwilling to recognize this is of course not surprising.

The question of the vendors of land has not been adequately researched, and much of our information comes from Zionist sources. However, given their motivation to show, as is claimed, that Arab landowners in general were willing and happy to sell land, when their figures do not support this claim, they are probably reliable.

The most detailed information is provided by Granott, based on a study made by the Statistical Department of the Jewish Agency as of the end of March 1936. According to this, 52.6 per cent was purchased from “large absentee landowners,” 24.6 from “large resident landowners,” and 13.4 from “various sources” such as government, churches, foreign companies, and wealthy businessmen. This yields a total of 90.6 per cent, leaving only 9.4 per cent acquired from “the *fellahin*,” and almost half of this amount was purchased between 1891 and 1900,³⁹ well before the mandate and even before the Jewish National Fund was created. Granott estimates (but gives no details) that of total Jewish ownership in 1947, 57 per cent had been acquired from large landowners, 16 from the government, churches, and foreign companies, and 27 per cent from small landowners.⁴⁰

In agreement with Granott's March 1936 conclusions are those contained in a memorandum dealing with sales of land to Jewish organizations and individuals by absentee (i.e. non-Palestinian) owners. Dated 25 February 1946 and submitted by the Arab Higher Committee to the Anglo-American Committee of Inquiry, it is based on a field survey conducted at the time only in parts of Palestine, and is therefore incomplete. It names the absentee vendors, the amount of land sold, and the area of the holding. The figures it gives total 461,250 dunums sold by absentee owners,⁴¹ about half of the land purchased by Jews during the mandate period.

Palestine Partitioned

In February 1947 the British, having exhausted all attempts to reconcile the mutually-exclusive obligations they had assumed under the mandate

and their efforts to cope with the growing strife in Palestine, turned the problem over to the United Nations. Eventually, following several reports of committees and subcommittees, on 29 November 1947 the UN General Assembly adopted resolution 181 (II) recommending partition of Palestine into a Jewish state, an Arab state, and a *corpus separatum* under international administration for Jerusalem, Bethlehem, and environs.

Like the mandate, the partition recommendation was drafted in the interests of the Zionists. It assigned 56 per cent (about 14,800,000 dunums) of the area of Palestine, containing most of the good land, to the proposed Jewish state,⁴² while Jews constituted almost a third of the population and owned at most 7 per cent of the land. It also contained pious phrases and "guarantees" of the protection of the human and civil rights of all the inhabitants of Palestine, in practice proving no more meaningful than similar assurances in the mandate. As in 1920, the European and American states in 1947, having laid the basis for certain strife and conflict, cynically hoped that everything would somehow work out and that the inhabitants of Palestine would live in the proposed intertwined states in harmony and peace.

The conflict which no prophetic powers were needed to foresee began within days of the adoption of the partition recommendation. By the time it subsided and bilateral armistice agreements were signed in 1949 by Israel and Egypt, Lebanon, Jordan (then Transjordan), and Syria (but, not insignificantly, never by the Palestinians), the state of Israel emerged controlling not 56 but 77 per cent (about 20,400,000 dunums) of former Palestine. In addition, the area under Israel's control had been largely emptied of its former Arab inhabitants. Thus a long-standing objective of Zionism had been realized to a significant degree.

Steps now had to be taken to ensure that the Palestinians did not return and to consolidate Israel's hold on the land. The former was achieved by refusing the return of the displaced⁴³ and the latter by a series of measures enacted for this purpose.⁴⁴ The desired objective was thus not only legitimized in the eyes of sympathizers and supporters of Zionism, but indeed achieved through "legal" means.

The first of these measures was based on the *Defense (Emergency) Regulations*,⁴⁵ adopted in 1945 by the mandate administration to cope with rising Zionist terrorism at that time in Palestine. These Regulations were retained by Israel and were the basis of the military government to which the Arabs in Israel were subject until 1966. Under these Regulations the power of the appointed military governors over their areas were virtually absolute and not subject to further administrative or effective judicial control. Even the right of appeal to the Supreme Court, the only available avenue of redress, was essentially meaningless. In justification of his action the governor could invoke "security reasons,"

always accepted as decisive by the Court. Article 125 gave the military governors power to proclaim any area or place a forbidden or *closed area*, which could be entered or left only with the written permission of the governor. By this means, Palestinian Arabs in Israel were effectively barred from their homes and lands, simply by declaring the areas closed and refusing them the necessary permit.

Similar in intent and effect were the *Emergency Regulations (Security Zones)*, adopted in 1949. These were originally issued by the Minister of Defense, and their validity was extended periodically by the Knesset; they were allowed to lapse at the end of 1972, having served their purpose. These Regulations empowered the Minister of Defense to declare *security zones*, which could not be entered without a permit from the authorities. The Regulations also gave the authorities virtually absolute powers over the residents of the zones, including the power to expel them. Under these Regulations, most of the northern half of the Galilee, the whole of the Triangle area, as well as areas bordering the Gaza Strip and the Jaffa-Jerusalem railway line were declared security zones. Violation of these Regulations (as of those of 1945) was a crime, punishable by imprisonment and fine.

Working hand-in-glove with the above Regulations were the *Emergency Regulations (Cultivation of Waste [i.e. uncultivated] Lands)*, also adopted in 1949. Originally these had been issued by the provisional government in October 1948 as a measure to deal with the effects of the fighting as a result of which lands had been "abandoned" and were "lying fallow." In January 1949, the Minister of Agriculture asked that these be continued, because under them

we have been able to turn over to agriculture [Jewish farmers and organizations] and sow more than half a million dunums of cultivated land. The immediate problem that confronts us, especially since the liberation of the Negev and the transfer of vast areas of it, emptied of the majority of its former inhabitants, to state ownership, is that of exploiting another million dunums.

These Regulations were used effectively in conjunction with those regarding closed areas and security zones. A desired area inhabited by Arabs was declared closed or a security zone, and the residents would for "security reasons" be expelled and/or denied permits to enter and cultivate the land. Thereafter the land was, of course, uncultivated. Then the Minister of Agriculture took it over and assigned it to neighboring Jewish settlements in order that it be cultivated and productive.

The fourth measure under which Arab property, particularly urban property, was confiscated was the *Emergency Land Requisition Law* of 1949. It was enacted as a means of providing temporary housing for new Jewish immigrants and space for official organizations. Originally not to

exceed three years, the term of requisitioning was extended several times, and property which was considered essential for "security" was regarded as confiscated and therefore as state property.

The fifth and perhaps most significant measure was the *Absentees' Property Law* of 1950. Earlier this had been issued in December 1948 as *Emergency Regulations Relative to the Property of Absentees*.⁴⁷ The ostensible intent was to place under the control of a Custodian the property of Palestinians no longer in the area controlled by Israel until a settlement had been effected. Although the Custodian has since transferred all of these properties, mainly to the state and the Jewish National Fund, he still exists, presumably because he is still "responsible" for them. The law gave the Custodian very extensive discretionary powers: He could take over any property on the strength of his own judgment that the owner (or owners) was an "absentee." The burden of proof to the contrary fell on the owner. Since the Custodian was not required to reveal the information, or its source, on the basis of which he had classified someone as an absentee, such proof was almost impossible to establish. Not even outright errors could be undone, so long as the Custodian had acted "in good faith." The law defined an absentee so broadly that "every Arab in Palestine who had left his town or village after 29 November 1947 was liable to be classified as an absentee under the regulations,"⁴⁸ regardless of when, where, why, or for how long he had left his "ordinary place of residence in Palestine." The validity of this law extends until "a declaration is published . . . that the state of emergency declared by the Provisional Council of State on . . . (19 May 1948) has ceased to exist . . ." To this date, the state of emergency still exists.

The Custodian, regarded as the legal holder of absentees' property, was empowered to transfer it to an authority created shortly thereafter by the *Development Authority (Transfer of Property) Law*, 1950. The Authority in turn was empowered to sell these properties, but only to (1) the state, (2) the Jewish National Fund, (3) municipal authorities, providing the land had first been offered to the Jewish National Fund, and (4) an organization engaged in settling Arab refugees who had remained in Israel. Such an organization was never established, and virtually all of the land was "sold" to the state and to the Jewish National Fund.

While these measures effectively deprived the Arabs of their lands by preventing them from cultivating them, the laws generally say nothing about ownership. Instead they speak of the need for cultivation and increased food production, the right of usufruct, and authorization for requisitioning for specified purposes, including that of security—a very large "rug" in Israel. Technically, therefore, these measures left the legal ownership in the hands of the original owners. This was clearly not the intent, and it was remedied by the *Land Acquisition (Validation of Acts*

and Compensation) Law, 1953. It empowered the Minister of Finance to transfer the ownership of lands taken over under earlier measures to the state via the Development Authority. Its purpose and justification were succinctly put by the Minister in the Knesset debates on it; it was intended "to legalize certain actions taken during and after the war." He added that "there are reasons connected with the security of the state and the execution of essential development projects which make it impossible to return these lands to their owners."

The law stipulated that compensation was to be paid the former owners, and the Minister of Finance was empowered to determine the amount. This was fixed as the value of the land on 1 January 1950. With rapid inflation in Israel, even by 1953 this was less than minimal compensation; today such compensation cannot in any fairness or justice be considered anything other than a thin veneer of legality for outright expropriation.

Nonetheless, for those squeamish about such things, the deprivation of the Palestinians of their lands—which they had refused to sell—was by such measures made "legal." The lands so acquired have been designated national (or Israeli) lands, which in Israel means not "Israeli" but "Jewish" lands, which cannot be leased to non-Jews and on which non-Jews cannot be legally employed.

In spite of the effectiveness of these measures in depriving the Arabs in Israel of their lands, various developments have militated against the intended outcome—to "encourage" the remaining Arabs to leave. Among these were the stubborn refusal of the Arabs to leave, the high rate of natural increase among them (now some 15 per cent of the population in pre-1967 Israeli territory), and the unavailability of land for this growing minority. Tawfiq Zayyad, mayor of Nazareth, notes that as a consequence of Israel's "confiscation policy" that "the average area belonging to Arab villages in 1948 was 16,500 dunums; in 1974, this area was down to 5,000 dunums."⁴⁹ Among the examples he cites is Nazareth, which "was deprived of most of its land, while the population tripled (from 15,000 to 45,000)." As for the rural population, he points out that "the average area of arable land of the Arab village was, in 1948, . . . 9,136 dunums; in 1974, this area was down to 2,000 dunums."

These developments, coupled with the unavailability (for a variety of reasons) of adequate numbers of Jewish farmers and farm workers, and the fact that Arab workers are paid lower wages, resulted in increasing employ by Jewish settlements of Arab laborers; some settlements have even entered into sharecropping arrangements with Arabs. These practices have been denounced by the Minister of Agriculture as "a cancer."⁵⁰ To eliminate this "plague," the Ministry of Agriculture and the Settlement Department of the Jewish Agency launched a "vigorous campaign," warning settlements that such practices are in violation of the

law, and some settlements have been fined.⁵¹

An attempt, apparently not wholly successful, to deal with this problem was the *Agricultural Settlement (Restrictions on the Use of Agricultural Land and of Water) Law* of 1967.⁵² The intent of this law was to prevent any non-Jew from leasing or holding any rights—subleasing, share-cropping—in national lands, including those owned by the Jewish National Fund. It needs to be kept in mind that this law and similar restrictive and discriminatory policies adopted by the state from the Jewish National Fund apply to “over 90 per cent”⁵³ of the land in pre-1967 Israel.

By measures such as these outlined above, the Palestinian Arabs have been “legally” deprived of their lands, and those displaced have been prevented from returning. Although the situation is somewhat less clear, and complicated because of their status under international law, all available evidence supports the conclusion that Israel is following similar policies in the territories occupied since 1967, especially in the so-called West Bank and the Gaza Strip.⁵⁴ These actions are of course in clear violation of the 1949 Geneva Conventions, to which Israel is a signatory but which thus far she has honored mainly in the breach. In the words of Felicia Langer, an Israeli attorney, in an address in New York in October 1976:

Israeli authorities confiscated more than a million and a half dunums in the West Bank, more than one-sixth of the total area of the West Bank, one-third of the Gaza Strip. Thousands of bedouins were forcibly evicted from their land. The total area confiscated there is around 100,000 dunums. The so-called “thinning-out” policy in the refugee camps entailed mass expulsion of refugees and many thousands of destroyed homes The same activity of the occupiers is shown also in Arab Jerusalem—confiscation of 22,000 dunums of Arab land in the city and its suburbs and forcible eviction of tens of thousands of Arabs who used to live and work there. I shall never forget the old widow Salaima who said that she preferred to die in her house rather than leave it. After the demolition of 800 Arab buildings, 13 new Israeli sectors were built, encircling Jerusalem, reaching Beit Jala and the road to Jericho—“a ring around Jerusalem” as the authorities are calling it. As a result, a serious demographic change has occurred—a forcible decrease in the number of Arab inhabitants from 140,000 in 1948 to 70,000 in 1974.⁵⁵

In 1920 Jews owned 2.5 per cent of the land in Palestine. By 1948, as a result of purchases during the mandate period, this fraction had grown to 6-7 per cent. After the establishment of Israel in 1948, large acquisitions were made, some by purchases, most by virtual expropriation in the wake of military conquest. Today the state of Israel, in the name of “the Jewish people,” owns about 75 per cent of the land in pre-1967 Israel, and the Jewish National Fund and private Jewish landowners together own

another 20 per cent, leaving about 5 per cent in Arab hands.

The post-1967 purchases and expropriations in the West Bank and the Gaza Strip add to these holdings by Israel and indicate that the Zionist goal—Palestine without Palestinians—is still being pursued.

FOOTNOTES

¹*The Toronto Star*, 11 November 1975.

²John Hope Simpson, *Palestine, Report on Immigration, Land Settlement and Development* (Cmd. 3686; London, 1930), pp. 12-23; W.B. Fisher, *The Middle East* (London, 1971), pp. 385-92; Sami Hadawi, *Palestine: Loss of a Heritage* (San Antonio, Texas, 1963), pp. 7-11, 14-23.

³Summarized in Government of Palestine, *Census of Palestine, 1922*, from which all 1922 figures are taken; cited in Janet L. Abu-Lughod, "The Demographic Transformation of Palestine" in Ibrahim Abu-Lughod (ed.), *The Transformation of Palestine: Essays on the Origin and Development of the Arab-Israeli Conflict* (Evanston, Illinois, 1971), p. 141.

⁴Abu-Lughod, p. 142.

⁵For a discussion of the reasons for this see John Ruedy, "Dynamics of Land Alienation" in Abu-Lughod, pp. 120-4; William R. Polk, David M. Stampler and Edmund Astour, *Backdrop to Tragedy: The Struggle for Palestine* (Boston, 1957), pp. 71, 230-6.

⁶Government of Palestine, *Survey of Palestine: Prepared in December 1945 and January 1946 for the Information of the Anglo-American Committee of Inquiry*, 2 vols. (Jerusalem, 1946), 1, p. 243.

⁷Raphael Patai (ed.), *The Complete Diaries of Theodor Herzl* (New York, 1960), p. 56.

⁸*Ibid.*, see also p. 133.

⁹Regina Sharif, "Christians for Zion, 1600-1919," *Journal of Palestine Studies* V (nos. 3-4, 1976), pp. 123-41.

¹⁰*Stenographisches Protokoll der Verhandlungen des VI. Zionisten-Kongresses in Basel. 23. bis 28. August 1903* (Vienna, 1903), pp. 262-3.

¹¹*Diaries*, p. 342.

¹²*Ibid.*

¹³*Ibid.*, p. 711.

¹⁴Leonard Stein, *The Balfour Declaration* (London, 1961); Christopher Sykes, "The Prosperity of His Servant: A Study of the Origins of the Balfour Declaration" in *Two Studies in Virtue* (New York, 1953), pp. 107-235; Ben Halpern, *The Idea of the Jewish State*, 2nd edition (Cambridge, Mass., 1969), chap. 9; Pok *et al.*, chap. 9; W.T. Mallison, Jr., "The Balfour Declaration: An Appraisal in International Law" in Abu-Lughod, pp. 61-111.

¹⁵For a dissenting view, Ahad Ha'am, "After the Balfour Declaration" in Gary V. Smith (ed.), *Zionism—The Dream and the Reality: A Jewish Critique* (New York, 1974), pp. 83-90.

¹⁶Halpern, pp. 278, 304.

¹⁷Henry Cattan argues that since the mandate was in clear contradiction to article 22 of the League Covenant, the mandate itself was invalid under international law; *Palestine and International Law: The Legal Aspects of the Arab-Israeli Conflict* (London, 1973); text of the mandate, pp. 176-81.

¹⁸For the full text, Cattan, p. 175.

¹⁹E. L. Woodward and Rohan Butler (eds.), *Documents on British Foreign Policy, 1919-1939*, series I, vol. IV, 1919 (London, 1952), p. 345.

²⁰Cited in Sykes, p. 160, fn. 1. In writing about the First Zionist Congress (Basle, August 1897), at which it was publicly proclaimed that "the aim of Zionism is to create for the Jewish people a *home in Palestine* . . .," Herzl recorded in September: "Were I to sum up the Basle Congress in a word—which I shall guard against pronouncing publicly—it would be this: At Basle I founded the *Jewish state*." *Diaries*, p. 581; emphasis added. Chaim Weizmann, writing about the same Congress fifty years later, declared: "We, not less than Herzl, regarded it as the Jewish state in the making;" *Trial and Error: The Autobiography of Chaim Weizmann* (New York, 1949), p. 68. Other Zionist leaders can readily be cited to the same intent.

There is no question that British and Zionist officials understood the phrase in the same way. John Shuckburgh, an official in the India Office in 1921, quotes Weizmann asking Lloyd George "what meaning His Majesty's Government had attached to the phrase 'Jewish national home' in the famous Balfour Declaration. The Prime Minister replied: 'We meant a Jewish state.'" Cited in Doreen Ingrams (ed.), *Palestine Papers, 1917-1922: Seeds of Conflict* (London, 1972), p. 146. Richard Meinertzhagen, reporting on a conversation held on 22 July 1921 with Lloyd George, Arthur James Balfour, Winston Churchill, Chaim Weizmann, *et al.*, states: "L.G. and A. J. B. both said that by the Declaration they always meant an eventual Jewish state." *Middle East Diary, 1917-1956* (New York, 1960), p. 104.

²¹Text in Cattani, pp. 176-81; Ingrams, pp. 177-83.

²²Field-Marshal Allenby in a "very urgent, private and very confidential" telegram to the Foreign Office on 6 May 1920 cautioned against the appointment of Samuel: "I think that appointment of a Jew as first governor will be highly dangerous." He warned that Palestinian Muslims and Christians would regard it "as handing country over at once to a permanent Zionist administration . . . and will throw their weight against administration . . . [making] government of any kind very difficult." General Bols, head of the military administration, later reported how the news of Samuel's appointment was received: "Consternation, despondency, and exasperation express the feeling of the Muslim-Christian population Among the Jews there was a general feeling of gratification at the honor conferred on a coreligionist, tempered, however, by fears amongst the Orthodox Jews that they may not enjoy as full a measure of religious freedom . . ." He concludes by quoting a European Zionist: "For the first six months he will require a British bodyguard to protect him from the Muslims and Christians, after six months he will require a doubled British bodyguard to protect him from the Zionists." Cited in Ingrams, pp. 105-7.

²³Norman and Helen Bentwich, *Mandate Memories, 1918-1948* (London, 1965), p. 12.

²⁴*Ibid.*, p. 32.

²⁵The finding of the Commission headed by Thomas Haycraft; *Report of the Commission of Inquiry on the Disturbances of May 1921* (Cmd. 1540; London, 1921), p. 51.

²⁶Bentwich, p. 64.

²⁷Halpern, p. 195.

²⁸Cited in Hope Simpson, p. 53.

²⁹*Ibid.*

³⁰*Ibid.*, p. 55.

³¹*Israel without Zionists: A Plea for Peace in the Middle East* (New York, 1968), p. 85.

³²Jerusalem, 1946. This has been reprinted with explanatory notes: Hadawi (ed.), *Village Statistics 1945: A Classification of Land and Area Ownership in Palestine* (Beirut, 1970).

³³Robert John and Sami Hadawi, *The Palestine Diary: 1914-1945* (Beirut, 1970), pp. 332-4; George Kirk, *The Middle East in the War* (London, 1952), pp. 232-5.

- ²⁴Walter Lehn, "The Jewish National Fund," *Journal of Palestine Studies* III (no. 4, 1974), pp. 90-1.
- ²⁵*Survey of Palestine*. I, p. 244.
- ²⁶*Ibid.*, p. 258.
- ²⁷*Agrarian Reform and the Record of Israel* (London, 1956), p. 28.
- ²⁸Cited in Government of Palestine, *The Political History of Palestine under British Administration* (Jerusalem, 1947), prepared for UNSCOP.
- ²⁹*The Land System in Palestine: History and Structure* (London, 1952), p. 277.
- ³⁰*Ibid.*, p. 278. In agreement with Granott are the figures given by Efraim Orni, *Agrarian Reform and Social Progress in Israel* (Jerusalem, 1972), p. 52.
- ³¹Cited in Hadawi, *Village Statistics*, pp. 27-8.
- ³²Hadawi, *Palestine*, pp. 17, 25, 42.
- ³³Granott, *Agrarian Reform*: p. 95, labels this a "bold decision" of the government: "under no circumstances should the Arabs return to Israel." Ben-Gurion wrote: "We must do everything to ensure that they never do return!" Cited by his biographer Michael Bar-Zohar, *Ben-Gurion: The Armed Prophet* (Englewood Cliffs, N.J., 1968), p. 148.
- ³⁴Following details and quotations, unless otherwise noted, as from Şabri Jiryis, "The Legal Structure for the Expropriation and Absorption of Arab Lands in Israel," *Journal of Palestine Studies* II (no. 4, 1973), pp. 82-104, based on Israeli sources. See also Hadawi, *Palestine*, pp. 50-61; and Jiryis, *The Arabs In Israel* (New York, 1976), pp. 75-134.
- ³⁵Based on *Emergency Regulations (1936)* adopted then to cope with the Arab revolt. When these were readopted in 1945, Ya'acov Shapira (later Israel's Minister of Justice) declared: "The established order in Palestine since the defense regulations is unparalleled in any civilized country. Even in Nazi Germany there were no such laws Only in an occupied country do you find a system resembling ours." Cited in Jiryis, *The Arabs*, p. 12.
- ³⁶Like *national* or at times even *Israeli*, the adjective *official* in Israel means not "Israeli" but "Jewish."
- ³⁷An earlier measure to the same effect was the *Abandoned Areas Ordinance* of June 1948. This defined an abandoned area "as any place conquered by, or surrendered to, the armed forces of Israel or deserted by all or part of its inhabitants." It also empowered the provisional government "to declare any place an 'abandoned area'." Don Peretz, *Israel and the Palestine Arabs* (Washington, 1958), p. 149; a discussion of Israel's absentees' property policies, pp. 141-91.
- ³⁸*Ibid.*, p. 152.
- ³⁹"The Fate of the Arabs in Israel" (an address delivered in New York, October 1976), *Journal of Palestine Studies* VI (no. 1, 1976), p. 96. For further details as published in the Israeli press, see "Revolt in Galilee;" for Palestinian views, "Struggle for the Land;" *Journal of Palestine Studies* V (nos. 3-4, 1976), pp. 192-200, and 229-36, respectively.
- ⁴⁰Ha'aretz, 13 December 1974, cited in Israel Shahak (ed.), *The Non-Jew in the Jewish State: A Collection of Documents* (Jerusalem, 1975), p. 3.
- ⁴¹Ma'ariv, 3 July 1975, and *Al Hamishmar*, 21 July 1975; cited in Shahak, pp. 17, 19, 22. See also the discussion by Noam Chomsky in the Foreword to Jiryis, *The Arabs*.
- ⁴²Government of Israel, *Laws of the State of Israel*, vol. 21 (1966-67), pp. 105-10. For more details about this measure and its impact, see Jiryis, "Recent Knesset Legislation and the Arabs in Israel," *Journal of Palestine Studies* I (no. 1, 1971), pp. 53-67.
- ⁴³Orni, pp. 7, 82.

⁵⁴See for example, Felicia Langer, *With My Own Eyes* (London, 1975); Shulamit Aloni, "Shall We Secretly Obtain Land?" *Yediot Aharonot*, 26 March 1976 (English translation in *SWASIA* (Washington), 23 April 1976); Terence Smith, "Covert Israeli Land Deals on West Bank Stir Furor," *The New York Times*, 12 April 1976; Amnon Kapeliouk, "Less Land for More People," *Manchester Guardian Weekly*, 20 June 1976 (from *Le Monde*, 1 June 1976); William J. Drummond, "Israeli Settlements Called Obstacle to Peace Accord," *The Washington Post*, 26 September 1976; and "Allon Plan Implemented," *Israel & Palestine* (Paris), December 1976.

⁵⁵Excerpts in Association of Arab-American University Graduates *Newsletter* (Detroit), 5 December 1976.

PUBLICATIONS AVAILABLE

1 Basic Documents of the International Organisation for the Elimination of All Forms of Racial Discrimination (EAFORD)	free
2 Zionism and Racism (Proceedings of International Forum 1976)	£1.50
3 South Africa & Israel — R. P. Stevens & A. M. Elmessiri	£1.50
4 Treatment of Palestinians in Israeli-Occupied West Bank and Gaza — Report of the National Lawyers Guild (USA) 1977 Middle East Delegation	£1.50
5 Dossier: Le Racisme Au Quebec (Quebec Movement to Combat Racism)	£1.00
6 The International Organisation for the Elimination of All Forms of Racial Discrimination by Dr. T. Ataöv	free
7 La Relation et les Relations entre Israël a l'Afrique du Sud by Elizabeth Mathiot	50p
8 A Question of Identity and Self-fulfilment by Dr. Anis Al-Qasem and Dr Roberto Cardoso de Oliveira	50p
9 Israel and South Africa — Ideology and Practice by Dr. A. Moleah	50p
10 The Structure of the Zionist Movement in the United States by Rabbi Dr. Elmer Berger	50p
11 The Case in South Africa by Dr. T. Ataöv	50p
12 Sanctions Against South Africa: The Lessons of Sanctions Against Rhodesia by Dr. A. Moleah	50p
13 The Autonomy Plan: Israeli Colonisation Under a New Name by Elizabeth Mathiot (pub. by EURABIA, Paris)	50p
14 Le Racisme en France (in French) par un Groupe de Stagiaires Quebecois	free
15 An International View of Racial Discrimination by Dr. Anis Al-Qasem	50p
16 Zionist Ideology — Obstacle to Peace by Rabbi Dr. Elmer Berger	50p
17 Zionism and the Lands of Palestine by Sami Hadawi and Walter Lehn	50p
18 Jewish National Fund: an instrument of discrimination by Walter Lehn	50p
19 The Independent Personality of the Palestinians through their Arts by Dr. T. Ataöv	50p
20 Israeli use of Palestinian Waters and International Law by Dr. T. Ataöv	50p
21 Canada's Aborigines: The Struggle for their Homelands by Charles Roach	50p
22 Racist Regimes and the Land of the Indigenous Peoples by Dr. Anis Al-Qasem	50p
23 The Caribs and their Colonizers; the Problem of Land presented by Chief Hilary Frederick	50p
24 Zionism and Apartheid: The Negation of Human Rights by Dr. A. Moleah	50p
25 Zionism, a System of Apartheid by Elizabeth Mathiot	50p
26 Human Rights or Self-Righteousness in the State of Israel by Rabbi Dr. Elmer Berger	50p
27 Racism and Racial Discrimination defined by Dr. Fayez Sayegh	50p
28 Israel and Nuremberg; are Israel's leaders guilty of war crimes? by John Reddaway	50p
29 Internal Control in Israel and South Africa: The Mechanisms of Colonial-Settler Regimes by Christopher Mansour and Richard P. Stevens	50p

The above publications are available from EAFORD's London Office at

Agriculture House, Knightsbridge, London SW1