دراسة تاريخية حول قانون إملاك الغالبين
منذ عام 1948-2010
تشرين الأول 2010

مقدمة من
الوحدة القانونية
سيلين محتبس
Judaizing Jerusalem is the first and foremost Zionist dream which can never be abandoned. No matter what, the Jewish settlement project has begun in Jerusalem. As Jerusalem is the heart of the Zionist dream and aspiration.

Since the early hours of the occupation, the Israeli policies started remapping Jerusalem for the sake of its judization by its practices and its bulldozers, in order to impose a de facto on the ground and create impossible conditions for geopolitical or geographical to re-divide again. The occupying power proceeded to develop the foundations of Jewish neighborhoods in East Jerusalem to be held by a series of settlements surrounding Jerusalem from all sides, and housing settlers where to establish a new geographical and demographic reality causing the dislocation and displacement of the Arab population in Jerusalem. The Arab inhabitants of Jerusalem were a majority in the year 1967, now they occupy 20% of the land only, due to the establishment of the settlement projects and the opening of roads and construction in the Arab neighborhoods.
The Jewish settlement in Palestine is the method, which the Zionist movement is using to achieve its ambitions and devote its presence in Palestine. The Zionist movement has been able over more than half a century to gain more experience and develop plans to implement its expansionist aims. After 1967 war, Israel began the scheme of settlement expansion policy to strengthen its control over Jerusalem and its surroundings in preparation to judize the city and erase its Arab color forever.

In the context of its policy of Judaizing the city landmarks, Netanyahu government confirmed recently that it has adopted a resolution to proceed to re-apply the Absentee Property Law to include property seized in occupied East Jerusalem.

Yehuda Weinstein (the Attorney General of Israel) announced that he consider that "the Absentee Property Law" is effective in occupied East Jerusalem.

This came in a memorandum submitted to the Israeli Supreme Court, preceded by an appeal applied by Palestinians whose property were seized based on the above mentioned law, which allows the acquisition of land and property from them on the basis of them being "absent", because they live outside Jerusalem boarders or do not have residence.
This appeal was made by four Palestinians demanding releasing their property which values ten million dollars located in the neighborhood (Homa), where Israel has established 14 years ago (Har Homa) settlement in East Jerusalem. Yehuda Weinstein, is known as "colonial adviser," as he is more dangerous than Lieberman and Netanyahu even. As this man lays the so called "legal" foundations of to step on justice and steal the remaining of the Palestinian property in Jerusalem.

The Occupying Power has about 30 confiscation laws, including (1) the absentee property law (2) the law of expropriation of land for military purposes and security) 3) the law of master plans (urban planning). The most law is dangerous of all is the Absentee Property Law as it forms the main tool of land theft and property in Jerusalem. Under this law many citizens can be regarded as "absent" and there are tens of thousands of Palestinian citizens who are "absent present" for the purpose of confiscation.

The application of this law must be seen and dealt with as a declaration of war against the Palestinian presence and existence in Jerusalem, as a Zionist ethnic cleansing method.
Nothing remained of Jerusalem (the East side) but only 13 percent. Israel initiated a new old policy in the city which is to take over any property which belongs to people residing outside the city municipal boarders or in Arab countries, such as hotel, "Cliff," where its owner lives in Abu Dis, another example is Abu Ghattas’s house as they live in Beit Jala. Though the law of confiscation Palestinian property was froze for two years, still it was resumed afterwards.

The future plan states that the law would apply to about 50 percent of empty real estate and property; Empty as the residents passed away and the inheritances live outside the municipal boundaries in Arab or foreign countries. Therefore the Custodian of Absentee Property can reach out and take over any of these Arab houses. By then, assuring that the Arab remains of Jerusalem does exceed 13 percent of the area. Thus, the occupying power can impose is full control over the status and issue of Jerusalem in the final status negotiation/solution. 30 thousand acres of the Absentee Property, registered in the West Bank belong individuals such as Ullul (in the Jordan Valley and Jericho) and some belong to countries, including Kuwait and Saudi Arabia.
A number of well known sites and places belong to absentee property such as "Shepherd hotel " in Sheikh Jarrah, " seven arches hotel in mountain of olives , "ambassador hotel" in Sheikh Jarrah , laborers office in Wadi Al Joz, in addition to 17 houses in Silwan, and more than 50 houses within the Old City of Jerusalem, as well as Osama bin laden’s father property, also the Sauer Consulate in front of "Mount Scopus", along with its neighbor house (Murad family house) in Sheikh Jarrah.

It is noteworthy that the former attorney general of the Israeli government of Menachem "Mini" Mazuz has decided to freeze the decision six years ago when it was presented to the Israeli Knesset in July 2004 (in order to be applied on the Palestinians Jerusalemites property at that time).

The Jewish extremist settler associations are very active in the Old City and in Silwan and have been exploiting this law for years, although the law’s application is not officially announced, its being implemented discreetly to reap tens of Jerusalem real estate’s by collaborating with the "Custodian of Absentee Property" and other Israeli official bodies who fund and support the Jewish settlers activities.
The intensified attacks by the extremist Jewish groups on the Real Estate and neighborhoods like Sheikh Jarrah neighborhood and Silwan (located south of Al Aqsa Mosque), in conjunction with the intensification of settlement activity in the Old City, is closely linked to the application of the mentioned law in discreet, even before its official endorsement by the Israeli government.

قانون أملاك الغان宾ين لسنة 1950

Absentee property law of the year 1950

And it became Law of ownership of the absentee in the year 1950, and it was adopted by the Knesset on 14 March of the year 1950, and it was issued in the book of laws on the 30th of March of the same year. It was an amendment law for (emergency procedures for the absentee properties), and it is regarded its substitute starting the 31st of March 1950.


The Zionist organizations have taken several measurements (even before the state declaration) in order to take over any Arab property they can reach. In 1948 the Hagana (Zionist org) has founded the so-called the Arab properties committee and have appointed a custodian on these properties in the north in April of the year 1948 after occupying Haifa. Another custodian was appointed in Jaffa (after its occupation) on the 14th of May of the same year.
Arab properties department was founded afterwards; its job was to monitor the Arabs properties that are under the Israeli control. A general custodian/guardian for the absentee properties was appointed in July 1948. Then, in December 1948 the Israeli government has issued the first set of rules regarding the absentees’ property. These set of rules became a law in 1950, it aimed to prohibit the Return of any Arab immigrant who had left the country either before or after or within the 1948 war. The Israeli government has issued in June, September, November and December of the year 1949 a new set of laws to define the form of the mentioned procedures.

According to article number 4 of the Absentee Property Law of the year 1950, the absentees’ property is under the custodian full control. This custodian (guardian) is appointed by the Israeli minister of finance (according to article no. 2 of the law). The absentee property is automatically transferred to the custodian ad he enjoys the full rights of the original owner as well as has the right to take over any property when he find it convenient.

The custodian has as well the right to manage any absentee business or the liquidation of the business (in case it belongs to one person) or dissolving the company (in case the business belongs to more than one partner).
If any of the absentee property is managed or occupied by an unauthorized person according to the custodian judgment, the custodian has the right and can issue a document declaring his judgment in order to stop the mentioned above action, its worth mentioning that any document that the custodian issues is regarded as a juristic rule. The person in conflict with the custodian can go to court in order to annul the custodian ruling if – of course – he has the right to use the property contradicting the custodian judgment. (Article no. 10)

Furthermore, the custodian has the right to stop any building procedure taking place on the absentees’ property without his permission. As well has the right of demolishing any building that took place, also he can fine the person in charge of this violation by paying the demolishing fees. Anyone who tries to stop or hinder the demolishing is considered a felon (article No.11) and can be facing imprisonment or a fine or even both (article 35).

Construction & building authority has been formed by a Knesset law (5 months after the issuance of the absentee property law).

١٩٥٧ — نظمّة التحرير الفلسطينية
مؤتمر الوطني الشعبي للقدس

وإذا كانت أية ملكية من أملاك الغانين محتلة في قفل شخصًا لا حق له احتلالها حسب تقدير

القيم يكفي أن يصدر القسم وثيقة يعلن فيها ذلك لكي يصار إلى إبعاد ذلك الشخص عن الملكية. وتعتبر أن وثيقة يصدرها القسم من هذا القبيل حكماً قضائياً. وعلى الشخص المبعد، أو الذي صدرت وثيقة من هذا النوع بحقه، اللجوء إلى محكمة مختصة لإبطال فعل الورثية إذا كان له الحق في احتلال الأرض خلافاً لتقدير القيم على أملاك الغانين (المادة العاشرة).

ويحق للقيم اقاف أي عملية بناء تجري على ملكية من أملاك الغانين دون إذن منه، وهم كما تكليفه أي أشخاص تحت إقامتهم، وتعزيم الشخص المسؤول عن البناء أو الشخص المخالف به وفقاً (المادة الحادية عشرة)، ويعتبر أي شخص يحاول عرقلة البدء مركباً جنحة (المادة الحادية عشرة) والثلاثون لعقوبة السجن أو الغرامات أو كلاهما معاً (المادة الخامسة).

ويخص القانون حق شراء أملاك الغانين غير المنقولة بسلطة تنمية تشكل بموجب قانون

صدر عن الكنيست (المادة التاسعة عشرة).

وقد شكلت سلطة للتعقيم والإنشاء بقانون أقرته الكنيست بعد خمسة أشهر من صدور قانون

املاك الغانين.

Palestine - Jerusalem - Telefax: 02-2943962
للمعلومات - القدس - فلسطين - ٢٠٠٠

٩
1949, even though the truce agreement specify explicitly that Israel has the responsibility of preserving the full rights of those inhabitants. The law was even applied on all the Islamic property sites (Waqf). Due to this arbitrariness, releasing any property from the custodian control is one of the most complicated issues in Israel.

This law was repeatedly and greatly criticized by different Arab and Jewish appositions. Many opposition bills were presented to the Knesset to as well as many substitute bills, still, all were rejected. The Knesset has added an amendment to the law (on the article No. 17) on February 1956 but it was very mild and doesn’t touch the context of the law.

The law was applied widely as the custodian had taken over around 300 displaced villages (300 million acres of land), meaning the majority of the private property lands in the occupied territories.

The lands taken included large spaces of fertile lands around 280 thousand acres (farms, orchards and fruit groves). The custodian as well seized—in the cities—over than 25000 buildings which consists of 57000 houses and 10000 businesses or industries, all these were transferred to (Amidar) company to house the Jewish settlers.
The Israeli authorities confiscated using this law over than a quarter of a million of the Palestinians’ lands who remained in the occupied territories after 1948.

The absentee property law is the “legal” cover to transfer arbitrary and coercively a huge sum of the Palestinian lands to the Zionist hands, which was and still is one of the main goals of Zionism since its inception.

The absentee law formed the base by which the state seized all the land which had belonged to the country’s population who had to leave and move to other areas or Arab countries that were not under the control of the Israeli authority. So it described them as absentees and put their properties under the control of the custodian of the absentee’s property.

The absentee was defined by Article (1) of the Act as follows:

The absentee - is every person who was in the period between 29 \ 11 \ 1947 and until the day that the end of the state’s emergency was announced which was on 14 \ 5 \ 1948 and had money or properties
inside Israel which he benefited from and were under his control directly or indirectly, and he was through the following period:

A - A citizen or resident in Lebanon, Egypt, Syria, Saudi Arabia, East Jordan, Iraq, Yemen, or.

B - If he was present in one of these countries or any part of the "Land of Israel" outside the borders of Israel or.

C - If he was a Palestinian citizen (in "Israeli land") and moved from the usual place of residence in Israel to the following places:

1 - to any place outside the land of Israel before 01/09/1948

2 - to somewhere in the land of Israel which was under the control of the forces that were working on preventing the establishment of the State of Israel or the forces which fought after the establishment.

The loose broad text on the Article (1) of the Absentee Property Law, has created two definitions of "absent":

الغائبين الحقيقيون: وهم الفلسطينيون الذين غادروا فلسطين إلى مكان يقع خارج "أرض إسرائيل" - أي هؤلاء الذين غادروا فلسطين بتاريخ 1/9/48 ولم يعودوا إليها.
of approximately 100,000 acres of orchards and tens of thousands of buildings and real estate as well as approximately 95% of the olive groves as well as about 40,000 acres.

And according to Article (4) of the law, the Absentee Property was granted to the custodian and the property was owned by him and he also had to use it as he wishes.

(Albert Nineteen) mentioned above of this law has given the custodian on the absentee property the power to sell these properties or give it free of charge to the "Development Authority" in case of establishing such a power. This article was part of a comprehensive plan to transfer all of these properties to the ownership of the Development Authority, or what is known as "the Building and Construction Department," which was set up later on under the law of the Department of Building and Construction (Development Authority Act of 1950). And indeed on 30/09/1953 the great majority of these properties were transferred to "the power of the Building and Construction, "which later on were transferred to Jewish hands, especially the tens of thousands of houses and residential units which were considered absentee property, as it was transferred to the "Department of Building and Construction, which placed it under the control of the newcomers.
The Law kept a minimum possibility of releasing the properties of the absentee but the land should have been moved to the construction department property, and the one responsible for the absentees money has canceled the character/quality "absentee" from the absentee according to the authority to give the absentee a substitute land if the conditions mentioned before applied to him.

Working with these systems stopped in 1973. That's when the absentee property law gave the absentees the right to ask for compensations for their properties by sending an application to a specialized committee. And it was set for 15 years from the day of the ruling which means till 1988.

In spite of claiming that there are rules and regulations that give the absentee the right of releasing his land, the properties that actually got released were very few. And that's because of the racist policy the committees used while looking through the applications of the absentees. The committee used its powers to negotiate the absentees to give up their rights and settle for a rented house or a piece of land. These blackmailing techniques failed most of the time and that caused the rejection of the rest of the applications.
The Absentee Property Law and the International Law:

An Arab city is a city besieged by a city, no laws of 242, there is no way to implement these laws in all Arab cities, and the Arab and foreign countries should pressure the Israeli government to change that law.

The laws of war allow a country to freeze the property of the enemy, but prohibits it from taking it completely. The country has to guarantee the protection of the properties and give it back when the war is over. And that's what the court of Nuremberg ruled too. The Zionist organization claimed that they're establishing the organization of the Guardian of the Absentee Property Law which is their way of keeping all the properties.

And the Israeli courts confirmed that they are not talking about the confiscation, but for the preserving of the property.

This is the official position of the State of Israel. But the state recently adopted the scheme of privatization of land, which contradicts their official commitments.

This practice is defined by international law as a looting and a contradiction.

Article no. 46 of the Regulations annexed to the Lahai Treaty on the provisions the war on land since 1907, which states (on the need to
respect private property rights and explicitly prohibit the confiscation
of the property.)

During the 1948 war more than half of the Palestinian people were
expelled from historical Palestine, where about 800,000
Palestinians became refugees in neighboring Arab countries, nearly 531
villages were demolished.

Palestinian refugees left behind many properties which included their
houses and lands, interests and factories, bank accounts, personal
and variable property, business and many more. In 1950 the Knesset
passed the Absentee Property Law. And in 1954, the guardian of
absentee property informed the Government, with some 4.45
million acres of absentee property under his control, of
which about 3.31 million acres of agricultural land, about one
million acres in the villages inhabited by Arabs. And about
150,000 acres of urban land was settled immediately after the war
by about 146 thousand Jews in the buildings belonging to Palestinian
refugees in cities like Akko, Jaffa, Haifa and Jerusalem.

And thus, it was in the hands of the guardian of absentee property in the
years 1948-1949 about 21,487 leases in the municipal center, which
returned to the Treasury (new state) by about 501,000 pounds (Israeli).

وفي العامين 1952–1953 تم تأجير 60,504 عقارات لأقد طوال عادت على خزينة (الدولة) بنحو 3,583,543 ليرة (إسرائيلية) وبين الأعوام 1948–1953 تم تأجير نحو 244,564
In the years 1952-1953, 60,504 Real Estate were rented for a long time, which profited the treasury of the state for approximately 3,583,543 pounds (Israeli) and between the years 1948 to 1953, about 244,564 properties were leased for a long time, the total intake was about 3,11,453,54 pounds (Israeli). And these are enormous amounts accumulated by the state from looted property of Palestinian refugees. In addition to the mentioned above, the amounts of revenues from agricultural crops of the evicted Palestinians. These all are rights that the Palestinian refugees (the original owners) couldn’t enjoy.
And it mentioned (the lands leased for a long time to farms and farmers by the Ministry of Agriculture Department is divided to sections, one for farming and the other part is leased for a long time by the Ministry of Agriculture to farmers and members of this section to plant large areas of olive groves around 50,000 acres, and where it has achieved a number of objectives:

The rural section focused on the agricultural tractors. Furthermore, after supplied the army in with everything they need, the Ministry of Agriculture endorsed splitting the remaining farms.

A. We saved 500 tons of oil to the state economy.

B. We have saved 150 tons of the products (for the United States in return of a military band)

C. Our work fed thousands of peasants who work in the olive harvest.

D. An important economy sector was occupied and was incorporated into the country’s economy. The intake income from liquidation, leasing, and from the agricultural sector by the end of February, is approximately 3.3 million Israeli pounds.

But the looting was not limited to this extent, in August 1951, under the annual Report of the funds for the year ended on 31.3.1951 the guardian of the Absentee Property informed the Minister of Finance, the following:
The Greater income item accumulated from absentee sums a total
of 8,582,000 Israeli pounds from the absentee saving accounts
in Barclays Bank.

Now days the Israeli government took a step further in proceeding
the looting of the Palestinian refugees property, which is embodied in
liquidation part of these properties under the allegation of the
reform national action plan.

On the 03/08/2009 Israel ratified the land district proposal
amendment (7) 2009, which, in word and deed, is a comprehensive
reform plan in managing the land ownership by the State
of Israel, the Development Authority and Jewish National Fund,
which constitute about 93% of the country.
أن سياسة الخصخصة المذكورة سوف تتحطق كل إمكانية مستقبلية لإعادة تلك الأراضي إلى أصحابها الأصليين، فهي ستنتهك حقوق الدستوري والملكية وتتنافق مع القانون الإسرائيلي وكذلك مع القانون الدولي الإنساني فكما سبق الذكر، ستدخل هذا الباع إلى خزينة (الدولة مبالغ مالية طائلة) إن دولة الصهيانة منهجية ومثيرة في سياسة النهب التي تتبعها. هذه المرة ليست أملاك الغابيين هي الواقعة على المحك فقط، وإنما أراضي المستوطنين في شرق القدس وفي هضبة الجولان المحتلتين عام 1967 أيضاً، والتي يسري عليها أيضا قانون الإصلاح بحكم ضم هاتين المنطقةين غير القانوني إلى نطاق دولة إسرائيل.

The mentioned privatization policy will dishearten any possibility of a future of returning those lands to their original owners; it would violate their constitutional right of property and contradict with the Israeli law, as well as with the International Humanitarian Law, as already mentioned. This sale will profit the treasury of (the state) with huge sums of money. The Zionists State follows a systematic and persistent policy of looting. This time it’s not the Absentee Property that is the target but also the territory of the settlements in East Jerusalem and the Golan Heights occupied in 1967, these areas apply to the Israeli reform law as these areas are illegally annexed by Israel.

اليوم وحتى لا تعود إسرائيل إلى سالف عدها بسياسة التطهير العرقي يجب الاستماع من سابقة قضائية صحت في المحاكم الإسرائيلية في تاريخ 23-1-2006 والتي قضت بعدم قانونية تطبيق إسرائيل قانون أملاك الغابيين.

In order to prevent Israel from practicing its racist ethnic cleansing policies, we must take advantage of the precedent that has occurred in Israeli courts on 01-23-2006, which ruled the illegality of Israel's implementation of the Absentee Property Law.

وهي تعتبر سابقة قضائية مهمة حيث قررت المحكمة المركزية الإسرائيلية في القدس المحالة، برئاسة القاضي بوزع اوكن، عدم قانونية اعتبار أن أملاك الفلسطيني من سكان الضفة الغربية وقطاع غزة في القدس الشرقية المحالة خاضعة لتسامح أملاك الغابيين الإسرائيليين.

It is considered a significant legal precedent when it was decided by the Israeli supreme Court in Jerusalem, headed by Judge Boaz Okun, the illegality of the consideration that the property of Palestinian residents of the West Bank and Gaza Strip in the occupied East Jerusalem under the so-called Israeli Custodian of Absentee Property.
cannot be considered East Jerusalem as part of the State of Israel for
the purpose of law is absent.

According to the decision that was issued, Judge Boaz Okun declared
that the Israeli government cannot announce any Palestinian
land occupied in 1967 as a "territory under Israeli sovereignty,
" stressing that the announcement of the land owned by residents of the
West Bank Palestinians as "property absent" is illegal and void.

Resorting to the courts, even with the possibility of the loss of the piece
of land mentioned in Beit Hanina and the loss of all the lands or property
with the same qualifications. Still this might enable us eventually to get
rid of the racist practices and cancel the execution of this law which
allows the seizure of Palestinian land in Jerusalem easily for the most
trivial reasons.

Judge Okun (after accepting the logical, rightful allegations based on the
given facts which cannot be legally challenged or refuted) fined the
Custodian of Absentee Property to pay the attorneys fees & expenses
which amounted thirty thousand shekels.
It Seems that the issue of denial the rights of return of Palestinian refugees is not only about the need to maintain a Jewish majority within the Green Line, as claimed by the State of Israel. But it involves the need to reap the profits from the property of the refugees themselves. Israelis are ignoring the looting of these practices that do not enjoy even a small controversy in the public opinion, but they continue to be astonished that the Palestinians are not willing to recognize the Jewish state. Ironically, The State of Israel has the right to deny the "Nakba"-which today constitute one of the pillars of the history of the Palestinian people- and even works to prevent Palestinian citizens from the commemorating the Nakba. At the same time, Israel asks the victim to recognize the State of Israel, the state which turned him into a victim. of all this is being done while Israel continues to step over international humanitarian law on the rights of refugees and looting everything that supports their ultimate dream to return to their land and property.
**جدول التالي**

<table>
<thead>
<tr>
<th>المصدر</th>
<th>تقديرات حجم أملاك اللاجئين الفلسطينيين (بالدونم)</th>
</tr>
</thead>
<tbody>
<tr>
<td>تقديرات الأمم المتحدة</td>
<td></td>
</tr>
<tr>
<td>بدون لواء بئر السبع (UNCCP 1951)</td>
<td>4,186,012</td>
</tr>
<tr>
<td>بما يشمل لواء بئر السبع (UNCCP 1964)</td>
<td>16,329,707</td>
</tr>
<tr>
<td>تقديرات مفصلة (1964)</td>
<td>7,069,091</td>
</tr>
<tr>
<td>تقديرات أجراها فلسطينيون</td>
<td></td>
</tr>
<tr>
<td>سعد بيدس (1951)</td>
<td>9,300,000</td>
</tr>
<tr>
<td>يوسف صايغ (1966)</td>
<td>6,611,250</td>
</tr>
<tr>
<td>تقديرات إسرائيلية</td>
<td></td>
</tr>
<tr>
<td>(لجنة فليس، دين، ليفشيتس 1948)</td>
<td>2,008,114</td>
</tr>
<tr>
<td>يوسف فايس (1950)</td>
<td>3,584,600</td>
</tr>
<tr>
<td>(لا يشمل لواء بئر السبع)</td>
<td></td>
</tr>
<tr>
<td>مكتب الوصاية (على أملاك الغابيين)</td>
<td>4,450,000</td>
</tr>
<tr>
<td>تحت سيطرته في أيلول 1954</td>
<td></td>
</tr>
<tr>
<td>وزارة الزراعة الإسرائيلية (1949)</td>
<td>16,593,000</td>
</tr>
<tr>
<td>التقدير بدون لواء بئر السبع</td>
<td>4,093,000</td>
</tr>
</tbody>
</table>