

**Return and the Economic Integration
of Palestinian Refugees/Displaced Persons in Jerusalem**

Working Paper

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Abstract:

The paper explores the situation of Palestinian refugees and displaced persons from Jerusalem in the context of the repatriation and economic integration. Research for the paper is based on previous research and program work of BADIL Resource Center for Palestinian Residency and Refugee Rights, a Palestinian Non-Governmental Organization based in Bethlehem. The working paper, which examines the initial layer of obstacles currently operative in Jerusalem, which would negatively impact economic integration of Palestinian refugees and displaced persons in the city. A second layer of research, comparing the employment profile of refugees from the city with current and potential employment opportunities in Jerusalem will follow.

I. Introduction

Since 1948, more than a half-million Palestinian Arabs (including descendents) have been displaced from Jerusalem. While Israeli absorption programs facilitate Jewish immigration to Jerusalem, Palestinians - including refugees and displaced persons - are not only excluded from these programs, but continue to be displaced from the city. According to the 1998 *Jerusalem Statistical Yearbook*, total Jewish immigration to the city for the listed years 1992, 1994, 1996-7 amounted to over 20,000 individuals. In the same period, only 400 "Arabs and others" were recorded as having immigrated to Jerusalem.¹ The total number of Jewish immigrants to Jerusalem more than doubles if one includes all years between 1989 and 1997.² During the same period, Israel's Interior Ministry revoked the residency status of some 2,100 Palestinian Jerusalemites.³

Immigration to Jerusalem thus functions according to a unique dynamic, governed by Israel's political imperative in Jerusalem - the maintenance of Jerusalem as the "eternal, united capital of Israel" through the establishment of an overwhelming Jewish majority in all parts of the city. Referring to Israel's immigration policy in a 1997 interview, Jerusalem Mayor Ehud Olmert noted that while it was incumbent upon Israel to "meet the legitimate needs of the Arabs [...] Jerusalem is not going to be the city which absorbs Arab immigration from all over the world. We must build for Jewish immigrants from all over the world."⁴ In March of 1998, Olmert announced plans to spend NIS 58 million (\$US14 million) to bring new Jewish immigrants to Jerusalem in order to increase the Jewish majority in the city.⁵

This paper seeks to raise the issue of Palestinian refugee repatriation to Jerusalem in the context of Israeli policy and practice.⁶ While the greatest obstacles to repatriation at present are political, the paper explores some of the obstacles, which need to be addressed outside of a political agreement on the future status of Jerusalem and Palestinian refugees, for the successful economic integration of Palestinian refugees and displaced persons. The first section of the paper reviews the historical aspects of Palestinian displacement in Jerusalem and the legal status of Palestinian refugees, focusing in particular on refugees from Jerusalem. The second part of the

¹Maya Choshen and Naama Shahar (eds.), *Statistical Yearbook of Jerusalem*, Jerusalem: Municipality of Jerusalem and the Jerusalem Institute for Israel Studies, 1999, pp. 47-48.

²*Immigration & Absorption 1989-97*, The State of Israel Ministry of Absorption, June 1998.

³On 17 October 1999, Israel's Interior Minister Natan Sharansky announced that the revocation of Palestinian residency in Jerusalem would be suspended, however, the details of the change in policy remain ambiguous. For more details, see subsection II(c) below.

⁴*Jerusalem Post*, Internet Edition (4 June 1997).

⁵*Ha'aretz* (24 March 1999).

⁶Concluding observations of the Committee on Economic, Social, and Cultural Rights: Israel. 04/12/98. E/C.12/1/Add.27.

paper examines several indicators relevant to the successful economic integration of Palestinian refugees including housing and services.

II. Palestinian Refugees from Jerusalem

a. *Historical background*

Immediately following the 1947 UN Resolution (181) to partition Palestine, fighting between Zionist and Palestinian Arab forces began in and around Jerusalem. By the middle of 1948, the western areas of Jerusalem had been transformed from a mixed urban setting into one where the Jewish presence (and Palestinian absence) was virtually absolute. As with the majority of Palestinian refugees at the time, most refugees from Jerusalem were displaced before the establishment of the state of Israel (14 May 1948), and before the entry of the Arab states into the war. Only two of the western villages that were later incorporated into Jerusalem, Malha and 'Ayn Karim, were depopulated after May 1948. According to a study by Golan, only 750 individuals of the entire non-Jewish population of the urban area of the city remained of whom 550 were Greeks.⁷ The 200 others comprised, if one takes the median population estimate for Palestinians in the western areas of Jerusalem and in the villages, less than a half a percent of the original Palestinian population.

While no formal cabinet vote was taken on the issue of Palestinian refugee repatriation, official opposition to repatriation was unanimously affirmed in a meeting called by Prime Minister Ben-Gurion in August 1948. According to Ya'acov Shimoni, a Foreign Affairs Ministry official present at the meeting, "the will to do everything possible to prevent the return of the refugees was shared by all."⁸ The idea of barring refugee repatriation, however, had seemingly begun to coalesce in the minds of key Zionist officials during the initial stages of Palestinian displacement in early 1948. Commenting on the depopulation of several Palestinian areas of western Jerusalem in January of that year, Ben-Gurion noted that "In many Arab districts in the west - one sees not one Arab [...] I do not assume this will change."⁹ Officials later acknowledged that they had begun to speak against repatriation of refugees during the spring of 1948 in order to galvanize Jewish public opinion against repatriation.¹⁰ During the summer

⁷Arnon Golan, *The New Israeli Settlement Map of the Area Abandoned within the State of Israel During Israel's War of Independence and After (1948-50)*. Ph.D. dissertation. Jerusalem: Hebrew University, 1993, p. 27.

⁸Israel State Archives, FM2570/11, Shimoni (Tel Aviv) to Sasson (Paris), 19 August 1948, cited in Benny Morris, *Birth of the Palestinian Refugee Problem, 1947-1949*. Cambridge: Cambridge University, 1987, p. 148.

⁹David Ben-Gurion, *Behilatem Yisrael*, pp. 68-9, cited in Morris, p. 52.

¹⁰Labor Party Archives, 2-11/1/1, Protocol of the meeting of the party Knesset Faction and the Secretariat, 28 July 1949, cited *ibid*, p. 281.

of the same year, IDF commanders were ordered to bar the return of refugees and later authorized to shoot at refugees who attempted to return to their homes and lands.¹¹

Apart from concerns about security and demography¹², repatriation of the refugees was rejected because Israel had directed its resources towards Jewish immigration.¹³ The homes of Palestinian refugees from Jerusalem, moreover, were being used to house incoming Jewish immigrants. As early as April 1948, several thousand Jews were settled in Palestinian homes.¹⁴ Between September 1948 and August 1949, the housing Department of the District Commissioner's Officer, a Jewish agency, placed nearly 4,000 Jewish families in over 5,500 rooms in the western parts of the city.¹⁵ The cost of placing an immigrant in a new settlement was between \$7,500 and \$9,000 while placing the same family in one of the homes of Palestinian refugees was only \$1,500.¹⁶ The savings in immigration costs at the time for absorbing Jewish immigrants into urban areas of Jerusalem, based on an estimate of some 10,000 Palestinian refugee homes was as much as \$75 million dollars. If the number of refugee homes in the four western villages later incorporated in Jerusalem are included, the total savings represented by settling Jewish immigrants in Palestinian refugee housing in 1948 would have reached \$100 million.

It should be noted that two conditional proposals to allow partial repatriation of the refugees in the early 1950s were considered briefly by Israel but later withdrawn.¹⁷ (This is probably the basis for recent statements by Labor MK Yossi Katz about the return of 100,000 refugees as part of a final peace agreement.¹⁸) It is uncertain that the plans would have included any refugees from Jerusalem given Israeli conditions, which included the right of the Jewish state to reject returnees on security considerations and the right to choose the location inside Israel. In any case,

¹¹Kibbutz Meuhad Archives, Palmah Papers 141-419, Rain, Operation Dani headquarters to the Harel, Yiftah, Kiryati and 8th Brigades, 19 July 1948; and Kibbutz Meuhad Archives, Palmah Papers 141-250, Allon to the Kiryati, 8th, Yiftah and Harel Brigades, 19 July, cited *ibid*, p. 145.

¹²With the division of Palestine, Jerusalem had become a border city and the general policy of the Israeli government was to move Palestinian Arabs away from and not towards the border to make them, in Ben-Gurion's words clean (*naki*) and empty (*reik*). The terms were used by Ben-Gurion during a cabinet meeting on 26 September 1948. Cited *ibid*, p. 218. The displacement of Palestinians, moreover, had led to what Israeli Foreign Minister Sharett characterized as the "lasting and radical solution" of the demographic problem, the "most vexing problem of the Jewish State." Israel State Archives, *Documents on the Foreign Policy of the State of Israel*, May-September 1948, vol. I, ed. Yehoshua Freundlich, 163, Shertok [Sharett] (Tel Aviv) to Goldmann (London), 15 June 1948, cited *ibid*, p. 259.

¹³UN Document A/1367/Rev.1, 23 October 1951.

¹⁴Golan, p. 29.

¹⁵Dov Joseph, *The Faithful City, The Siege of Jerusalem, 1948*. New York: Simon and Schuster, 1960, pp. 326-327.

¹⁶The estimates were given by Joseph Schechtman, an expert in population transfer in 1952. Simha Flapan, *The State of Israel: Myths and Realities*. London: Croom Helm, 1987, p. 108.

¹⁷For a discussion of the proposals see, Morris, pp. 266-285.

¹⁸Today this figure represents only one-fiftieth of the entire refugee population rather than one-seventh. See, for example, *Ha'aretz* (26 November 1999).

the number of returnees would have been small as it included some 25,000 Palestinian refugees who had already returned to their homes and property and elsewhere in the intervening period and some 10,000 refugees to be permitted under humanitarian or family reunification considerations.¹⁹ (According to government figures, some 35,000 Palestinians eventually returned under the family reunification plan.²⁰) The actual number of refugees who would have been allowed to return would have been less than one-seventh of the total number of refugees and roughly equal to the total number of Palestinians in Jerusalem prior to the 1948 war.

Just under two decades later, Palestinian Jerusalemites faced a second major displacement during the 1967 war, though significantly less in size (roughly by half) than the initial displacement of Palestinians in 1948. Gazit notes that approximately 18,000 Palestinians were re-admitted from Jordan to the West Bank over the course of 12 months following the 1967 war, though the number of those returning to Jerusalem is not clear.²¹ In any case, all those Palestinians not present in the city on the day of the first Israeli census of East Jerusalem in September 1967 would not have been accorded residency status in the city.²² Unlike the depopulation of the western areas of the city in 1948, Palestinians continued to constitute the majority of the population of the eastern areas of the city despite the displacement, which occurred during the 1967 war.

After three decades of development programs to enhance the Jewish presence in the eastern areas of the city at the expense of the existing Palestinian population, however, a Jewish majority was achieved in the mid 1990s.²³ Combined with heavy government investment in new Jewish housing (settlements) in the eastern areas of the city, the Jewish majority was achieved in part due to the constraints imposed on Palestinians as a result of land expropriation, residency revocation, planning and development restrictions, and inadequate investment in Palestinian areas of the city forcing many Palestinians to migrate to areas outside of Jerusalem. Vitullo estimates that approximately 8% of Palestinians annually migrate to areas of the West Bank due to the social and economic pressures in eastern Jerusalem.²⁴ At present, family reunification is the only legal mechanism by which Palestinians can return to

¹⁹UN Document A/992, 22 September 1949. Israel accepted the family reunification scheme in June 1949.

²⁰*The Refugee Issue*, Background Papers. Government of Israel.

²¹Shlomo Gazit, *The Palestinian Refugee Problem*. Tel Aviv: Jaffee Center for Strategic Studies, 1994, p. 9.

²²See subsection (c) below.

²³For a detailed examination of the neglect of Palestinian areas of the city see, Amir Cheshin, *Municipal Policies in Jerusalem - An Account from Within*. Jerusalem: Palestinian Academic Society for the Study of International Affairs, 1998. Also Amir Cheshin, Bill Hutman, Avi Melamed, *Separate and Unequal, The Inside Story of Israeli Rule in East Jerusalem*. Cambridge, MA: Harvard University Press, 1999.

²⁴Anita Vitullo, "Israel's Social Policy in Arab Jerusalem," *Jerusalem Quarterly File*, No. 1 (Fall 1998), p. 13.

Jerusalem.²⁵ This mechanism, however, tends to be both lengthy and costly with a low application approval rate.

b. The Palestinian Refugee/Displaced Persons Population

In general, it is estimated that more than a half-million Palestinians have been displaced from Jerusalem over the past five decades, with the vast majority of them barred from returning to their hometown. The total number of Palestinians displaced from urban Jerusalem in 1948 ranges between 30-45,000 or approximately 5 percent of the entire refugee population (711,000) and close to 13 percent of the urban refugee population.²⁶ The range in estimates for the population of the city is due, in large part, to what Dumper refers to as "demographic gerrymandering".²⁷ Palestinians displaced from the four villages which were later incorporated into Jerusalem, namely Dayr Yasin, Lifta, 'Ayn Karim, and Malha, numbered some 15-20,000 or about 4 percent of the rural refugee population and slightly more than 2 percent of the total refugee population.²⁸ If one accounts for the estimated growth in population between 1946, the year of the last British estimate, and the end of 1947, the total number of Palestinian Jerusalemites who became refugees in 1948 reaches 80,000 according to demographic studies by Abu-Lughod.²⁹

The 1948 refugee population can be further desegregated according to refugees registered for relief and assistance with the UN Relief and Works Agency for

²⁵For more details see subsection (c) below.

²⁶Total refugee population is based on Palestine Conciliation Commission (PCC) figures. UN Document A/1367/Rev.1, 23 October 1951. Israel estimated the refugee population at 520,000, Morris, p. 297. Berncastle used a figure of 900,000 refugees for identification and evaluation purposes. UN Document A/1985, 20 November 1950. Abu-Sitta estimates the refugee population at a rate somewhat higher than PCC figures, 804,767. If the population of extra villages is added from UNRWA records, the total 1948 Palestinian refugee population reaches 935,573 for 1998. Abu-Sitta, p. 14. Meron Benvenisti, *Jerusalem: The Torn City*. Minneapolis: Israel Typeset Ltd. and the University of Minneapolis, 1976 and Rev. Charles T. Bridgeman, (UN Document A/1286) cited in Henry Cattán, *Jerusalem*. London: Croom Helm, 1981, p. 45.

²⁷British Mandate surveys often overestimated the size of the Jewish population within the municipal boundaries of the city by including new Jewish neighborhoods outside the municipality and illegal Jewish immigrants who subsequently left the city. Palestinian Arab villages outside city were not included. Michael Dumper, *The Politics of Jerusalem since 1967*. New York: Columbia, 1997, pp. 61-2.

²⁸Cattán, p. 45. Schmelz estimates the size of the population of the Palestinian villages later incorporated into Jerusalem to be 9,300 giving a slightly lower total figure of around 40,000 Palestinian refugees if added to the lower figure for western neighborhoods. U.O. Schmelz, "The Evolution of Jerusalem's Population," *Urban Geography of Jerusalem, A Companion Guide to the Atlas of Jerusalem*, David H.K. Amiran, Arie Shachar, and Israeli Kimhi (eds.) Jerusalem: The Hebrew University of Jerusalem, 1973, p. 56. Abu-Sitta provides the following numbers per village, Dayr Yasin, 708; Lifta, 2,958; Malha, 2,250; 'Ayn Karim, 3,689. The figures upgraded from *Village Statistics* prepared by the Palestine Government in 1944 according to a 3.8% rate of increase. Salman Abu-Sitta, *The Palestinian Nakba 1948, The Register of Depopulated Localities in Palestine*. London: The Palestinian Return Centre, 1998, pp. 42 and 44.

²⁹Janet Abu-Lughod, "The Demographic Transformation of Palestine," *The Transformation of Palestine*. Ibrahim Abu-Lughod (ed.) Evanston, Ill: Northwestern University, 1971.

Palestine Refugees (UNRWA)³⁰, unregistered refugees and those registered as property owners by the UN Conciliation Commission's Refugee Office. Access to records of the latter is restricted; however, it is known that the Office collected 453,000 records amounting to some 1,500,000 holdings.³¹ As regards UNRWA records, it should be noted that they do not represent a statistical count of Palestinian refugees, but rather a tabulation of those refugees eligible for relief and assistance. In urban Jerusalem, in particular, the number of UNRWA registered refugees is low relative to the total number of Jerusalem refugees due, in large part, to the middle class status of urban refugees which rendered them ineligible for UNRWA assistance.

According to the Unified Registration System (URS) of UNRWA, there were 84,268 urban refugees registered with the Agency in 1997.³² Upgraded to 1998, this figure rises to 87,470 registered urban refugees from Jerusalem. The total number of refugees from urban Jerusalem in 1998 was estimated to be 427,988.³³ The high percentage of non-registered urban refugees from Jerusalem is an indicator of the middle class status of Jerusalem urban refugees. Whereas UNRWA registered refugees are about two-thirds of the total number of refugees (this ratio is roughly equal to the ratio of the rural refugees as compared to urban refugees), in Jerusalem registered refugees account for only 20 percent of the total number of refugees from the city.

In the rural areas of Jerusalem, UNRWA data for 1997 indicates a total of 110,439 registered refugees or about 114,636 refugees using the upgraded figure for 1998. The total number of rural refugees from Jerusalem in 1998 was estimated to be 173,531.³⁴ Again, the rural refugee population for Jerusalem reflects the general breakdown of urban and rural refugees out of the total number of refugees. Registered rural refugees from Jerusalem account for approximately two-thirds of the total number of rural Jerusalem refugees. The breakdown according to village of origin is as follows:

Refugees from Selected Jerusalem Urban Villages - 1998³⁵

Village	Registered (UNRWA)	TOTAL Refugees
Dayr Yasin	3,582	4,345
Lifta	14,181	18,165
Malha	10,841	13,820
'Ayn Karim	14,929	22,653

³⁰See subsection (c) below for more about UNRWA.

³¹UN Document A/5377, 7 December 1962.

³²Data derived from UNRWA, Relief and Social Services Dept. URS (Amman Q) May 22, 1997. The data includes New City and unspecified Jerusalem categories; Old City, Jerusalem poor and villages excluded.

³³Abu-Sitta, p. 44.

³⁴Abu-Sitta, p. 44.

³⁵See ft. 32 and 33.

The total number of individuals who were born before 1948 range from between 16-22% of the registered refugees from these four villages. Descendants of these refugees are included as refugees due to their inability to exercise their right to repatriation and lack of national protection. The total number of refugees from the urban areas of western Jerusalem and the four villages was estimated to be 486,971 in 1998.³⁶

The population of displaced Palestinians from eastern Jerusalem is more difficult to measure. On the one hand, further tabulation of UNRWA records is necessary to determine the number of 1948 refugees of Jerusalem origin who were living in the eastern areas of the city and were subsequently displaced for a second time in 1967. According to Takkenberg, some 162,500 registered refugees from the West Bank were displaced for a second time in 1967.³⁷ Secondly, a tabulation of Jordanian government data is necessary to determine the number of 1967 displaced Palestinians whose place of residence was Jerusalem. While Palestinians displaced for the first time in 1967 (which may have also included unregistered 1948 refugees) received assistance from UNRWA - even though they were not included in the working definition of Palestine refugees³⁸ - UNRWA did not register them. As the West Bank was considered part of Jordan, those who fled the West Bank were considered "internally displaced" and registered as such in Jordan. Figures for the number of Palestinians from Jerusalem displaced after 1967 due to Israeli administrative and bureaucratic measures in city, such as residency revocation, are even more difficult to obtain and require cross-tabulation of a substantial amount of data.

Some general estimates, however, for the number of Palestinian Jerusalemites displaced during and after 1967 can be derived from existing data. According to the last Jordanian census in 1961, 60,488 Palestinians lived in the eastern part of the city. Based solely on the natural rate increase, the population of Jerusalem may have reached as high as 70,000 by 1967. The 1967 Israeli census recorded 44,369 Palestinians living within the area of the former Jordanian municipality, suggesting that approximately 26,000 Palestinians were displaced from the city as a result of the 1967 war.³⁹ However, it is unclear if a number of Palestinians displaced from the Jordanian municipal areas found residence in the adjacent areas of the West Bank, which were later annexed to eastern Jerusalem.

³⁶Ibid.

³⁷Lex Takkenberg, *The Status of Palestinian Refugees in International Law*. Oxford: Oxford University Press, 1998, p. 81.

³⁸See subsection (c) below.

³⁹Table A. - Comparison Between 1967 (Israeli) and 1961 (Jordanian) Census, p. xii. *1967 Census of Population and Housing, East Jerusalem*. Jerusalem: Central Bureau of Statistics, 1968.

The population growth for these areas listed in the Jordanian and Israeli census records (at-Tur, Shu'afat, Eastern Beit Hanina, Atarot airport, Sur Bahir, Um Tuba, Beit Safafa and Sharafat) is greater than the average growth rate. This higher growth rate may be explained in part by the displacement of Palestinians from the Jordanian municipality to these areas, migration from other places in the West Bank, and a higher rural growth rate. In any case, while displaced Palestinians living in these areas would still have been considered to be residents of Jerusalem following the annexation of these areas to Jerusalem, they would continue to be regarded as displaced in relation to their original place of residence. An additional 4,000-6,500 Palestinians were evicted from the Old City in 1967, including 135 families from the Moroccan Quarter, which was bulldozed to create a large plaza opposite the Western Wall.⁴⁰

An additional number of Palestinians have been displaced from Jerusalem due to administrative and bureaucratic procedures in East Jerusalem. Between 1967 and April of 1999, at least 6,000 Palestinians, affecting some 24,000 individuals based on a conservative family unit size of four persons, had their residency status revoked.⁴¹ The numbers most likely underestimate the total number of Palestinians whose residency has been revoked as figures provided by the Interior Ministry up to 1995 are incomplete. The actual number of Palestinian Jerusalemites displaced due to land expropriation, and discrimination in housing, planning, and service provision is even more difficult to ascertain. As mentioned, it is estimated that approximately 8 percent of Palestinian Jerusalemites migrate annually to the West Bank due to social and economic pressures resulting from Israeli policy. While there is a lack of detailed data, it is estimated that due to these policies, some 60-70,000 Palestinians have been forced out of the city since 1967.⁴²

There is also a lack of data on the exact location of all refugees from Jerusalem, particularly non-registered 1948 refugees, 1967 displaced persons (though a great majority reside in Jordan), and Palestinians displaced after 1967, though many of the latter have taken residence in urban areas adjacent to, but outside the Israeli defined borders of Jerusalem. These areas include Abu Dis, Azariya, Anata, Ram,

⁴⁰For a detailed account see Benvenisti. A.L. Tibawi, *The Islamic Pious Foundations in Jerusalem: Origins, History and Usurpation by Israel*. London: Islamic Cultural Centre, 1985, p. 35; R. Khatib, "The Judaization of Jerusalem and its Demographic Transformation," *Jerusalem: The Key to World Peace*. London: Council of Europe, 1980, p. 114.

⁴¹The figures are provided by Israel's Interior Ministry. Figures up to 1995 are incomplete, according to the Ministry, because identification numbers issued to residents of eastern Jerusalem can no longer be distinguished from those given to inhabitants of the western areas; decisions to cancel residency status are not always entered into the computerized database; and, records for cancellation of residency status by address are only partial.

⁴²*Eviction from Jerusalem: Restitution and Protection of Palestinian Rights*. Bethlehem: BADIL Resource Center, 1999, p. 22.

Dahiyat al-Barid, Sawahira ash-Sharqiya, Za'im, Beit Hanina al Balad, Bir Nabala, Hizma, and Kafr 'Aqab with a combined total population in 1997 of over 71,000.⁴³ The easiest group of refugees from Jerusalem to track are those who are registered with UNRWA. Most UNRWA registered refugees from Jerusalem, urban and rural, are either living in the West Bank or Jordan with smaller numbers in the other areas of UNRWA operations, namely Gaza, Lebanon, and Syria. For urban refugees, most continue to live in the West Bank close to their original places of residence, although they are not permitted to return to their homes and lands. As regards urban registered refugees from Jerusalem, their places of current exile are as follows:

Urban Registered Refugees from Jerusalem - 1997⁴⁴

Place of Refuge	Total
West Bank	53,653
Jordan	26,497
Gaza	811
Lebanon	1,410
Syria	1,897

Out of the total number of rural registered refugees from the Jerusalem area, 73,908 live in Jordan with 36,130 living in the West Bank. Breaking down the registered refugees from the four villages later incorporated into Jerusalem reveals the following places of exile for rural Jerusalem refugees:

Rural Registered Refugees According to Village Location - 1998⁴⁵

Place of Refuge	Village of Origin			
	<i>Dayr Yasin</i>	<i>Lifta</i>	<i>Malha</i>	<i>'Ayn Karim</i>
West Bank	1,545	5,886	5,977	1,819
Jordan	2,037	8,282	4,860	13,050
Gaza		2		5
Lebanon		2		32
Syria		9	4	23

Records indicate that some 7,500 Palestinian refugees from western Jerusalem found shelter in the eastern areas in 1948.⁴⁶ The 1967 Israeli census of East Jerusalem recorded 2,787 Palestinian refugees from western Jerusalem (age 15 and above)

⁴³ Figures from Palestinian Central Bureau of Statistics, 1997.

⁴⁴ Data derived from UNRWA, Relief and Social Services Dept. URS (Amman HW) May 22, 1997. (includes New City and Unspecified Jerusalem categories; 'Old City', 'Jerusalem Poor', and villages excluded).

⁴⁵ Derived from UNRWA data.

⁴⁶ Washington National Record Center, Suitland, Maryland, RG84 cited in Michael Palumbo, *The Palestinian Catastrophe*. London: Faber and Faber, 1987, p. 101.

whose current place of residence was eastern Jerusalem.⁴⁷ Taking the median population estimate for the Palestinian neighborhoods of western Jerusalem depopulated in 1948, between 7 and 20 percent of urban Jerusalem refugees found shelter in eastern Jerusalem. It is estimated that urban refugees comprised 25 percent of the Palestinian population (approximately 45,000 individuals) of eastern Jerusalem in 1995.⁴⁸

An additional number of Jerusalem refugees live in Shu'afat refugee camp, the only UNRWA refugee camp located in Jerusalem. The camp was established in 1965/66 on 203 dunums (50 acres) of land north of Jerusalem to provide better living conditions for refugees who had been living in M'ascar refugee camp inside the Old City of Jerusalem. The UNRWA registered refugee population for the camp stands at 8,684 although UNRWA believes the numbers are much higher. An estimated 4,000 refugees have moved into the camp since 1996 to avoid losing their residency rights in Jerusalem.⁴⁹

*c. Legal Status*⁵⁰

Palestinian refugees have a special status under international law beyond that provided for in the 1951 Refugee Convention, in that special UN agencies were established to provide both protection and assistance to Palestine refugees. The 1951 Convention is mainly of importance to Palestinian refugees not registered with UNRWA (and who have not acquired citizenship) and who are in countries bound by the Convention. According to Article 1D of the 1951 Convention, the Convention does not apply to persons already receiving protection or assistance from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees.⁵¹ The same provisions are found in paragraph 7 of the UNHCR Statute.⁵² The Convention does apply, however, to Palestinian registered refugees who are unable to avail themselves of UNRWA support.

The establishment of a special refugee regime for Palestinians reflected international recognition of the unique character of the Palestinian refugee case and international responsibility for resolution of the refugee issue. Divergent interests

⁴⁷Table 17. - Population (Aged 15+) By Type, Place of Birth and Personal Place of Residence before the 1948 War, p. 32. *1967 Census of Population and Housing, East Jerusalem*. Jerusalem: Central Bureau of Statistics, 1968.

⁴⁸Salim Tamari, "The Future of Palestinian Refugees in the Peace Negotiations," *Palestine-Israel Journal of Politics, Economics, and Culture*. Vol. ii. No. 4 (Autumn 1995), p. 13.

⁴⁹UNRWA Refugee Camp Profiles (<http://www.unrwa.org>).

⁵⁰For a more detailed discussion of the legal status of Palestinian refugees see, Takkenberg and Susan Akram and Guy Goodwin-Gill, *United States Department of Justice Executive Office for Immigration Review*, Brief Amicus Curiae.

⁵¹Convention Relating to the Status of Refugees, Article 1D, 189 UNTS at 139, July 28, 1951.

⁵²Statute of the Office of the United Nations High Commissioner for Refugees, GA Res. 428(V), UN GAOR 5th Session., A/1775 (1950).

coalesced in support of two special agencies, the UN Conciliation Commission for Palestine (UNCCP) and the UN Relief and Works Agency for Palestine Refugees (UNRWA). The establishment of a conciliation commission to resolve the conflict in Palestine was first proposed by Count Folke Bernadotte, the UN Mediator on Palestine, in May 1948.⁵³ In his first progress report, submitted to the UN Bernadotte wrote,

No settlement can be just and complete if recognition is not accorded to the right of the Arab refugee to return to the homes from which he has been dislodged [...] It would be an offence against the principles of elemental justice if these innocent victims of the conflict were denied the right to return to their homes while Jewish immigrants flow into Palestine, and, indeed, at least offer the threat of a permanent replacement of the Arab refugees who have been rooted in the land for centuries.⁵⁴

The UNCCP was established under UN General Assembly Resolution 194 (III) on 11 December 1948. The resolution also set down the composition and terms of reference for the commission. The UNCCP was instructed to "take steps to assist the governments and authorities concerned to achieve a final settlement of all questions outstanding between them."⁵⁵ The operative paragraph 11 of the Resolution sets down the guidelines for resolution of the refugee issue. The Resolution,

[r]esolves that the refugees wishing to return to their homes and live at peace with their neighbors should be permitted to do so at the earliest practicable date, and that compensation be paid for the property of those choosing not to return and for loss of, or damage to property which, under the principles of international law or in equity, should be made good by the Governments or authorities responsible[...]⁵⁶

The guidelines set down for the UNCCP thus reflected the core concerns of the refugees, repatriation and compensation. While the UNCCP was mandated to protect "the rights, property, and interests of the refugees," its role soon devolved from a functional one aimed at the implementation of repatriation to a symbolic role, indicative of continued international recognition of, but failure to implement

⁵³Progress Report of the United Nations Mediator on Palestine, UN Document A/648 (1948).

⁵⁴Ibid.

⁵⁵GA Res. 194(III)(6)(1948).

⁵⁶GA Res. 194(III)(11)(1948).

Palestinian refugee rights as set down in UN Resolution 194.⁵⁷ The UNCCP did, however, complete both a global and individual identification and evaluation of Palestinian refugee properties. The latter contains some 453,000 records and continues to be held at the United Nations.⁵⁸

In 1949 the United Nations further established the United Nations Relief and Works Agency for Palestine (UNRWA) which succeeded the Palestine Relief and Works Agency.⁵⁹ UNRWA was established as the relief and assistance wing of the special regime for Palestine refugees. UNRWA, however, only provided assistance and relief to those refugees who qualified under its definition of refugee and then only to those refugees in the five areas of UNRWA operations: West Bank, Gaza, Jordan, Lebanon, and Syria. According to the refined definition of 1952,

A Palestine refugee is a person whose normal residence was Palestine for [the period 1 June 1946 to 15 May 1948] and who, as a result of the conflict, has lost both his home and his means of livelihood.⁶⁰

UNRWA was established as a short-term measure to provide for the basic needs of the refugees until repatriation and compensation schemes were established and implemented. Due to the lack of implementation more than five decades later, UNRWA continues to offer assistance, primarily in education, health, and social services to some 3.6 million registered refugees, or about two-thirds of the entire Palestinian refugee population. Some protection for Palestinian refugees has also been provided by UNRWA with the introduction of the Refugee Affairs Officer (RAO) Program in the West Bank and Gaza in the early months of 1988. The program was suspended in Gaza in May 1994 with the introduction of limited Palestinian self-rule, and discontinued in April 1996 following further redeployment of Israeli military forces.⁶¹

While a special regime was established for Palestinian refugees, the regime does not afford the same protection or assistance granted to Convention refugees. As noted by Akram, though UNRWA is mandated to provide food, clothing and shelter,

⁵⁷GA Res. 194(III)(1948)

⁵⁸UN Document A/5337, 7 December 1962.

⁵⁹GA Res. 302(IV)(1949).

⁶⁰This definition was incorporated in UNRWA 'Operational Instruction No. 104', 18 February 1952, an internal instruction on 'Registration of Refugees and their Inscription on or Deletion from the Ration Rolls', para. 4(a) cited in Takkenberg, p. 72. According to new eligibility rules issued in 1993, a Palestine refugee "shall mean any person whose normal place of residence was Palestine during the period 1 June 1946 to 15 May 1948 and who lost both home and means of livelihood as a result of the 1948 conflict." "Consolidated Registration Instructions' (CRI), 1 Jan. 1993, para. 2.13 cited in Takkenberg, p. 77. The new rules eliminated the requirements of need and initial flight in 1948 to a country within UNRW's area of operations.

⁶¹Takkenberg, pp. 284-303.

the 1951 Refugee Convention guarantees refugees' freedom of movement, access to courts, administrative assistance, rights regarding movable and immovable property, freedom of religion, and housing rights among others.⁶² The emasculating of the UNCCP, moreover, means that Palestinian refugees do not receive the same degree of protection as accorded to refugees under the UNHCR Statute.⁶³

While the 1951 Refugee Convention is not applicable to Palestinian refugees under the mandate of UNRWA, if the possibility of receiving support from the Agency ceases to exist, affected refugees should automatically (*ipso facto*) be entitled, under Article 1D, to the benefits of the 1951 Convention if they are in a state bound by that instrument.⁶⁴ The Convention is mainly of importance to Palestinian refugees residing in Egypt, Europe, Canada, the USA and other countries bound by the Convention. Takkenberg notes that the Convention should also apply to non-registered Palestinian refugees living the West Bank and Gaza.⁶⁵ This interpretation of the Convention, in particular Article 1D, is not uniformly applied in Europe or in North America. Several western governments apply Article 1D in a very restrictive manner, so that few Palestinians are able to obtain full refugee status in these countries.

Other provisions of international law with regard to statelessness, protection under humanitarian law, and human rights law also apply to Palestinian refugees but are outside the scope of this paper.⁶⁶ In general these rights relate to repatriation, compensation, rights to properties, nationality, and self-determination. A further point that should be stressed, is the inter-relationship between collective and individual rights. Developments in human rights law, in particular, have given strong precedence to the argument that an individual's rights, which also include repatriation, return of properties, and compensation, cannot be extinguished by a bilateral agreement between two governments. While a government may agree not to pursue claims, individuals may continue to pursue claims through available mechanisms.

d. Status of Palestinian Refugees under Israeli Law

Absentees

⁶²Akram, p. 2.

⁶³Ibid.

⁶⁴For an extension discussion of this issue see Takkenberg, pp. 86-130. Most countries of the Middle East where there are large concentrations of Palestinian refugees, are not bound by the Convention. Countries bound by the Convention in the Middle East include Israel, Egypt, Algeria, Djibouti, Morocco, Somalia, Sudan, Tunisia and Yemen. Takkenberg, p. 89.

⁶⁵For a discussion of this issue see Takkenberg, pp. 89-90.

⁶⁶For a discussion of these issues, see for example, Takkenberg, and John Quigley, "Displaced Palestinians and a Right of Return," *Harvard International Law Journal*, vol. 39, no. 1 (Winter 1998), pp. 171-229.

In comments to the UNCCP in 1951, Israeli officials conceded that it was “not by virtue of a land transaction entered into at a time freely chosen and under conditions freely agreed, that [refugee lands] are in the possession of the Israel authorities.”⁶⁷ In June 1948 the Provisional Government passed the *Abandoned Areas Ordinance* which authorized the creation of regulations for “the expropriation and confiscation of movable and immovable property, within any abandoned area.”⁶⁸ According to the Ordinance, abandoned property was defined as any place conquered by or surrendered to the Israeli armed forces or deserted by part or all of its residents. The law also invested the government with the authority to declare any area as abandoned. Several weeks later Ben-Gurion appointed the first Custodian of Abandoned Property to administer the movable and immovable property that had fallen into the hands of Zionist forces during the war.

While the appointment of a Custodian facilitated the administration of Palestinian refugee assets, the property remained outside the ownership of the state. The actual transfer of ownership of the property from its Palestinian owners to the state of Israel came with the adoption of the *Absentees' Property Law* in March 1950.⁶⁹ Under the Law, all Palestinian refugees were classified as Absentees:

(a) "absentee" means -

(1) a person who, at any time during the period between the 16th Kislev 5708 (29 November 1947) and the day on which a declaration is published under section 9(d) of the Law and Administration Ordinance, 5708-1948, that the state of emergency declared by the Provisional Council of the State on the 10th of Iyar, 5708 (19th May 1948) has ceased to exist, was a legal owner of any property situated in the area of Israel or enjoyed or held it, whether by himself or through another, and who at any time during the said period -

(i) was a national or citizen of the Lebanon, Egypt, Syria, Saudi Arabia, Trans-Jordan, Iraq, or the Yemen, or

(ii) was in one of these countries or in any part of Palestine outside the area of Israel or,

(iii) was a Palestinian citizen and left his ordinary place of residence in Palestine

(a) for a place outside Palestine before the 27th Av, 5708 (1st September 1948); or

(b) for a place in Palestine held at the time by forces which sought to prevent the establishment of the State of Israel or which fought against it after its establishment;⁷⁰

The Law also applied to 46,000 internally displaced Palestinians - i.e. those Palestinian refugees who remained inside the state of Israel, known as "present

⁶⁷ Comments of the Delegation of Israel Concerning Points Raised in the Statement Made by the Chair of the Conciliation Committee on 26 October 1951, UN Document A/1985, 20 November 1951.

⁶⁸ *Laws of the State of Israel*, I:25-26.

⁶⁹ *Ibid.*, IV:68-82.

⁷⁰ *Ibid.*

absentees".⁷¹ The Law, which former Jewish National Fund (JNF) Chairman Avraham Granott referred to as a "legal fiction", allowed the government to transfer property from Palestinian Arab to Jewish ownership by virtue of a government payment to the Israeli Custodian of Absentee Property who replaced the Custodian of Abandoned Property.⁷² The Israeli government thus claimed that the property had been acquired legally (i.e., by payment) rather than through confiscation. Under the law, the Custodian could acquire control of property by declaring the property to be absentee.

Under the Law, the Custodian was permitted to not only lease or hold on to property under his custodianship, but to sell it to a Development Authority established subsequently by the government.⁷³ Dividends from the sale of the property (less administrative and legal expenses) were to be held by the Custodian in fund until such time as the state of emergency, under which the law was declared operational, came to an end. As regards Absentees' property, the state of emergency is still in existence. Ben-Gurion rejected a plan to sell the land outright to the JNF fearing that the government would be accused of confiscating the property illegally under international law. In September 1953 the Custodian signed over his "rights" to land he was responsible for in return for a price paid by the Development Authority, the sum of which was returned to the Development Authority in the form of a loan.⁷⁴ In the western neighborhoods of Jerusalem and other urban areas, many buildings were transferred to the government-housing corporation Amidar.⁷⁵ After 1953, Jewish residents were allowed to purchase property from the corporation and the new title of ownership was registered in the Tabu, the Ottoman record in which much of the property had been registered originally by the Palestinian Arab owners.⁷⁶

The underlying purpose of compensation legislation for Palestinian Arab refugees inside Israel, which included the *Absentees' Property Law* of 1950, the *Land Acquisition (Validation of Acts and Compensation) Law* of 1953, the 1973 *Absentees' Property (Compensation) Law* and the *Absentees' Property (Compensation) (Amendment) Law* of 1976, was to validate under Israeli law the transfer of

⁷¹ Registered UNRWA refugees receiving rations. *Report of the Director of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*. UN Document A/1905, 30 June 1951. The current size of the internally displaced is around 250,000.

⁷² A. Granott, *Agrarian Reform and the Record of Israel*. London: Eyre & Spottiswoode, 1952, p. 102.

⁷³ Development Authority (Transfer of Property) Law, 1950. *Laws of the State of Israel*, IV:151.

⁷⁴ S. Jiryis, *The Arabs in Israel*. New York: Monthly Review Press, 1976, p. 78.

⁷⁵ "Report of the State Controller for the Financial Year 1966/7 no. 18, 1968, pp. 114 and 301-302, cited in S. Jiryis, "The Legal Structure for the Expropriation and Absorption of Arab Lands in Israel," *Journal of Palestine Studies*, no. 3 (1973), p. 89.

⁷⁶ A 1998 report by an Israeli inter-ministerial committee on registration of land rights, however, noted that approximately half of all housing units inside Israel are unregistered by current owners in the Tabu. It is uncertain how many of the 783,000 unregistered homes are Palestinian absentee properties from 1948. *Ha'aretz* [Internet edition], (12 April 1998).

Palestinian Arab property to the state of Israel.⁷⁷ Using the 1973 *Absentees' Property (Compensation) Law* as an example, Jiryis illustrates the process through which transfer of Palestinian Arab property to the state of Israel was to be validated through compensation. According to Article 14 of the 1973 Law, compensation, even if it was paid to the wrong person, fulfilled the state's obligations to the absentee thereby severing the absentee from legal recourse with regard to the property in question.⁷⁸ In order to force a resolution of the absentee property issue, Article 4 stipulated that compensation claims had to be filed within three years of the law coming into force or two years from the day the claimant became a citizen.⁷⁹ Finally, the 1973 Law attempted to extinguish the repatriation of any absentee property. According to Article 18, an absentee's claim for a right in property or for a release of property could not be considered after the law came into force.⁸⁰

Nationality/Citizenship

As regards nationality and citizenship, Palestinian citizenship, regulated by the *Palestinian Citizenship Order*, 1925-41, was terminated with the establishment of the state of Israel on 15 May 1948.⁸¹ Due to the fact that the new state of Israel refused to grant citizenship to former Palestinian citizens, most Palestinians, apart from a small number who held second citizenship's, became stateless. When the state of Israel finally introduced legislation regarding citizenship, the requirements for Palestinians were so narrow that the vast majority of those who became refugees in 1948 were unable to acquire citizenship in the place of their habitual residence. According to Section 3 of the 1952 *Nationality Law*, Palestinian Arabs must meet the following conditions to be eligible for Israeli nationality:

(a) A person who immediately before the establishment of the State, was a Palestinian citizen and who does not become an Israel national under section 2, shall become an Israel national with effect from the day of the establishment of the State, if:

(1) he was registered on the 4th of Adar, 5712 (March 1, 1952) as

⁷⁷ See, for example, Kretzmer's comments about the Land Acquisition Law of 1953. Explanatory note to bill in 5712 Hatzat'ot Hok 234 cited in David Kretzmer, *The Legal Status of the Arabs in Israel*. Boulder, CO: Westview Press, 1990, p. 58. Most Palestinians displaced from their homes and property in 1948 have not filed claims or accepted compensation, suggesting that, under the Israeli formula, compensation is unworkable apart from an agreement on the right of return and that the value of Israeli compensation packages has been inadequate. According to Israel Land Authority figures for 1988, a total of 14,364 persons have claimed compensation for property in the territory that became the State of Israel comprising claims to 197,984 dunums (4 dunums is equal to 1 acre). The state released 53,710 dunums of land as compensation and paid out financial compensation worth NIS 2,724,137. Kretzmer does not define to whom the property was released, but it is assumed from the context in which the figures are placed that the numbers refer to lands classified as Absentee under the Absentee Property Law. Kretzmer, 59.

⁷⁸ Jiryis (1973), p. 188.

⁷⁹ *Ibid.*, p. 189.

⁸⁰ *Ibid.*.

⁸¹ Cited in Akram, p. 29.

an inhabitant under the Registration of Inhabitants Ordinance, 5709-1949; and

(2) he is an inhabitant of Israel on the day of the coming into force of this law; and

(3) he was in Israel, or in an area which became Israel territory after the Establishment of the State to the day of the coming into force of this Law, or entered Israel legally during that period.

(b) A person born after the establishment of the State who is an inhabitant of Israel on the day of the coming into force of this Law, and whose father or mother becomes an Israel national under subsection (a) shall become an Israel national which effect from the day of his birth.⁸²

Under the 1950 *Law of Return*, however, every Jew is granted the right to settle in Israel as an *oleh* (a Jew immigrating into Israel), and every Jew already settled in the country or born there is deemed to be a person who has come to the country as an *oleh*. Section 2 of the 1952 Nationality Law accords all *olim* (plural of *oleh*) under the Law of Return, the right to Israeli citizenship by way of return.⁸³ There is thus a very clear dichotomy, or what Kretzmer refers to as "overt discrimination", in the rights of Jews and non-Jews - in this case Palestinian refugees whose former place of habitual residence was inside Israel - with regard to citizenship.⁸⁴

After 1967 and the Israeli occupation of East Jerusalem, all Palestinians living in East Jerusalem who were registered in the September 1967 Israel census were accorded the status of permanent residents of Israel.⁸⁵ As permanent residents of Israel, Palestinians are in effect defined as foreigners under Israeli law, even though Jerusalem is their hometown. Palestinians not holding permanent residency are not permitted to live in Jerusalem, except by way of family reunification. While the Jerusalem property of Palestinians from the city who do not hold permanent residency status should be exempt from expropriation under the provisions of the 1950 *Absentees' Property Law* according to Section 3 of the 1970 *Legal and Administrative Matters Law*, property has nonetheless been expropriated. While permanent residency conveys some of the rights (i.e. entitlement to public education and welfare), and most of the duties (payment of national and municipal taxes, registration of companies, institutions) of Israeli citizens, it does not convey a legal right to residency, but a privilege granted solely at the deliberation of the Israeli Interior Minister.

In 1974, the *Law of Entry into Israel* (1952) was amended by the *Entry into Israel Regulations*, which specified the conditions under which permanent residency in Israel, would expire. According to Regulation 11, residency may be revoked if a

⁸²Nationality Law, 5712/1952, 93 *Official Gazette* 22 (1952).

⁸³For a more detailed discussion on this issue see Kretzmer.

⁸⁴Kretzmer, p. 37.

⁸⁵For more details see Nathan Krystal, *Urgent Issues of Palestinian Residency in Jerusalem*. Jerusalem: Alternative Information Center, 1994, Lea Tsemel and Ingrid Jaradat Gassner, *The Trap is Closing on Palestinian Jerusalemites*. Jerusalem: Alternative Information Center, 1996, and *The Quiet Deportation Continues*. Jerusalem: B'Tselem, 1998.

permanent resident lives outside Israel for more than seven years; becomes a permanent resident of another country; or applies for citizenship in another country. Revocation of Palestinian residency rights in Jerusalem was stepped up in 1996 based on a re-interpretation of the 1974 Regulations and the investigation of Palestinian Jerusalemites to determine their status. This new policy conditioned Palestinian residency rights in the city with physical presence (permanent domicile "center of life") which must be documented during any interaction with the Interior Ministry. The required documents (property ownership certificates, rent contracts, tax receipts, etc.) are difficult to obtain for a population living in conditions of displacement, economic and social marginalization.

Based on the *Law of Entry* into Israel Palestinian Jerusalemites cannot transfer their residency rights in the city to their relatives who do not hold permanent residency. Families must apply for family reunification that is granted by the Interior Ministry, in order to live together in Jerusalem. Until 1994, the Ministry did not accept family reunification applications from female Jerusalemites. Israeli figures released in 1998 to the UN Committee for Social, Economic, and Cultural rights list 4,622 family reunification approvals between 1991 and 1995, though Interior Ministry figures for the same period list only 1,770 approvals.⁸⁶ In any case, the number of applications annually exceeds the number of approvals by several thousands and the rate of successful approval for the entire West Bank since 1967 is less than 20% according to figures from the UN Relief and Works Agency for Palestine Refugees (UNRWA).⁸⁷

Palestinian children in the city, moreover, not registered as residents of Jerusalem are ineligible for medical treatment under the Israeli National Insurance Program, along with a host of other services, including public schooling.

III. Obstacles to the Economic Integration of Palestinian Refugees in Jerusalem

a. The Jerusalem Economy

The economic development of Jerusalem has always been influenced by competing sets of natural constraints and political imperatives. Economic development has been constricted by the distance between Jerusalem and the ports of Jaffa and Gaza and the main coastal routes, the absence of exportable raw materials in the immediate vicinity of the city, the poverty of the rural hinterland, and the unsuitable landscape for industrial construction.⁸⁸ The economy has been particularly dependent, rather, on tourism and services related to holy sites, crafts, etc., and its role as an administrative

⁸⁶*Eviction from Jerusalem: Restitution and the Protection of Palestinian Rights*, p. 18.

⁸⁷*Family Reunification*. Vienna: UNRWA, October 1992, p. 11.

⁸⁸Michael Dumper, *The Politics of Jerusalem Since 1967*. New York: Columbia, 1998, p. 207.

capital. In 1946, nearly 40 percent of the Jerusalem workforce found employment in government services, education, and public health.⁸⁹ According to data from the Israeli Statistical Bureau, roughly the same proportion of the Jerusalem workforce is engaged in the same three sectors with 15.3% employed in education, 11.6% in public administration, and 11.5% in health and welfare.⁹⁰ The percentage of the population working in these three sectors rises to nearly 70%, however, if only residents of Jerusalem are included.

The division of the city in 1948 resulted in the complete separation of the Jewish and Palestinian Arab economic sectors in the city. The central business district along Jaffa Road and in the Mamillah quarter remained under Israeli administration with the Palestinian sector losing a functional business district. The economy of eastern Jerusalem was also cut off from traditional trade links with the Mediterranean and Europe along with the coastal plain. Wholesalers and supplies traditionally based in Jerusalem, moreover, moved to Amman.⁹¹ On the other hand, eastern Jerusalem retained a hinterland with an ample supply of labor, resources, and space for future development. The western area of the city, while it retained the central business and commercial district, was cut off from tourist trade which focused predominantly on the Old City. Western Jerusalem, which formed a kind of cul-de-sac, surrounded by the West Bank, was deprived of natural markets in the eastern hinterland of the city and trade routes linking the coastal areas with Amman, Syria, etc.

While the occupation of eastern Jerusalem in 1967 brought the city under a single administration, the economic benefits have not been distributed equally between the Jewish and Palestinian sectors. After an initial period of high unemployment, Palestinians in Jerusalem found new employment opportunities in the Jewish sector of the city and experienced a rise in per capita income. Overall, however, there has been a decline in the status of the independent Palestinian sector relative both to the Jewish sector and the other main West Bank centers.⁹² While Palestinians gained improved access to some services, independent development was severely restricted. The number of businesses in East Jerusalem grew but the growth was selective and lagged behind the Jewish sector.⁹³ East Jerusalem grew more strongly in trade, handicrafts, small industry and transportation.⁹⁴ Despite being politically and administratively unified, the two economies remained divided, which

⁸⁹Ibid.

⁹⁰Tale VII/7 - Employed Persons Working in Jerusalem, by Economic Branch and Gender, 1995/1996-1996/1997. 1998 *Statistical Yearbook*, p. 177.

⁹¹Dumper, p. 214.

⁹²Michael Roman, "Centre vs. Periphery: The Development of the Jewish and Arab Sector in United Jerusalem Since 1967," *The Economic Quarterly* 33 (128), p. 18.

⁹³Roman, p. 26.

⁹⁴Roman, p. 26.

weakened the Palestinian economy. The result was that it became increasingly marginalized and the Palestinian workforce increasingly proletarianized.⁹⁵

In general today there is a relatively low economic status in Jerusalem. Most residents are employed in public and community services, wage levels are below the Israeli national average in Haifa and Tel Aviv, while the poverty level and population density is higher.⁹⁶ The implementation of a military closure in March 1993 has brought further declines to the Palestinian economy in the city as Palestinians not holding Jerusalem permanent residency status are physically barred from entering the city. Commercial and trade activity in the Palestinian sector has been reduced by over 50% due to the closure.⁹⁷

b. Housing

Provision of adequate housing is a primary condition for the repatriation of refugees and economic development. While residential construction has played an important role in the Jerusalem economy, particular in terms of employment (In 1996-97 12.5% of Jerusalem residents were employed in construction⁹⁸), repatriation of Palestinian refugees is hindered by a severe shortage of housing in the Palestinian sector. It is estimated that there is a minimum 21,000-unit shortage for the existing Palestinian population in Jerusalem.⁹⁹ Moreover, a significant percentage of housing in some areas is substandard. In the Old City, for example, 40% of the Palestinian housing is deemed to be substandard.¹⁰⁰ Moreover, many Palestinian areas lack well-developed infrastructure. In eastern Jerusalem, there are 150km of missing sewage lines.¹⁰¹ Due to land expropriation and planning constraints, Palestinians also lack adequate space for future development in the city, comprising less than 5% of the total spatial area of Jerusalem and much of this area is already built-up. Two particular areas need to be addressed in order to facilitate refugee repatriation: (1) restitution of refugee properties, (2) re-evaluation of town planning procedures and practices.

⁹⁵Dumper, p. 208.

⁹⁶Sarah Hershkowitz, "Economic Characteristics" (www.jerusalem.muni.il/english/cap/)

⁹⁷"The Palestinians' Right to Adequate Housing in East Jerusalem," Expanding Version of NGO Written Statement for Agenda Item 8, UN Sub-Commission on the Prevention of Discrimination and the Protection of Minorities, 46th Session, August 1994. Jerusalem: Habitat International Coalition and The Palestine Human Rights Information Center.

⁹⁸ Table VII/7 - Employed Persons Working in Jerusalem, By Economic Branch and Gender, 1995/1996-1996/1997. 1998 *Statistical Yearbook of Jerusalem*, p. 177.

⁹⁹ In 1980, the Jerusalem Municipality commissioned private consultants to study housing conditions in East Jerusalem. This study concluded that 18,000 additional housing units were then needed to serve Palestinians living in East Jerusalem. The estimate used is cited in "The Palestinians' Right to Adequate Housing in East Jerusalem," and was upgraded for the report (1994).

¹⁰⁰ Vitullo, p. 18.

¹⁰¹*Ha'aretz* (25 March 1999).

Restitution of Refugee Housing

The United Nations Refugee Office, established under the UNCCP, estimated that some 34% percent of the property in the western areas of urban Jerusalem that came under Israeli control was owned by Palestinian Arabs with 30% owned by Jews and the remainder classified as Palestinian Arab religious, government and municipal, and roads and railways.¹⁰²

Land Ownership in the Western Areas of Jerusalem under Israeli Control¹⁰³

Type	Area (dunums) 4 dunums = 1 acre	% of total area
Palestinian Arab	5,478	33.69
Jewish	4,885	30.04
Other (Palestinian Religious)	2,473	15.21
Government & Municipal	402	2.47
Roads & Railways	3,023	18.59

Land Ownership in the Villages of Western Jerusalem¹⁰⁴

Village	Palestinian Arab (dunums)	Jewish (dunums)
'Ayn Karim	13,667	1,362
Dayr Yasin	2,704	153
Lifta	5,396	756
Malha	5,906	922

In the four villages, about 90 percent of the land or about 27,000 dunums (acres) were Palestinian owned. During the course of 1948 and afterwards, these properties were used to absorb Jewish immigrants in Jerusalem. At most 1,000 dunums of land in western Jerusalem remained in Palestinian hands after 1948.

More than 10,000 refugees homes, in addition to commercial and other properties, in the western areas of Jerusalem with an additional 1,800 homes in the four villages were expropriated to provide housing for Jewish immigrants to Jerusalem.¹⁰⁵ While documents related to the ownership of these homes are not centralized in one place, the most detailed records to date exist with the United Nations which carried out an identification and evaluation program for individual refugee properties for over a decade, completing its work in 1964.

In East Jerusalem the total amount of housing to be restituted is small relative to the western areas of Jerusalem. The total amount of land to be restituted, however, is significant. Since 1967, Israel has expropriated more than 30,000 dunums (7,500

¹⁰²Schedule of the Area of Ownership Map from Palestine Survey Maps and Taxation Records, reproduced by Sami Hadawi.

¹⁰³ Ibid.

¹⁰⁴ Sami Hadawi, *Palestinian Rights and Losses in 1948*. London: Saqi Books, 1988, pp. 235, 278-9.

¹⁰⁵ Salim Tamari (ed.), *Jerusalem 1948: The Arab Neighborhoods and their Fate in the War*. Jerusalem: The Institute of Jerusalem Studies and BADIL Resource Center, 1999, p. 172. Village homes are based on an estimate of 5 persons per family.

acres) of land in the eastern areas of the city in order to provide more than 40,800 housing units for the Jewish population of the city.¹⁰⁶ Not a single residential unit for Palestinians has been built on this land which was confiscated for public purpose. According to the 1968 Master Plan and other Israeli sources, there is no doubt that most of the land expropriated belonged to Palestinians.¹⁰⁷ In addition to land expropriated in 1968 for the Jewish quarter, over 1,000 apartments, 437 workshops or commercial stores. Out of 700 stone buildings, Jews owned only 105 before 1948.¹⁰⁸

The principle of property restitution is, in fact, recognized in Israeli law with regard to Jewish properties located in the eastern areas of the city and which had fallen under Jordanian control between 1948 and 1967. The same law, however, which provides for the restitution of these properties, prohibits restitution of Palestinian property in the western areas of the city. Shortly after occupying East Jerusalem in 1967, Israel passed the *Law and Administration Ordinance* as a means of extending Israeli sovereignty to the eastern part of the city through the application of Israeli law, jurisdiction and administration.¹⁰⁹ Subsequent legislation (*Legal and Administrative Matters [Regulation] Law [Consolidated Version]*, 1970) dealing with the implementation of Israeli law, facilitated the return of property to Jews who had owned property in East Jerusalem prior to 1948 when the territory came under Jordanian control.¹¹⁰ Combined with the 30,000 dunums owned by Jews in the West Bank prior to 1948, part of which was comprised of small tracts of land in and near Jerusalem, Jews owned approximately 5 dunums of land in the Old City.¹¹¹

Section 5 of the Law accorded Jewish residents of Jerusalem the right to reclaim these properties. Under Section 5 [c] and [d] of the 1970 law, moreover, Jewish owners of property that was declared to be state property or was required for state purposes were entitled to appropriate compensation. Section 3 exempted Palestinian residents of East Jerusalem from the *Absentees Property Law* of 1950 under which the title to their property would have been transferred to the state of Israel; however, repossession of absentee property under the law was limited to East Jerusalem. As a result, the Law prevented the release of absentee property belonging

¹⁰⁶"Planning and Building in East Jerusalem - Updated Data," Insert. B'Tselem, 1998.

¹⁰⁷ See in addition, Cheshin.

¹⁰⁸G. Dib and F. Jabber, *Israel's Violation of Human Rights in the Occupied Territories: A Documented Report*. Beirut: Institute of Palestine Studies, 1970, p. 176.

¹⁰⁹ The laws adopted by the Knesset in 1967 to annex the former municipality of East Jerusalem and large portions of the West Bank include: Law and Administration Ordinance (Amendment No. 11) Law, 5727-1967, *Laws of the State of Israel*, vol. 21, 5727-1967, p. 75, reprinted *ibid*, p. 167; Municipal Ordinance (Amendment No. 6) Law 5727-1967, 75-76, *Laws of the State of Israel*, vol. 21, 5727-1966/67, reprinted *ibid.*, p. 167; and Protection of the Holy Places Law, 5727-1967, p. 76, *Laws of the State of Israel*, vol. 21, 5727-1966/67, reprinted *ibid.*, p. 169.

¹¹⁰ Section 5, *Laws of the State of Israel*, vol. 24, 5730-1969/70, pp. 144-152, reprinted *ibid.*, pp. 242-251.

¹¹¹ Benvenisti, p. 239.

to those Palestinians living in East Jerusalem who lost property in the western neighborhoods and villages of Jerusalem in 1948.¹¹² In cases where Palestinian refugees who held foreign citizenship in 1948 have sought restitution within the Israeli legal system, Israeli courts have recommended the return of some property to the original Palestinian owners; the government froze implementation of the order.¹¹³ In other cases, former Palestinian owners have been ordered to pay back taxes dating to 1948, which make it impossible financially to reclaim property.

Planning and Development Procedures

While restitution of homes would assist in the repatriation of refugees, effective provision of housing would require significant changes in planning and development procedures in Jerusalem, employed in particular since 1967. In Jerusalem there is a shortage of both land and housing stock for Palestinians. Since 1948, the area for Palestinian development in the western areas of the city has been reduced from 13,212 dunums to 3,020 dunums and in the eastern areas from 68,995 dunums to 6,000 dunums. The end result is that Palestinians have been restricted in their area for potential growth to some 4.3% of the total area of the city. While there was a surge in residential construction after 1967, from an average of 1,500 units in 1966-67 to an average of 4,500 units between 1968 and 1971, the surge has benefited the Jewish sector of the city, predominantly in the eastern areas of the city where large new housing estates (settlements) were constructed on expropriated Palestinian land.¹¹⁴

Between 1967 and November 1997 some 82% of all the housing constructed in Jerusalem was built for the Jewish sector totaling around 71,500 units. Most of these units were built with public funds. In the same period, some 15,900 units were built in the Palestinian sector on a private basis.¹¹⁵ Another indicator of the discrepancy in building per sector is building permits. While an estimated 10,000 permits have been issued for Palestinians since 1967 for private construction, some 70,000 building permits have been issued for both private and public residential construction.¹¹⁶ The gap is striking when one compares the population ratio of approximately 30% Palestinians and 70% Jews in the city, and even more so when compared to the natural growth rate of the Palestinian population in the city.

¹¹² Tamari (1995), 13.

¹¹³ Elia Zureik, *Palestinian Refugees and the Peace Process*. Washington, DC: Institute for Palestine Studies, 1996, p. 60.

¹¹⁴ Dumper, p. 219.

¹¹⁵ "Planning and Building in East Jerusalem - Updated Data." Approximately 554 units of the total were backed by the municipality but built and financed by Palestinians, including 500 apartments in Beit Hanna and 54 units in Wad Joz. Cheshin, p. 25.

¹¹⁶ Danny Seidemann, *Ir Shalem*, 1998.

According to Israel's Central Bureau of Statistics, the Palestinian population grew at a rate of 2.7% in 1997 while the Jewish population grew at a rate of 0.7%.¹¹⁷

The housing and land shortage is a result of planning policies governed by the notion of "demographic balance" under which planning is determined not by community need. Planning, rather, serves to keep maintain the population ratio as it was in 1972 - 73.5% Jews and 26.5% Palestinians.¹¹⁸ In its detailed report on Israeli policy in eastern Jerusalem based on official planning documents, the Israeli human rights group B'tselem writes: "Over the years, all Israeli governments, through the Ministerial Committee for Jerusalem, have affirmed that goal as the guiding principle of municipal planning policy, and it has been the foundation of demographic and urban plans prepared y the government."¹¹⁹ In relation to an increase in Jewish immigration to Israel in the early 1990s, an internal Jerusalem municipality planning document entitled, *Urban Policy and Working Plans for the Work Year 1990*, stated:

The coming year, in light of the waves of immigration, will see a shift of priorities. Increasing the housing supply in the neighborhoods has been set as our primary goal, as for the first time since 1967, a possibility exists to alter the demographic balance in the city, and not just to preserve it.¹²⁰

A key obstacle, which must be removed to facilitate refugee repatriation, is planning discrimination in the city. A new Town Planning Scheme for eastern Jerusalem, based on community need, rather than political imperatives, is desperately needed not only for refugee repatriation but also to meet the needs of the existing Palestinian population in the city and prevent further displacement. In 1974 all Town Planning Schemes for East Jerusalem were frozen under sections 77 and 78 of Israel's *Town Planning and Building Law*. As of today, more than 25 years later, no TPS has been prepared for East Jerusalem. According to Sarah Kaminker, a city planner who worked at the Jerusalem municipality for thirty years, a total of thirteen different types of planning policies have contributed to the severe land and housing shortage for Palestinians in Jerusalem.¹²¹ These include: concealing planning policy; spot planning of small discontinuous areas; leaving large areas of land unplanned; demolition of private homes; delays in town planning; the slow pace of planning; constriction of

¹¹⁷Tale III/4 - Annual Growth Rate of Population in Israel and in Jerusalem, y Population Group, 1978-1997. 1998 *Jerusalem Statistical Yearbook*, p. 42.

¹¹⁸ Binyamin Hyman and Gadi Izreich, *Population of Jerusalem and Region: Growth and Forecasts* (Hebrew), Jerusalem Municipality, Municipal Planning Department, Planning Policy Section, July, 1977, p. 5, cited in *A Policy of Discrimination, Land Expropriation, Planning and Building in East Jerusalem*. Jerusalem: B'Tselem, 1997, p. 45

¹¹⁹Ibid.

¹²⁰*Urban Policy and Working Plans for Work Year 1990* (in Hebrew), internal working paper, Jerusalem Municipality, July 1990, p. 78 (translated by B'Tselem), cited in *A Policy of Discrimination*, p. 47.

¹²¹Sarah Kaminker, *The Community Planner's Handbook*. Monograph.

land within spot plans; use of green areas to freeze land; building type restrictions; parcellation and setback lines which render land unusable; roads which destroy property rights; commercial and industrial zoning only in Jewish areas; and, planning according to formula rather than according to needs. While the details of each policy are too extensive to cover in this paper, the following table from Kaminker's *Handbook* illustrates the impact of these policies.

Land Lost in Planned Arab Neighborhoods, 1967-1998¹²²

Neighborhood	Area (1967) (dunums)	Land Lost (dunums) 4 dunums = 1 acre			Total (dunums)	% Land Lost
		Land Expropriated	Land Frozen Outside Plan	Land Frozen Within Plan		
Beit Hanina/Shu'fat	16,250	7,500	1,380	6,410	15,290	94
Beit Safafa/Sharafat	5,300	1,700	2,100	710	4,510	85
at-Tur (N/S), Sawana, ash-Shaya	2,210	0	320	1,190	1,510	68
Issawiya	2,700	800	1,220	300	2,320	86
Sawahra al- Gharbiya, Silwan, Ras al-Amud, Jabal Mukaber, Abu-Tor	10,500	1,600	880	5,290	7,770	77
Sheikh Jarrah	750	350	0	280	630	84
Sur Baher, Um Tuba	7,900	3,000	1,400	2,170	6,570	83
Wadi Joz	640	50	0	280	330	53
TOTAL	45,800	15,000	7,300	16,630	38,930	85

b. Investment in Services

Jerusalem will also require a significant investment in services and infrastructure to be able to meet the absorption of Palestinian refugees from the city. Existing services and infrastructure are unable to meet the needs of the current Palestinian population in the city. As with housing and land, the poor quality of services and lack of infrastructure is also related to planning that is guided by political imperatives rather than community need. A simple run down of services and infrastructure in East Jerusalem reveals the skeletal nature which is incapable of providing for the current Palestinians residents of the city, let alone repatriated refugees. Of 122 neighborhood centers in Jerusalem, only 7 are in East Jerusalem. There is one library and one community center or less than 5% of the services. There are three public health facilities. Out of 1,087 sports facilities and 77 planned new facilities there is only 1 soccer field and one outdoor playing field in East Jerusalem. Large areas have no public sewage. Only 2 of 988 units of municipal gardens, green strips, public parks and small parks are in East Jerusalem.¹²³

¹²² Ibid, p. 25.

¹²³ Vitullo, pp. 18-19.

Current Mayor Ehud Olmert appointed a committee in the mid-1990s to examine this issue, to investigate and describe municipal services in Palestinian areas of the city and to explain the gap between needs and existing services. The committee was also authorized to issue practical steps for reducing the gap. Under problems requiring special solutions and substantial government investment, the report concluded that there was a lack of land registration which prevented construction, and detailed infrastructure planning. The report also noted the high cost of infrastructure development due to what it characterized as the "village character" of Palestinian areas. The report also noted that infrastructure for Palestinian education was outdated and substandard. Approximately half of all classrooms were deemed to be substandard and that there was a need for an additional 325 classrooms.¹²⁴ In terms of problems which could be addressed within the municipal budget, the report concluded that spending and activity in welfare, social services and youth, as well as sports and culture was low, and that there was a cumulative shortage of buildings and compounds for youth clubs, welfare services, sports, health, etc. The following table from the report illustrates the inadequate investment in services and infrastructure in the eastern areas of the city.

(Selected) Posts and Salary Expenses in the East of the City (1995)¹²⁵

Department	Posts		Salary Expenses (in 1000 NIS)	
	Total Dept.	East Jerusalem	Total Dept.	East Jerusalem
Lighting	908	87.50 (9.6%)	121,600	8,750 (7.2%)
Fire Dept.	100	14.00 (14%)	17,000	2,380 (14%)
Urban Planning	330.80	* (14.2%)	40,584	* (8.3%)
Water/Sewage	240.40	24.00 (10.0%)	27,239	2,230 (8.1%)
Culture	140.12	3.85 (2.7%)	15,665	385 (2.4%)
Health	183.94	12.70 (6.9%)	21,707	1,510 (6.7%)
Welfare	375.08	31.90 (11.1%)	28,132	3,131 (11.1%)

In 1997, the municipality announced \$40 million investment in East Jerusalem, although the money would have to be found from existing budgets. The investment however, only scratches at the service. Even if all the money can be found as is spent, it will mean, according to Israeli lawyer Danny Seidemann that per capita investment in Jerusalem will go down from 1-6 to 1-4.¹²⁶ This investment should also be seen in light of the \$300 development costs for a new Jewish settlement in southern Jerusalem.

¹²⁴ *Municipal Services in the Arab Sector*. Jerusalem Municipality Office of the Director General, Department for Planning, Department for Strategic Planning (in Hebrew).

¹²⁵ Ibid.

¹²⁶ Interview by the author (8 May 1997).

IV. Conclusion

The obstacles to economic integration of Palestinian refugees and displaced persons to Jerusalem can be divided into several areas. As illustrated throughout the paper, one key overarching obstacle is the political imperatives, which drive policy in Jerusalem and impact issues of legal status, property rights, and provision of services. At present the combined impact of political driven immigration and planning policy in the city renders the repatriation of Palestinian refugees from the city impossible.

Secondly, the economy of Jerusalem has significant inherent weaknesses. Traditionally, the economy has been dependent on substantial government investment. Due to the local terrain and tourist industry, industrial development is constrained. While employment has not been examined in this paper, effective repatriation and absorption of Palestinian refugees in the city will necessitate matching the economic potential of Jerusalem with the economic profile and potential of returning refugees. In this area, there are some positive indicators in relation to the economic profile of refugees from the city.

While Palestinians represent little more than 5 percent of government and public service employees in Jerusalem, a political agreement which provides for a shared Jerusalem which would also be the capital of Palestine, would provide potential jobs in public and administrative services.¹²⁷ The idea of a shared Jerusalem with open borders would also open up opportunities for further economic investment and employment in the West Bank hinterland, potentially re-establish trade and commercial routes with the Arab world, and provide a stable environment, which is necessary for growth in the tourist industry in the city. Finally, effective economic integration of refugees and displaced persons from Jerusalem requires significant reforms in the provision of shelter - including restitution of properties - and services.

¹²⁷ Dumper, p. 218.