Forced displacement in the Palestinian-Israeli conflict, international law and transitional justice

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PhD thesis

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Sixty five years after the forced exodus of the majority of the Palestinian population that inhabited the territory on which Israel was established (known as Nakba, translated to catastrophe), forced displacement is still an important feature of the Israeli policies towards Palestinians. Not only does Israel prevent the return of refugees, but it is still inflicting more displacements through measures that have been undertaken within the framework of the Israeli legal system whether in its civil or military varieties. Unfortunately, despite the fact that a peace process has been launched since almost 20 years, Palestinian refugees and internally displaced persons have not been provided with remedies. On the one hand, the Israeli legal system is part of the problem, and on the other hand, the political process is not yet leading anywhere.

Against this background, scholars and other contributors have been debating solutions that could end the plight of the refugees within the context of the peace process. A new approach has emerged, attempting to use the transitional justice framework in solving the plight of the Nakba victims. Most of the new literature looks into the possibility of designing truth commissions to heal the pains caused by the Nakba.

This thesis aims at defining the parameters of a transitional justice approach in relation to displacement in Palestine/Israel. It does so by attempting to employ a transitional justice methodology, which stresses the significance of comprehensiveness. Towards this end, the thesis starts by studying the measures that Israel took to inflict displacements during times of war and peace. Then, the legality of these measures in international law is examined. Finally, the thesis looks into transitional justice mechanisms and how they redressed forced displacement in similar contexts. As a result of this study, the thesis concludes that using transitional justice in the Palestinian-Israeli context cannot be limited to truth and reconciliation commissions, but needs also to comprehensively address the human rights violations by advancing such rights. This requires a number of remedies that must include, at a first step, the immediate end of the forced displacement regime. This can only happen through deep reforms in Israel's legal frameworks and state institutions. In addition, this shall be coupled with reparation programs including truth, return, restitution of property, compensation; as well as designing a policy concerning the criminal justice element of the crime of forced displacement.

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Israel wants to live in peace but the Palestinians want her eliminated. The Bible explains that the Israeli-Palestinian conflict is spiritual, not political. But in international law, a territory which has never been subject to the sovereignty of any state is declared terra nullius, and sovereignty over such territory can be legally acquired through occupation. This is the case of the West Bank and Gaza; neither have been legally recognized states and so legally cannot be occupied territories. So in the 1967 war, Israel simply took back Palestine Mandate land that was taken from her by war in 1948-49. The Israeli-Palestinian Conflict Today. Today, Israel's legal borders are still defined by Article 80 of the UN Charter and span from the River Jorda Transitional Justice Responses to Palestinian Dispossession: Focus on Restitution. Leila Hilal August 2012. Transitional Justice and Displacement Project. From 2010-2012, the International Center for Transitional Justice (ICTJ) and the Brookings-LSE Project on Internal Displacement collaborated on a research project to examine the relationship between transitional justice and displacement. In the Palestinian-Israeli case, practical
challenges arise from the extremely long duration of the displacement, the vast numbers of persons affected, and the informal forms of property ownership in pre-1948 Palestinian society. These challenges include issues of secondary occupancy, proportionality, financing, and administration. Twenty-eight articles by UN, Palestinian and international human rights organisations, Palestinian scholars in the diaspora and Jewish and Israeli activist groups examine the root causes of the displacement of Palestinians, the consequences of the failure to apply international humanitarian law in the Occupied Palestinian Territory and Palestinian entitlement to protection and compensation. The Israeli-Palestinian conflict dates back to the end of the nineteenth century, primarily as a conflict over territory. Learn about the origins of this conflict and track the latest developments on CFR's Global Conflict Tracker. Israeli forces razed a village in the occupied West Bank, displacing seventy-three people, including forty-one children, according to the United Nations. It was the largest such displacement in recent years (Guardian). November 5, 2020. Israel, Sudan Agree to Normalize Ties. Ariel Meyerstein, Transitional Justice and Post-Conflict Israel/Palestine: Assessing the Applicability of the Truth Commission Paradigm, 38 Case W. Res. J. Int'l L. 281 (2007) Available at: https://scholarlycommons.law.case.edu/jil/vol38/iss2/5. This Article is brought to you for free and open access by the Student Journals at Case Western Reserve University School of Law Scholarly Commons. It has been accepted for inclusion in Case Western Reserve Journal of International Law by an authorized administrator of Case Western Reserve University School of Law Scholarly Commons. Such a reconsideration of the Israeli-Palestinian conflict may provide insights into what "peace," in all the ways the word resonates in the souls of the weary populaces engulfed in it, will truly demand of.