

Israeli Land Seizure Under Various Defense and Emergency Regulations

Hanna Dib Nakkara

The Defense (Emergency) Regulations, 1945¹

Zionist historians and leaders have long misled world opinion as regards the Defense (Emergency) Regulations, 1945. Their version of events makes it seem as if British imperialism invented these regulations to counter Jewish resistance and to crush Jewish opposition to Britain's rule in Palestine. Although the Jewish community's struggle against these regulations was justifiable, the British had introduced them some years previously to use against Arabs.

On February 7, 1946, the Jewish Bar Association convened in Tel Aviv to protest these regulations. The meeting was attended by some four hundred lawyers. Yacob Shimshon Shapira, a leading attorney who, after 1948, became the Israeli Attorney General and Minister of Justice, described the regulations as follows:

The regime established in Palestine with the publication of the Emergency Regulations is quite unique for enlightened countries. Even Nazi Germany didn't have such laws, and acts such as those perpetrated at Maidanek actually ran against the letter of German law. It is true we are assured that the Regulations are aimed solely against offenders and not against the entire population, but it will be remembered that the Nazi governor of occupied Oslo, too, declared no harm would befall citizens who would just go about their business as usual.

No government is entitled to enact legislation of this kind. . . .²

What Mr. Shapira neglected to point out is that these regulations were not new. They were not applied for the first time in 1945. Before Jews were ever searched or arrested pursuant to these regulations, before curfews were imposed on Jewish towns and quarters, before Jews were administratively detained, deported, or brought before Military Courts and hanged, it was the Arabs who suffered first and most heavily under the Emergency Regulations during the revolts of 1936–39. All that British imperialism did in 1945 was to consolidate and codify the existing Emergency Regulations, and apply them in Palestine against Jews and Arabs alike.

The following orders-in-council and regulations were enacted in response to Arab revolts and rebellions:

1. Palestine (Defense) Order in Council 1931. (*Revised Laws of Palestine*, Vol. III, p. 2619).
2. Palestine Martial Law (Defense) Order in Council, 1936. (*Official Gazette*, September 30, 1936, p. 1070 [Long Gazette]).
3. Palestine (Defense) Order in Council, 1937. (*Official Gazette*, March 24, 1937, p. 267).
4. Emergency Regulations, 1936. (*Official Gazette*, April 19, 1936, p. 250).
5. Defense (Military Courts) Regulation, 1937. (*Official Gazette*, November 11, 1937, p. 1138).
6. Defense (Military Commanders) Regulations, 1938. (*Official Gazette*, October 18, 1938, p. 1361).
7. Defense Regulations, 1939. (*Official Gazette*, August 26, 1939, p. 659).

These orders-in-council and regulations, ferociously and brutally imposed upon the Palestinian Arabs, were the background for the Defense (Emergency) Regulations, 1945.

I do not intend to go into detail concerning the Defense (Emergency) Regulations, 1945. Suffice it to state that, in spite of Jewish opposition, criticism and protests against these regulations in 1945–48, Israel's Provisional Council of State kept them in full force to be applied in a draconian manner against the Palestinian Arab citizens of the State of Israel, deleting only Regulations 102 and 107c dealing with illegal immigration (Section

13^(a) of the Law and Administration Ordinance No. 1 of 1948, published in the *Official Gazette* No. 2 of May 21, 1948).

This is not the place to discuss all aspects of these regulations and their application by the Israeli authorities against Arab areas and persons. For the purpose of this study, I am concerned with the notorious Regulation 125, which was abused in practice to dispossess Arabs of their lands, villages and properties. Regulation 125 provides as follows:

Closed Areas 125. A Military Commander may by order declare any area or place to be a closed area for the purposes of these Regulations. Any person who, during any period in which any such order is in force in relation to any area or place, enters or leaves that area or place without a permit in writing issued by or on behalf of the Military Commander shall be guilty of an offense against these Regulations.

British Mandate authorities made use of this regulation to declare certain military camps, buildings or quarters occupied by military, police or British subjects, as closed areas in order to protect such areas from terrorist activities. But from 1948 the Israeli authorities used this regulation to close villages, extensive tracts of arable land and towns for the purpose of expropriating them.

Every Arab village or town, whether inhabited or not, was declared to be a separate closed area. Arabs were not allowed to leave their village or town, even for the purpose of cultivating their lands or collecting their olives or fruits, unless they obtained a military permit to do so. Any Arab who contravened this order was brought before a Military Court and summarily tried. An atmosphere of fear, terror and oppression reigned in Arab areas. Every other night or so, military units combed villages and towns, collected Arabs from their homes and sent them in military trucks to the Lebanese border or the Jordanian armistice line and ordered them, under threat of being shot, to cross to the other side.

Arabs were in a constant state of insecurity and uncertainty as to the future. They did not know whether they would even be able to remain in their towns or villages. The task they faced was not just to regain their lands, but indeed to remain in their homeland at all.

I need not elaborate on this state of affairs, but wish only to point out that Regulation 125, with its provisions for a state of emergency and military rule, was exploited to prevent Arabs from reaching their lands and

cultivating them. The Minister of Agriculture would then declare such Arab lands to be uncultivated, allowing him to determine that they were not in the possession of their owners.

*Emergency Regulations Concerning the Cultivation of Waste Lands and the Use of Unexploited Water Resources
(Otherwise Known as "Emergency Regulations [Cultivation of Waste Lands], 1948")*

These regulations were drawn up by the Minister of Agriculture on October 11, 1948, and published in the *Official Gazette* No. 27 on October 15, 1948, Supplement B. With some modifications, they were published as a schedule to the "Emergency Regulations (Cultivation of Waste Lands) (Extension of Validity) Ordinance No. 36 of 1949," passed by the Provisional Council of State and published in the *Official Gazette* No. 41 of January 7, 1949, Supplement No. 1.

An explanatory note appears at the end of the regulations, stating that war conditions have resulted in lands being abandoned by their owners and cultivators and hence left untilled. In the same way, plantations have been neglected and water resources have remained unexploited. The note continued by saying that the interest of the State demands, without prejudice to the right of ownership of land or other property, that agricultural production be maintained and expanded as much as possible, and the deterioration of plantations and farm installations be prevented. For the attainment of these objectives, the Minister of Agriculture was given emergency powers conferred by these regulations.

The regulations were allegedly made *bona fide* and with "innocent" intentions to maintain agricultural production and to prevent deterioration of plantations and farm installations, without prejudice to the right of ownership of land or other property. In other words, the use and possession was expropriated, in a state of emergency, but not the right of ownership. It will emerge, however, that the intention behind those regulations was to make these lands and properties easy prey for confiscation and expropriation.

"Waste land" was defined as land capable of yielding crops and which, as determined by the Minister of Agriculture, is uncultivated. The Minister of Agriculture was empowered to warn, in writing, the owner of waste land to cultivate the land or to ensure that it was cultivated. The warning could be made to the owner by delivering it to him, or by posting it at his place

of residence. If his residence was unknown, the warning could be posted at or near the place where he was last known to reside, or posted in a conspicuous place upon or at the entrance of the land itself. The regulations provide that no measures taken with respect to waste land shall be invalidated on the grounds that the Minister's warning did not come to the knowledge of the landowner.

The owner could object within fourteen days of the warning's publication, and submit proof that he had already begun, or would begin as soon as possible, to cultivate the waste land, and that cultivation would continue. If no objection was made, or if the Minister was not satisfied with the objection, he could assume control of the land in order to ensure its cultivation. The period of control under the 1948 regulations was not to exceed two years and eleven months, but under the ordinance it was extended to five years. The government extended the period of control to five years to pave the way for expropriation of ownership, which happened in 1953, as we shall see later. Although the Minister was to notify the owners of land he had assumed control of, and was to keep a register of such waste land, to my knowledge owners were not notified and a register was not kept.

Under this law, every Jewish settlement or *kibbutz* (collective farm) trespassed upon Arab lands adjoining its own, and extended its boundaries at the expense of neighboring Arab villages.

The Minister of Agriculture could cultivate waste land himself through workers employed by him, or hand it over for cultivation to another person. The Minister of Finance became a trustee for the owners. Written agreements were to be concluded between the Minister of Agriculture, the cultivator, and the Minister of Finance as trustee for the owners of the lands.

The owner was entitled to the net income but not to any compensation or other payment. The cultivator of waste land was allowed to use the water available and, with the approval of the Minister of Agriculture, also use buildings, machinery, vehicles, animals, installations, tools and other implements situated on the waste land. In return the cultivator was to pay to the owner a certain amount of compensation, as fixed by a committee. If the cultivator of waste land invested labor or money in improvements, the committee was to determine their value, and require the owner to pay that amount to the cultivator.

In addition, the Minister of Agriculture was empowered to assume control of any and all unexploited means of agricultural cultivation, water

resources and water installations, for a period not exceeding five years. The law's last section empowered the Minister of Agriculture to validate any and all acts connected with the cultivation of waste land, even if they had been done by some person without permission before or after the coming into force of the regulations.

The other provisions of the law are of minor importance to my study.

The Land Acquisition (Validation of Acts and Compensation) Law, 1953

This law was passed by the Knesset on March 4, 1953, and published in the *Laws Book* No. 121 of March 13, 1953.

While the Emergency Regulations relating to waste lands and their cultivation affected the use and possession of Arab lands, this law was enacted to end Arab ownership of these lands, to appropriate the legal rights to them, and to transfer their ownership to the Development Authority.

The law not only provided for the requisition of ownership and possession, but validated any illegal or unlawful confiscation of Arab lands committed before this draconian law came into force.

We have already seen that a series of emergency regulations and laws was enacted dealing with Arab lands in Israel. These can be classified into two sets, *viz.*:

- Set No. 1 (a) Emergency Regulations regarding Abandoned Properties (Supplement B, No. 16 of June 23, 1948).
- (b) Abandoned Areas Ordinance (Supplement A, No. 7 of June 30, 1948).
- (c) Emergency Regulations Regarding Absentees' Properties, 1948 (Supplement B, No. 37 of December 12, 1948).
- (d) Absentees' Property Law, 1950 (*Laws Book* No. 37 of March 20, 1950).

These laws and regulations resulted in the transfer by the Custodian of Absentees' Properties of Arab absentees' properties and properties of so-called present-absentees, citizens of the State of Israel, to the Development Authority. More than 4,500,000 dunums of cultivable land, out of a total area of 16,324,000 dunums (including most of the Negeb lands) or abandoned Arab property, were transferred in this way.³

- Set No. 2 (a) Closed areas in accordance with Regulation 125 of the Defense (Emergency) Regulation, 1945.

(b) Emergency Regulations (Cultivation of Waste Lands), 1948.

As we have already learned, the Military Commanders, under the pretext of security, declared whole villages and most of the fertile and plain lands of inhabited villages to be closed areas. The Israelis' intention was to forbid and prevent Arab peasants from reaching their villages and cultivating their lands.

Thousands of peasants were brought before the Military Court for contravening the regulations regarding closed areas. Heavy fines and prison sentences (often suspended) were imposed. The government's aim was to force peasants to leave their lands fallow and uncultivated, and thus to make these properties waste lands subject to the Emergency Regulations (Cultivation of Waste Lands), 1948.

These measures of closing areas and taking over lands were preludes to confiscation and requisition under the Land Acquisition (Validation of Acts and Compensation) Law, 1953. The Minister of Finance was authorized to enforce it, and was empowered under Section 2 to certify that a certain property (land or village):

1. was not in the possession of its owners on April 1, 1952;
2. was used or assigned for purposes of essential development, settlement or security within the period between May 14, 1948, and April 1, 1952; and
3. was still required for any of these purposes.

If the Minister so certified, the property became vested in the Development Authority from the date specified in the certificate. The Development Authority could obtain such land free of charge. The certificate was to be issued within one year from the day of the coming into force of the law, and published in the *Official Gazette* as soon as possible after the day of its issue. The property was to be registered in the Land Register in the name of the Development Authority, but non-registration was not to affect the validity of the vesting of the property in the Development Authority.

The Minister of Finance issued 465 such certificates in 1953 and 1954, requisitioning 1,225,174 dunums of Arab village lands, including dozens of entire Arab villages made vacant by military action, and large tracts of lands of other inhabited Arab villages.⁴ The above area does not include Arab lands requisitioned under this law in cities, towns or in the Negeb.

A list of some of the villages confiscated in whole or in part, as well as an example of one of the requisition orders issued in 1954, are to be found in Appendix V.

It is not known exactly how much land has been confiscated from Arab residents of Israel. But in one year (March 20, 1953, to March 20, 1954), 465 certificates were signed (more than one per day), confiscating 1,225,174 dunums from villages alone.⁵ The High Court of Justice declined to entertain a petition brought before it for the cancellation of a certificate made under Section 2 of the law. In *Younis vs. Minister of Finance*, the Court upheld the certificate, deciding it was conclusive and its contents could not be contested before any court of law.⁶

As the *Younis vs. Minister of Finance* judgment was a leading precedent, it is important to review the facts and the decision of the High Court which became binding on all courts in Israel and closed the doors of justice to Arab landowners.

The petitioner was an Arab whose land, known as parcels 2 and 19 in block 12145, in the village of 'Ar'ara, was requisitioned by the Minister of Finance under Section 2 of the Land Acquisition (Validation of Acts and Compensation) Law, 1953.

The certificate of the Minister, dated July 26, 1953, was published in the *Official Gazette* on August 14, 1953. The certificate stated that these two parcels, together with many other plots of land in 'Ar'ara, were not in the possession of their owners on April 1, 1952, and that between May 14, 1948, and April 1, 1952, the parcels were used and assigned for the purposes of settlement and essential development, and that they were still needed for these purposes. As a result, they were transferred to the ownership of the Development Authority from August 14, 1953.

On the basis of this certificate, the Land Registrar in Haifa cancelled the registration in the name of the Arab owner, and on September 8, 1953, registered the two plots of land in the name of the Development Authority. Mr. Younis petitioned the High Court of Justice to cancel the Finance Minister's certificate, to cancel the registration made in the name of the Development Authority, and to restore the registration in his name. An order *nisi* was given on January 22, 1954, and on February 23, 1954, the Court discharged the order *nisi* and dismissed the petition.

The Court, in upholding the certificate and the acquisition, decided:

1. that the Minister was not under obligation to notify the petitioner of his intention to requisition his property;

2. that the certificate under Section 2 of the law is not a judicial act, but is considered to be a testimony of the Minister;
3. that the law does not give the owners any possibility of submitting their contentions before the certificate is issued, and that the Minister is not bound to make rules for putting forward such allegations;
4. that the law orders the publication of the certificate in the *Official Gazette* as near as possible to the date of its issuing, in order to enable the owners to claim compensation;
5. that the certificate concerned is conclusive evidence as to the facts mentioned therein; and
6. that possession under Section 2 is actual possession.

This judgment was followed by another judgment, in High Court Case No. 19/54 (Mohammad Nimr Abdul Raziq vs. the Minister of Finance and Forty Others), *Judgments of the High Court* 1954–55, p. 432. Consequently, the administrative confiscation by the Minister of Finance of hundreds of thousands of dunums of Arab land cannot be contested or tested in any court of law in Israel. No court can hear a claim by an Arab owner that his land was in his possession on the date of April 1, 1952. No court can hear the contention that the land was not used or assigned for the purposes of essential development, settlement or security between May 14, 1948, and April 1, 1952, or the contention that it is not still required for any of these purposes.

In any country that respects law, the judiciary examines and controls administrative acts of the executive branch of government, but this law was made in such a way as to deprive the judiciary of the right of intervention.

The Arab property in question automatically becomes the property of the Development Authority. The name of the Arab owner is obliterated in the Land Register at the blink of an eye, and the name of the Development Authority is entered as the lawful and rightful owner. This takes place in a country which claims to be a democratic country, a country under the law, a country which respects private ownership and human rights.

The act of stealing Arab lands and transferring them to Jews is not only an act of discrimination, but one of vandalism of the first degree comparable only to procedures followed by the South African government in its imposition of the apartheid rule on its African population.

Under Section 3 of the law, the owner of an acquired property is entitled to compensation from the Development Authority. The compensation should be given in money unless otherwise agreed between the owner and the Development Authority. In the absence of agreement, the amount should be fixed by the court, provided that January 1, 1950, shall be regarded, for the purposes of fixing the amount of compensation, as the day on which the acquisition took place, plus three percent per annum from January 1, 1950 (Section 5 of the law).

The certificates of acquisition were published in the *Official Gazette* from June 25, 1953 (No. 298) to June 13, 1954 (No. 355), and the law itself was passed by the Knesset on March 4, 1953, and published in the *Laws Book* No. 121 on March 13, 1953. Nevertheless, the compensation to be paid had to be fixed on the basis of the prevailing price of the land on January 1, 1950. This arbitrary date was chosen with the sole object of depriving landowners of receiving a fair compensation, if they wished to do so.

In fact, on January 1, 1950, there were no market prices for land. There were no free sellers or free purchasers. Land was not a commodity at that time. The Armistice Agreements between Israel and the Arab states had just been signed, and the economic situation was deteriorating. Furthermore, in January 1950, the average official value of the Israeli pound was about \$2.80, while in March 1953, the average official value of the Israeli pound was about \$1.00.⁷ In 1950, Arabs were permitted to sell land exclusively to the Jewish National Fund (*Keren Kayemet*) at 25 pounds per dunum, and in some cases at 15 pounds per dunum, whereas prices in 1953–54 ranged between 250 and 350 pounds per dunum.⁸ It was obvious, therefore, that Arab landowners would refuse such insignificant sums even if they were willing to receive compensation for their confiscated lands.

In June 1955, the Communist Party of Israel proposed an amendment allowing an owner whose land had been unjustly seized to request amendment of the certificate by the High Court if he could prove that its contents were false. The Knesset rejected the amendment.⁹

The Arabs waged a long and unrelenting struggle against this law. Congresses, conferences and protest meetings were held throughout the country. Delegations were sent to the Knesset. Press conferences were convened. Petitions and memoranda were sent to numerous individuals and bodies (official and otherwise), with the result that a committee was appointed toward the end of the 1950's to raise the amount of compensation due to the devaluation of the Israeli pound. The authorities still refused to release the land, however.

In the late 1960's and at the beginning of the 1970's, when an Israeli pound was worth 15 to 25 cents, the Development Authority was still offering 200 to 300 Israeli pounds per dunum. One dunum was already worth 10,000 Israeli pounds and more on the market.

If an Arab wanted to acquire a plot of land measuring 400 to 500 square meters on which to build a house, he was required to perform an exchange of his confiscated properties for building land. The accepted and prevailing rate was 30 to 35 dunums of confiscated land for a building plot of 400 to 500 square meters. If the applicant did not own such a confiscated area, he was asked to go and buy confiscated land from his fellow Arabs to satisfy the authorities' thirst for Arab lands.

Not only did Arabs, Israeli Communists and a certain number of Jewish members of the Knesset oppose this brutal law, but many Jewish organizations, writers, newspapers and prominent figures raised their voices condemning it. Dr. Israel Carlebach, founder and chief editor of *Ma'ariv* daily, the most widely circulated newspaper in Israel, bitterly and severely criticized the law in an article which appeared in the form of a dialogue with his daughter on December 25, 1953:

This land was Arab land in the old days which you can't remember. The fields and villages were theirs. But you don't see many of these now—there are only flourishing Jewish colonies where they used to be . . . because a great miracle happened to us. One day those Arabs fled from us and we took their land and farmed it. And the old owners went to other countries and settled there.

But here and there you do sometimes see some Arab villages. These are the villages of the few who remained among us . . . they have become citizens in our state. . . .

"Where are the fields?" you will ask.

There are none, my dear.

"What happened to the fields?"

We simply took them.

"But how? How can one take land belonging to someone else, someone living among us and cultivating that land and living off it?"

There is nothing difficult about that. All you need is force. Once you have the power, you can, for example, say: "These fields are a closed area," and stop anyone from getting to them without a permit. And you only give out permits to your friends, to people living in the *kibbutzim* nearby, whose eyes have feasted on that land. It is really very simple.

"But is there no law? Are there no courts in Israel?"

Of course there are. But they only held up matters very briefly. The Arabs did go to our courts and asked for their land back from those who stole it. And the judges decided that yes, the Arabs are the legal owners of the fields they have tilled for generations, and even the police saw no reason why they should not sow the land and harvest it. . . .

“Well then, if that is the decision of the judges . . . we are a law-abiding nation.”

No, my dear, it is not quite like that. If the law decides against the thief, and the thief is very powerful, then he makes another law supporting his view.

“How?”

All those who took part in the robbery gather in the Knesset. And who hasn't? The land was taken . . . by the departments of government, by Mapai and Mapam and the religious parties—all of them. They say: “We are used to this land and we don't want the courts to disturb us and stop us farming it. Come, let us make a law that will make it impossible for anyone to take this land from us.”

“But how? How can you make a law contradicting another law?”

They simply decided that as far as this land is concerned there is no law, that in this matter there is no law or court, and that the owners of this land cannot appeal to the courts.

“Very well, but where does this get them? There must be a record somewhere that this land belongs to the Arabs, there are deeds. . . .”

Yes, there is a record, but what of it? Into the law they wrote that the documents must be corrected and the names of the Arab owners crossed out and replaced by the names of the Jewish owners. . . . The Arab owners are obliged to confirm that the land had been taken from them legally. The Arabs obviously are not eager to cooperate with the competent authority and do not rush to its offices in crowds to “arrange matters.”

“If the Arabs refuse to cooperate or sign, then the whole plan is a failure.”

No. The law is not so naive as to be swayed by the [wishes] of the Arabs. It changes the rights to their property without involving them in the process. It even grants the Arab owners compensation without their receiving it. I am not joking; it is all very possible. For one thing it is the Arab who has to establish his ownership of the land rather than the Jew who has taken it from him. Even when he can prove it, it does not help him much, since there is no court to study his case—the decision lies with the official in charge of granting compensation. And even if this official recognizes that an Arab once owned the land, he cannot give him full compensation. For example, if compensation is requested in the form of cash, according to the law, it can only be given for the value of the land as it stood three years ago on January 1, 1950. . . . [The law] acts as if the peasant who is paid 20 pounds for a dunum of land, which was a

fair price three years ago, can hope to find a third, or a fourth or even a fifth of a dunum for this price today.

“Let him refuse the money then, that’s all.”

Wait, my dear, we are a wise and clever nation, and this too has been thought out. Refusing the money would not help him either. The money is deposited with the court . . . and there it remains. But whether the Arab land owner receives the money or not does not concern us since it does not affect the “legal” transfer of his land to us.

“But why would he need money anyway?” you may ask. “As a farmer, what he needs is land.”

You are right. And the law has taken care of this also. In special cases, the law recognizes that farmers have a right to land: for example, when the expropriated land is, first, under cultivation, second, a main source of livelihood, third, the owner has no other land to live off of. . . . The owner of the land has to establish that he has no source of income, that for six years he has been starving, that he is on the point of dying of hunger, in which case . . .

“In which case one of the Jewish *kibbutzim* which have seized tens of thousands of dunums will return him enough land to live off?”

No, in which case, we offer him some other land, which he may rent but never own. There is no legal obligation to offer him as much land as was taken from him, “part” is enough. There is no need even to satisfy him, it is enough to make an offer. . . . They are offering them land that they cannot possibly accept . . . they are offering land that once belonged to fellow Arabs who fled beyond the borders. Of course the Arabs say: “This is not your land to offer.” And so they refuse it. But that does not concern us or the law. We are only bound to make the offer. If they refuse it, the loss is theirs . . .

Ha'aretz, the prominent liberal daily, disclosed on March 10, 1953, the aims and purposes of the law and harshly criticized it, since it was designed to legalize seizure of Arab lands to enlarge the holdings of collective settlements. The paper said there was no reason to legalize the fact that certain farms exploited the war to seize for their benefit the lands of their neighbors. The law was not generous. It lacked political understanding of factors necessary to reconstruct the Arab community “whose agricultural life was undermined by perverse actions.” It showed no recognition that “seizure of the minority’s property is liable to undermine the foundations of private property rights.”¹⁰

In 1954, the Committee for the Defense of Arab Minority Rights in Israel held many protest meetings, published a booklet and convened a conference condemning:

the confiscation of about one million dunums of the most fertile Arab lands on the pretext of security and settlement, as if security cannot be achieved without robbery of Arab lands and settlement cannot be done except on confiscated Arab land.

In fact, these measures are nothing but acts of persecution and oppression. Cultivable lands exceed the needs of the Jewish inhabitants, and millions of dunums fit for cultivation are not being tilled or cultivated. The government makes all sorts of propaganda efforts to attract new immigrants to cultivation, but at the same time deprives Arab peasants of their lands. The High Court decided recently that confiscation measures are not subject to judicial recourse, and so the Minister of Finance started issuing acquisition certificates without restraint or control.

In spite of the fact that the law does not empower him to confiscate lands which were in the possession of their owners on April 1, 1952, the Minister has in fact requisitioned thousands of dunums which were and still are in their owners' hands.

Arab peasants have refused to accept the compensation offered. They insist on returning to their vacant villages and recovering their stolen lands.

We condemn the government's continuous corrupt policy, leaving 30,000 Arabs deprived of settlement and living. We demand the revocation of the requisition certificates and the handing over of the lands to their owners.¹¹

The wave of protest and condemnation has continued unabated, and in every public meeting, conference or congress the confiscations are attacked and the demand for the recovery of Arab lands and villages is brought up.

Emergency Regulations (Security Zones), 1949

On April 24, 1949, the Minister of Defense drew up these regulations and published them on April 27, 1949, in No. 11 of the *Rules Collection of the Official Gazette*. They were soon amended and became a schedule to a law known as the "Emergency Regulations (Security Zones) (Extension of Validity) (No. 2) Law, 1949" and published in the *Laws Book* No. 17 of August 3, 1949. They were purportedly introduced for the purpose of security, but as we shall see, they were actually used to evacuate and expel Arabs living on their lands near the border. The law has never been used against Jews.

Under Regulation (1) a "protected area" was defined to be a strip of land extending within the territory of Israel along the boundary of that territory of 10 kilometers' width north of the 31st parallel, and of 25 kilometers'

width south of the 31st parallel. The “territory of Israel” meant the area in which the law of the State of Israel applies.

Regulation 2 empowers the Minister of Defense to declare the whole or any part of the protected area to be a security zone.

A permanent resident of a security zone is described in Regulation 3 to be a person who, on the day on which a particular area becomes a security zone by virtue of a declaration under Regulation 2, is a permanent resident of such an area.

Regulation 6 prohibits any person other than a permanent resident or a soldier or police officer on duty to be in or enter a security zone, save under and in accordance with the terms of a written permit from a competent authority. A competent authority is any army officer of or above the rank of lieutenant-colonel, appointed under Regulation 4 by the Minister of Defense. The Minister of Defense may exempt a particular class of persons from such a prohibition.

A person found in a security zone in contravention of this regulation may be removed by force from the security zone, with or without his movable property. Such a removal will not affect the liability or the payment of a fine under Regulation 7.

The most drastic measure comes under Regulation 8, which empowers a competent authority to order a permanent resident of a security zone to leave the security zone. A permanent resident so ordered shall leave the security zone within fourteen days from the day on which the order is served. Upon the expiration of the 14-day period, the permanent resident shall cease to be a permanent resident of the security zone and be liable to expulsion and criminal responsibility.

The Minister of Defense was authorized to appoint an appeals committee consisting of three persons, the chairman of which should be a judge or a magistrate. The appeal by a permanent resident against whom an order to leave has been made should be filed within four days from the day on which the order was served. The appeals committee should consider and determine the appeal within 14 days from the day on which the order to leave was served on the appellant. The appeals committee may confirm the order to leave, confirm it subject to specific conditions, or cancel it. The decision of the committee is final.

In practice, no appeals, except in rare cases, were made and the expulsion orders were carried out by force against Arab villagers, compelling them under the threat of arms to leave their homes and lands.

Although Regulation 14 made it incumbent upon the government to provide a permanent resident expelled from a security zone with accommodations outside the security zone for as long as he is forbidden from returning to it, this provision was never complied with.

These regulations were extended from year to year, and for all intents and purposes were still in force until December 31, 1972. By then they were no longer needed for expropriating Arab lands; they had served their purpose.

Expulsion of Villagers from "Security Zones"

The Minister of Defense, using his powers under these regulations, declared the area of Northern Galilee, extending along the international boundary of Lebanon and Syria, a "security zone." The area of the Triangle,¹² an area adjacent to the Gaza Strip, and a further area along the Jerusalem/Jaffa railway line near Batir village, were also declared security zones.

As we have seen above, no one other than a permanent resident is allowed to enter or be in a security zone without obtaining a special permit in writing from a competent authority. A person contravening this provision is subject to removal and trial. This prohibition was intended first and foremost to prevent Arabs from returning to their villages and lands if they were forcibly removed by the occupying army or were made to flee to neighboring villages or areas for refuge as a result of military operations.

After securing such areas against the possibility of entrance and return by Arab owners and villagers, the competent authority was empowered to remove permanent residents who happened to continue to live in these zones in spite of all measures and means taken to expel them.

Here are a number of examples:

(a) Iqrit

Iqrit is an Arab village in Western Galilee next to the Lebanese border with an area of 15,650 dunums. It and many other Arab villages in Western Galilee were occupied by the Israeli army on October 31, 1948. These villages put up no resistance. The "Rescue Army" of Fawzi Kawakji withdrew to Lebanon on or about October 29, 1948. Six days later, i.e., on November 5, the villagers were ordered, for "security reasons" and on the pretext of safeguarding their lives, to leave their homes "for two weeks"

until military operations in the area were concluded. They refused to cross the border to Lebanon, and hence were advised to take only what they needed for this short period of "two weeks." The army, to continue the bluff, provided locks for the houses and the villagers were handed the keys. Within three days the villagers were evacuated to Rama in central Galilee, on the main Acre/Safad road.

Military operations ceased and an armistice agreement was concluded between Israel and Lebanon on March 23, 1949, but still the villagers of Iqrit were not allowed to return to their village, despite what had been promised them. All appeals to the authorities went unheeded or were rejected. After more than two years of unabated applications, correspondence, delegations, meetings and negotiations without avail, the villagers realized that the Israelis had no intention of allowing them to return to their homes and lands. Thus they petitioned the High Court of Justice in High Court Case No. 64/51 (*Judgments* 4, p. 461).

On July 31, 1951, the High Court ruled that "there is no legal obstacle to petitioners returning to their village."

The villagers, believing that the authorities would honor the High Court's decision, applied to the Military Governor to implement it. He referred them to the Minister of Defense, who referred them back to the governor. This see-saw continued for about a month, while the villagers, living in Rama and elsewhere, impatiently awaited their return. At the end of the month the government, incredibly, gave the people formal orders to leave their village, which they had left about three years before. These orders were purported to be in accordance with the provisions of the Emergency Regulations (Security Zones), 1949.

In spite of the absurdity of these orders, the villagers appealed at once to the military appeals committee, which, after a show-hearing lasting until after midnight, ratified the so-called expulsion orders. The villagers thereupon petitioned the High Court of Justice once again. An order *nisi* was issued, and the case was fixed for hearing on February 6, 1952.

Although the matter was under consideration before the highest court in the country, the Israeli Army, following an order from the Military Governor or the Minister of Defense, blew up all the houses of this Maronite Christian Arab village on Christmas Day, 1951. The High Court was thus presented with a *fait accompli*.

On August 25, 1953 (*Official Gazette* No. 309 of September 3, 1953, p. 1446), the Minister of Finance issued a certificate under which the whole of Iqrit, with its area of 15,650 dunums, was requisitioned pursuant to

Section 2 of the Land Acquisition (Validation of Acts and Compensation) Law, 1953.

(b) *Kafr Bir'im*

The case of Kafr Bir'im, another Maronite Christian Arab village, is similar to that of Iqrit. The village was occupied on the same day, i.e., October 31, 1948. The inhabitants were ordered to evacuate their village and go to the neighboring village of Jish (Gowsh Halab in Hebrew). Their evacuation was imposed in the same way as that of the people of Iqrit, under the same circumstances, on the same pretexts and with the same promises that they would be allowed to return.

The two cases were identical. The fate of one village became that of the other. The people of both villages waged a relentless struggle for their return.

The villagers of Kafr Bir'im petitioned the High Court of Justice in 1953. The Court issued an order *nisi* to the authorities concerned to show cause, if any, why the villagers were prevented from returning to their homes.

Once more the reply was contrary to all principles of justice and equity, and a direct insult to the authority of the judiciary. In a display of force and impudence, the infantry and air force attacked the vacant village on September 16, 1953, bombing and shelling the houses until they were completely demolished.

Kafr Bir'im, with an area of 11,700 dunums, was also expropriated under the Land Acquisition (Validation of Acts and Compensation) Law, 1953. The certificate of the Minister of Finance was published in the *Official Gazette* No. 307 of August 27, 1953, p. 1419.

The government believed that by destroying the houses of both villages they had put an end to the claims and aspirations of the villagers to return to their homes. The government was wrong. The cases of both villages have become a thorn in the side of the Israeli government. They are known worldwide and have yet to be resolved.

The villagers' struggle continues. They have made many attempts to return, but every time the army and police have intervened. When the Security Zones Regulations ceases to be valid at the end of 1972, the Israeli authorities declared both Iqrit and Kafr Bir'im "closed areas" under Regulation 125 of the Defense (Emergency) Regulations, 1945.

(c) *Al-Khisas*

This is a small village in the Hula Basin whose inhabitants numbered 470 Arabs and 60 Jews in 1945. The Arabs owned 1,480 dunums.¹³ The village is about six kilometers from the Lebanese border and ten kilometers from the Syrian border. In the area there are a number of Jewish settlements closer to the borders. Only 57 Arabs remained in the village after 1948. They owned three hundred dunums, most of which were fruit orchards. The Arabs had friendly relations with their Jewish neighbors and with the Jewish authorities. Six youngsters had volunteered for the Jewish army and served eight months, fighting side by side with Jewish soldiers and forces.

Israel's peculiar reward for friendly relations and military cooperation came shortly thereafter. On June 5, 1949, before sunrise, the village was encircled by army units, the Arabs were forcibly loaded onto army trucks, their houses were blown up and the inhabitants were transferred to Mount Kan'an, near Safad. They were placed in an open area under the burning June sun.

The people of al-Khisas lodged protests against this unwarranted and inhuman treatment. They petitioned and approached several military and civil bodies, as well as many political figures, including the President, the Prime Minister and the Chairman of the Knesset. Their only demand was to be allowed to return to their village.

After nearly six months of living in the open air, with the approach of the harsh winter months, they were transferred to a desolate place called Wadi al-Hamam in the vicinity of Tiberias.

They were assured time and again that their case was under consideration. On one occasion, after they were transferred to Wadi al-Hamam, they were told by the Military Governor, Elisha Sols, that their evacuation was a mistake. He expressed his regret at what had befallen them and promised to arrange for their prompt return. Still nothing was done to help them.

At last, feeling that all entreaties had gone unheard and that their stay in Wadi al-Hamam was becoming permanent, and seeing that many other Arabs had been allowed to return to their villages under the Armistice Agreements concluded with Lebanon and Syria, the villagers decided to petition the High Court of Justice.

On June 12, 1952, they lodged their petition (High Court Case No. 132/52). An order *nisi* was issued on the same day ordering the Minister of Defense and the Military Governor of Galilee to show cause within twenty

days why they did not allow the petitioners (thirteen heads of families) to return to al-Khisas.

In their petition the villagers disclosed the following facts:

1. that they were Israeli citizens, held Israeli identity cards, were born in al-Khisas and had lived there with members of their families (sixty in number) since their birth;
2. that during the Mandate, they had cooperated with the Haganah¹⁴ and the *Keren Kayemet Le-Israel Ltd.* (Jewish National Fund), and were on the best of terms with the settlements surrounding their village;
3. that in March 1948, the *Inqadh* (Rescue) army and the Arab Volunteers accused them of treason and tried to kill them, whereupon they took refuge in the Jewish settlement of Dafna, where they were welcomed;
4. that they remained in Dafna for two weeks and resumed their activities with the Haganah;
5. that they were moved to Tiberias by the Haganah and stayed there until May 24, 1948, when they were returned by the Israeli authorities to their village, al-Khisas;
6. that when the Syrian army attacked Azaziyat, they fought on the side of the Israeli army;
7. that six of the petitioners joined the Israeli army and fought with it; and
8. that on Sunday, June 5, 1949, while six of their number were away in military service, they were attacked after midnight by army and police units and forcibly moved to Mount Kan'an near Safad for no reason and without being served with any order.

With their petition, the petitioners submitted copies of several letters sent by them to government bodies and personalities, and two certificates. One letter was from Yousef Nahmani, a leading figure in the Jewish National Fund, who wrote a letter on August 18, 1949, to the head of the Prime Minister's office, asking him to put an end to the suffering of the people of al-Khisas by allowing them to return to their village. He stressed that they had fought with the Haganah, that the government and the addressee recognized their rights and services, that other Arabs were allowed to return to their villages on the borders, and that there was no justification for preventing the inhabitants of al-Khisas from doing so.

Another certificate, signed by Yousef Nahmani, emphasized that the petitioners had started selling land to the Jews in 1935, in spite of threats warning them to stop, and in defiance of Arab public opinion. He also said that the villagers had always been on the side of the Jews, and that they had helped the Haganah and supplied it with useful information, and later joined the Jewish army as commandos.

The Respondents (the Minister of Defense and the Military Governor of Galilee) were in a very embarrassing position. There was no lawful order against the petitioners to evacuate their village. There were no legal grounds to remove them from their homes by force, demolish their houses and transfer the people to Mount Kan'an. The petitioner's case seemed unanswerable.

But Israel's government had its own ways and means. The competent authority under the Emergency Regulations (Security Zones), 1949, issued fraudulent orders, on July 8, 1952, against all the people of al-Khisas to leave the security zone within fourteen days of the day on which the order was delivered. They were served with these orders in Wadi al-Hamam on July 7 and 8, 1952.

It was maintained in these orders that on November 2, 1951—two and a half years after the villagers' expulsion—the Minister of Defense had published in the *Rules Collection* No. 215 an order declaring al-Khisas to be in a "security zone."

The people of al-Khisas, as we have seen, were forcibly removed from their village on June 5, 1949. The area was not declared a "security zone" until November 2, 1951, and the orders to leave the village were issued on July 7, 1952, i.e., three years after the villagers' forced removal. It is obvious that the expulsion was *ab initio* unlawful and illegal.

When they returned to court on March 3, 1953, the petitioners, finding that their chances of success were weak, accepted the suggestion of the High Court of Justice that they lodge an appeal against the order of July 7, 1952, before the Appellate Commission under the Emergency Regulations (Extension) (Security Zones) (No. 2) Law, 1949. The petition before the High Court of Justice stood adjourned pending the decision of the Appellate Commission.

Predictably, the appeal was dismissed on the pretext of "security." Although the High Court of Justice recommended that the authorities concerned do everything possible to find a suitable solution which would meet security requirements and also enable the petitioners to go back to

their village, nothing was done. To this day the villagers of al-Khisas continue to live in Wadi al-Hamam under miserable conditions.

It is clear that the question was not one of security, but one of taking the land and "clearing" the Hula Basin and Tiberias area of Arabs.

The villagers of Kirad al-Baqqara and Kirad al-Ghannama, each owning about 6,000 dunums, met the same fate. They were forcibly transferred to Sha'ab village. All attempts by United Nations' bodies to secure their return to their own villages failed.



1. Palestine Government Supplement 2, No. 1442 of September 27, 1945.
2. Quoted from *Ha Praklit* (The Solicitor), February 1946.
3. Don Peretz, *Israel and the Palestine Arabs* (Washington, DC: The Middle East Institute, 1958), p. 144.
4. The 465 certificates were published in the 1953-54 editions of the *Official Gazette*.
5. *Report of Israel Land Administration 1970-71*, submitted to Israel Land Council 1972, p. 53. The figures as to confiscation in cities and towns and in the Negeb are not included in the report.
6. High Court Case No. 5/54, *Judgments of the High Court* 1954, p. 470. Mohammad Ali-Abdallah Haj Mohammad Younis vs. Minister of Finance and Land Registrar, Haifa.
7. Peretz, *Israel and the Palestine Arabs*, p. 185.
8. *Ibid.*, p. 184.
9. *Knesset Debates*, June 15, 1955, pp. 1899, 1900, 1911.
10. Peretz, *Israel and the Palestine Arabs*, pp. 185-86.
11. Hanna Nakkarah, *Jam'iyat al-Difa' 'an Huquq al'Agalliya al-'Arabiya bi-Isra'il* (Acre: al-Matba' al-Tijariya al-Haditha, 1954).
12. This terminology reminded one of the Palestinian Arab revolt of 1936-39 against British imperialism, when the mountainous region falling between Nablus, Jenin and Tulkarm was known as the dreadful "Triangle" to the British, where their forces met stiff resistance.
13. *Village Statistics*, 1945, p. 10 (Table of Safad sub-district).
14. Jewish armed forces before Israel's creation.