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**Internally Displaced Palestinians, International Protection and
Durable Solutions**

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BADIL-Briefs aim to support the Palestinian-Arab and international debate about strategies for promotion of Palestinian refugees' right of return, restitution, and compensation in the framework of a just and durable solution of the Palestinian/Arab - Israeli conflict.

Background

One of the often neglected groups of internally displaced persons (IDPs) in the Middle East is internally displaced Palestinians. While internally displaced Palestinians inside 1948 Palestine/Israel and in 1967 occupied Palestine comprise a small percent of the global Palestinian refugee population, they face many of the same problems as refugees. This includes the lack of national and international protection, denial of durable solutions – i.e., return, housing and property restitution, and compensation, and the absence of an international body or mechanism to provide protection and search for durable solutions.

Brief No. 9 examines the legal status of internally displaced Palestinians. The first part of the brief provides a short overview of the different categories of internally displaced Palestinians and population estimates. The remaining part of the brief examines protection of Palestinian IDPs during displacement, protection from displacement and durable solutions, and mechanisms for protection and implementation of the right of return and housing and property restitution. The brief concludes with a number of recommendations for international actors, non-governmental organizations, and Israel. The 1998 *Guiding Principles on Internal Displacement* provides the legal foundation for the brief.

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Introduction

Internally displaced persons (IDPs) comprise the largest group of displaced persons around the world today. Of an estimated 40 million displaced persons worldwide, some two-thirds are IDPs. Like refugees, the internally displaced are persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, and

violations of human rights. The defining characteristic of internally displaced persons, however, is that they have not crossed an internationally recognized border.

The overwhelming majority of IDPs are members of minority groups. They are also predominantly women, children, and the poor. Over half of the world's internally displaced persons reside in Africa. The Middle East is the region with the least IDPs, numbering around 1.5 million. Arab states with large IDP populations include Iraq, Lebanon, Syria, and Algeria. Unlike other regions, the refugee population in the Middle East, including some 5 million Palestinian refugees, exceeds that of the internally displaced. Root causes of internal displacement in the Middle East include ethno-national conflict, competition over land and resources, foreign occupation, and colonization.^[1]

One of the often neglected groups of internally displaced persons in the Middle East is internally displaced Palestinians. This neglect stems, in part, from the fact that internal displacement is difficult to conceptualize in the context of the Palestinian/Arab-Israeli conflict, which is rooted in the ongoing struggle over control of land and sovereignty thereon. In the course of the more than fifty-year old conflict, wars and military occupation have frequently changed cease-fire lines and so-called borders; an internationally recognized border between the two ethno-national groups has not yet been established. Concepts like "Palestinian minority" and "internally displaced Palestinians" are therefore extremely fluid and subject to changes. They can only be applied pragmatically in order to describe the phenomenon of internal displacement in a specific period of time.

Palestinians displaced from western to eastern Jerusalem in 1948, for example, were considered refugees due to creation of a functional 'border' between the two sides of the city in the form of the 1949 armistice line. The removal of the physical barrier between west and east Jerusalem in 1967, following Israel's occupation of eastern Jerusalem, the West Bank and the Gaza Strip, however, would indicate that 1948 refugees from western Jerusalem residing in the eastern part of the city were no longer refugees but internally displaced persons. What is the relevant entity – i.e., Mandate Palestine, Israel, the 1967 occupied territories? Where are the international borders, which delineate the difference between refugees and internally displaced persons?

Based on the above, a pragmatic categorization of internally displaced Palestinians under current (post-Oslo) conditions would include four primary groups:

- (1) 1948 Internally Displaced Palestinians: The largest group of internally displaced Palestinians is located inside Israel and were originally displaced and dispossessed of their homes and lands during the 1948 war. Israel refers to these internally displaced as 'present-absentees' – i.e., they are present physically but absent in relation to their homes and lands of origin.
- (2) Post-1948 Internally Displaced Palestinians: A second and smaller group consists of those Palestinians inside Israel who have been displaced since 1948 due, primarily, to internal transfer, land expropriation, and house demolition. A large sector of this group is comprised of Bedouin.

(3) 1967 Internally Displaced Palestinians: A third category of internally displaced persons is comprised of those Palestinians displaced within the West Bank, including eastern Jerusalem, and the Gaza Strip during the 1967 war. This does not include 1967 Palestinian refugees who are often referred to as '1967 displaced persons' due to the fact that at the time of their displacement the West Bank was under Jordanian control – i.e., they did not cross an 'international border' by seeking shelter, mainly in Jordan.

(4) Post-1967 Internally Displaced Palestinians: The fourth category of internally displaced Palestinians are those Palestinians displaced within the West Bank, eastern Jerusalem, and Gaza Strip after 1967 due to land expropriation, house demolition, revocation of residency rights in Jerusalem, and other forms of internal transfer. This group also includes a large number of Bedouin.

As with other groups of IDPs worldwide, there is a lack of comprehensive and systematic data on internal displacement in Israel and the 1967 occupied territories. There is no registration system for internally displaced Palestinians.^[ii] Official data on the current status of Palestinians inside Israel and in the 1967 occupied territories does not distinguish between internally displaced Palestinians and the general Palestinian population. Like refugees, however, it can be assumed that IDPs have relatively lower standards of living than Palestinians who are not displaced. Data on the current status of IDPs is therefore characterized by uneven quality and uncertainty and is derived largely from historical documents, news reports, and human rights documentation.

Estimates of the total IDP population inside Israel and in the 1967 occupied territories therefore vary according to source, available data, and applicable definition of internally displaced persons. There are approximately 260,000 1948 internally displaced Palestinians who comprise around one-quarter of the total Palestinian population inside Israel.^[iii] There are few estimates for the remaining three categories of internally displaced Palestinians. Conservative estimates for these categories of internally displaced are as follows: 75,000 Palestinians internally displaced in Israel after 1948^[iv]; 10,000 1967 internally displaced Palestinians^[v]; and, 50,000 Palestinians displaced internally in the West Bank, eastern Jerusalem, and the Gaza Strip after 1967.^[vi] The total IDP population inside Israel and the 1967 occupied territories may be as high as 400,000 persons.

One of the major problems faced by internally displaced persons worldwide is the lack of protection. National authorities, which have the primary responsibility for the protection of IDPs within their borders, often lack the resources and/or political will to provide protection, particularly when internal displacement is a result of competition over control of land and resources or ethno-national conflict. The international community, moreover, often fails to adequately respond to the protection needs of internally displaced persons due to unresolved issues of UN mandate and institutional responsibility for IDPs; the lack of a binding legal instrument that delineates the rights of IDPs and the concomitant obligations of signatory states; and, overriding concerns about sovereignty and non-interference in the internal affairs of states.

Over the past decade, the international community has attempted to address institutional and legal gaps concerning IDP protection through a collaborative inter-agency approach bringing together resources and expertise of key UN agencies and other international actors. The UN also commissioned the drafting of a set of universal principles on internal displacement. The 1998 *Guiding Principles on Internal Displacement* ('*Guiding Principles*') identifies rights and guarantees relevant to the protection of persons from forced displacement; protection during displacement; provision of humanitarian assistance; as well as protection during return or resettlement and reintegration.^[viii] The *Guiding Principles* restate already recognized rights under international human rights and humanitarian law and their applicability to internally displaced persons. The international community opted for a set of 'guiding principles' rather than an international convention in order to circumvent state concerns about sovereignty and ensure greater international acceptance.

One of the defining characteristics of internally displaced Palestinians, similar to IDPs worldwide, is the lack of both national and international protection. Israel is able but not willing to extend comprehensive national protection to internally displaced Palestinians inside Israel. Internally displaced Palestinians in the 1967 occupied territories lack national protection by virtue of the absence of a state obligated to provide such protection. Israel, the occupying power, has refused to abide by its obligations under the Fourth Geneva Convention to provide protection to the civilian population. The self-governing Palestinian Authority, a non-sovereign entity established during the 1990s under the Oslo political process, has not been able to provide full protection for the civilian population in the occupied territories, including IDPs. Since the second Palestinian *intifada* began in September 2000, the Authority has come under severe attack by Israeli military forces and is effectively defunct. Israeli practices inside Israel and in the 1967 occupied territories, including land expropriation, house demolition, revocation of residency rights, and military closure continues to generate internal displacement.

The international community has largely ignored the protection needs of internally displaced Palestinians inside Israel and in the 1967 occupied territories. No single international agency is currently recognized as having an explicit protection mandate for internally displaced Palestinians. The United Nations Conciliation Commission for Palestine (UNCCP), mandated to provide international protection for 1948 Palestinian refugees *and* internally displaced, ceased to provide effective protection in the early 1950s. The UN Relief and Works Agency for Palestine Refugees (UNRWA) does not have an explicit mandate to provide comprehensive protection to internally displaced Palestinians in the 1967 occupied territories. Various UN organs have addressed the protection needs of the Palestinian population in the 1967 occupied territories, which would include internally displaced persons, but the lack of international political will has prevented an effective response.

Internally displaced Palestinians thus experience multiple forms of marginalization relative to national and international protection. As with other IDPs worldwide, they experience general marginalization due to shortcomings in the institutional setup and legal framework

for international protection of internally displaced persons. Internally displaced Palestinians inside Israel are further marginalized as members of a non-Jewish ethno-national minority in a Jewish state. Internally displaced Palestinians in the 1967 occupied territories are further marginalized by Israel's illegal occupation and the absence of a state that is obligated, able and willing to provide protection. Generally, Palestinian IDPs have been marginalized due to the exclusion of the issue of internally displaced persons from the Oslo political process. Unlike most other peace agreements, the Oslo agreements do not include provisions for durable solutions for IDPs.

This Information and Discussion Brief seeks to raise awareness about internally displaced Palestinians and their rights, as well as the concomitant obligations of Israel and the international community. The *Guiding Principles on Internal Displacement* provides the legal framework for the brief. The brief first examines the day-to-day protection needs of internally displaced Palestinians. The second section examines protection from displacement and durable solutions for internal displacement. The final section examines mechanisms for implementation. Concluding recommendations are provided at the end of the brief. Due to the condensed format of BADIL Information and Discussion Briefs, comprehensive legal citation and analysis are not possible.

Protection of IDPs During Displacement

The *Guiding Principles on Internal Displacement* delineates a set of universal principles relative to the protection of human rights of internally displaced persons during displacement. *Discrimination against internally displaced persons is strictly prohibited.* Principle 1 prohibits discrimination on the grounds that persons are internally displaced. Principle 4 provides a broader prohibition against discrimination on the basis of race, sex, language, religion or belief, political or other opinion, national, ethnic or social origin, legal or social status, age, disability, property, birth or any other similar criteria.

Discrimination against Palestinians inside Israel, including IDPs, is primarily based on nationality, ethnicity, and religion. Deeply embedded discriminatory social attitudes, practices, and laws are rooted in Israel's definition of itself as a 'Jewish state.'^[viii] "A main reason for the prevalence of racism in Israeli society is that State institutions, including the Government, the Legislature, the Judiciary, the Army, and the Religious Bodies, consistently emphasize the national-religious character of the State."^[ix] Public opinion surveys reveal significant levels of intolerance towards Palestinian citizens of the state. In a recent survey by the Dahaf Institute, published by the Yitzhak Rabin Center, for example, 59 percent of Israeli Jews polled supported limiting the rights of Palestinian citizens.^[x] Institutionalized discrimination takes shape in quasi-government bodies – i.e., World Zionist Organization, Jewish Agency, and the Jewish National Fund – authorized by the government to provide public (i.e., government) services to the Jewish community.^[xi] There is no parallel government agency that provides similar services for Palestinians inside Israel. Per capita government investment in Palestinian communities in Israel is significantly lower than similar investment in Jewish communities. The 2002 development budget for Israel's Health Ministry, for example, is NIS 277 million (US\$ 59 million) but it has allocated just NIS 1.6 million (US\$ 340,000) for development in the Palestinian sector, which comprises 20 percent of the population. Israeli law does not provide for the constitutional protection of the

right to equality of all citizens of the state in order to protect the Jewish character of the state.^[xii]

Palestinians in the 1967 occupied territories, including IDPs, are also discriminated against based on their national, ethnic, and religious origins. Israel's illegal military occupation is characterized by overt discrimination between Jewish colonists (i.e., settlers) resident in the West Bank, including eastern Jerusalem, and the Gaza Strip, and the indigenous Palestinian population. Discrimination takes shape in the form of the "Civil Administration", Israel's military government, which protects and promotes the interests of Israel (i.e., as a Jewish state), in the occupied territories.^[xiii] Israel applies two different sets of laws to these areas. Jewish colonists fall within the jurisdiction of Israeli domestic law. Palestinians fall under Israeli military law. Israeli citizenship law, for example, is applicable to all Jews residing in the occupied territories. Palestinians, however, are considered to be *resident aliens*. Thus, while Jewish colonists enjoy protection of basic rights as citizens of Israel, Palestinians are denied many of the same basic rights.

In addition to the general prohibition against discrimination, the *Guiding Principles* also delineate specific principles concerning the protection of basic human rights (Principles 10 through 23). Relevant principles include:

1. *the right to life;*
2. *the right to dignity and physical, mental and moral integrity, including the prohibition against torture, cruel, inhuman or degrading treatment or punishment;*
3. *the right to liberty and security of person, including the prohibition against arbitrary arrest and detention;*
4. *the right to liberty of movement and freedom to choose one's residence;*
5. *the right to seek safety in another part of the country and the right to leave one's country;*
6. *the right to know the whereabouts of missing relatives, including protection of and access to grave sites;*
7. *the right to respect of family life, including family reunification;*
8. *the right to an adequate standard of living;*
9. *the right to medical attention and care;*
10. *the right to recognition as a person before the law, including the issuance of documents such as passports and ID cards without unreasonable conditions;*
11. *the prohibition against arbitrary deprivation of property and possessions; and,*
12. *the right to education.*

The right to liberty of movement and freedom to choose one's residence, the right to respect of family life, the right to an adequate standard of living, including health and education, and the prohibition against arbitrary deprivation of property are particularly relevant to internally displaced Palestinians inside Israel.

The geographic distribution of IDPs inside Israel today is a function of severe restrictions on freedom of movement and the right to choose one's place of residence. Between 1948 and 1966 Palestinians inside Israel were placed under military rule.^[xiv] IDPs were not only prevented from returning to their villages of origin, as addressed below; resettlement was largely restricted to government-designated areas with the aim or result of 'freeing' temporarily abandoned Palestinian land for permanent Jewish colonization, clearing large swaths of land in border zones, and concentrating Palestinians within Arab towns and villages not destroyed during the war. Approximately 200 IDP families, for example, were 'relocated' to targeted resettlement areas referred to as 'shelter villages.' Public access to numerous official documents and records held in state archives concerning internal transfer of the Palestinian population is still prohibited. The majority of the Palestinian population was placed under a tight dusk till dawn curfew that lasted until the early 1960s. Today Palestinians are *generally* not permitted to reside in Jewish communities established by quasi-government bodies such as the Jewish Agency.^[xv]

Respect for family life and reunification of divided Palestinian families is largely conditioned on arbitrary criteria that screen out and limit the number of displaced Palestinians eligible to rejoin families inside Israel. The primary aim of the policy is to preserve the demographic outcome of the 1948 war – i.e., a Jewish majority. Early family reunification programs for displaced Palestinians, for example, were limited to minor sons, single daughters and women. Palestinian women whose husbands were displaced outside the state were expected to join their husbands abroad. Many applications for family reunification were rejected due to the fact that displaced Palestinians could not produce required documentation, including marriage and birth certificates, lost during the 1948 war.^[xvi] In May 2002 Israel suspended family reunification procedures for Palestinians whose spouses are residents of the 1967 occupied Palestinian territories. New measures are being contemplated to limit the number of family reunification slots granted to Palestinians from the West Bank and Gaza Strip in order to preserve a Jewish majority.^[xvii] In addition, internally displaced Palestinians are often denied access to gravesites in their villages of origin.

Displacement, dispossession, and discrimination undermine the right to an adequate standard of living. Internally displaced Palestinians inside Israel, experience higher levels of unemployment than the national average. Of the 26 towns in Israel with unemployment peaking above 10 percent, for example, 23 are Palestinian.^[xviii] More than half has a significant IDP population. Unemployment levels are even higher among internally displaced Palestinians residing in 'unrecognized villages' – i.e., villages not recognized by the government as 'legal' settlements and therefore denied government services – and among displaced Bedouin forced into government-constructed townships.^[xix] The number of Palestinians, including internally displaced, living below the poverty line is significantly higher than the national average. Over 40 percent of all Palestinians inside Israel live below the poverty line. Infant mortality among Palestinians is more than double that of the Jewish population; in unrecognized villages, infant mortality rates are triple that of Jews.^[xx] The dropout rate for Palestinian students is more than twice that of Jewish students. All but 5.7 percent of the students receiving their first university degree in the 1998-99 school year were Jewish even though Palestinians comprise 20 percent of the population.^[xxi]

One of the most widespread violations of the universal principles concerning the protection of IDPs during displacement, as set forth in the *Guiding Principles*, is the prohibition against

arbitrary deprivation of property. Homes temporarily abandoned during the 1948 war, primarily in villages, were subsequently destroyed in order to prevent the return of internally displaced Palestinians. Israel appropriated IDP homes in cities in order to resettle new Jewish immigrants from Europe. This policy towards the indigenous Palestinian population was referred to as “retroactive transfer.”^[xxii] Privately owned Palestinian land, including land still held by IDPs, has been targeted for expropriation to facilitate Jewish colonization (i.e., settlement).^[xxiii] This includes expropriation of land from Palestinian villages that provided shelter to IDPs in 1948, such as Tamra, Judeida, Jish, Faradis, and Mazra’a, among others. Since 1948 Israel has destroyed hundreds of Palestinian homes it says were built without permits. Stringent enforcement is rarely applied to Israeli Jews. During 2002, for example, Israel has demolished an estimated 125 Palestinian homes, the majority belonging to IDPs residing in unrecognized villages in the Naqab. Israel refuses to release information on the status of movable and immovable IDP property based on claims that it lacks the necessary resources to carry out a complete inventory and because release of the information would harm Israel’s foreign relations.^[xxiv]

The full panoply of rights set forth in the *Guiding Principles* are currently relevant to the situation of internally displaced Palestinians in the 1967 occupied Palestinian territories.

Israel’s violation of these rights does not distinguish between internally displaced Palestinians and the general Palestinian population. Torture, collective punishment, extra-judicial killings, administrative detention, revocation of residency rights, denial of family reunification, house demolition, economic policies (referred to as ‘de-development’) that have created extreme economic dependency on Israel, military closure and curfews, as well as military attacks on civilian areas, extensively documented by local and international human rights organizations, violate the rights of the Palestinian population in the occupied territories without distinction. The impact of these violations is especially severe in the context of the second Palestinian *intifada*. As of the end of September 2002, approximately 1,800 Palestinians, primarily civilians, have been killed. Unemployment is hovering at 50 percent. Over 60 percent of the population is living below the poverty line. On average between 500,000 and 1 million Palestinians has been living under military curfew during 2002. While there are no statistics on the specific impact of these practices on internally displaced Palestinians it can be assumed that the internally displaced, like refugees, are more vulnerable due to their situation of displacement.

As with internally displaced Palestinians inside Israel, one of the most widespread violations of the universal principles set forth in the *Guiding Principles* is the prohibition against arbitrary deprivation of property. Similar to the situation inside Israel, Palestinians from areas targeted for Jewish colonization or in ‘border areas’ have been particularly vulnerable to arbitrary dispossession. It is estimated that following the 1967 war Israel immediately expropriated some 400 km² from internally displaced Palestinians and refugees.^[xxv] This includes IDPs from the destroyed villages of Imwas, Yalu and Beit Nuba in the Latrun salient, the entire Moghrabi quarter of the old city of Jerusalem, which was demolished to create a large public plaza adjacent to the Western Wall, and areas adjacent to eastern Jerusalem. An additional 1,048 Palestinian apartments were expropriated to expand the Jewish quarter of the old city.^[xxvi] House demolition is another source of arbitrary property deprivation. Since 1967, it is estimated that Israel has demolished more than

7,000 Palestinian homes, including those of IDPs. More than 1,000 homes have been demolished during the second Palestinian *intifada*.

Finally, the *Guiding Principles* provide a set of principles concerning humanitarian assistance for IDPs (Principles 24-27). The primary duty and responsibility for providing humanitarian assistance to internally displaced persons lies with national authorities (Principle 25.1). *International humanitarian organizations and other appropriate actors have the right to offer their services in support of the internally displaced.* Such an offer shall not be regarded as an unfriendly act or interference in a State's internal affairs and shall be considered in good faith. *Consent thereto shall not be arbitrarily withheld, particularly when authorities concerned are unable or unwilling to provide the required humanitarian assistance* (Principle 25.2). The *Guiding Principles* further provide for the free passage of humanitarian assistance and protection from acts of violence.

Inside Israel, UNRWA transferred responsibility for emergency relief and assistance for IDPs to the government of Israel in 1952. Israel does not provide special assistance to internally displaced Palestinians, despite the distinct vulnerability of this sector of the Palestinian community inside Israel. In the 1967 occupied territories, where Israel has not fulfilled obligations under international humanitarian law to provide and facilitate the delivery of humanitarian assistance to the civilian population, the Palestinian Authority is not able to cope with the humanitarian crisis created by Israel's occupation and military campaign in the West Bank and Gaza Strip, especially over the past two years. International agencies providing humanitarian assistance in the 1967 occupied territories face administrative obstacles and physical barriers (including military closure, curfew, and destruction of infrastructure) imposed by Israel. This includes denial of access for emergency and regular medical assistance, evacuation of the wounded and dead, and blocking the delivery of medicines, food, water, and temporary shelter.

Durable Solutions Protection

The *Guiding Principles* also provide a set of universal principles governing protection from displacement and remedies to displacement.

Individuals are protected against arbitrary displacement from their home or place of habitual residence. Displacement is considered arbitrary when it is based on policies of apartheid, 'ethnic cleansing' or similar practices aimed at/or resulting in altering the ethnic, religious or racial composition of the affected population; in cases of large-scale development projects, which are not justified by compelling and overriding public interests; and when it is used as collective punishment. Arbitrary displacement includes displacement in situations of armed conflict, unless the security of the civilians involved or imperative military reasons so demand. (Principle 6.2).

The majority of Palestinian IDPs inside Israel were displaced during armed conflict and war in 1948 by a combination of tactics that violated basic principles of international law relative to the conduct of war. Tactics included targeted attacks on civilians, expulsion, massacres, looting, and the destruction of property without military necessity.

Approximately 80 percent of the IDP and refugee population were displaced as a result of military attack.^[xxvii] Reviewing the legislative history of UN Resolution 194 (1948), paragraph 11, calling for the return of Palestinian refugees and displaced persons to their homes and compensation for losses and damages, a legal advisor to the UN Conciliation Commission for Palestine (UNCCP), commented that the General Assembly intended that paragraph 11 function as a legal remedy to the "violation of the laws and customs of war on land laid down in the Hague Convention of 18 October 1907, the rules of which, as stated in the Nuremberg Judgement of 1939 were recognized by all civilized nations and were regarded as being declaratory of the laws and customs of war."^[xxviii]

The geographic distribution of the internally displaced inside Israel draws a map of mostly forced resettlement based on policies of apartheid and 'ethnic cleansing' aimed at *or resulting* in altering the demographic composition of

Israel. As mentioned above, territory identified as security zones or targeted for exclusive Jewish settlement and development were rendered clean [*naki*] and empty [*reik*].^[xxix] Cleaning operations are documented in numerous documents held in state archives; others remain inaccessible to the public based on concerns that release of the documents would harm Israel's foreign relations.^[xxx] The remaining inhabitants of the villages of Iqrit, Bir'am, al-Faluja, Iraq al-Manshiya, Farraddiya, 'Inan, Saffurriya, al-Khisa, Qeitiya, Khirbet Muntar, Ghabsiyya and al-Hamma, for example, were evicted and the villages razed to facilitate the development of pure Jewish areas. Since 1948, Israel has also gradually carried out a policy of forced resettlement of the Bedouin population in the Naqab (Negev) in seven 'townships.' The program of 'sedenetarization' aims to make lands held by Bedouin in customary ownership available for Jewish settlement and development, and provide a cheap source of wage labor for the Jewish sector.

Palestinian displacement during the 1967 war is also the result of military practices that violate the laws of war, including targeted attacks on civilians, expulsion, and destruction of property without military necessity. It is estimated that 60 percent of those displaced were displaced as a result of direct military attack.^[xxxi] Unlike the situation inside Israel, the majority of internally displaced Palestinians in the 1967 occupied territories were displaced after rather than during armed conflict. Internal displacement is primarily the result of policies that aim or result in the alteration of the demographic composition of the occupied territories. Israel's 35-year military occupation, characterized by land expropriation, house demolition, and colonization, draws a pattern of forced segregation. Palestinians residing in 'border areas', areas identified by Israel as security zones, and areas targeted for Jewish colonies have been displaced in order to prevent the establishment of contiguous Palestinian built-up areas, and, at the same time, create territorial contiguity between Jewish colonies and link them to the territory of Israel. Today, the Gaza Strip is totally isolated from the West Bank. The West Bank is divided into some 64 non-contiguous zones surrounded by roadblocks and permanent Israeli checkpoints. As of May 2002 Palestinian residents require special permits issued by the Civil Administration, Israel's military government, for travel between Palestinian-controlled zones.

Individuals are provided further guarantees against displacement in situations other than during emergency stages of armed conflicts and disasters. Guarantees include the free and informed consent of those to be displaced and the right to an effective remedy, including the review of decisions resulting in displacement by appropriate judicial authorities (Principle 7.3).

Internal displacement of Palestinians inside Israel is almost never a function of free and informed consent. IDPs have organized popular demonstrations and filed legal petitions to express explicit opposition to internal displacement. Popular protests have failed to secure a fundamental change in state policies and practices. Protests have also been met with state violence. In March 1976, for example, Israeli security forces killed six Palestinians during a mass protest against land expropriation in the Galilee. To this day, IDPs and other

victims of dispossession consider 30 March – ‘Land Day’ – as a day of commemoration and protest against ongoing displacement and dispossession in side Israel. Other forms of protest include the refusal of IDPs to accept government offers of compensation as a form of protest against displacement and dispossession. In 2002, for example, Israel offered IDPs from the villages of Iqrit and Bir’am compensation in lieu of return. The offer was rejected. “We reject compensation and we are not even interested in discussing it with the government,” stated IDP from Iqrit. “The only solution for our cases is not material; we are looking to return the people to their father’s lands.”^[xxxii]

Israel’s judicial system effectively underwrites displacement rather than affording IDPs effective legal remedy. Israeli courts refuse to rule on cases where displacement is the result of alleged national security considerations.^[xxxiii] Appeals committees never cancelled an order for Palestinian inhabitants to leave their villages in areas closed under the Emergency Regulations of 1949.^[xxxiv] In cases where displacement stems from arbitrary deprivation of property, transactions undertaken by the state and its organs “in good faith” are considered legal even if found by the courts to be illegal in fact.^[xxxv] In cases where petitions seeking redress from expropriation are accepted at the District Court level they are always rejected when they reach the High Court.^[xxxvi] For Bedouin IDPs, the legal process appears to be a no-win situation; no Bedouin has ever won a land claim to any of the more than 3,000 lawsuits filed over the past several decades.^[xxxvii]

In several cases where Palestinians have consented to temporary displacement based on Israeli security considerations, Israel has either reneged on agreements or failed to uphold judicial rulings allowing IDPs to return to their villages of origin. Despite a 1951 court ruling allowing IDPs from Bir’am and Iqrit to return to their villages, for example, successive Israeli governments continue to block implementation of the ruling.^[xxxviii] The Israeli military has also played an active role in blocking implementation of judicial rulings. Inhabitants of village of al-Ghabsiya, for example, were expelled in February 1950 by order of the Military Governor who then declared the village a closed area. An Israeli court decided that the declaration was a legislative act and “only valid if it is published in the Official Gazette” (at the time the Declaration had not been published) and ordered that the inhabitants be permitted to return. The Israeli military prevented the villagers from returning and a few days later the Military Governor published a Declaration in the Official Gazette. Inhabitants of the village went back to court, which subsequently ruled against them.^[xxxix]

In the 1967 occupied territories displacement is never a function of free and informed consent. For example, Israel has unilaterally revoked the residency rights of more than 6,000 Palestinian Jerusalemites affecting some 24,000 individuals if family members are included. Palestinians have protested ongoing displacement through public protest and through the courts and administrative bodies established by Israel in the occupied territories. Public protest by Palestinians, including displaced persons, is most often met with harsh military repression including mass arrest, detention, and the killing of civilian protesters. Since the beginning of the second Palestinian *intifada*,

which erupted in response to continued expropriation of land, settlement construction and denial of the right to self-determination and the right of return, for example, more than 8,000 Palestinians have been arrested and detained and more than 1,800 have been killed as of November 2002.

Legal mechanisms established by Israel's military government in the occupied territories do not provide effective remedy to displacement. The "Civil Administration" is responsible for policies and practices that lead to internal displacement; in most cases, it is also the sole arbitrator and judge for IDPs seeking legal remedy. In cases of displacement resulting from arbitrary deprivation of property Israel's Supreme Court only accepts cases related to private property. In some cases the court itself removes all legal avenues for redress. In August 2002, for example, the High Court ruled that homes belonging to families of persons who are believed to have carried out attacks against Israelis could be demolished without the right to judicial review.

The majority of legal petitions of Palestinian IDPs in the 1967 occupied territories are handled by the special military objection committees established by the "Civil Administration" (Military Order 172). The Committees are staffed and administered by the same military authorities responsible for issuing expropriation orders. Israeli officials often fail to deliver a copy of the expropriation order to the affected landowner; Palestinians are restricted from inspecting records of the special registration department established to register land sold to Jews or expropriated as state land or for military purpose; land transactions undertaken by the state and its organs in 'good faith' are considered legal even if the expropriation was found to be illegal; the burden of proof rests with the plaintiff rather than the expropriating power; the military objections committee is authorized to hold hearings partially or totally in camera and may excuse witnesses from identifying themselves; and, decisions of the appeals committee are not published and are not accessible for public viewing. In August 2002, the Civil Administration adopted an amendment to Military Order 378 (1970) allowing for the forcible transfer of Palestinians from the West Bank to the Gaza Strip.

States are under an obligation to protect against the displacement of indigenous peoples, minorities, peasants, pastoralists and other groups with a special dependency on and attachment to their lands (Principle 9).

Israel has not fulfilled its obligation to protect Bedouin and the general Palestinian population from displacement as far as they constitute indigenous peoples, minorities, and groups with a special attachment to their lands. Until 1948 Palestinian Arabs comprised the vast majority of the indigenous inhabitants of mandatory Palestine. More than two-thirds of those Palestinians displaced in 1948 were peasants (*fellahiin*). Of the 95 Bedouin tribes living in the Naqab before 1948 only 11 remained after the war. Those who were not expelled were transferred to the northern part of the Bir Saba' (Beersheba) Sub-District and forced to settle in an area one-tenth the size of the former area in which they lived. Land in this area is of poorer quality and not as amenable to traditional grazing and rain-fed agriculture. During the 1980s a further 750 Bedouin families were displaced to facilitate the construction of an Israeli military base.^[x] More recently Israeli military forces have displaced Bedouin in the West Bank who reside primarily in 'Area C' – i.e., that part of the West Bank (60 percent) where Israel retained full military and administrative control under the Oslo agreements. All but a few of Israel's illegal colonies (settlements) are located in this area. Displacement has intensified over the last 6 years, affecting numerous tribes, including Froush Beit Dajan near Tamoun, Jahalin Salamat near Ma'ale Adumin colony, Qa'abneh near Deir Dibwan, al-Rashayda south of Bethlehem, Azameh near Nablus, Da'is

near Jiftlik, Jahalin Saray'an Wad Abu Hindi, and Jahalin Abu Dahouk at Bir al-Moscoub.^[xlii]

The *Guiding Principles on Internal Displacement* also elaborate the right of IDPs and obligation of national and international authorities to facilitate durable solutions. *Competent authorities have the primary duty and responsibility to establish conditions, as well as provide the means, which allow internally displaced persons to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country* (Principle 28). The *Guiding Principles* further state that displacement shall last no longer than required by the circumstances (Principle 6.3). *Competent authorities also have the duty and responsibility to assist returned and/or resettled internally displaced persons to recover, to the extent possible, their property and possessions which they left behind or were dispossessed of upon their displacement* (Principle 29).

These principles are consistent with the framework set forth in UN General Assembly Resolution 194 applicable to 1948 Palestinian refugees and internally displaced persons. Resolution 194 affirms the right of all persons displaced during the 1948 war to return *to their homes* of origin and repossess their properties.^[xliii] The drafters of the resolution intended that displaced persons should be permitted to return following the establishment of stable conditions with the signing of armistice agreements between Israel and neighboring Arab states in 1949. The United States delegate at the UN stated that the US "could not accept the proclamation of peace as a prerequisite for the return of refugees.... [The refugees] should not be made pawns in the negotiations for a final settlement."^[xliiii] Resolution 194 also recognizes the principle of safe return. Commenting on the drafting history of the Resolution, the UNCCP Secretariat noted that Resolution 194 "impose[d] a [governmental] obligation ... to ensure the peace of the returning refugees and protect them from any elements seeking to disturb that peace." Since 1967 resolutions adopted by the UN General Assembly and the Commission on Human Rights call upon Israel to facilitate the return of those persons displaced during the 1967 war. Various local and international NGOs, as well as UN human rights treaty committees have reaffirmed the right of internally displaced Palestinians to return to their homes of origin and repossess their properties.

While an internationally recognized border does not separate internally displaced Palestinians from their homes and properties, the obstacles they face in returning and repossessing their properties are as difficult to overcome as those faced by Palestinian refugees displaced and expelled to neighboring Arab states. Apart from a number of minor exceptions, Israel has not and does not permit internally displaced Palestinians to return to their villages of origin. Few IDPs from Haifa, for example, were permitted to return to the city. In the 1960s/70s, some IDPs from Sha'b were permitted to return. As mentioned above, even in the few cases where Israeli courts have ruled in favor of IDP return such as Iqrit and Bir'am, successive governments have blocked implementation of the court rulings. Generally requests for IDP return

are rejected for several reasons: 1) alleged security considerations; 2) transfer of IDP property to the state for the development of Jewish settlements; and, 3) the fear of setting a precedent for the individual return of all IDPs and refugees choosing to do so. Israel, moreover, has prevented over 70,000 internally displaced Palestinians who spontaneously resettled in other parts of the country in so-called unrecognized villages from being reintegrated in their new places of residence. Israel does not recognize these new villages as 'legal' settlements and does not provide services, including water, sewage, electricity, health and education.

Internally displaced Palestinians inside Israel are also prevented from repossessing their homes and properties. A complex system of property laws, including a series of abandoned property regulations, emergency regulations, and a set of absentees' property laws, among others, has been used to expropriate refugee and IDP properties and transfer them to the state for exclusive and inalienable Jewish use. It is estimated that Israel has expropriated close to 1,000 km² of land owned by Palestinian citizens of Israel, not including internally displaced Bedouin, since 1948 in addition to thousands of homes.^[xlv] In the few cases where internally displaced persons were permitted to return to their cities and villages of origin, such as Haifa and Sha'b, they have not been permitted to repossess their properties, which were allocated to Israeli soldiers and new Jewish immigrants. Bedouin IDPs face further obstacles to property restitution due to the traditional or customary system of land rights prevalent in the community similar to that of other indigenous peoples.^[xlv] Housing and property restitution is rejected to ensure permanent Jewish use and control of IDP and refugee properties; and, to prevent the return of IDPs and refugees.

Many internally displaced Palestinians in the 1967 occupied territories are also prevented from returning to their homes and villages of origin. Few IDPs, who were displaced when Israel revoked their right of residence in Jerusalem, have been able to reacquire residency status in the city. Of the more than 6,000 Palestinian Jerusalemites who were displaced following revocation of residency rights in Jerusalem it is estimated that fewer than one-fifth have been able to reacquire residency status in the city. Military occupation effectively precludes return. Palestinians are not permitted to reside in areas expropriated for the construction and expansion of Jewish colonies. In cases of house demolition where homes are not located in areas targeted for use by Jewish colonies, IDPs are often able to return to rebuild homes; in many cases, however, homes have been demolished for a second and third time.

Palestinian IDPs in the 1967 occupied territories are also prevented from repossessing housing and property. Israel has expropriated or acquired control of more than 3,000 km² of Palestinian owned land in the 1967 occupied Palestinian territories.^[xlv] Domestic law and military orders promulgated by Israel in the 1967 occupied territories effectively apply many of the same property laws employed inside Israel to acquire Palestinian property for Jewish colonization. Palestinian land in eastern Jerusalem is acquired for so-called 'public' purpose, while land in the occupied West Bank and Gaza Strip is acquired under a complex set of military orders dealing with

'abandoned' land, 'state' property, military use, and public purpose, among others. While expropriated Palestinian property held by the state is not considered inalienable, the use of land acquired under these military orders (i.e., construction of Jewish colonies, including related infrastructure such as 'bypass roads'), suggests *de facto* permanent acquisition. Even in cases where IDPs are willing to purchase expropriated property, they have been excluded from placing a bid to buy back their own property. In 1977, for example, Israel expropriated the home of the Burqan family located in the expanded Jewish quarter of the old city of Jerusalem on the basis of public purpose (i.e., development of the Jewish quarter). The family was later prevented from bidding on their home at a public auction on the basis of their ethnic, national and religious origins.^[xlviii] The majority of the land in the occupied territories was not registered by cadastral survey prior to Israel's 1967 military occupation of the area making it difficult for the majority of persons to prove ownership of land.

Mechanisms

National authorities have the primary responsibility for the protection of the basic rights of internally displaced persons within their borders (Principle 3.1). National and international authorities are required to respect and ensure respect for their obligations under international law, including human rights and humanitarian law, in all circumstances, so as to prevent and avoid conditions that might lead to displacement of persons (Principle 5). The right of internally displaced persons to request and receive protection and humanitarian assistance is the corollary of the state's duty to provide protection and assistance to IDPs (Principle 3.2).

The Israeli government and judiciary, as discussed above, does not provide adequate protection for IDPs inside Israel. During the early years of internal displacement, Israel provided limited targeted assistance to internally displaced Palestinians, either through regular government services, or through the Refugee Rehabilitation Authority (RRA), which operated during the early 1950s primarily in official and semi-official 'shelter villages'.^[xlviii] RRA programs, however, were guided by two basic criteria: preservation of the demographic changes that took place during the 1948 war; and, preservation of Jewish control of Palestinian land temporarily abandoned during the war. Services were conditioned with cancellation of IDP claims to properties and lands in the villages of origin.

In the 1967 occupied territories, Israel does not fulfill obligations under international humanitarian law (i.e., Fourth Geneva Convention) to protect the civilian population. The absence of a state, moreover, means that there is no national entity obligated, able and willing to provide protection to Palestinian IDPs. Israel's military assault on the Palestinian Authority, which in any case does not have the powers of a sovereign entity, has severely crippled its administrative and physical infrastructure effectively rendering it defunct.

International protection is often required when national authorities are either unwilling or unable to protect the basic rights of internally displaced persons. Unresolved issues of UN mandate and institutional responsibility for internal

displacement continue to hamper effective provision of international protection of IDPs. No single agency is recognized as having an explicit mandate to provide international protection for internally displaced persons. State concerns about sovereignty and non-interference in internal state affairs have further impeded international efforts to resolve the problem of providing protection for IDPs. International agencies that do provide some level of protection to internally displaced are at times reluctant to do so fearing it would damage relations with government authorities and impair humanitarian programs.

In the absence of a single agency mandated to provide protection to internally displaced various UN agencies and other international humanitarian organizations have provided some form of protection on a case-by-case basis worldwide. This includes the Office of the UN High Commissioner for Refugees (UNHCR), the UN Development Program (UNDP), the United Nation's Children's Fund (UNICEF), the World Health Organization (WHO), and the Office of the UN High Commissioner for Human Rights (UNHCHR). During the late 1980s, the UNDP was delegated responsibility for coordination of relief programs for IDPs. UNDP programs also focused on reintegration of uprooted persons following the cessation of hostilities and resolution of political crises leading to displacement. The UNHCR, however, has historically borne the brunt of most aid and protection to internally displaced persons. UNHCR does not have an explicit mandate to provide protection and assistance to IDPs, however, the Agency may carry out expanded functions by request of the UN Secretary General and the UN General Assembly. For example, UNHCR has been delegated the responsibility for assisting the displaced in countries such as Sierra Leone, Angola and Azerbaijan and more recently in Bosnia-Herzegovina.

International opposition to the establishment of a new agency with a specific mandate for internally displaced and opposition to the inclusion of IDPs within the mandate of existing agencies has led to a so-called collaborative approach to international protection and assistance for the internally displaced. In 1992 the UN Commission on Human Rights requested the Secretary General to appoint a special representative for internally displaced persons. The Special Representative focused, in particular, on the development of a doctrine specifically tailored to the needs of the internally displaced resulting in the adoption of the *Guiding Principles on Internal Displacement*. In 1994 the UN emergency relief coordinator (ERC), created to promote a more rapid and coherent response to all emergency situations, was formally designated as 'reference point' for requests for assistance and protection in situations of internal displacement. The preliminary outcome of the international debate on the UN responsibilities towards IDPs was the establishment in 2001 of a small unit within the UN Office for the Coordination of Humanitarian Affairs (OCHA). The Unit is staffed with personnel seconded from the major humanitarian UN agencies and the NGO community and is tasked with providing expertise, training and guidance to humanitarian agencies working in IDP crises.

No single agency has an explicit mandate to provide international protection for internally displaced Palestinians in Israel and the 1967 occupied territories. The UNCCP, which has a protection mandate for 1948 Palestinian refugees and 1948 internally displaced Palestinians, ceased to provide effective international protection in the early 1950s. UNRWA, the International Committee of the Red Cross, UNDP, and other UN agencies provide case-by-case assistance to Palestinian IDPs in the 1967 occupied territories, but there is no single agency with an explicit mandate to provide comprehensive protection.

Conclusion

Internally displaced Palestinians lack effective national and international protection in relation to protection from displacement, respect for basic human rights during displacement, provision of humanitarian assistance, and the search for durable solutions, including the right of return and housing and property restitution. No international body or mechanism, moreover, is currently recognized as having an explicit mandate to provide comprehensive protection for Palestinian IDPs.

Awareness about the existence and problems faced by Palestinian IDPs is poor. Until recently, major non-governmental and UN agencies did not recognize internally displaced Palestinians. Local, regional and international NGOs, UN agencies, and solidarity organizations, should include information about Palestinian IDPs in education and information material. The recent inclusion of all categories of Palestinian IDPs in the Global IDP Database sponsored by the Norwegian Refugee Council is one positive development. The recent award of the 2001 Body Shop Human Rights Award to the National Society for the Rights of the Internally Displaced in Israel is another. Organizations and agencies should also disseminate widely the 1998 *Guiding Principles on Internal Displacement*.

Based on the inter-agency collaborative approach established by the United Nations in response to IDPs worldwide, relevant UN agencies, including the UNHCR, UNRWA, and the UNHCHR should initiate inter-agency discussions to determine the most effective approach to day-to-day protection for internally displaced Palestinians in addition to externally displaced refugees. The situation is particularly critical for internally displaced Palestinians and refugees in the 1967 occupied territories. Further discussion should focus on protection and the search for durable solutions. In particular, these agencies should closely monitor the status of IDPs, as well as refugees, in any future agreements between the PLO and Israel. Durable solutions, including the right of return and housing and property restitution, for Palestinian IDPs should be addressed within same international legal framework and mechanisms as Palestinian refugees. Critical attention should be given to peace plans and proposals that suggest to solve the Palestinian refugee question on the expense of the right to return and property restitution of Palestinian citizens, including IDPs in Israel, e.g. "land swaps" and refugee resettlement on IDP lands.

Local NGOs are encouraged to address the specific situation of internally displaced Palestinians, as a particularly vulnerable category of the Palestinian people. This includes documentation of human rights violations, education, health, employment status, and other socio-economic indicators. Special attention should focus on arbitrary deprivation of property affecting IDPs.

Local NGOs and IDP associations should also spear-head efforts, in coordination with international organizations, for the establishment of a comprehensive registration system for internally displaced persons, followed by a comprehensive field survey on the current status of IDPs.

International organizations should provide political, capacity building, and financial support to IDP associations and initiatives working to raise awareness and lobbying for durable solutions for internally displaced Palestinians.

Israel should incorporate the *Guiding Principles on Internal Displacement* within its domestic law and remove legal and other obstacles to durable solutions for Palestinian IDPs – e.g. implementation of its obligations under international humanitarian law/Geneva Convention and human rights conventions pertaining to the protection of Palestinian residents in the 1967 occupied territories. Israel should also open all files in state archives relevant to IDPs for public access and scrutiny. Civil society organizations and others inside Israel should raise awareness among Israeli Jews about Palestinian IDPs, their current status, and requirements for durable solutions. Israel should also end its 35-year illegal military occupation of the West Bank, eastern Jerusalem, and the Gaza Strip, which is the primary source of internal displacement in these territories, and facilitate durable solutions for all Palestinian IDPs.

Endnotes:

^[i] For more details on internal displacement in the Middle East, see, *Internally Displaced People: Global Survey 2002*. London: Earthscan Publications, 2002.

^[ii] Early registration and census information exists for 1948 internally displaced Palestinians. Internally displaced Palestinians requiring assistance were originally registered with the UN Relief and Works Agency for Palestine Refugees (UNRWA). Initial registration files for 1948 IDPs include 6 boxes consisting of 11,304 family cards and 5,155 correction cards. Each card contains the names, ages, sex, occupation, past address, and 'distribution center' to which the family was attached.

^[iii] Derived from initial registration figures from UNRWA in *Report of the Director of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, UN Doc. A/1905, 30 June 1951 and the average annual growth rate of the Palestinian population inside Israel between 1950 and 2001. For further estimates, see, Wakim Wakim, "The 'Internally Displaced': Seeking Return within One's Own Land", 31 *Journal of Palestine Studies* 121 (Autumn 2001) [Arabic]; *Profile of Internal Displacement: Israel. Compilation of information available in the Global IDP Database of the Norwegian Refugee Council (as of 14 January 2002)*. Geneva: Norwegian Refugee Council/Global IDP Project, 2002; and, Hillel Cohen, *The Present Absentees: Palestinian Refugees in Israel Since 1948*, Institute for Israeli-Arab Studies, Jerusalem (2000).

^[iv] The majority are Bedouin forced off of large tracts of land in the Naqab and living in 'unrecognized villages' or concentrated into so-called development towns. The remaining displaced persons include other Palestinians who were transferred by the government during the late 1940s and early 1950s; Palestinians displaced by land expropriation; and Palestinians displaced as a result of house demolition. It is unclear how many affected families have not been able to return to their homes of origin and remain displaced. Also see, *Profile of Internal Displacement: Israel*, *supra* note 3.

^[v] The majority are persons displaced internally from the villages of Imwas, Yalu, Beit Nuba, Beit Marsam, Beit 'Awa, Habla and Jifliq, as well as from the city of Qalqilya and the old city of Jerusalem, including the entire Mughrabi quarter. It is unclear how many affected families remain internally displaced.

^[vi] This figure includes persons deprived of residency status in eastern Jerusalem and Palestinians displaced as a result of land expropriation and house demolition. It is unclear how many affected families have not been able to return to their homes of origin and remain displaced. *Also see, Profile of Internal Displacement: Palestinian Territories: Compilation of the Information available in the Global IDP Database of the Norwegian Refugee Council (as of 13 November 2002)*. Geneva: Norwegian Refugee Council/Global IDP Project, 2002.

^[vii] *The Guiding Principles on Internal Displacement. Addendum to: Report of the Representative of the Secretary-General, Mr. Francis M. Deng, submitted pursuant to Commission resolution 1997/39, UN Doc. E/CN.4/1998/53/Add.2, 11 February 1998, Further Promotion and Encouragement of Human Rights and Fundamental Freedoms, including the Question of the Programme and Methods of Works of the Commission Human Rights, Mass Exoduses and Displaced Persons. For an annotated analysis of The Guiding Principles on Internal Displacement, see, Walter Kalin, Guiding Principles on Internal Displacement, Annotations. Studies in Transnational Legal Policy No. 32. Washington, DC: The American Society of International Law and the Brookings Institution Project on Internal Displacement, 2000.*

^[viii] According to the majority in *Ben Shalom vs. Central Election Committee* the definition of Israel as the State of the Jewish people is based on three fundamental principles: 1) that the Jews form the majority of the state; 2) that the Jews are entitled to preferential treatment such as the Law of Return; and 3) that a reciprocal relationship exists between the state and the Jewish people outside of Israel. *Ben Shalom vs. Central Election Committee*, 43 P.D. IV 221 (1988), in 25 Israel Law Review 219 (1991). For more analysis, see, *Legal Violations of Arab Minority Rights in Israel*. Shfaram: Adalah – The Legal Center for Arab Minority Rights in Israel (March 1998). *Also see, Concluding Observations of the Committee on Economic, Social and Cultural Rights: Israel*. 4/12/98. UN Doc. E/C.12/1/Add.27, 4 December 1998, at 10. "The Committee expresses concern that an excessive emphasis upon the State as a "Jewish State" encourages discrimination and accords a second class status to its non-Jewish citizens."

^[ix] *Legal Violations of Arab Minority Rights in Israel*, *supra* note 8, p. 95.

^[x] *Al-Sinnara*, 26 July 2002. An earlier poll by the Jaffee Center for Strategic Studies at Tel Aviv University yielded similar results. *Al-Sinnara*, 15 March 2002. For further discussion of earlier polls, see, *Legal Violations of Arab Minority Rights in Israel*, *supra* note 8, pp. 95-107.

^[xi] Israel cooperates and coordinates important government functions (including the establishment and development of new towns, immigrant absorption, and maintenance and support of cultural, educational, scientific, religious, recreational, and social welfare activities) with these agencies according to the 1953 World Zionist Organization-Jewish Agency (Status) Law. The internal regulations of these bodies restrict services to Jews. The government is therefore able to channel resources to Jewish citizens of the state and avoid charges of overt discrimination. See, *Legal Violations of Arab Minority Rights in Israel*, *supra* note 8, pp. 50-54. *Also see, David Kretzmer, The Legal Status of the Arabs in Israel*. Colorado: Westview Press, 1990, p. 95; and, Walter Lehn, *The Jewish National Fund*. London: Kegan Paul International, 1988.

^[xii] *Ha'aretz*, 9 June 2002. During the first four months of 2002 when the Israeli government was supposed to begin implementing a four-year development plan for the Palestinian sector to address more than 50 years of inadequate and discriminatory investment, government ministry allocations actually dropped. Interestingly, the Public Security Ministry is the only government branch that has increased investment in Palestinian communities. For more details on budget allocations by sector, see, e.g., 1999-2000 Sikkuy Report on Equality and Integration of the Arab Citizens in Israel. Available at, <http://www.sikkuy.org.il/english/news/index.asp>. *Also see, The Palestinian Arab Minority in Israel, Economic, Social and Cultural Rights*. Nazareth: Arab Association for Human Rights (November 1998). For legal analysis of the right to equality under Israel's 1992 Basic Law: Human Dignity and Freedom, see, *Legal Violations of Arab Minority Rights in Israel*, *supra* note 8, pp. 17-21.

^[xiii] For more on the military government, see, e.g., Raja Shehadeh, *Occupier's Law, Israel and the West Bank*. Washington, DC: Institute for Palestine Studies, 1985.

^[xiv] A military government was formally and legally established in January 1950, based on the 1945 (British) Defense (Emergency) Regulations. Under the military government, all matters relating to Palestinians living in cities were handled by the Israeli police; Israeli military governors were put in charge of Palestinians elsewhere. Judicial powers were entrusted to Israeli military courts appointed by the army chief of staff. For a more detailed description, see, Sabri Jiryis, *The Arabs in Israel*. London: Monthly Review Press, 1976.

^[xv] In a single case where the Israeli High Court ruled in favor of a Palestinian family seeking to live in a Jewish community established by the Jewish Agency, the community has refused to implement the ruling (8 March 2002,

Supreme Court ruling in favor of Adel and Iman Qadan against the Jewish Agency and the Katzir Cooperation Society). As of mid-2002, the High Court decision had yet to be implemented.

^[xv] For more details, see, Don Peretz, *Israel and the Palestine Arabs*. Washington, DC: The Middle East Institute, 1958, pp. 50-55.

^[xvii] *Ha'aretz*, 1 September 2002. Also see, "Supreme Court Orders State to Respond to Adalah's Petition Challenging the Legality of the Government's Decision to Prevent Family Unification for Non-citizen Palestinian Spouses of Israeli Citizens," Adalah Press Release, 2 June 2002; "Adalah Submits 12 New Petitions to the Supreme Court Challenging Family Unification Policy," Adalah Press Release, 29 August 2002.

^[xviii] *Kul al-Arab*, 18 January 2001. According to Israel's Central Bureau of Statistics, unemployment rates among Palestinians, including IDPs, inside Israel, are one-third higher than Jews. *Fasl al-Maqal*, 21 February 2001. Also see, *Legal Violations of Arab Minority Rights in Israel*, *supra* note 8, pp. 89-92; and, *The Palestinian Arab Minority in Israel*, *supra* note 12, pp. 62-76.

^[xix] Approximately 70,000 Bedouin live in 'unrecognized villages' in the Naqab and the Galilee. For more details, see, *The Unrecognized Villages*, Fact Sheet, Arab Association for Human Rights; and, *The Arab Bedouin of the Negev*, Fact Sheet, Arab Association for Human Rights. Available at, <http://www.arabhra.org>. Also see, Regional Council for the Palestinian Bedouin of the Unrecognized Villages, at <http://www.arabhra.org/rcuv/index.htm>.

^[xx] *Ha'aretz*, 27 December 2001. The rate among Bedouin rises as high as 13 per 1,000. *al-Ittihad*, 3 May 2002. Also see, *The Palestinian Minority in Israel*, *supra* note 8, pp. 78-85.

^[xxi] *Second Class, Discrimination Against Palestinian Arab Children in Israel's Schools*. New York: Human Rights Watch, 2001. The situation is particularly grave in unrecognized villages.

^[xxii] See, the "Retroactive Transfer Plan" prepared in early June 1948 and approved by Israeli Finance Minister Eleazar Kaplan and Prime Minister David Ben Gurion. The plan is mentioned in Yosef Weitz, *Diary III*, p. 294, entry for 20 May 1948, cited in Benny Morris, *The Birth of the Palestinian Refugee Problem, 1947-49*. Cambridge: Cambridge University Press, 1987, p. 136.

^[xxiii] For example, 1,200 dunums was expropriated in 1957 from Palestinian landowners of Nazareth to establish Nazareth Illit; land was expropriated from Tarshiha and Ma'iliya in 1957 to establish Ma'a lot; 5,100 dunums was expropriated from Nahaf, Deir al-Assad, Bi'neh and Majd al-Krum in 1964 to establish Karmiel, while 20,103 dunums was expropriated in 1975 in the Galilee for 20 new Jewish settlements and expansion of existing settlements. It is estimated that Israel has expropriated as much as 1,000 km² out of a total of 1,400 km² of land from Palestinian citizens of Israel since 1948.

^[xxiv] "Government Refuses to Provide Information on 'Moveable Property' of Palestinian Refugees," Adalah Press Release, 28 January 2002.

^[xxv] A 1987 Israeli State Comptroller, *Annual Report*, lists a total of 430 km² of Palestinian refugee land in the West bank expropriated by Israel. *Land Grab, Israel's Settlement Policy in the West Bank*. Jerusalem: B'tselem – The Israeli Information Center for Human Rights in the Occupied Territories (May 2002), p. 45.

^[xxvi] G. Dib and F. Jabber, *Israel's Violations of Human Rights in the Occupied Territories: A Documented Report*. Beirut, 1970, p. 176.

^[xxvii] Table 3, 'Assignment of Reasons for Exodus per each District,' Salman Abu Sitta, *The Palestinian Nakba 1948, The Register of Depopulated Localities in Palestine*. London: The Palestinian Return Centre, 2000, p. 11.

^[xxviii] United Nations Conciliation Commission for Palestine, *Historical Survey of Efforts of the United Nations Conciliation Commission for Palestine to Secure the Implementation of Paragraph 11 of General Assembly Resolution 194 (III), Question of Compensation*. Working Paper prepared by the Secretariat. UN Doc. AC.25/W.81/Rev.2, 2 October 1961.

^[xxix] The terms were used by Israel's first Prime Minister David Ben Gurion during a Cabinet meeting on 26 September 1948. Morris, *supra* note 22, p. 218.

^[xxx] Israeli State Archives, file: Ministry of Minority Affairs, 59/297, January 1949. Referring to 15 villages in the Bisan district, for example, the document states: "These villages are located in an area which is now empty of Arab residents and in the middle of dense Jewish settlement. There is no possibility to settle or return refugees in these

villages in order not to disturb the development of settlement in a pure Jewish area which is located near the state borders." Cohen, *supra* note 3, pp. 48-52. On cleansing the Palestinian population, *also see, e.g.*, Gabriel Piterberg, "Erasures," 10 *New Left Review* (July-August 2001), pp. 31-46.

[[lxxxi](#)] Peter Dodd and Halim Barakat, *River Without Bridges: A Study of the Exodus of the 1967 Palestinian Arab Refugees*. Beirut: Institute for Palestine Studies, 1969, p. 46.

[[lxxxii](#)] Statement by Ihassan Tuamee, member of the Committee of the Uprooted Residents of Iqrit, *al-Sinnara*, 8 March 2002.

[[lxxxiii](#)] Villagers of Khasas in upper Galilee appealed to Supreme Court to return to their village in 1952. The Court ruled in their favour on 7 July 1952. Military authorities then served residents orders to leave by virtue of the Defense (Emergency) Regulations and when the matter returned to Court, it ruled it could not intervene in "security" issues. Judgments of the Supreme Court, Vol. 13, p. 203, Ataya Jawwid et al. vs. the Minister of Defense, case no. 132/52.

[[lxxxiv](#)] It was later revealed that these regulations had been specially drafted to allow the authorities to confiscate lands on the frontiers or the adjacent areas so that they might be sold to the JNF, a policy agreed upon by the Judicial Adviser to the government and other Israeli officials. Sabri Jiryis, "The Legal Structure for the Expropriation and Absorption of Arab Lands in Israel," 2 *Journal of Palestine Studies* 4 (Summer 1973), p. 95.

[[lxxxv](#)] *See, e.g.*, Shikri Nicola et. Al v. Custodian of Absentees' Property et al, case 721/79, Judgement of 19 June 1980.

[[lxxxvi](#)] Effective legal remedy is further hampered by lack of procedural transparency, violation of due process, and arbitrary criteria including the passage of time. Israeli authorities have refused to release information related to the purpose of land expropriation and the status of expropriated property. Proof of burden rests with the plaintiff rather than the expropriating power.

[[lxxxvii](#)] In 1976 Israel's Land Settlement Department offered to settle Bedouin land claims out of court. The offer included the following criteria: Israel would recognize 20 percent of the total claim (with documented proof), offer compensation for 30 percent of the total claim (at 65 percent of its value), and expropriate 50 percent of the total claim. Recent press reports indicate that Israel is considering restarting the legal process for land claims, suspended in 1976, in order to completely extinguish all Bedouin land claims and thereby ensure the full transfer of all Bedouin land to the state of Israel for exclusive and inalienable Jewish use.

[[lxxxviii](#)] The High Court ruled in July 1951 that the residents of Iqrit were entitled to return to their village since the reason for the temporary evacuation no longer existed, and there were no legal grounds for depriving them of their right to return. Judgments of the Supreme Court, Vol. 4, p. 461, Mabada Daud et. Al vs. the Minister of Defense et al., case no. 64/51.

[[lxxxix](#)] *See*, Judgements of the Supreme Court, Vol. 6, p. 284, Jamal Aslan et. Al. vs. the Military Governor of Galilee, case no. 220/51. Judgments of the Supreme Court, Vol. 9, p. 689. Aslan, Mahmoud et al. vs. the Military Governor of Galilee, case nos. 288/51 and 33/52. Similar measures were applied to Iqrit and Bir'am.

[[lxi](#)] The Negev Land Acquisition (Peace Treaty with Egypt) Law 1980 was used to expropriate 82,000 dunums of Bedouin land to relocate an airbase from the Sinai. The Bedouin landowners were given three months to be uprooted and the level of compensation was considerably lower than that paid to Jewish settlers relocated as part of the same peace process.

[[lxii](#)] For more details, *see, e.g.*, Rosemary Sayigh, "The West Bank Bedouin: The New Refugees?", *al-Majdal*, Issue 5 (March 2000), pp. 19-23.

[[lxiii](#)] For more details on the drafting history of UN Resolution 194, *see*, BADIL Occasional Bulletin No. 11, *The Meaning of UN General Assembly Resolution 194(III), 11 December 1948 (The Right of Return)*, April 2002.

[[lxiiii](#)] United Nations Conciliation Commission for Palestine, *Analysis of paragraph 11 of the General Assembly's Resolution of 11 December 1948*. Working Paper prepared by the Secretariat. UN Doc. A/AC.25/W.45, 15 May 1950.

[[lxv](#)] It is estimated that by the 1960s Israel had expropriated some 700 km² of land owned by Palestinian citizens of Israel. The figure is based on a survey of 79 selected Palestinian villages. Table 5, 'Land Lost by Some Arab Villages in Israel, 1945-1962 (in dunums)' in Jiryis, *supra* note 14, pp. 292-296. As of 2002, it is estimated that Israel has expropriated approximately 80 percent of the land owned by Palestinian citizens of the state. Salman Abu Sitta, *The*

End of the Palestinian-Israeli Conflict, From Refugees to Citizens at Home. London: Palestine Land Society and Palestinian Return Centre, 2001, p. 13.

^[xvi] As of 1948 the British administration in Palestine had not yet begun a land survey in the Bir Saba' Sub-District. Only 64,000 dunums of Arab-owned land in the Sub-District were registered in the official Register of Deeds. (This land is included in registration records of the UN Conciliation Commission for Palestine). In other words, most Bedouin do not possess land documents that identify ownership by cadastral survey. Maps of the Sub-District from the period, however, clearly identify tribal lands according to the name of the tribe.

^[xvii] It is estimated that as of the beginning of 2001 Israel had acquired control of 79 percent of the land in the 1967 occupied Palestinian territories. *Passia Diary 2001*, Jerusalem: PASSIA, Palestinian Academic Society for the Study of International Affairs, 2001, p. 257. *Also see, Land Grab, supra* note 25.

^[xviii] Allison B. Hodgkins, *Israeli Settlement Policy in Jerusalem, Facts on the Ground*. Jerusalem: PASSIA (December 1998), p. 27. The family built a new home in the outlying areas of the city and was evicted again when the land was expropriated for the Jewish colony of Pisgat Ze'ev.

^[xix] For more on the RRA, *see*, Cohen, *supra* note 3.