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“This is *our* land”: collective violence, property law, and imagining the geography of Palestine

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This study seeks to explain the origins of two types of violence occurring on the Palestinian landscape, the erasure of Palestinian farms and the demolition of Palestinian homes. Such violence has two sources. One source derives from an enduring practice of meaning-making about geographical places that has inspired groups with territorial ambitions to seize control of the landscapes they covet and is referred to by Edward Said as the crafting of “imaginative geographies.” The second source focuses on changes in property rights that follow when groups with territorial ambitions succeed in seizing control of coveted land. It is the imagined geography of Palestine as a homeland for the Jewish people, first framed by Zionists of the late 19th century and absorbed into the practices of Israeli state-building, and the changes in property rights inscribed into the Palestinian landscape following Zionist and Israeli military conquests in 1948 and 1967, that lie at the core of violence directed against the Palestinian farm and home today. This process of imagination, legal transformation, and violence is part of a long-standing lineage of dispossession that includes the English enclosures and the taking of land from Amerindians on the Anglo-American colonial frontier.

Keywords: Imaginative geography; property rights; violence; Palestine; dispossession; landscape

In a seminal account of the origins and nature of property, Carol Rose argues that rights to property derive fundamentally from powers of persuasion, that is, the power of property owners to gain consent from the general population on notions of possession and exclusion. According to Rose, violence plays only a supporting role in upholding property rights and occurs only when powers of persuasion about rights of possession and exclusion become weakened and break down. Thus for Rose, “force and violence are the nemesis of property,” their use signaling that the property system itself is faltering (Rose 1994, p. 296).

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While this argument is convincing for describing the routines of established property systems, it overlooks historical instances of property formation marked by conflict in which the law enables one group of people to seize control of land from another. When English estate owners appealed to common law to enclose land used by their tenant farmers as a collective resource, the law operated not as means of persuasion but as a blunt instrument preventing tenants from exercising their rights to graze livestock and gather food and fuel on common property. By this measure, the law performed violently not by meting out bodily punishment on tenant farmers in the manner made famous by Foucault in the opening pages of *Discipline and Punish*. Instead, the law unleashed its violence by excluding tenants from use rights on common land thereby separating tenants from their means of subsistence. Violence thus resulted in this case from the power of the law to reorder lines of ownership and trespass on the land.

At the same time, there *is* a more bodily type of violence connected to property law focusing on the law's enforcement power. When English commoners resisted the elimination of customary rights imposed by the Black Act (1723) and continued to take wood for fuel and hunt small game on common land, the law unleashed this more corporeal type of force by empowering authorities to spirit resisters from the areas of trespass into prisons (Thompson 1975). Such cases reveal how property law inflicts violence directly on the person by enabling authorities to remove trespassers from areas demarcated by the law as exclusionary. In this sense, it is appropriate to link property law not only with violence associated with a realignment of the landscape, but also with "corporeal violence" (Blomley 2003, p. 123). In both cases, however, the law renders its violent impacts on human actors by reordering geographical landscapes, that is, by redistributing people and partitioning territorial space.¹

There is yet a very different way of conceiving the interplay of property law and violence in which the latter emerges from a cultural environment reshaped by a shift in the legal system of property ownership. One of the most compelling examples of this culturally-mediated route from the law to violence occurred in the aftermath of the landmark Supreme Court decision in *Johnson v. M'Intosh* (1823) which abrogated notions of Indian property ownership and transformed Indians into a new legal status as "tenants at will" (Robertson 2005). What emerged as a cultural artifact of the decision, however, helps explain some of the subsequent violence against Indians, notably in Georgia where land conflict between settlers and Indians was especially intense. By overturning a longstanding colonial legal culture conceding Indian ownership of land (Banner 2005), and by redefining Indians as transient occupants, the law enhanced a culture of intolerance toward Indian property rights and presence on the landscape. In this environment, "Indian-hating mobs" in Georgia engaged in widespread vigilantism against Cherokees and Creeks, burning Indian

crops and homes while government officials looked the other way (Cave 2003, p. 1337). Though not inflicted directly on the body, this legally-inspired violence reconfigured the geography of Indian bodies as terrorized Indians removed themselves from the landscape and made their way West. Thus, the legal environment post *Johnson* promoted a culture of entitlement among settlers seeking the land of Indians whose continued presence and circulation on the landscape precluded settlers from accessing what they believed was legally—and morally—theirs. In this way, violence against Indian homes and crops functioned as a type of “spatial fix” realigning Indian bodies on the landscape in accordance with the way settlers understood the landscape’s new legal geography.²

A model of law, culture, and violence

Drawing from this culturally-mediated route from property law to violence, along with the violence of law in realigning landscapes, this study seeks insight into a particularly macabre type of violence occurring on the Palestinian landscape. On any given day, this landscape bears witness to the organized demolition of Palestinian homes, and the destruction of crops on Palestinian farms; violence that might otherwise be considered depraved but is shocking only because it has become so normal and routine (Munayyer 2012). By merging insights from critical legal geography about the violence of property law with insights from cultural geography about the way groups with territorial ambitions imagine landscapes, this article uncovers two sources to explain the motivations for the destruction of crops and the demolition of homes on the Palestinian landscape today.

On the one hand, violence against Palestinian farms and homes derives from a longstanding practice of meaning-making about geographical places that has enabled groups with territorial ambitions to take possession of, and remake territorial landscapes. This practice of constructing alternative representations of places is what Edward Said referred to as the crafting of “imaginative geographies” (Said 2000). According to Said, imagining geography is an ideological process initiated by groups seeking territory who reinvent meanings about the landscapes they covet, and frame arguments justifying why they are entitled to assume sovereignty over the territorial landscapes they discursively reinvent. For Said, this notion of inventing meanings about coveted landscapes provided a theoretical starting point for understanding the phenomenon of empire-building and the taking of land from others.

The second source of the violence directed at Palestinian farms and homes derives from the way groups with territorial ambitions implement their imagined geographical visions. Such groups use property law as an instrument of force to assume control of the landscapes that they have re-imagined. Changes in property law, however, have a dual set of impacts

on the landscape, one immediate and dramatic, the other more subtle and cultural. The most immediate impact of a change in the system of property law is to transfer land from one group to another by redrawing the boundary lines of land ownership and enforcing those reconfigured boundaries. Violence in this sense corresponds to dispossession that occurs when lines of ownership and trespass are redrawn on territorial landscapes. At the same time, when landscapes are reordered by new systems of property rights and land passes to different owners and stewards, the legal environment facilitating this land transfer promotes certain cultural understandings of who rightfully belongs on the land and who are transgressors. In the Palestinian context, the new legal landscape, born from Zionist domination on the land, reinforced the very same Zionist imagined geography that gave rise to the seizure of land in the first place. Thus, the legal environment of property rights in Palestine reveals two routes to the violence against Palestinian farms and homes. One route is direct in which Palestinians have been separated from their farms and homes by the redrawing of property lines on the landscape. The other route is more subtle in which a changing set of property laws has spawned a culture of hostility to Palestinian presence and circulation with the end result assuming the form of assaults upon the anchors securing Palestinians to the landscape.

It is the imagined geography of Palestine as a Jewish landscape that is the starting point for understanding the violence against Palestinian homes and farms today. Although a recurrent theme in Jewish collective memory, this imagined vision of the Palestinian landscape gathered momentum from late 19th century Zionism but incorporated an older legal discourse originating in the 16th century and later synthesized by John Locke (1980 [1690]) about rights to land. Emphasizing how rights to landed property accrue to those making improvements to land, this discourse articulated by Locke rested on three propositions. First, Locke insisted that rights to land derived not from the arbitrariness of inherited social rank but instead from the rational notion of one's capacity to improve land through labor. Second, Locke argued that rights to land corresponded to specific plots of ground thereby recasting land into a *thing* capable of being possessed like other so-called "moveable" items. Finally, Locke insisted that this improvement- and labor-driven right to plots of the earth was part of divine intent since it was God who commanded humans to work, improve, and take possession of land for their livelihood and sustenance. Ultimately, however, Locke conceded that taking possession of land through improvement depended on the land in question being "empty," in effect, *terra nullius* (Fitzmaurice 2007).

From this improvement-driven, territorially-based, and God-sanctified notion of property rights, Zionists, in the spirit of English estate owners and Anglo-American colonists influenced by legal notions of *terra nullius*, uncovered arguments for staking claims on, and remaking seemingly

unimproved, “empty” territorial landscapes. Indeed, early Zionists referred to Palestine as a barren land destined to be improved not just by labor, but by *Jewish labor*, and thus forged links to the lineage of Locke in which Locke’s improvement-driven cultivator found a kindred spirit in the modern Zionist farmer-pioneer (Braverman 2009). As the Palestinian landscape was being reinvented, Palestinians emerged in the Zionist imagination as trespassers on land that they had cultivated for centuries. Nevertheless, a gap persisted that separated the Zionist imagination from what Zionists actually confronted—Palestinian presence on the land. What emerged to reconcile and “fix” the imagined geography of Zionism with the reality on the landscape was the power of law.

Following creation of Israel in 1948, Zionists used the law, both inside the new state and later in the Occupied Territories, to reclassify and transfer landed property from Palestinian to Jewish owners enabling the landscape to conform to their vision of it as *Hebrew* land (Falah 2003; Forman and Kedar 2004). This change in the system of property law, however, not only expanded the inventory of land in Jewish hands. It provoked a cultural shift among the Jewish population reinforcing the imagined geography that motivated Zionists in the first place to covet and seize Palestinian territory. At the core of this cultural shift was a hardened antipathy for Palestinian presence on the supposedly Jewish landscape.

It is this imagined vision of Palestine as Hebrew land, and the property laws implemented from this vision, that have motivated the violence targeted at the anchors—farms and homes—securing Palestinians to the landscape both inside Israel and in the Palestinian West Bank. Such violence, in turn, has a corporeal dimension. The aim of this violence is to reorganize the patterns of Palestinian presence and mobility on the landscape by seeking to convince the Palestinian cultivator and the Palestinian homeowner that their tenure on the landscape through the planting of crops and the construction of homes is untenable. Similar to the violence directed against Cherokees and Creeks, and English commoners, the violence against Palestinian homes and farms aims at reconstituting the spatial patterns of demography on the landscape. An imagined geography of Palestine has thus enabled Zionists and their descendants to conceive of Palestine as “*our* land,” and to remake it in accordance with this imagined vision.

This article explains the route to the destruction of Palestinian homes and farms by focusing on the relationship of imagined landscapes to the creation of new systems of property rights on land, and the cultural environment created when laws of property change and land transfers to new owners. It reveals how a venerable discourse about the virtues of improving empty land converged with a Zionist discourse about God-given rights to the land of Palestine that enabled Zionists to imagine themselves as the legitimate masters and stewards of the Palestinian landscape. The article goes on to show how this imagined geography was

embedded in Zionist efforts to recast laws of property in Palestine. This shift in the system of property ownership not only enabled land to change hands from Palestinians to Jewish owners. The legal landscape implemented by Zionists helped reshape a Jewish cultural environment such that Palestinian presence on, and belonging to the landscape was de-legitimized. Built from imagined territorial visions, the legal environment of property rights and the cultural landscape deriving from it have spawned the violence against key foundations of Palestine society, the farm and the home.

What follows is a theoretically-informed empirical argument of how the destruction of Palestinian farms and homes is part of a pattern of imagination and dispossession in which groups seeking territory invent meanings about the landscapes they covet, and enlist the law and overt forms of violence to make the landscape conform to their imagined visions. It draws upon insights from critical legal geography about the violence of property law but extends this literature in a new direction in ascribing cultural spillovers to the implementation of new systems of property rights, and linking violence to the cultural impacts of new legal regimes.³ At the same time, this study seeks to explain the cultural origins of new systems of property law by situating Edward Said's concept of imaginative geography into an empirical setting of dispossession on the Palestinian landscape. In effect, this study crafts an argument about the violence of property law by exploring both its legal and cultural impacts in seeking to explain a very visible phenomenon on the Palestinian landscape today.

Methods

Methodologically, this article draws from author interviews with settlers and Palestinians whose farms and homes have been damaged or destroyed, and from direct observations of these incidents and their imprints on the landscape from 2004–2012. Interviews for this article are part of the fieldwork for a book in progress on dispossession in Palestine and were conducted in accordance with provisions of the University of California, San Diego Human Subjects Protocol. These interviews, undertaken from 2004–2012, focus on the experiences of Palestinians who have lost farmland or homes due to incursions by actors associated with the state of Israel. Beginning in 2005 but mostly in the last two years, however, I have also interviewed Israeli settlers in the West Bank. Owing to the challenges of doing this fieldwork in an environment riven with conflict, it was necessary to cultivate networks of contacts for each constituency in order to locate and gain access to potential interviewees. I received help at the outset from two organizations, Faculty for Israeli Palestinian Peace (FFIPP), and from the Applied Research Institute of Jerusalem (ARIJ). Through subsequent visits to the region, I used the so-

called, "snowball" technique to expand the network of organizations and individuals who were able to assist me in gaining access to interviewees.

On the Palestinian side, I obtained interviews in four major ways. First, from the contacts I cultivated, I obtained introductions to mayors of Palestinian towns who would tell me about constituents who had lost crops, land, or homes. I would then interview these individuals usually for one to two hours which would include visits to sites of the land in question. Using this method, I interviewed individuals from Husan and Marda described below. Second, on the recommendation of contacts, I spent extended periods of time in particular villages where state or settler violence was known as a daily occurrence. In these places, I met individuals who told me of how they lost crops and land as was the case for interviewees in this article from Iraq Burin and Jayyous. Third, as I travelled through West Bank villages, I heard stories about individuals who lost land or a home and went into the town where they lived. I asked people where I could find the person in question and people from the town would take me there. In this way, I was able to interview Tony H. from Beit Jala. Finally, I was able to interview Salim S. about the demolitions of his home in Anata as a result of an introduction from the Israeli Committee Against House Demolitions (ICAHAD).

Almost all of these interviews with Palestinians were with men. Cultural factors account in large part for this imbalance. Most of these interview subjects dealing with violence against crops and farms live in remote agrarian areas where social customs are conservative and where it would be awkward for a stranger (and a male) to speak directly with a woman.

The settler interviews relied far less on the technique of snowballing although it did prove helpful. The difficulty with settlers and the reason that they are not given quite as a prominent a voice in this article is that they are often reluctant to speak with academics and foreigners. Nevertheless, I was successful in making a cold contact with Ron Nahman, the mayor of Ariel who spoke with me for roughly four hours explaining his views about Ariel and the settlement project. After Ron Nahman, I was able to interview a very well-known settler from Kedemim, and this contact enabled me to interview other settlers from Efrat, and the leader of a settler organization in East Jerusalem. For the interviews in Yitzhar, however, I was not able to rely on contacts nor was I able to rely on help from the Yesha Council, the umbrella organization for Israeli settlers, which claimed that it would be too dangerous for me to go there and interview those residents. I therefore decided to go on my own. I found the name of a resident there who had advertised on the Yesha Council website and contacted her to see if she would talk to me. Mayyaan, the settler from Yitzhar interviewed in this article, agreed. I interviewed her and her family for an entire afternoon (They asked me at the very beginning whether I was Jewish and I told them the truth that I was.). They assumed

a friendly demeanor toward me and insisted that I stay the afternoon for lunch. When I tried to ask a question about settler violence from Yitzhar against nearby Palestinians, she and the family were evasive and suggested that any violence was precipitated by Palestinians, and that settlers were simply defending themselves and their land. In sum, these interviews aim at documenting perceptions and experiences about land and belonging from the perspective of both Israeli settlers and Palestinians.

Re-imagining the Palestinian landscape

In the late 1920s, the Jewish National Fund (JNF), the lead agency for land purchases in Palestine for the Zionist movement, commissioned a series of maps aimed at disseminating a representation of Palestine to its own constituents and the rest of the world. In these maps, Palestine is recast as an area of Jewish settlement in an otherwise empty geographical space. In 1934, the JNF decided to use one of these maps on the most recognizable symbol of Zionist efforts to raise money for the purchase of land and promote Jewish settlement of Palestine, the celebrated “Blue Box” (Figure 1). In representing Palestine as Jewish and erasing any indication of an Arab presence from this territory, the map revealed how Zionists imagined the land of Palestine. “This is our land” is the message represented on the Blue Box (Bar-Gal 2003, p. 137). At the same time, the map provided a cartographic narrative of the Zionists’ core aim of redeeming Palestine, that is, remaking a fundamentally Palestinian landscape and replacing it with a landscape Jewish in character (Falah 1989).

As a project of land redemption, Zionism elevated the idea of *landscape* in crafting an imagined vision of Palestine that equated the landscape’s natural attributes with a Jewish identity (Eisenzweig 1981). By associating the natural landscape with a historically longstanding Jewish attachment to the land, Zionists essentially remade Palestinians as unnatural “others;” trespassers who did not belong on the land (Abu El-Haj 2001). It was Theodor Herzl who played a pivotal role in helping promote this imagined geography.

Insisting that only a state of their own would enable Jews to escape anti-Semitic prejudice, Herzl nevertheless argued his case for a solution to the Jewish question in a discourse of development and modernization while deliberately diminishing Palestine’s existing inhabitants. In his most celebrated work, *The Jewish State* (1896), Herzl makes only a fleeting reference to Palestine’s “native population” despite a passage the previous year from his own *Diaries* dated June 12, 1895 where he writes about the need to “spirit away the penniless [Palestinian] population” to make way for the Jewish state (Herzl 1960, p. 88). By the end of the decade, in an article entitled “Zionism” (1899), Herzl was emphasizing the uncultivated character of the Palestinian landscape as the basis for Jewish statehood,



Figure 1. The Blue Box ca. 1936. Reproduced by permission of Sydney Jewish Museum.

depicting Palestine as a land “poor and neglected; [where] the slopes of the hills are bare...and the fields lie fallow” (quoted in Eisenzweig 1981, p. 282). For Herzl, the commitment of Jewish settlers to improve a barren landscape conferred upon Zionists a right to Palestinian land. This imagined space—uncultivated and emptied of otherness—became the embodiment of Jewish aspirations. Yet, even with the large influx of Jewish immigrants in the decades after Herzl, Palestine by the late 1930s still presented Zionists with a fundamental dilemma. It was still 75% Arab.

What eventually emerged within Zionism for solving this problem drew upon notions of force developed by the Zionist, Ze'ev Jabotinsky in his *Iron Wall* (1923), coupled with the idea of removing the Arab population from Palestine to make way for Jewish statehood (Shlaim

2001). In fusing the ideas of force and “transfer,” the figure of David Ben-Gurion played a pivotal role. Initially opposed to the removal of Arabs from Palestine, Ben-Gurion emerged by the late 1930s among a cadre of Zionist leaders willing to support the idea to realize Jewish sovereignty on Palestinian land (Morris 2001). Zionists thus came to embrace visions of a territory absent Palestinians that could be realized by forcibly removing this population in order to promote the creation of a Jewish state (Masalha 1992).

A landscape recast by law

Owing to the outcome of the war of 1948—what official Israeli history refers to as the *War of Independence* when the state of Israel was born, and what Palestinians refer to as the catastrophe or *Naqba*—the Jewish community (*Yishuv*) was able to implement its vision of a Jewish landscape on roughly 78% of historic Palestine. In the war’s aftermath, the new state established a legal process for appropriating abandoned Palestinian property and reallocating it for new Jewish settlement (Falah 2003; Forman and Kedar 2004). Central to this process was the creation of state land from so-called “absentee property” which made permanent the transfer to the state of privately-owned land and property belonging to Palestinians before the conflict. In addition to targeting abandoned property for transformation into state land, Israel by the early 1960s was also targeting the land of Palestinian villages that remained inside the new state. The instrument used for this purpose was Article 78 of the Ottoman Land Law of 1858 retained by the British in the Mandate period from 1917 to 1948 and kept in place by the new state after 1948 but reinterpreted by Israeli authorities in a novel way.⁴ Under the Ottomans, this law enabled Palestinian farmers to obtain title to the land they cultivated but gave Ottoman rulers the right to tax it. Israeli lawyers inverted the logic of this law, however, in seeking the *absence* of cultivation to seize land for state purposes, declaring land to be without ownership if cultivation failed to cover 50% of the land surface. In this way, Israel used a legal tool to create public land for Jewish settlement even when the land was being cultivated by Palestinians inside Israel but judged by Israeli authorities to be below the 50% threshold. From these legal practices of creating state land where Palestinians once had ownership rights, some 700 new Jewish settlements were built reflecting the realization of an imagined landscape evolving for decades within the Zionist movement (Falah 1996).

Since 1967, the state of Israel has initiated a settlement program in Occupied Palestine similar to its settlement project inside Israel in which the law plays a decisive role (Shafir 1996). Unlike in Israel, however, authorities in Occupied Palestine did not have an inventory of abandoned property as a foundation for creating state land. For this reason, they

relied more heavily on Article 78 as a legal tool for registering land in Occupied Palestine as “public,” and reallocating it for Israeli settlements (Forman 2009). In effect, a legal doctrine imported from Israel enabled Israeli authorities in Occupied Palestine to seize land owned and used by Palestinians for transformation into state land and Israeli settlement.

As an instrument for creation of state land and construction of Jewish settlements both inside Israel and in the Occupied Territories, the law has engendered violence by realigning lines of ownership and trespass on the landscape, dispossessing Palestinians and separating them from their means of earning a living. At the same time, this legal environment has made possible a more brazenly violent assault on Palestinian homes and farms under the guise of administrative routine. By promoting the expansion of Jewish territorial spaces and restricting the territorial spaces of Palestinians, the law transforms “nonconforming” patterns of presence and mobility on the landscape into enforcement problems. In this way, the law has normalized the demolition of Palestinian homes and the destruction of Palestinian farms and has empowered certain state agencies—supported by the army and police—to act as actual demolition crews in enforcing the law’s trespass provisions.

At the same time, this legally inspired violence against Palestinian homes and farms has spawned a subtle but no less powerful form of violence against the anchors securing Palestinians to the landscape. What has emerged from the legalized destruction of Palestinian farms and homes is an institutionalized culture against Palestinian presence and mobility on the landscape. It is the “legality” of dispossession, including the demolition of Palestinian homes and the uprooting of Palestinian crops, that creates cultural spillovers enabling private actors aligned with the state of Israel to believe themselves entitled to undertake similar types of actions against Palestinian property. If, in effect, an imagined landscape has spawned a legal foundation for dispossession, this imagined geography and the law deriving from it have together created a set of cultural meanings about the land in which Palestinians have emerged as trespassers, paving the way for a type of violence aimed at removing Palestinians from the landscape.

This interplay of imagination, law, and culture is arguably most visible among settlers in the Occupied Territories aiming to promote an expansion of Jewish presence on the Palestinian landscape. “This is *our* land,” explains Maayan A., a settler from Yitzhar near Nablus in pointing to a number of Palestinian villages visible from her hilltop vista (author interview, 23 March 2011).⁵ When asked if she knows the names of the Palestinian towns in the valley below Yitzhar, she replies casually: “I don’t know the names of those towns. Why should I?” Despite this indifference toward Palestinians, Maayan is surprisingly scornful of the Israeli army and police in the Occupied Territories whom she insists do not protect Israeli settlers against what she argues are encroachments from nearby

Palestinian towns. “Yes, we received land from Israel” [for settlements], she concedes, but then goes on to explain that “Palestinians have land that is ours.” Maayan emphasizes that Joseph’s tomb inside the Palestinian city of Nablus is the most blatant example of Jewish land usurped by Palestinian ownership and then in a surprising admission, exclaims: “We need our own *Intifada* to get our land back.” She does not explain what she means by the term *Intifada*, but the widespread violence against Palestinian crops originating from Yitzhar suggests that others in the town harbor similar views. While such cultural understandings of the landscape do not lead directly to the violence aimed at forcibly evicting the Palestinian trespasser, such visions of the land seem a logical starting point for understanding the violence against farms and homes so prevalent on the Palestinian landscape today.

Erasing the farm

Settlement of Jewish Israelis in Occupied Palestine which began in 1967 but accelerated after 1972 virtually unabated (Table 1) is the primary catalyst for the erasure of the Palestinian farm. The reason for this role of settlements is that virtually all of the land taken by Israel for civilian communities in the Occupied Territories is agrarian. In this process of eradicating the Palestine farm, the violence of law as an instrument of dispossession, and the violence of law as a cultural force have operated in tandem.

From 1967 to 1978, the Israeli Government argued that settlements in the occupied Territories were vital to Israel’s security and therefore the “legal” instrument used to create state land for settlements was military order. From 1968 to 1978 military authorities in the West Bank (the “Civil Administration”) issued orders for the confiscation of roughly 47,000 dunums of privately-owned Palestinian land (16,000 acres) and its transformation into state land for the construction of 13 settlements (B’Tselem 2002).⁶ In this sense, the law operated in the guise of military orders that dispossessed the Palestinian farmer and transferred land from one group of people to another. In 1979, however, the Israeli High Court, in the landmark case of *Elon Moreh*, rejected claims about security as the justification for the settlement project, forcing the government to adopt a new legal basis for securing land necessary for settlement construction.

Table 1. Israeli Settlement Population in Occupied Palestine

	1972	1977	1986	1991	1999	2010
Total Settlers	8400	38,323	161,740	236,465	357,335	506,092

Source: Adapted from Foundation for Middle East Peace (2012).

In order to overcome the constraints of the Elon Moreh case, the government of Israel used the Ottoman Land Law in two ways to uncover “empty” land for settlement construction.⁷ On the one hand, the Israeli government undertook an elaborate survey of the Occupied Territories in order to locate what had been public land belonging to the state of Jordan and even the Ottomans prior to Israeli occupation. These surveys enabled the Occupation authorities to claim 9% of the West Bank as Israeli state land. The problem for Palestinians is that many of them had been farming this land for generations under the auspices of the Ottoman Land Law but their claims had never been duly registered with the Ottomans or Jordanians. While Palestinians insisted that they had rights of cultivation under the law, they were being dispossessed by an Israeli interpretation of this same law that privileged documentation as an affirmation of ownership rather than practices of cultivation. Second, Israel used its interpretation of Article 78 of the Ottoman Land Law in determining what it considered levels of cultivation sufficient to establish ownership. This method proved more extensive as an instrument of dispossession and settlement enabling 1.5 million dunums of land (40% of the West Bank) to pass into the inventory of Israeli state land by 1984. On this land today roughly 90% of the settlements are located (B’Tselem 2002).⁸

This “legally” constituted settlement enterprise is endorsed forcefully by Ron Nahman, mayor of the large Israeli settlement of Ariel. “When we built this settlement, we never took one square inch of Palestinian land,” Nahman insists. In an echo of Locke, he emphasizes that the hilltops of the Palestinian geography were empty and thus free for the taking. “Look at the hills of this landscape,” he insists. “They [Palestinians] *don’t* plant! They *don’t* cultivate. We made something here” (author interview, 5 August 2005). Nahman’s views admit to deeply-rooted impulses of Zionism about developing a barren geography and the moral if not legal right to take control of supposedly uncultivated land.

Quite a different perspective on the development of Ariel is offered by Mohammed I., a farmer from the village of Marda in the valley below the hilltop settlement (Figure 2). In 1978, Mohammed confronted an Israeli army bulldozer on his land accompanied by an Israeli army unit. “The commander told me that my 20 dunums (five acres) of olive trees were being converted to Israeli state land and showed me an official order,” recounts Mohammed. “He told me that if I wanted, I could make a legal case, but before I could do anything, the bulldozer began to uproot my olive trees” (author interview, 16 August 2005). Here the law renders its violence by reconfiguring lines of ownership and trespass on the landscape supported by state institutions responsible for enforcing such lines imprinted into the land.

While the law and its institutionalized power of enforcement inflict violence upon the Palestinian farmer by reconfiguring lines on the landscape, private Israeli actors—mostly settlers—are also involved in



Figure 2. Israeli settlement of Ariel, above and Marda, below. Photograph by the author.

violent activities aimed at spurring Palestinian farmers from the land. Mahmoud S. of Husan near Bethlehem is one farmer among countless others throughout Palestine whose story is one of ongoing dispossession perpetrated through the law, and through more brazen cultural forms of violence perpetrated by settlers from the nearby settlement of Betar Illit (Figure 3). “In 1985, my family lost 30 dunums of land for construction of the settlement,” he explains. “Now houses from Bettar Illit sit on land that was ours.”⁹ Following the initial confiscation in 1985 he was left with 15 dunums of land directly next to the settlement. On any given day, however, olive and fig trees from his land are burned by nearby settlers, while branches are broken or shorn from their trunks in attacks clearly aimed at the anchors of his livelihood. On July 24 2006, Mahmoud, upon inspecting still-smoldering fires among his olive trees, confronted the director of security at the settlement. “Why do you allow your residents to vandalize and burn my land,” he demanded. “They are *tending* the land,” is the response Mahmoud receives from the security officer for the settlement. In effect, burning Palestinian crops is a legitimate practice of cultivation; an affirmation of both an imagined geography and a legal geography that has delegitimized Palestinian presence on the landscape.

Overt forms of violence directed against the agrarian anchors of Palestinian society are also the work of private actors in concert with actors from state institutions as illustrated by the case of Izzat Q., a farmer from the village of Iraq Burin near Nablus.¹⁰ Izzat owned 20 dunums of land very close to the nearby settlement of Har Bracha another



Figure 3. Mahmoud S. inspecting his burnt olive trees with Bettar Illit settlement in the background. Photograph by the author.

locale of very violent settlers. In March 2009 settlers from Har Bracha descended from their hilltop settlement to Izzat's land roughly 200 meters from the settlement perimeter and proceeded to lay razor wire around the land that he cultivated with wheat and olive trees. According to Izzat, however, armed Israeli soldiers were also participants in the raid on his land. "I saw five or six soldiers and they were the ones who threw incendiary bombs into my land setting fires to my wheat field and orchards," he recounts. "They destroyed 20 dunums. When I went to the DCO [local military command centers in the Occupied Territories], the commander did nothing." Izzat also revealed an extraordinary understanding of the symbolic dimensions of this incident. "My trees are the settlers' enemy," he explains. "I planted trees to become rooted to the land."

The fate suffered by Mahmoud S. and Izzat Q. also emphasizes the role of violence as a cultural weapon for dislodging Palestinians from the landscape when directed at olive-cultivated farmland. Because olive cultivation occupies over 50% of the agricultural land area, olives and olive trees permeate the economic and cultural life of Palestinians and have a symbolic meaning as metaphors of the roots attaching Palestinians to landscape (Meneley 2008; Braverman 2009). Especially poignant in this regard is the case of Tawfiq S., an olive farmer from Jayyous in the northwest part of the West Bank. "These trees have been a part of my family for 200 years," explained Tawfiq after settlers from the nearby settlement of Zufim, protected by Israeli soldiers, uprooted and destroyed



Figure 4. Tawfiq S. mourning the uprooting of his olive trees by settlers from Zufim. Photograph by the author.

120 of his olive trees to make way for the expansion of the settlement (author interview, 11 December 2004; Figure 4).¹¹ Indeed, while settlement expansion was the ostensible driver of this violence, the destruction of olive trees left a demographic marker on the landscape consistent with the Zionist ideal of redeeming the land. As a result of this violence, Tawfiq decided to quit farming (author interview, 31 August 2007). In this way, the destruction of olive trees eradicates those elements of material culture that enable Palestinians to imagine their place on the landscape while anchoring them to the land.

Demolishing the home

If destroying farms and uprooting olive trees have been ongoing occurrences on the Palestinian landscape, so too is demolishing Palestinian homes, a policy central to Israel's approach to Palestinians since 1948 (Halper 2006). In contrast to the violence directed against farms, however, home demolition is the work of state authorities, although settler groups are far from uninvolved. In the case of home demolitions in Palestinian East Jerusalem, it is settler groups aiming to move into Palestinian neighborhoods that are the driving force behind the destruction of Palestinian housing.

From 1967 to 2012, roughly 24,813 houses have been demolished in the Occupied Territories while at any one time there are over 2,000 standing orders for demolition of Palestinian homes (ICAHN 2012). Similar to land confiscation practices exported from Israel to the Occupied Territories, home demolitions in Occupied Palestine have been shaped by policies of Israeli planning authorities inside Israel itself. Within Israel, demolition of homes belonging to Palestinian Israelis occurs owing to their inability to obtain permits from district planning authorities to expand their houses or to build anew. Consequently, Palestinians in Israel are obliged to build housing “illegally,” that is, without permits. If Israeli planning authorities discover such construction, they can—and do—demolish the house (Yiftachel 1996).

In occupied Palestine, Israeli authorities have vested themselves with the same discretion to determine what Palestinians can build, and what is “illegal,” enabling these authorities to shape the character of development on the landscape. “They destroy your house to send you a message,” says Salim S. whose home in Anata in the West Bank just beyond the Jerusalem municipal boundary has been demolished four times. “They don’t want you here.”¹² He goes on to emphasize how demolishing homes is a form of transferring Palestinians from Palestine, and recounts how his house was demolished on the first occasion. “I tried for five years to get a building permit from the Israelis to build a house on my own land,” he says. “I made three applications and spent \$15,000 for the surveys, maps, and plans. After the third application, they told me they lost my file. I decided that they would never give me a permit and built the house without it. I moved into my house in 1994.” Salim then recalls how four years later Israeli authorities intervened.

On July 9 1998, I was eating lunch with my family when there was a loud crash at the front door. I went to the door and saw my house surrounded by 50 Israeli soldiers. The Commander at the door asked me if this was my home. I replied that it was indeed my home. He looked at me and told me that it would be my home no longer . . . The soldiers then came into the house and threw all of our furniture and belongings into the street. Then the bulldozers began to demolish the house . . . In the next couple of years, we rebuilt the house three times. And three times, the Israeli army came and destroyed it.

What makes the demolition of Salim’s house more shocking is how routine such occurrences have become. His was the fifth house bulldozed in the area that day in 1998 (Halper 2007).

Most recently, the issue of home demolitions has focused on East Jerusalem where settler groups, assisted by the Israeli Government and the Courts, are aiming to complete the redemption of the area begun in 1967 by resettling it with Jewish settlers.¹³ Since 1967, Israeli Authorities have demolished roughly 2,000 houses in Palestinian East Jerusalem on the

pretext of building and zoning violations. The issue at the center of these demolitions and evictions in East Jerusalem is the meaning of “illegal” construction” (UN 2009).¹⁴ After 1967 when Israel annexed East Jerusalem and several nearby Palestinian suburbs, the Israeli state incorporated these areas into the Jerusalem municipality and subjected them to its planning and building codes. Only 13% of these annexed areas, however, have been zoned for Palestinians residential construction. Consequently, there is a critical shortage of land in East Jerusalem for Palestinian housing leaving Palestinians with no choice but to build or expand where they are. The problem, as noted above, is that Palestinians in East Jerusalem are routinely denied building permits and are thus forced to build “illegally.” The UN estimates that 28% of all housing in East Jerusalem is in violation of the building and zoning requirements imposed by Israel. Based on population ratios, there are roughly 60,000 Palestinians at risk in East Jerusalem of having their homes demolished.

One such house demolished in this way was that of Amar Salameh al-Hdaidun. In this case, the area where the al-Hdaiduns were living was rezoned a “green area,” where building was prohibited, a strategy used extensively in Palestinian East Jerusalem (Margalit 2010). Upon designation of these areas as green and elimination of Palestinian building there, the green areas are subsequently rezoned anew but in this case the rezoning classifies the land as residential and the area is then reallocated for new Jewish housing. For five years, the al-Hdaiduns had attempted to work with the city authorities to conserve the zoning as residential and spent \$45,000 on plans and maps to make the case to no avail. On April 22 2009, bulldozers arrived at their home. By the end of the day, the al-Hdaiduns were homeless (Kershner 2009).

Finally, in an act of violence directed at both the home and the farm, Israeli authorities targeted Tony H., whose small farm in Beit Jala near Bethlehem lies in the shadow of the Israeli settlement of Har Gilo (Figure 5).¹⁵ In 2004, Israeli authorities told him that he would need a permit to go to his farm where he maintained a small stone farmhouse built in 1936 by his grandfather. In May 2008, Israeli authorities served Tony with a demolition order for the farmhouse stating that it was forbidden for the structure to be in such proximity to Har Gilo. He paid an Israeli lawyer \$6000 to overturn the order but was unsuccessful. On May 22, 2010, authorities served him with a new order giving him the option of demolishing his own farmhouse within a month’s time. Tony recounts what happened one month from that day.

About 50 soldiers and one bulldozer came on June 22nd at 8:00 a.m. to my farmhouse. Neighbors called me and told me what was happening and I arrived in 10 minutes from my home. After I arrived, I tried to stop the bulldozer driver. Then three soldiers jumped on top of me. They held me for six hours while the bulldozer completed the demolition of my farmhouse.



Figure 5. Tony H. standing beside his demolished farmhouse shortly after demolition. Photograph by the author.

When the job was finished, the commander handed me a bill for \$3,500 for the cost of the demolition . . . When it was over, I did not go there for one week. But then I went back. I know what they want. They want me to leave—but I will *not* leave.

Concluding remarks

How is it possible to understand the violence perpetrated against Tony H. and other Palestinians whose farms and homes are being targeted for destruction and demolition by actors associated with the state of Israel? This study locates the sources for this violence in Zionist visions about the Palestinian landscape, and the legal geography of property inscribed into this territory following the creation of Israel in 1948 and the conquest by Israel of the remaining parts of Palestine after 1967. Two types of violence against the Palestinian farm and home have emerged from this landscape recast by the law. One type derives from the direct effects of the law in reordering the lines of ownership and trespass on the landscape and dispossessing Palestinians of farms and homes. The other type of violence stems from the cultural effects of a shift in the system of property rights. Such changes in the legal environment have emboldened private Israeli actors, supported by agencies of the state of Israel itself, to target Palestinian farms and homes as a way of “fixing” the landscape in accordance with how these actors understand the landscape’s cultural

meaning and legal geography. In effect, the Palestinian farm and home have become targets for removing Palestinians from what is conceived both culturally and legally as Jewish land.

In making this argument about imagination, law, and violence, this study places the Palestinian landscape in a broader historical context of dispossession signaled in the opening of this article. What is occurring on the Palestinian landscape has antecedents in the landscapes of enclosure and dispossession in England and the Anglo-American colonial frontier. In these three cases, a longstanding discourse about land improvement and rights to property inspired estate owners, settler groups, and Zionists to imagine the landscape as empty, and to re-imagine themselves as sovereigns on that empty land. In all three cases, legal change in the system of property rights followed an imagined geography that played a critical role in enabling these groups to dispossess people already anchored to the landscape.

In England, land improvement had been evolving as justification for rights to land since the 16th century and had assumed the specific meaning of cultivating land and enclosing it from common uses (Thirsk 1983; McCrae 1996). By the late 17th century, Locke had synthesized this discourse of improvement tied to cultivation and enclosure into a philosophical system of rights to landed property. For Locke, land absent cultivation and enclosure was “waste,” and he argued forcefully that individuals who improved waste acquired a right of property in that land (Locke 1980 [1690]; Seed 2001). By the 18th century, this discourse had elevated the enclosure of unenclosed common land to a national campaign that challenged the legitimacy of those still exercising common rights while spawning an idealized vision of what the landscape should be (Tarlow 2007). In the outlook of those promoting enclosure of common land, “commoners” were trespassers opposed to improvement (Neeson 1993). Not surprisingly, legal measures directed at opponents of enclosure focused on removing them from the land illustrated by the Black Act (1723). Originally passed to punish poaching in royal forests, the Act expanded the violence of the English penal code by enforcing new rules of trespass on the landscape and criminalizing activities once accepted as customary rights on common land (Thompson 1975). The Black Act thus functioned as a type of removal act in transforming the landscape’s spatial demography.

While the virtue of improving land lying empty proved a compelling argument for reclaiming parts of the English landscape taken by common uses, it was equally formidable as a rationale for England’s right to the land of Amerindians (Edwards 2005). What justified rights to Indian land, however, was a complementary discourse from English common law focusing on the notion of empty land. From the 14th to the 16th century, English common law was extending the ancient Roman notion of objects without owners (*res nullius*) to land lying empty—*terra nullius*—in setting forth conditions for rights to landed property (Seipp 1994). Similar to the way Roman law enabled an object without an owner to become the property

of the so-called first taker, the doctrine of *terra nullius* suggested that the improver of empty land was entitled to take possession of it. By the early 17th century, the improvement and property rights discourse had already established conditions for identifying land lying empty. Such land was uncultivated and unenclosed (McCrae 1996). In this way, despite Indian cultivation, the absence of fields enclosed by fences or other boundary markers enabled English colonists to graft an imagined image of emptiness onto the Indian landscape with all of its implications for appropriation and dispossession (MacMillan 2006). Among the most vigorous defenders of the right to such land was John Winthrop, the first Governor of New England who in his *General Considerations for Planting in New England* (1629) observed that Amerindian land was unenclosed and thus without title thereby conferring on colonists the rights to such land (see Arneil 1996). If Indians were left with sufficient land, Winthrop reasoned, "we may lawfully take the rest" (from Koppes 1989, p. 231). What Winthrop had outlined was a prescient vision that would become the basis of an imagined geography of Indian dispossession and conquest of Indian land. Indeed, by the early 19th century, ideologues for the new American nation, colonists and political leaders alike, conceived of the American landscape as a westward-expanding grid of property owners committed to improving land through cultivation and hard work (Ostler 2004; Miller 2006). Removal of the Indians was never far from this imagined territorial vision.

Indeed, a campaign of removal did arise but what made the violent transfer of Eastern Indians to the West possible was not only the Indian Removal Act (1830) backed by President Andrew Jackson and the U.S. Congress. What was critical in the removal of Indians from the landscape was the cultural politics of violence against Indians following the celebrated *Johnson* case (1823) that recast Indians into transient occupants on the land. In the aftermath of *Johnson*, state and federal lawmakers began open debate on removing Indians from areas coveted by white settlers, most notably on land in Georgia held by Cherokees and Creeks. In this legal and policy environment, some of these settlers formed the front lines of vigilante groups that targeted Indian farms and homes for destruction. Influenced by the longstanding idea of land to be God's gift to the enterprising, these settlers believed in the private appropriation of land and pressed their claims for individual property rights on the vast tracts of land in Indian country (Norgren 1996). The fact that the Supreme Court had essentially nullified Indian land rights only made it easier for these settler groups to rationalize violent incursions against the farms and homes of Cherokees and Creeks as a way of fixing the landscape with what the law seemingly intended while the government essentially looked the other way (Cave 2003). In this case, imagination and the law conspired to create an environment intolerant of Indian presence and mobility on the land that settlers exploited in seeking to clear the landscape of trespassers by targeting Indian farms and homes.

In this sense, there is continuity in what transpired during the enclosures in England, Anglo-American colonialism, and now the Israeli violence targeting homes and farms in Palestine. In the three cases, groups seeking land were dissatisfied with the structure of ownership rights on the landscape. In re-imagining the landscape, these groups appealed to ideologies of land improvement and laws of property in order to remake rules of land ownership in accordance with their imagined visions, dispossessing other groups in the process. Dispossession, however, invariably encounters resistance. Faced with the efforts of subalterns to remain steadfast, groups with territorial ambitions resort to ever more harsh measures to fix the landscape. The spiriting of commoners to prison, the burning of Indian crops and homes, and the uprooting and demolition of Palestinian crops and homes reveal an ongoing pattern of imagination, law, and violence aimed at creating a different configuration of human presence and circulation on landscape. Whether from English enclosure, Anglo-American colonialism, or Israeli settlement, dispossession and the forms of violence that it engenders is an ongoing story. While the state of Israel might find it unsettling to be part of this lineage, its actions reveal it to be implicated in the politics of imagination, dispossession and violence that has characterized much of the making of the early modern world.

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Notes

1. In this sense, the violence of law is similar to Foucault's idea of modern power. Foucault argued that modern power resided in the capacity to partition space and distribute human subjects within specific spatial environments (Foucault 1977).
2. The notion of "spatial fix" comes from Harvey (1981) who described how capitalists resort to reshaping territory to overcome obstacles to profit-making.
3. For an excellent summary of this literature see Blomley (2003).
4. The remainder of this paragraph relies on Forman (2009).
5. Yitzhar is considered among the most violent of all Israeli settlements and is implicated most frequently in crop burning incidents involving nearby Palestinian villages (Munayyer 2012).
6. The settlements established in this way were Matitiyahu, Neve Zuf, Rimonim, Bet El, Kokhav Hashahar, Alon Shvut, El'azar, Efrat, Har Gilo, Migdal Oz, Gittit, Yitav and Qiryat Arba (B'Tselem, 2002).
7. The remainder of this paragraph relies on B'Tselem (2002).

8. Despite claims made by the state of Israel, private Palestinian property has provided at least 40% of the land where Israeli settlements in Occupied Palestine have been constructed based on data compiled by Israel's own State Prosecutor, Talya Sason (Peace Now 2006).
9. Information on Mahmoud S. comes from author interviews of 24 July 2006 and 10 September 2007.
10. Information in this paragraph on Izzat Q. comes from author interviews of 22 March 2011 and 27 March 2012.
11. I was actually with Salim when he discovered the uprooting of his trees.
12. The remainder of this paragraph comes from an author interview of 28 August 2007.
13. For home demolitions and evictions of Palestinians in East Jerusalem, see Margalit (2010).
14. Statistics in this paragraph are from this UN Report.
15. Information in this paragraph is taken from an author interview with Tony H. 25 July 2010.

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