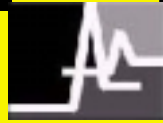


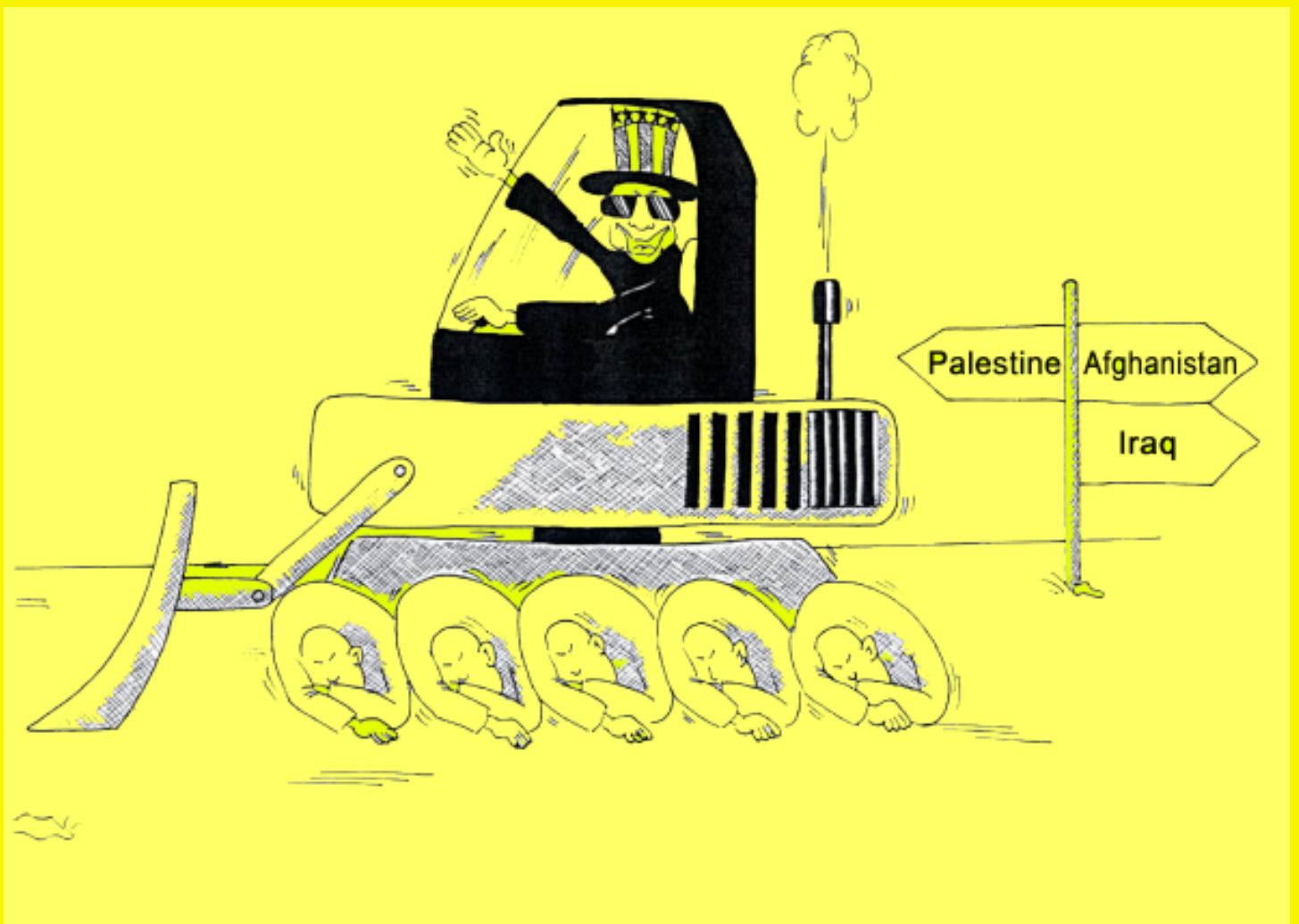
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ISSUES NO.18 ~ June 2003



a quarterly magazine of  
BADIL Resource Center for Palestinian Residency & Refugee Rights

## Road Map or Roadblock?



**Why International Law Matters**

**Palestinian Refugees and the 'Rules of the Road'**

**BADIL** aims to provide a resource pool of alternative, critical and progressive information and analysis on the question of Palestinian refugees in our quest to achieve a just and lasting solution for exiled Palestinians based on the right of return.

**BADIL** was established in January 1998 and is registered with the Palestinian Authority and legally owned by the refugee community represented by a General Assembly composed of activists in Palestinian national institutions and refugee community organizations.

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The views expressed by independent writers in this publication do not necessarily reflect the views of BADIL.

**al- Majdal** is a quarterly magazine of BADIL Resource Center that aims to raise public awareness and support for a just solution to Palestinian residency and refugee issues

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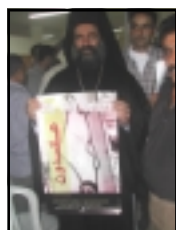
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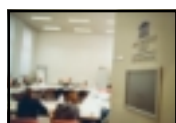
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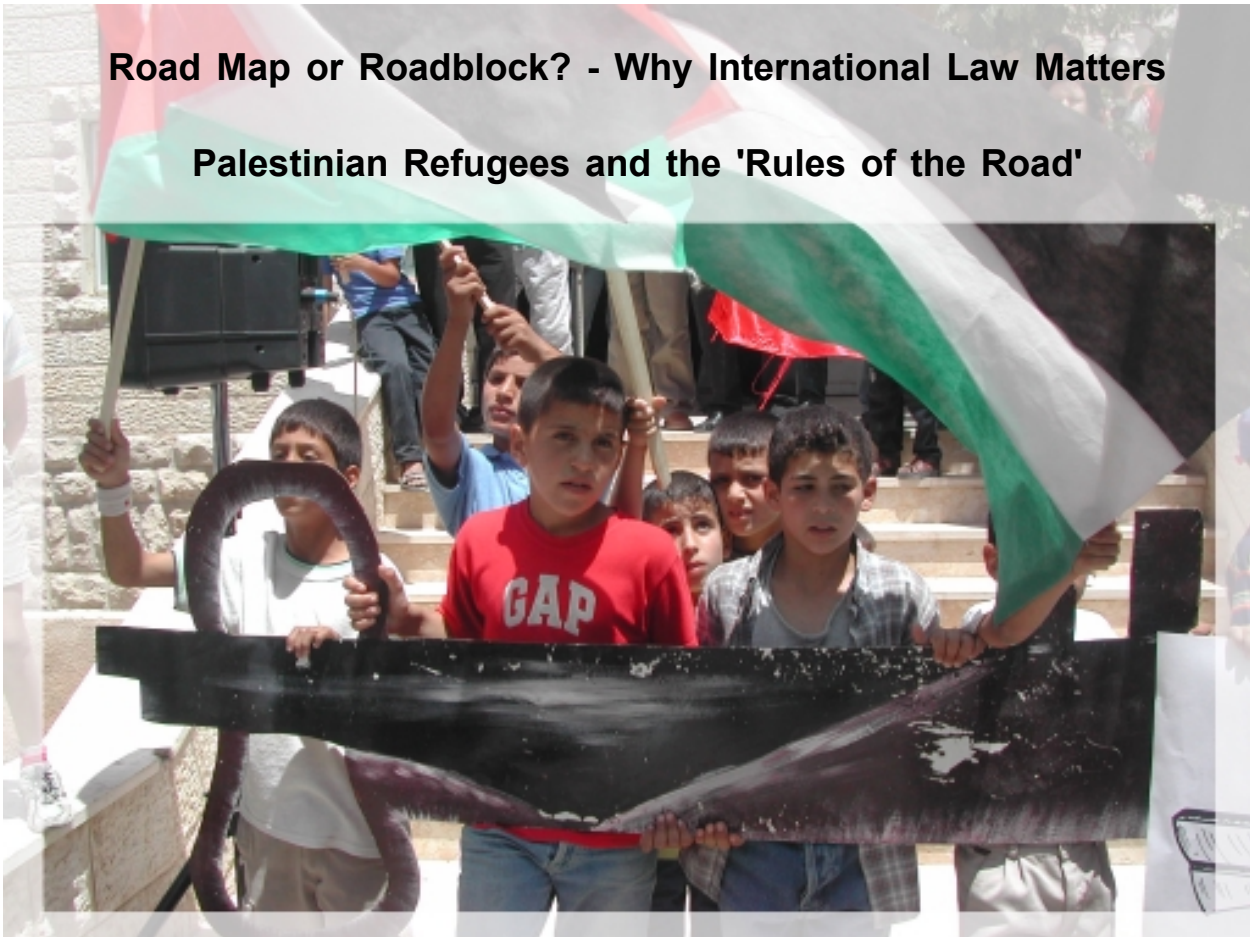
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## Road Map or Roadblock? - Why International Law Matters

### Palestinian Refugees and the 'Rules of the Road'



*Nakba Memorial March, Bethlehem 2003*

*The release of the much touted "Performance-Based Road Map to a Permanent Two-State Solution to the Israeli-Palestinian Conflict" by the Quartet - US, EU, Russia, and the UN - on 30 April 2003 confirmed the suspicions of many that when it comes to the Palestinian/Arab-Israeli conflict, the international community never misses an opportunity to miss an opportunity.*

The Road Map essentially regurgitates the ingredients of Oslo. Elements of more recent attempts (i.e., Mitchell, Tenet and Zinni recommendations) to end the two-and-a-half year old Palestinian uprising in the 1967 occupied territories merely add a little spice to an otherwise familiar formula. Ignoring countless recommendations by UN bodies, international as well as Palestinian and Israeli NGOs, not to mention lessons gleaned from the resolution of protracted conflicts elsewhere in the world, the Quartet opted for the same kind of multi-phased political process in which obligations of the parties under international law, in addition to fundamental human rights, are subject to agreement between the parties themselves.

The exclusion of international law, human rights standards and relevant UN resolutions from the terms of reference for negotiations and the substance of agreements has been identified as a major cause of the failure of the Oslo process in general, and of efforts at seeking durable solutions for Palestinian refugees in particular. The absence of an overarching legal framework

in the Oslo accords not only preserved the status quo, but led to a situation in which fundamental freedoms and human rights of the Palestinian people either became the subject of political negotiations or simply disappeared. The Road Map, launched in the aftermath of the illegal US-UK led war and occupation of Iraq, makes the same mistake.

The Road Map is little better on the question of Palestinian refugees. Like Oslo the suggested framework for resolving the refugee issue excludes all reference to international law. The Road Map merely calls for an "agreed, just, fair, and realistic solution to the refugee issue" - whatever that means. Once again the basic rights of Palestinian refugees have simply disappeared.

The Road Map also states that the Beirut Declaration adopted by the Arab League in March 2002, which calls for an agreed upon solution to the refugee issue based on UN General Assembly Resolution 194, is a "vital element of international efforts to promote a

comprehensive peace." Inclusion of the Beirut Declaration, however, gives little hope for optimism in light of US statements affirming that Israel "must always be seen as a Jewish state." "That has implications, as we go forward, as to how we will negotiate some of the difficult issues [i.e., refugees] that remain in front of us," US Secretary of State Colin Powell told Arab leaders assembled in Sharm ash-Sheikh in early June 2003.

## International Law - the 'Rules of the Road'

From the beginnings of what became known as the 'Question of Palestine' western powers have sought to drive a wedge between international law and a political solution to the historic conflict. The Road Map merely continues a long pattern of missed opportunities that stretches back more than 55 years all the way to the UN recommendation of 1947 to partition Palestine into two states against the expressed wishes of the majority of the indigenous inhabitants of the country.

When Arab states suggested that the UN General Assembly seek an advisory opinion from the International Court of Justice on the legal authority of the UN to recommend and enforce partition of the country, for example, western powers rejected the advice, arguing that raising matters of principle would not assist in the process of bringing the parties together to reach a political solution to the conflict. The same argument is raised today in response to criticism concerning Oslo and the Road Map.

The United States, in particular, has attempted to marginalize and contain efforts to insert international law back into the political process. During final status negotiations between the PLO and Israel at Camp David in July 2000, for example, Palestinian journalist Akram Hanieh who attended the negotiations observed, "American negotiators became strangely touchy at the mere mention of principles and rights." On the specific issue of Palestinian refugees, the US has attempted to downgrade the international legal status of the refugees to a bilateral political issue between Israel and the Palestinian Authority.

The exclusion of international law from the 'Question of Palestine' for more than five decades has severely impeded and ultimately obstructed international efforts to facilitate a comprehensive, just and durable solution to the conflict. The importance of international law lies not only

in its intrinsic value as an expression of universal principles, but also in its practical value as a set of impartial rules that regulate behavior between states and between the state and the individual. Individualized human rights protections, observes Christine Bell in her book *Human Rights and Peace Agreements*, can address fears of annihilation, domination, and discrimination that motivate claims to territory and statehood, potentially diffusing such claims.

In short, international law sets forth 'the rules of the road' that enable parties to navigate the terrain of political disagreement and protracted conflict with some degree of safety and predictability. It provides third-party mediators and 'honest brokers' with objective criteria by which to monitor, measure, and, if necessary, enforce basic principles of a political solution.

## Dismantling the Roadblock to a Durable Solution

The intrinsic value and utility of international law does not explain why basic legal principles have been so excluded from efforts to facilitate a politically negotiated solution to the Israeli-Palestinian/Arab conflict in general and for Palestinian refugees in particular. Some have suggested that for Israel international law leads to a pre-determined and unacceptable political outcome. Implementation of the right of return of Palestinian refugees, for example, is regarded as a threat to the 'Jewish character' of the state. In approving the Road Map, the Sharon government stated that a final

settlement must affirm "Israel's right to exist as a Jewish state and waive any right of return for Palestinian refugees."

Comparative experience suggests that incorporation of international law into the political process is dependent on the parties first having resolved the fundamental issue about what the conflict is about. Israelis and Palestinians have yet to reach a consensus on this fundamental issue. Is the conflict about the Israeli occupation? Is it about the larger issue of Palestinian displacement and dispossession? Or is the conflict simply about Israeli security and disputed claims to the same piece of contested real estate?

By postponing the central issues of the conflict, refugees in particular, to final status talks, both Oslo and the Road

Disregarding human rights, or subordinating these rights to political considerations can only undermine the prospect of achieving durable peace and security. The failure of past agreements between Israel and the Palestinians has demonstrated that while a human rights agenda alone may not be the answer, it must be a central part of any solution. Only a just settlement, which respects the human rights of all parties, will endure.

*Amnesty International* (3 June 2003)

Map have effectively disabled the kind of broad public debate, especially inside Israel, that is necessary to resolve the fundamental issue about the nature of the conflict and its root causes. In the absence of such debate, the issue of Palestinian refugees and the right of return has largely remained taboo within Israeli discourse rather than a normal subject of political dialogue, problem-solving and constructive action.

An effective road map towards a comprehensive and durable solution of the conflict in general and for Palestinian refugees in particular need not choose between law or politics. International law provides the basic guidelines for an effective political process. It is a tool which can enable Israelis and Palestinians as well as third party mediators to reach and implement an agreed upon political solution. Finding creative means to facilitate a substantive discussion about the conflict itself and its root causes, especially inside Israel, will be critical towards the re-incorporation of international law as a first step in finding a just, comprehensive and durable solution.

In this issue the role of international law and politics is examined in a report about BADIL's first 'Expert Seminar' held in the Belgian city of Ghent in May 2003. Laurie King-Irani addresses the same issue in the context of ongoing criminal proceedings against Ariel Sharon and others for their role in the 1982 massacre of Palestinian refugees in Sabra and Shatila. Related contributions to this issue include a report on the May 2003 session of the UN Committee on Social, Economic, and Cultural

Rights, and an article by Issa Qaraq'a, member of the Fatah High Committee and Head of the Palestinian Prisoners' Society, on the call by "The People's Campaign for Peace and Democracy" to wave the rights of the Palestinian people.

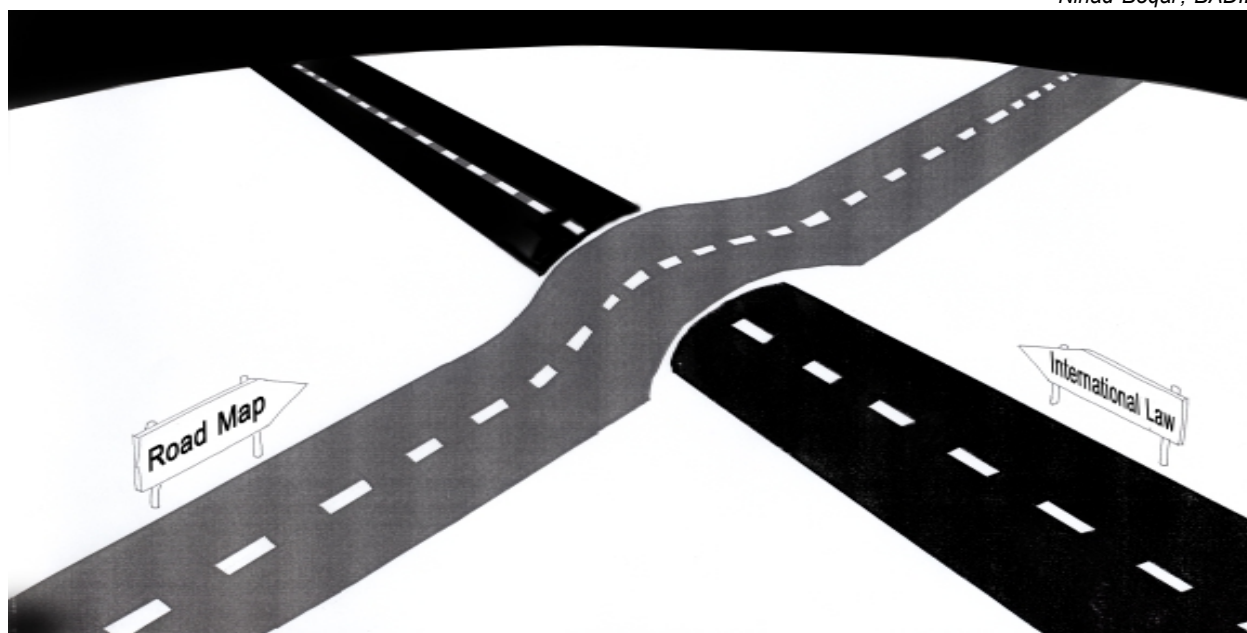
This issue also includes extensive coverage of the 2003 activities commemorating Palestinian Land Day, the 55<sup>th</sup> Anniversary of the *Nakba*, and the 36th Anniversary of the *Naksa*. Reports cover activities inside 1967 occupied Palestine as well as inside 1948 Palestine-Israel. Several reports focus on the increasing number of activities by Israeli Jews to commemorate the *Nakba* and raise awareness about Palestinian refugees and their right of return. As a contribution to this effort, BADIL has launched a Hebrew information packet on refugees. Contents are summarized in this issue.

International law provides benchmarks of good practice, and well-documented comparative experience. Recent experience in the former Yugoslavia, East Timor, Guatemala and elsewhere has shown that the legitimacy and sustainability of political processes are strengthened, not weakened, by including international humanitarian law and human rights standards.

*Human Rights Watch* (8 May 2003)

Protection issues covered include an article by Salman Abu Sitta on documentation of refugees and refugee lands in the Naqab. The article explores the historical material available for documentation of customary property rights of the Bedouin and an overview of the current status of land issues in the Naqab. The situation of Palestinian refugees in Iraq newly displaced as a result of the US-UK led war and occupation of the country is also addressed. The issue also includes updates on UNRWA assistance programs and ongoing emergency activities in the 1967 occupied territories. ■

*Nihad Boqai', BADIL*



UPDATE

## Campaign for the Defense of Palestinian Refugee Rights

2003

Year of *al-Nakba* Awareness and *al-Awda* Activism



Land Day Conference, Nazareth, March 2003

### Palestinian Land Day, 30 March 2003

The commemoration of Palestinian Land Day this year coincided with the ongoing Israeli reoccupation and military siege of Palestinian cities, villages, and refugee camps in the 1967 occupied Palestinian territories and the US-UK led war against Iraq. Land Day commemorates the day nearly three decades ago when Israeli security forces shot and killed 6 Palestinians during demonstrations and a general strike called by the Palestinian leadership inside 1948 Palestine/Israel to protest ongoing expropriation of Palestinian land to build new Jewish colonies and expand existing Jewish cities.

The so-called 'preemptive war' provided yet another example of the double standard that governs US-UK foreign policy in the region. Both the United States and the UK emphasized the importance of upholding UN Security Council resolutions and international law in reference to Iraq. UN resolutions affirming the right of Palestinian refugees and IDPs to return and repossess their properties meanwhile remain unimplemented and are excluded from the new international initiative to reach a comprehensive peace agreement between Israelis and Palestinians - the Road Map.

For the first time ever, the annual Land Day Conference organized in Nazareth on March 26 by the Arab Center for Alternative Planning (ACAP) and the National Forum of Arab Mayors was dedicated to the problem of internal displacement of Palestinians in Israel. The program included presentation of recent academic research (BADIL, Usama Halabi, Hilel Cohen, a.o.), a presentation of lessons learned from IDP return and restitution in Bosnia-Herzegovina (Paul Prettitore, OSCE), and commentary by Wakim Wakim, head of the Association for the Defense of the Rights of the Internally Displaced in Israel (ADRID). Additional experts spoke on a range

issues related to Israel's current campaign against the Bedouin and house demolition.

*For information on papers presented at the conference and follow-up see the ACAP website, [www.ac-ap.org](http://www.ac-ap.org).*

March 30 was a day of general strike called by the Arab Higher Monitoring Committee in Israel to commemorate Land Day and protest ongoing demolition of Palestinian homes and military attacks on Palestinians in the 1967 occupied Palestinian territories. Since Land Day in 2002 more than 150 Palestinian homes were demolished inside Israel. New expropriation targeted Palestinian land in areas adjacent to the new 'apartheid wall.' The Israeli government continued to destroy Bedouin homes and crops to prevent so-called 'encroachment' on 'state lands', the vast majority of which was expropriated from Palestinians. In the 1967 occupied Palestinian territories over 200 homes were demolished for punitive reasons. Israel demolished an average of 38 refugee shelters per month in the Gaza Strip in 2002 alone, while some 400 refugee shelters in Jenin refugee camp were destroyed in April 2002. As of Land Day, more than 15,000 dunums (15 sq. km) of Palestinian-owned land was targeted for expropriation to construct the new 'apartheid wall.'

Thousands, including several Jewish-Israeli initiatives (Ta'ayoush, Bat Shalom, a.o.) participated in the two central Land Day rallies held in the Palestinian towns of Sakhnin and Kufr Qassem. Also on March 30 the Mossawa Center and the Regional Council for the Unrecognized Negev Arab Villages (RCUV), in cooperation with the residents of several unrecognized villages in the Naqab/Negev, organized a day of olive tree planting. In North America, the Al-Awda - Palestine Right To Return Coalition organized Land Day commemorations in Atlanta, Harrisburg, New Jersey, San Francisco, Boston, and New Haven.

*Also see, Women, Land, and Land Day in this issue.*

## 55th Anniversary of the Massacre at Deir Yassin, Jerusalem

On 9 April, some 100 Israelis and Palestinians gathered at the main gate of Kfar Sha'ul Hospital, Jerusalem, the site of the infamous massacre committed by Zionist forces against the Palestinian villagers in 1948. The memorial commemorating the massacre and depopulation of Deir Yassin was organized by the Deir Yassin Remembered Committee, Zochrot and the Israeli Committee Against House Demolition. Participants, accompanied by an equal number of Israeli police and right-wing protestors, gave personal testimonies, read out the names of the victims and posted signs on the village site.

*Testimonies of the massacre and more information in Hebrew language can be found on the Zochrot website: [www.NakbaInHebrew.org](http://www.NakbaInHebrew.org)*

*Commemoration of the Deir Yassin Massacre, 9 April 2003 (Zochrot)*



8 June 2003

## Palestinian Community Debate and Workshops

**The Nusseibeh-Ayalon Plan: Totally Rejected by the Palestinian People** - A full-page paid advertisement of the "People's Campaign for Peace and Democracy" published in the Palestinian press on 5 June represented the most recent attempt by Dr. Sari Nusseibeh to pretend that there is support among the Palestinian people for the more than one-year old "agreement" between the Palestinian academic and the former head of Israeli intelligence, Ami Ayalon. The list of some 800 signatories included in the advertisement, however, is hardly worth the money paid. It shows clearly that Nusseibeh-Ayalon are unable to recruit support among influential sectors of Palestinian society.

Back in early May and coinciding with the popular preparations towards the 55<sup>th</sup> anniversary of the Palestinian *Nakba* of 1948, public anger was stirred by massive publicity for this Campaign - also called 'the Destination Map' - falsely suggesting in its headlines that a Palestinian compromise on the refugees' right of return would "guarantee a [Palestinian] state in the 1967 borders free of settlements and sovereignty over the capital Jerusalem" (paid advertisement, Nusseibeh-Ayalon, *al-Quds*, 7 May 2003). Insult was added to injury by the fact that Palestinian activists, especially non-



'People's Peace Campaign ... of Palestinian origin, realistic in thinking, revolutionary in its program, humane in its aims '... (al-Quds newspaper, 5 June 2003)

'People's Peace Campaign ... Dear Citizen, decide by yourself ... The Destination Map guarantees a state in the 1967 borders free of settlements, sovereignty over the capital Jerusalem, and the return of the refugees to the Palestinian state.' (Paid advertisement, Nusseibeh-Ayalon, al-Quds newspaper, 7 May 2003)



refugees, were individually targeted to sign on to this initiative aimed at dividing Palestinian public opinion on the right of return. All Palestinian political groups responded with a stream of alerts warning the public to "not fall prey to the tricky ambush of the Zionist intelligence" (Fatah-Hebron District, 4 May 2003) and published statements denouncing the initiative. An official launching-conference scheduled for 5 May in Ramallah was eventually canceled due to these protests.

(Samples of public statements issued by Fatah-Hebron District and the Union of Youth Activity Centers-Palestine Refugee Camps are included in the Document Section.)

**Community Workshops: Towards a Clear Vision on the Right of Return** - At the same time, it was understood that recognition of basic Palestinian rights, foremost the right of return to homes and properties lost in 1948, are threatened not only by the Nusseibeh-Ayalon initiative, but even more so by changes in the regional and international balance of forces resulting from the US-UK led war and occupation of Iraq and the new 'Road Map' to peace launched by the 'Quartet.' Therefore, Palestinian community organizations in the West Bank requested the support of BADIL for a series of community workshops and debates aimed at tackling the ideological and political challenges of the new era. Despite ongoing Israeli military incursions and curfews, 21 workshops were held between April - May 2003 in the refugee camps of Kalandia, al-Am'ari, Jelazoun, Tulkarem, Nur Shams, Camp. No. 1, Deheisheh, Arroub and Fawwar, in the towns of Nablus and Hebron, and in the Hebron area villages of Ithna and Doura. While BADIL provided publications and relevant background information, speakers and logistic arrangements were organized by a variety of community organizations, among them local Youth Activities Centers, Popular Service Committees and Committees for the Rehabilitation of the Disabled, Yafa Cultural Center/Balata camp, Hiwar Center/Deheisheh Camp, and the *Nakba* Memorial Committee-Hebron. Speakers included representatives of PLO and PNA institutions (PLO Refugee Department, PNC, PLC) and political groups, academics and activists.

Workshop topics included: the Palestinian refugee issue from a legal perspective; Jerusalem refugees; Christian refugees; the 'Road Map' and the refugee issue; the Palestinian state and the refugee question; the right of return between consensus and diversity; future perspectives of the Palestinian refugee issue; the Palestinian *Nakba* in the current political context; the Palestinian *Nakba* and the Nusseibeh-Ayalon initiative; the PLC and the right of return; the role of the PLO Refugee Department; the role of refugee initiatives in serving the community; challenges to refugee community organizations, and an organizing workshop for refugee community organizations in the Tulkarem area.

Debates and workshops resulted in a collective re-affirmation of the right of Palestinian refugees to return to their homes and properties and the demand for a durable solution of their plight in accordance with UN Resolution 194(III). Numerous specific demands and suggestions were raised as reflected in the final recommendations issued by the participants of the workshop, 'The Future of the Palestinian Refugee Issue in the Context of Current Political Developments' held at the PNC-Nablus on 26 May 2003:

- Activate PLO institutions and the special refugee committees of the PNC and PLC;
- Work for stronger coordination among all refugee institutions, organizations and initiatives in Palestine and in exile;
- Intensify efforts at public education and awareness-raising about refugee rights among the Palestinian refugee and non-refugee community;
- A call upon the Palestinian political leadership to reject all proposals for solutions that violate the refugees' right to return to their homes, villages and towns of origin that they were forced to leave in 1948, and to develop a transparent national strategy able to protect these rights in the current era.

## 15 May 2003: 55 Years of the Palestinian Nakba 1948 Highlights of the 2003 Nakba Memorial Events in Palestine

Unlike last year when all efforts at public organizing for the annual *Nakba* memorial in the 1967 occupied Palestinian territories were paralyzed by Israel's massive April-May military re-conquest, the 55<sup>th</sup> anniversary of the Palestinian *Nakba* in May 2003 was characterized by active grass-roots organizing in defiance of the ongoing Israeli military presence in Palestinian refugee camps, towns and villages. In the absence of official memorials in the occupied West Bank - a result of the destruction of the Palestinian Authority's infrastructure - the 2003 *Nakba* commemorations were almost entirely carried by Palestinian community organizations on both sides of the 'Green Line.' A growing number of Jewish-Israeli participants at Palestinian memorial events, and creative efforts by some Jewish-Israeli initiatives to find new and compassionate ways of remembering the Palestinian *Nakba* at the sidelines of Israel's independence celebrations, gave additional significance and depth to this year's *Nakba* commemorations and the demand for recognition and implementation of Palestinian refugees' right of return.

The 55<sup>th</sup> anniversary was launched on 1 May by a TV Campaign for the Commemoration of the Palestinian *Nakba*. This Campaign, an initiative of BADIL and the Palestinian TV network Ma'an, involved eight private Palestinian TV stations broadcasting in and beyond the West Bank. Aiming to raise awareness for the importance of collective history, memory and recognition of Palestinian rights, TV stations carried daily, between 1 - 15 May, video clips and feature films telling the story of Palestinian displacement, diverse Palestinian efforts at coping with life in exile and the struggle for return and self-determination.

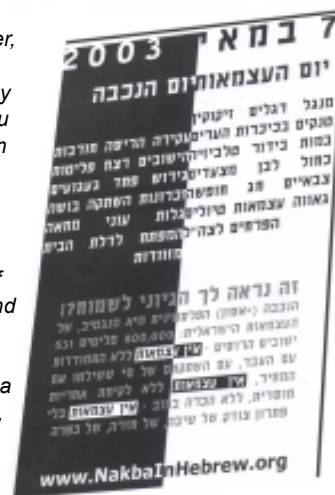
7 May 2003 marked the day of the Palestinian *Nakba* - and Israel's day of independence - according to the Hebrew calendar. Several thousand people, including internally displaced Palestinians, members of Palestinian political and social movements, parliamentarians and representatives of Palestinian national institutions in Israel and some 200 Jewish Israelis (Ta'ayoush, Zochrot, Bat Shalom, a.o.), participated in the 6<sup>th</sup> Annual Return March to the 1948 depopulated Palestinian village of Umm al-Zeinat located on Mount Carmel (Haifa). The march was organized by the Association for the Defense of the Rights of the Internally Displaced (ADRID). Participants posted signs marking historical village sites. Speakers at the final *Nakba* memorial rally in Umm al-Zeinat called for the right of Palestinian refugees and internally displaced to return to their homes and properties.

10 June 2003

*Nakba* memorials in the 1967 occupied Palestinian territories peaked on 15 May with popular marches and rallies held in Bethlehem, Ramallah, Hebron, Tulkarem, Nablus and in towns and camps of the Gaza Strip. In Ramallah, a *Nakba* memorial address by President Arafat was broadcast live to the rally gathered on Manara Square. A series of popular activities, many of them facilitated by BADIL, preceded the 15 May memorials and continued until the end of the month: public call in TV-debates (Afaq TV, Nablus), discussion and handicrafts with children (Askar camp, Hebron area villages and camps), 'Week of Jerusalem and Return' (al-Quds Open University, Tulkarem), cultural exhibitions and film screenings (Deheishe camp, Tulkarem), sports and an open-air festival for first-generation refugees (Deheishe camp).

The Israeli Zochrot (Remember) Association launched two initiatives aimed at encouraging Jewish-Israeli engagement with the Palestinian *Nakba*:

*Nakba Memorial Poster,*  
*Zochrot: 7 May 2003,*  
*Day of Independence - Day*  
*of the Nakba ... Do you*  
*think there is a reason*  
*to celebrate?*  
*There is no*  
*independence without*  
*coping with the past,*  
*without recognition of*  
*moral responsibility and*  
*debt ...*  
*There is no*  
*independence without a*  
*just solution of return,*  
*repatriation and*  
*atonement.*



poster by Yosefa Mekyton

A guided visit to the 1948 depopulated and destroyed village of Miska ('Triangle area') was organized jointly by the Committee of Miska Residents and Zochrot on 7 May. This visit continued the tradition, formed under Israel's military government in the 1950s - 1960s, of village visits by internally displaced Palestinians on Israel's independence day, the only day in the year Palestinians were permitted access to their land and homes. Tens of Israeli visitors re-posted signs that had been destroyed after an earlier visit, listened to the memories of the Miska residents and joined their demand to return to their lands.

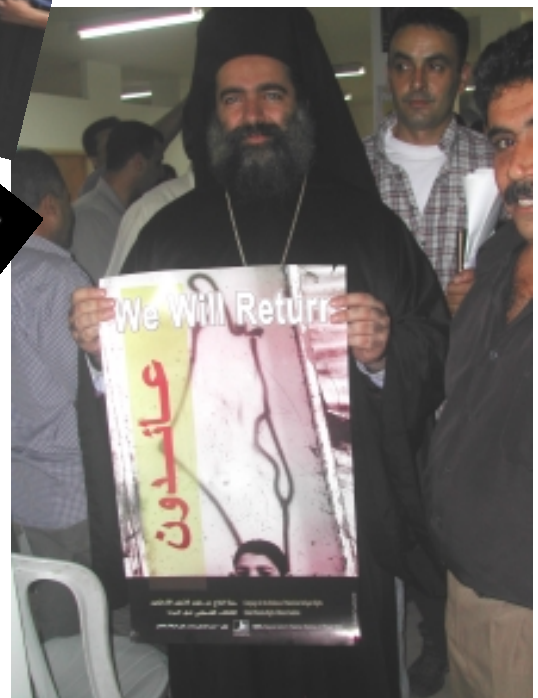
On 15 May, dozens of Israelis gathered in central Tel Aviv to witness the '*NOT-Declaration of the Establishment of the State of Israel*' by a 'new Ben Gurion' who changed his mind. The ceremony was followed by an evening discussion at the Rabita Club in Jaffa, entitled '1948: What was and what could have been.' The discussion was attended by some 100 Palestinian and Jewish people.



Nakba Memorial Week  
Deheishe camp, Bethlehem



انتهى النكبة العنصرية  
End the Palestinian Nakba



## Excerpts from the "NOT Declaration of the State of Israel"

*Ladies and Gentlemen,*

*First, I wish to apologize for having invited you to attend this ceremony here yesterday, 14 May 1948, in vain. I have decided yesterday in the last minute not to read out the document that was prepared for the event. In our view the said document could have been used as a basis for violent usurpation by the Jewish collective of the territory where over one million Palestinians have lived for over many hundreds and thousands of years.*

[...] In Palestine/Eretz Israel live the Palestinian Arab people. Here their spiritual, political and national identity was shaped. Here they created cultural values of national, Arab and universal significance.

[...] Jews live in numerous places around the world, where they developed rich and unique cultural traditions in relation to the human environment in which they were situated. I truly hope that also in Palestine we are able to develop a unique culture in continuing dialogue with the Arab Palestinian people living here.

[...] We proclaim that as of the termination of the British Mandate midnight tonight, the commencement of Saturday, the 6th Day of the Month of Iyar 5708, 15 May 1948, and until the elected regular institutions of government of the projected state are put in place, the "People's Council" will act as the primary representative of the Jewish public wishing to negotiate with the Palestinian Arabs living in the country, as well as with the relevant trans-national bodies, the establishment of a sovereign state in the framework of the above UN resolution [181 of 29 November 1947]...

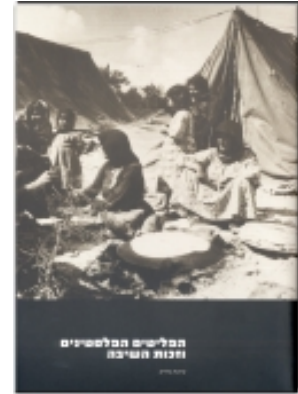
[...] The state that will be established will offer shelter to Jews and Palestinians who are in distress anywhere in the world, as well as to refugees and persecuted people everywhere; it will foster the development of the country for the benefit of all its inhabitants; it will be based on the principles of freedom, justice and peace; it will ensure complete equality of social and political rights to all its inhabitants, irrespective of nationality, religion, race or sex; it will guarantee freedom of religion, conscience, language, education and culture; it will safeguard the Holy Places of all religions; and it will be faithful to the principles of the Charter of the United Nations.

In witness our endorsement of this we affix our signatures to this Proclamation in the city of Tel Aviv, today, 13 Iyar 5763, 15 May 2003

Excerpts from the "NOT-Declaration", Zochrot, 15 May 2003.

## BADIL Hebrew Language Information Packet/The Right of Return

Released on the Occasion of the 55<sup>th</sup> Anniversary of the Palestinian *Nakba*



BADIL's decision to publish a Hebrew-language Information Packet reflects our firm belief that a rational and constructive Palestinian-Israeli debate about Palestinian refugees' right of return is a necessity and overdue. This, because the right of return as an individual right of millions of Palestinian refugees is here to stay. It can neither be relinquished by the Palestinian leadership nor cancelled by force. It can, however, be tackled based on international law and human rights conventions, which have guided solutions to complex refugee issues in many other parts of the world, and on the basis of UN resolutions applicable to the particular case of Palestine/Israel, especially UN Resolution 194.

BADIL's Information Packet addressed to the Jewish-Israeli public aims to clarify the universal standards and principles that have guided implementation of refugee return, housing and property restitution and compensation elsewhere in the world. We hold that abidance with these standards and principles by the Jewish-Israeli society will not only open the door for a solution of the protracted Palestinian refugee question, but also for the normalization of Jewish-Israeli existence in the region. Moreover, the BADIL Packet aims to show that Palestinian refugees are not 'irrational' people demanding to restore a lost past at the expense of a present denied, but people who - if engaged on the basis of their right of return - are ready and able to contribute to reconciliation and the building of a just and durable peace in Israel/Palestine.

While a rational and constructive Palestinian-Israeli dialogue about the right of return is necessary and overdue, it may not be possible with Israel's current political and ideological leadership, including major sectors of the Israeli academia and media. It is, however possible to engage sectors of Israel's critical and progressive civil society. Along this line, two Israeli organizations will cooperate with BADIL in dissemination and follow-up debate of the Hebrew Packet/The Right of Return: *Zochrot* (Remember) has agreed to introduce it to the Israeli-Jewish activist community and *Andalus*, a progressive Israeli publishing company will facilitate distribution among the Israeli media, parliamentarians and academia.

*For information and orders, refer to Resources in this issue.*

## **BADIL Launches Expert Forum for a Rights-Based Approach to the Palestinian Refugee Question (Report)**

The University of Ghent/Department of Third World Studies acted as the host of the first in a series of four seminars to be conducted in the framework of the 2003 - 2004 BADIL Expert Forum. The Ghent seminar on 'The Role of International Law and Human Rights in Peacemaking and Crafting Durable Solutions for Palestinian Refugees' (22-23 May 2003) was convened by BADIL in order to revisit a decade of failed efforts at Middle East peacemaking and the role, or non-role, of international law in crafting durable solutions for Palestinian refugees. Thirty-three legal experts, researchers and human rights activists working in academic institutions, UN agencies and the NGO community, as well as delegates of the PLO, the Canadian government and the European Union, examined Palestinian refugee rights under international law, comparative experience with peacemaking and the role of international law in recent diplomatic Middle East peace efforts.

Participants generally agreed that the right to return, restitution and compensation represent the core rights of Palestinian refugees under international law, that durable solutions must be based on the individual choice of the refugees and that international law was subverted by the Oslo process. Participants also expressed the view that the degree to which international law is incorporated into the peacemaking process, particularly in the Palestinian-Israeli case, is dependent on the political will

of the dominant actors. The lack of political will to craft durable solutions for Palestinian refugees in conformity with international law and UN Resolution 194 (III) was identified as the key problem.

The final session was dedicated to the question of how to create political will, i.e. how to put legal principles into action. The seminar concluded with a series of suggestions, which lay out a broad framework for concerted interdisciplinary action, including the need to:

- Strengthen the Palestinian message about Palestinian refugees' right of return by highlighting the discriminatory character of the state of Israel as a 'Jewish state';

- Intensify the Palestinian debate about the right of return among refugees and non-refugees and guarantee active involvement of the Palestinian exile in the debate about Palestinian political agenda and priorities;

- Engage in a systematic effort at public awareness-raising;

- Build stronger and broader alliances with the media, political leaders and anti-colonial movements;

- Engage Israeli society in a principled debate about the circumstances of the creation of the Palestinian refugee issue (*Nakba* 1948) and the requirements for a durable solution;

- Develop research and tools for the advancement of a rights-based solution for Palestinian refugees.

*For a more detailed presentation of the Ghent Seminar/BADIL Expert Forum, see the Summary of Proceedings reprinted in this issue of al-Majdal.*

### **Upcoming Events**

#### **BADIL Expert Forum on the Palestinian Refugee Question (2003 - 2004)**

"Housing and Property Restitution in Durable Solutions for Palestinian Refugees"

Hosted by the University of Geneva,  
Graduate Institute for Development Studies (IUED)  
**Geneva, 2-5 October 2003**

The Geneva Seminar is the second in a series of four seminars to be held in the framework of BADIL's Expert Forum on the Palestinian Refugee Question. This Expert Forum aims to convene legal experts, academic researchers, practitioners of refugee law, human rights activists and media workers, in order to examine obstacles to and strategies for rights-based solutions for Palestinian refugees.

The Geneva Seminar aims to challenge the almost complete absence of research, public debate and political efforts on behalf of Palestinian refugees' right to housing and property restitution. The exclusive focus on financial compensation for Palestinian refugees will be analyzed in the light of international law and comparative practice, and strategies for the promotion of the Palestinian restitution will be elaborated. The Geneva Seminar is hosted by the University of Geneva, Graduate Institute for Development Studies (IUED) and sponsored by the Swiss Federal Department for Foreign Affairs (PD IV), Stichting Vluchteling/Netherlands, ICCO/Netherlands and the APRODEV NGO Network.

Additional Seminars/BADIL Expert Forum are scheduled as following:

- Seminar-3: Cairo (spring 2004)

- Topic: International and Regional Mechanisms for Palestinian Refugee Protection (with focus on protection mechanisms in the Arab world/Arab host countries)

- Seminar-4: Palestine (summer 2004)

- Topic (tentative): Implementation of return, housing and property restitution and compensation for Palestinian refugees (stocktaking of resources/mechanisms available vs. technical and political obstacles)

- Closing Conference: Geneva (autumn 2004); topics to be determined.

## Report, Workshop on International Protection for Palestinian Refugees, Beirut, 2-3 June

From 2-3 June 2003 approximately 40 participants from Lebanon, Syria, and Palestine met in Beirut to discuss protection rights, needs and strategies for Palestinian refugees. Participants included activists, Palestinian, Lebanese and international NGOs, academics, legal experts, politicians, and journalists. The workshop, which was organized by the A'idun Group (Lebanon and Syria) and BADIL Resource Center (Palestine) was hosted by the Institute of Palestine Studies (Beirut).

During the first day of the workshop, presentations covered the meaning of refugee protection and the international protection regime (Lex Takkenberg), comparative analysis of legal status and protection needs of Palestinians in Lebanon and Syria (Jaber Suleiman), and international mechanisms available for day-to-day protection and durable solutions for Palestinian refugees (Terry Rempel). Debate and discussion focused on clarification of the concept of refugee protection as it applies to Palestinian refugees; similarities and differences in protection gaps - and underlying reasons for these gaps - in various host countries; and which international body or bodies - UNCCP, UNRWA, and/or UNHCR - should be responsible for protection of Palestinian refugees and the search for durable solutions (right of return, restitution, compensation based on refugee choice).

The second day focused on a critical review of past and current Palestinian and Arab efforts for improving refugee protection. Presentations covered efforts in Palestine (Terry Rempel) including the experience of NGO dialogue with relevant international bodies, tools for education and awareness-raising, the use of UN human rights treaty bodies, and more recent efforts to bring together relevant experts and international policy makers; and in Arab host states (Suheil Natour) including the role of the Arab League, and the specific experience and problems of refugee protection in Jordan, Egypt, Iraq and Libya. Specific attention was given to marginalized groups of Palestinian refugees (e.g., ex-Gazans living in Jordan), the serious but little known protection gap in Egypt, which is comparatively not less worse than that in Lebanon, and the more recent problem of Palestinian refugees in Iraq following the US-UK led war and occupation of the country.

During the final session, participants discussed strategies for advocacy and follow-up. Participants emphasized that:

➤➤ More systematic efforts are urgently needed to remedy severe gaps in international protection for Palestinian refugees. The lack of effective international protection is also a threat to the right of return.

➤➤ Efforts to identify and find the most appropriate remedy to the protection gap - that will also protect the basic rights of Palestinian refugees to durable solutions (right of return, restitution, and compensation) as affirmed in Resolution 194 and international law - have started late. Urgent efforts should be made to unify strategies, language, and work on this issue.

➤➤ Education, awareness-raising and popular mobilization on needs and strategies for international protection of Palestinian refugees should involve a wider spectrum of the refugee community. In addition, basic concepts and principles of refugee rights and refugee protection should be covered in the UNRWA curriculum.

➤➤ More systematic efforts are required to address specific problems in host countries. Palestinian NGOs and civil society should work in coordination with NGOs and civil society in host countries to identify protection gaps and lobby relevant government officials and political parties for effective protection of the day-to-day rights of Palestinian refugees (e.g., employment, education, freedom of movement, documentation papers, etc.), including full compliance with international conventions to which they are signatories, pending a durable solution consistent with Resolution 194.

➤➤ More systematic efforts are also required to raise awareness in the international community about the protection gaps facing Palestinian refugees as well as potential remedies. Donor countries should also be lobbied to fully fund UNRWA health, education and social services, with special attention to the problem in Lebanon.

➤➤ Special efforts are required to raise awareness about protection needs of especially vulnerable groups of Palestinian refugees, including Palestinian refugees without documents, and Palestinian refugees in Egypt and Iraq.

➤➤ The PLO should reactivate offices in host countries, especially in Lebanon, in order to effectively provide legal assistance to refugees, especially those without documents.

➤➤ Urgent efforts are required to resolve the question of which international mechanism/s is responsible for the protection of Palestinian refugees and the search for durable solutions. The role of the UNCCP, UNRWA and UNHCR, should each be taken into consideration, without preference to any one agency. The mandates of each should be expanded accordingly to ensure effective international protection for all Palestinian refugees. International protection of Palestinian refugees, moreover, should be guided by standards of international law and not subject to political interference.

➤➤ A second follow-up workshop on Palestinian refugee protection should be held in Lebanon in order to include a wider spectrum of NGOs and refugees.

Based on suggestions of the participants the entire proceedings of the two-day workshop will be published and disseminated in Arabic and English as soon as possible.

## June 2003: 36 Years of Israel's Occupation of the West Bank and Gaza Strip. Commemoration of the Depopulation and Destruction of Palestinian Villages in 1948 and 1967

In continuation of efforts at engaging the Jewish-Israeli public in new awareness and debate, Zochrot, Neve Shalom-Wahat al Salam and the Association of the Palestinian Villages of Yalu, Imwas and Beit Nuba marked the anniversary of Palestinian displacement and dispossession in 1967 (*al-Naksa*) with two events under the title,

"Let's Have the Courage to Get to Know and Share the Pain of our Collective Memory, in order to Set the Basis for Better Neighborly Relations, Cooperation, Reconciliation and Peace."

In the context of an Israeli activism festival held at Ofer forest on 6 June 2003, Zochrot organized a tour of some 70 Jews and Palestinians to the 1948 depopulated Palestinian village of Ayn Ghazal located on Mount Carmel south of Haifa. The tour was guided by Ali and Muhammad Hamude, refugees originating from Ayn Ghazal. Participants listened to stories about the village, its depopulation in 1948, and ongoing vandalism at the village site. Jews have adopted the tomb of Sheikh Shehade as a Jewish holy tomb and sprayed Hebrew graffiti over the grave marker. Participants, together with displaced Palestinians from the village cleaned up the graffiti and posted memorial signs at the village site. In the future, Zochrot plans to put a sign marking the grave of Sheikh Shehade.

A Commemoration of the 1967 Conquest and Destruction of Three Palestinian Villages in the Latrun Area - Imwas, Yalu and Beit Nuba - was held on Saturday, 7 June. Some 200 participants, which included around 10 representatives of the refugees of Beit Nuba, Yalu and Imwas, and internally displaced from the villages, first gathered in Neve Shalom-Wahat as-Salam to hear stories about the destruction of the villages in 1967, the deportation and the claim for the right of return of the refugees. The refugees told of their hardships, of their longing for their villages, and of their hope to return and rebuild their homes. All the speakers stressed their desire

to live in peace and in good relations with their neighbors. They spoke about the initiative as a source of hope that their desires will indeed be fulfilled.

Israeli writer Amos Keinan, who participated in the occupation of the villages as a soldier, and witnessed the deportation and destruction of the villages, read a report he wrote in 1967 about what he saw. The report was presented at the Israeli Knesset soon after.

*To read the account see, [www.palestineremembered.com/al-Ramla/Imwas/Story260.html](http://www.palestineremembered.com/al-Ramla/Imwas/Story260.html)*

Israeli photographer Yosef Hochman, an eyewitness of the 1967 destruction and depopulation of the three villages, showed his photos and told the stories behind the photos. Hochman was a member of Kibbutz Hare'l in 1967. A few days before the war sheep were stolen from the kibbutz and when he heard that the area of Latrun was occupied by the army he joined with some friends and they went to look for their herd in the village of Imwas.

*The pictures are archived at, [www.palestineremembered.com/al-Ramla/Imwas/index.html](http://www.palestineremembered.com/al-Ramla/Imwas/index.html).*

In the afternoon participants drove to the site of the destroyed villages. In the 1970s a park was built on the ruins of the villages called Ayalon Park, but better known as 'Canada Park' (the money for the park was donated by Canadian Jews). At the center of the village of Yalu, participants put up signs in Hebrew and in Arabic telling about the history of the villages.

*For more information see Zochrot: [www.NakbaInHebrew.org](http://www.NakbaInHebrew.org), [info@NakbaInHebrew.org](mailto:info@NakbaInHebrew.org)*



*Picture by Joseph Onan, an Israeli soldier living near 'Imwas. Source: [www.palestineremembered.com](http://www.palestineremembered.com)*

## Women, Land, and Land Day

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by Lily Traubmann and Jessica Weinberg

In March 2003, the Jewish and Palestinian Israeli women of "Bat Shalom" jointly observed Land Day for the second year in a row, in a series of political education events. The central symbols of Land Day - the expropriation of land and the erasure of identity - have led to clear changes in the balance between Jewish and Palestinian societies in Israel, and have been primarily connected to men. Bat Shalom's goal for Land Day has been to hear and make heard the voices of Palestinian women who have taken part in the struggle and the suffering.

Last year our Land Day activities centered around women's personal stories of the loss of their land and homes in 1948 and since. This year we focused specifically on how women experience the State of Israel's recent attempts to separate Palestinian Arabs from their land, through house destruction, the refusal to recognize many Arab villages all over the country, and the erecting of barriers to family unification through revocation and refusal of citizenship for Palestinian Arabs who are married to spouses from the Occupied Territories, and the children of those marriages. We fear that these processes are part of a larger strategy of covert transfer.

Though the Israeli public generally considers Land Day a Palestinian day, we believe that Land Day affects all of Israeli society. For some of us it is a day symbolizing struggle and destruction; for some of us it is an expression of responsibility and solidarity. Women's stories are not sufficiently heard, if at all. Through our Land Day activities we continue our ongoing work to promote the voices of women in political struggle.

We began our Land Day events this year at the end of February with an alternative tour of Wadi Ara. The tour included the lands of Al Roha, which the Committee of Al Roha has been struggling to reclaim since 1998 when the state declared the lands a closed military zone. We visited houses in 'Ara that are under threat of destruction. The owners talked to us about being caught between the impossibility of securing a permit to build in the face of the government's unwillingness to create a zoning plan for the area, and the need to expand to accommodate the growth of the village population. In the unrecognized village of Daar Al Hanuun, we talked to residents about the difficulties they face, for example in getting access to basic services such as water and electricity. We ended the tour with a comparative view of the Jewish town of Katzir, where residents have refused to allow a Palestinian Israeli family to live despite court orders allowing them to live there, and the Arab city of Umm Al Fahm. We saw

firsthand the difference a government zoning plan makes, as well as the results of the gap in budget allocations between Jewish and Arab towns: the streets of Katzir are large, orderly, well-illuminated and in good condition, while the streets of Umm Al Fahm are poorly-lit, badly in need of repair, and generally too narrow and haphazardly laid out for the two-directional traffic they carry.

The second event in our Land Day series was a political café in Umm Al Fahm. Dr. Yusef Jabarin of Ben Gurion University spoke with us about some of the ways in which the government discriminates against Palestinian citizens of Israel in matters of land and housing. He noted that despite the government's fear that Palestinian citizens are a demographic threat, there is no chance of the Palestinian population of Israel becoming larger than the Jewish population.

Our main Land Day event was a two day series of protests and seminars at the end of March. On the first day, in Umm Al Fahm, we began with a protest demonstration against the occupation, against racism and transfer/apartheid, and against the war on Iraq. Then Atty. Suhad Bishara from Adalah, the legal center for Arab minority rights in Israel gave a lecture called "The Many Faces of Transfer." Ms. Bishara gave us an overview of the policies of the government of Israel that can be interpreted as direct or covert transfer. She pointed out that unlike in 1948 and 1967, the State of Israel is prevented from causing massive population movements. Instead, the state manipulates the law to ensure ethnic purity on the ground. Since its establishment, she said, the State has seen itself as competing with its Arab residents in a demographic race and a race for land. Out of Zionist ideological motivations, the State sees itself as obligated to actively preserve the Jewish numerical majority inside the Green Line and to minoritize the Arab Palestinian population. Part of this activity is the lack of recognition of many Arab villages, destruction of houses, land expropriation, reduction of development areas, and judicial actions against Arab residents. Ms. Bishara outlined some of the details of these policies and practices, and she ended by saying that these policies constitute a malevolent use of the lack of power of Arab citizens, and the meaning of these steps is clear: Transfer.

After the lecture we broke into three groups for discussion workshops on the topics of house destruction and land expropriation; unrecognized villages; and barriers to family reunification and denial and revocation of citizenship. We heard the stories of women from unrecognized villages in the Galilee and the Negev. One



of the women from Daar Al Hanuun whom we had met on the political tour came to tell us more, and again for those who had not been on the tour, about the difficult conditions in which she and her family live. Despite the difficulties she said, "All I want is that my village be recognized. I am happy to live in it, and I have no need for a high standard of living." Women from unrecognized villages in the Negev described the lack of even basic services and the conditions of crowding that they live with. One woman told us that the services and employment even in the nearby recognized villages are so terrible that it's better to stay in the unrecognized villages. Of building houses to accommodate the expanding population, she said that once people are living in a house, the government usually does not destroy it, but the residents are charged large fines for illegal building, which they may have to pay for years. One woman outlined the chain of oppression these conditions create: her husband is preoccupied with earning money for the family and paying fines to the state, and when his boss shouts at him he takes all his anger and frustration out on her; then she takes out her frustration on her children.

We also heard the stories of women who are citizens of Israel and married to men from the Occupied Territories, about how they, their children, and/or their husbands have lost or been denied Israeli citizenship. Often they are unable to live with their husbands and children as a family unit, and they are forced to live without many of the rights and privileges afforded to Jewish citizens of the State. One woman arrived at the hospital to give birth and was given a form to sign in Hebrew, which she cannot read. She thought she had to sign the form in order to be allowed to give birth in the hospital, but later she found out that she had "willingly" given up her Israeli citizenship. Another woman filed her family re-unification request with the Ministry of the Interior, and seven years later the official response continues to be, "Rejected - case under investigation."

The next day we met in Nazareth to watch and discuss the film "Ghubar" (Dust, "Afar" in Hebrew) by Rima Issa, documenting her conversations with her mother about her displacement from the village of Bir'em, which was destroyed in 1948, and her mother's reluctance to visit the village but desire to be buried there. A number of the Palestinian women in the room were quite upset by the film, which took them back to a place of suffering and grief. "What's the point of showing us such a painful movie?" one woman said. Another woman said, "I was upset and hurt when I saw the film. We live with the suffering everyday. The war in Iraq returns us to the suffering we went through." Some of the Palestinian women told about their own experiences and experiences of family members being displaced from villages in 1948.

They connected the suffering of the displaced to the ongoing suffering in the West Bank and Gaza. "Don't let your children go to the army!" they said to the Jewish women. Two of the Jewish women drew parallels to their own and their parents' suffering in the Holocaust, and pointed out the need to forgive and to make a new life. One of these women described her joint activism with Palestinians from neighboring villages, addressing the issue of displacement from Bir'em and elsewhere. Some of the Jewish women rejected the comparison of the suffering of internally displaced Palestinians and the suffering of Jewish survivors of the Holocaust. One woman whose family survived the Holocaust said, "I also couldn't live with another people who were living on my land." Another Jewish woman noted that Jews are free to talk about their suffering in the Holocaust but Palestinians do not feel they have that same right. "There is no democratic treatment of the Arabs in Israel," she said. "They feel that it is forbidden to speak of the suffering and injustice." Some of the Palestinian women confirmed this point, and one woman gave the example that years ago she was fired from her teaching position for speaking about the Nakba.

Both Jewish and Palestinian women spoke about the need for people, especially young people, to learn about the history. One young Palestinian woman said that she herself is only now beginning to hear the stories of the displaced, even though she grew up in a town where many refugees lived. One Palestinian woman said, "It is important to know how to forgive, but we still have not gotten to the time to forgive. We need to sit together and discuss possible solutions even though we cannot turn the wheel backward." Another woman said, "It is important that we relate to the Jew who is ready to listen and understand," and she urged the women present to participate in Bat Shalom's work. One of the Jewish women said of the need to find a solution: "It is important to give compensation to displaced Arabs. No government of Israel has recognized this suffering and discrimination. There has to be a change." One of the facilitators, a Jewish woman, brought the discussion back to the original question of "What's the point of showing us, the Palestinian women, such a painful movie?" She said, "Only when we see the movie together with you, the Arab women, can we feel real empathy. Then together we can discuss things, think of ways to change the reality." We ended the day and this year's Land Day series standing together in a second protest vigil at Mary's Well Square on the main road of Nazareth.

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## The Sabra and Shatila Case in Belgium: A Guide for the Perplexed

by Laurie King Irani, Ph.D.

Photo: UNRWA

*Is the war crimes case against Ariel Sharon, Amos Yaron, and other Israelis and Lebanese still being pursued in Belgium's courts?<sup>(1)</sup> Or have dramatic legal decisions coupled with blunt political pressures rendered the case lodged by 23 survivors of the 1982 Sabra and Shatila massacre an interesting though failed attempt at obtaining international justice?*



If the Belgian Supreme Court found in favor of the plaintiffs' motion on 12 February 2003 to overturn a lower court's ruling halting the case, why did world news headlines proclaim the following day that "the case against Ariel Sharon has been thrown out by Belgium's highest court"?<sup>(2)</sup> If investigations have already been launched by Belgium's judiciary to determine how and why more than one thousand innocent Palestinian and Lebanese civilians met such gruesome deaths 21 years ago, why did Ariel Sharon's government return its ambassador to Belgium with an official statement expressing Israel's satisfaction that the Belgian authorities had finally halted a "cynical attempt" to politicize and exploit its courts? And why did Sharon and Yaron, a few weeks later, withdraw from all judicial proceedings after two years of legal battles?

Surprising court decisions in Brussels and the Hague taken in a particularly volatile international political context have ensured that those working on and following this landmark case have remained perched on the edge of their seats, experiencing one judicial cliff-hanger moment after another. As an exasperated observer noted, "If you aren't manic-depressive when you start following all the dramatic ups and downs of this case, you soon will be!" It is no surprise, then, that even seasoned journalists and well-informed policy analysts

are unsure of the precise status of this case, particularly since no small amount of media spin has been devoted to minimizing the case's significance, or even obfuscating what was really happening in the Belgian courts.

In addition, many observers are uncertain about how recent Belgian legislative developments might affect this case. The Belgian Parliament passed an interpretative law in April that updates Belgium's 1993 and 1999

Ultimately, the Sabra and Shatila case is not simply about a specific massacre in Beirut in September 1982, it is also about the future trajectory, significance, and use of a compelling and controversial principle to halt impunity for the most horrific crimes known to humankind: that of universal jurisdiction.

universal jurisdiction laws (also known as "Anti-Atrocity laws"), under which the Sabra and Shatila survivors filed their complaint. So far it looks unlikely that these changes will negatively impact the Sabra and Shatila case, though some of the new changes introduced

by this legislation (discussed below), present the risk that Belgian and foreign political pressures may be brought to bear on this and other cases.

The levels of analysis required to understand this rapidly evolving case are multiple - local, national, and international; legal, historical, and political - as well as dynamic and constantly interacting. Regardless of its final result, the repercussions of this case are already global. Ultimately, the Sabra and Shatila case is not simply about a specific massacre in Beirut in September 1982, it is also about the future trajectory, significance, and use of a compelling and controversial principle to

halt impunity for the most horrific crimes known to humankind: that of universal jurisdiction. The principle of universal jurisdiction, encoded in the Fourth Geneva Convention, international customary law, and the 1984 Convention on Torture, is grounded in an international legal consensus that some crimes are so heinous that they threaten the entire human race. The jurisdiction for prosecuting such violations must therefore be universal, not simply territorial. The Geneva Conventions specifically state that all signatories to the Convention have not only the right, but also the duty, to either prosecute individuals guilty of war crimes, crimes against humanity and genocide, or to make sure they are extradited to a jurisdiction where they will be properly tried.

Given the progressive evolution of international criminal law, which has gradually placed more emphasis on defending the rights of individual victims over the rights of states and state officials to enjoy immunity from prosecution for war crimes and crimes against humanity, a major collision of opposing ideas, interests, and visions was inevitable. Much of the background story of the Sabra and Shatila case is a narration of that collision.

### ***Good News...***

Reports announcing the death of this case have been greatly exaggerated and persistent, but to date, categorically false. For supporters of the growing global campaign against impunity for war crimes and crimes against humanity, the good news is that the case lodged by the Sabra and Shatila survivors is still very much alive, although it has been affected by rulings of the International Court of Justice, the wear and tear on Belgium's bi-lateral ties with the US and Israel, and a global political context that has sharpened debate about war crimes, impunity, and the limitations and requirements of international criminal prosecution. Although they knew they were initiating something out of the ordinary and quite dramatic when they lodged the case two years ago, neither the plaintiffs nor their lawyers could have imagined what sort of roller coaster ride awaited them. Nor could the Israelis and Lebanese accused have imagined, as the stench of death spread over a refugee camp in Beirut two decades ago, that some of the impoverished and stateless refugees wailing over the corpses of their loved ones on that hot September morning would eventually be empowered by a European legal system to demand answers from them in a Brussels courtroom.

Although Ariel Sharon enjoys temporary immunity from prosecution as sitting prime minister of the State of Israel for the atrocities committed in Sabra and Shatila, his former military aides and assistants are starting to feel the heat of international justice. Israeli leaders are very

worried that legal proceedings may reveal new and disturbing facts concerning the extent of the IDF's involvement in the massacre. Investigation has already begun concerning the roles of top Israeli Defense Forces (IDF) officials such as retired Generals Amos Yaron and Rafael (Rafal) Eitan during the massacre.

Lebanese Phalangist leaders are also the subjects of investigation, although some key suspects have met mysterious and gory ends since the case was first lodged. Elias Hobeika was killed on 23 January 2002 when it became clear to Sharon that he would testify in Belgium.

If nothing else, universal jurisdiction in Belgium's courts has enabled victims of grave human rights violations, such as the Sabra and Shatila survivors and the victims of Chad's Hussein Habre, to turn Thucydides' ancient adage about the calculus of war upside down: In war the strong may do as they will, and the weak may suffer as they must, but the latter will eventually see the former in court. The 12 February 2003 Supreme Court ruling enabled a number of other pending cases to move forward to the trial stage, most notably the case against Hussein Habre and cases filed by families of Belgians killed in Guatemala and Rwanda.

If nothing else, universal jurisdiction in Belgium's courts has enabled victims of grave human rights violations, such as the Sabra and Shatila survivors and the victims of Chad's Hussein Habre, to turn Thucydides' ancient adage about the calculus of war upside down: In war the strong may do as they will, and the weak may suffer as they must, but the latter will eventually see the former in court.

The next hearing in the Sabra and Shatila case is scheduled for 10 June 2003. Lawyers for the plaintiffs, in a 28 May Press Release announcing that Ariel Sharon and Amos Yaron had capitulated judicially by dismissing their legal counsel in Belgium, sounded a note of cautious optimism in describing their expectations for the case from this point forward:

A request for indefinite postponement of the case, lodged by Mr. Adrien Masset, counsel for Messrs. Ariel Sharon and Amos Yaron, was rejected by the Appeals Court's decision of 6 May 2003. On the very eve of the new hearing of 27 May, Mr. Masset has just announced that his clients will no longer participate in the pre-trial hearings before the Appeals Court in Brussels...

In effect, the lawyer for the Israeli accused has just announced their judicial capitulation. This latest move stands in sharp contrast to the adamant claims made by the defense of Sharon and Yaron in September 2002, when they accepted the legal debate with the conviction that their legal arguments would prevail.

Now that they have failed judicially, the accused are resorting to pressures on the purely political level.... We expect any newly formed Belgian government to remain outside legal proceedings despite the open and persistent pressure of the Israeli government to derail the course of justice. Since the case was lodged on 18 June 2001, we have respected and protected, on behalf of our clients, the judicial character of these proceedings. Justice was consecrated in the decision of the Court of Cassation (Belgium's Supreme Court) in the plaintiffs' favor in its historic decision on 12 February 2003, and the investigation should now proceed accordingly.<sup>(3)</sup>

### ***...and Bad News***

The bad news is that recent legislation in Belgium, inspired in large part by negative reactions to the Sabra and Shatila case, has weakened Belgium's admirably progressive universal jurisdiction law; it is now considerably less universal. To what extent it might affect the Sabra and Shatila case is still unclear. The new interpretative law passed on 5 April 2003 erects some new and formidable obstacles to the prosecution of *future* cases by requiring a nexus with Belgium. Either the victims or the alleged perpetrators must now have some connection to Belgium. Civil parties hoping to file cases as victims of crimes against humanity, genocide, or war crimes occurring outside Belgium can now only bring such cases if they have lived in Belgium for three years. The public prosecutor may have been given discretion, under the reinterpreted anti-atrocity legislation, to reject some cases (Belgian officials stress that will be the exception, not the rule, however.) If the accused lives in a democratic country with an impartial judiciary capable of rendering a just ruling to the victims in a fair trial, then Belgium will refer the criminal complaint back to that country, or to the International Criminal Court (ICC) if the crimes occurred after 1 July 2002 and in a country that has ratified the ICC.

Perhaps most troubling, human rights activists and legal analysts fear that the new legislation may unduly politicize cases by breaching the necessary separation between Belgium's judiciary and the executive branch of government; the latter can now weigh in on cases in which the accused is from the aforementioned class of "democratic" countries. We have already witnessed the first demonstration of the workings of this new procedure: Belgium refused to investigate or prosecute a war crimes case against US Army General Tommy Franks for war crimes committed in Iraq in March and April of this year on the grounds that the US, despite its refusal to sign the treaty establishing the International Criminal Court, could be trusted to follow up on these accusations in its own courts. Ironically, it was accusations about

the politicization of the Belgian courts by foreign interests under the original 1993 and 1999 anti-atrocity legislation and fears that Belgium was taking on the role of the "world's policeman," that led to the revisions encoded in the new interpretative law. It appears that politics - real or perceived - are inescapable when the pursuit of international justice for war crimes is at issue.

The newly interpreted anti-atrocity law may narrow the possibility of seeking justice for war crimes committed prior to the establishment of the International Criminal Court last July. Recent moves to limit cases of human rights violations brought under the Alien Torts Claims Act (ACTA) in the United States would also deny victims of war crimes yet another means of pursuing international justice through national courts.

### ***Two Steps Forward, One Step Back***

In addition to being the most high-profile case ever brought before the Belgian courts under the 1993 and 1999 anti-atrocity legislation, the Sabra and Shatila case has also been a bellwether case for international criminal prosecution, a thorn in the side of those interested in preserving smooth EU-Israeli, US-Israeli, and EU-US relations, and a rallying point for a wide variety of organizations, causes, and groups.

The Israeli government and its friends in some sectors of the media made sure to trumpet the end of the case on three separate occasions - following the 14 February 2002 ruling by the ICJ in the *Congo v. Belgium* case (concerning Belgium's issuance of an arrest warrant for Congolese Foreign Minister Yverodia Ndongbasi), which confirmed that sitting heads of state and foreign ministers enjoy temporary immunity from prosecution; following the 26 June 2002 Belgian Appeals Court decision that the Sabra and Shatila case could not proceed because the accused "were not found on Belgian soil"; and most recently after the Belgian Parliament's April 2003 reinterpretation and limitation of the 1993 and 1999 universal jurisdiction law in response to a practical need to update the legislation in light of the establishment of the ICC and add filters to prevent the filing of spurious cases. These alleged near-death experiences inspired premature and rather cheery eulogies from parties who were obviously unnerved by the ghosts of Sabra and Shatila, but the response outside Israel was far less supportive and credulous than the Sharon government had hoped.

### ***Shock and Awe at the Belgian High Court***

And then the Belgian Supreme Court (Cour de Cassation) brought much needed and welcome clarity to the case, deciding on 12 February to side with the Sabra and Shatila

plaintiffs on the clear strength and clarity of the 1993 and 1999 law. The massacre survivors had petitioned the Supreme Court to review and reverse the 26 June 2002 Appeals Court ruling that the accused had to be present on Belgian soil for an investigation and trial to go forward. And the Supreme Court did just that, awing human rights supporters while shocking the case's detractors, who, in a classic show of arrogance, had appeared in force in the courtroom expecting to celebrate a victory for Sharon, Yaron and others.

Scholars, activists, lawyers, and judges who have followed the trajectory of universal jurisdiction for the last decade, not to mention thousands of survivors of grave rights abuses throughout the world, saw the 12 February Supreme Court ruling as comparable in its implications and reverberations to Spain's bid to extradite Chilean dictator Gen. Augusto Pinochet from the UK in 1998. Another corner in the global campaign against impunity had been turned, another precedent set in the living, growing, and tumultuous body of laws, court decisions, and commentaries that constitute the dynamic field of international criminal prosecution.

### *One Final Cliff-Hanger Moment?*

One month after the plaintiffs and their lawyers were vindicated by the Supreme Court decision, however, reports of a new case, one even more controversial than that lodged against Ariel Sharon and others, were on all lips in Brussels. On 18 March, a case was brought with great publicity against present and former high-level US government officials. This time the accused included President George Herbert Walker Bush and Colin Powell, who were named as the responsible parties in a U.S. attack on the al-Amiriyya shelter in Baghdad during the 1991 Gulf War, where some 400 Iraqi civilians died. The mover and shaker behind this case was allegedly none other than former Iraqi Foreign Minister Tariq Aziz. What Iraqi plaintiff, after all, would have dared to bring a case without the Baghdad authorities' permission? Who would have known full well that the case would go nowhere, and be simply an embarrassment to the Belgian government? Every supporter of universal jurisdiction for war crimes and crimes against humanity, every defender of Belgium's right and duty to pursue such cases through its courts, was immediately put on the defensive by local and international media and angry US officials.

Bitter accusations about the vulgar politicization of judicial proceedings in Belgium quickly replaced the previous month's accolades from human rights organizations and Israeli cries and whispers about the anti-Semitic nature of the Belgians.<sup>(4)</sup> Some US spokespersons and media pundits noted with relief how

fortuitous it was that President George W. Bush had had the foresight to withdraw the US from the Rome Statute establishing the International Criminal Court. They wondered how Belgium could find itself poised to prosecute officials from a democratic country while leaving the odious Saddam Hussein untouched, despite his clear and horrific rap sheet of war crimes committed with malice aforethought, while the US had never meant to commit any crimes, and could hardly be held responsible for mere "collateral damage."

Ignored or silenced by these protestations were earlier attempts to bring Saddam Hussein and his key military and intelligence associates to justice in European courts by means of the principle of universal jurisdiction. Such judicial attempts to clip Saddam Hussein's wings focused mainly on crimes committed against Iraqi Kurds during Iraq's genocidal Anfal campaign of the late 1980s, a systematic, criminal assault on Iraqi citizens launched and executed while Saddam was a friend and ally of the United States, not to mention a recipient of considerable US financial and military aid. Human Rights Watch and the Indict Campaign, among others, had been at the forefront of a noble attempt, sadly aborted during the last years of the Clinton Administration, to remove Saddam Hussein from power through the precepts, principles, and moral force of international human rights law rather than through bombing campaigns and military invasions of dubious legality. And a case against Saddam was indeed ready to go forward in Belgium under the universal jurisdiction law. It had been lodged in the summer of 2001, just after the Sabra and Shatila case, and was bound to benefit from the 12 February Supreme Court ruling.

At any rate, the Iraqi case against Bush, Sr. and Colin Powell could not have come at a better time for the US and Israel, leading some to joke darkly that perhaps Tariq Aziz had been an Israeli or American agent all along. Within days, Belgian officials found themselves on the receiving end of harsh lectures and alarming threats from US diplomats and defense department emissaries who were then haunting the halls of European capitals in the run-up to America's mid-March attack on Iraq. US Secretary of State Colin Powell threatened to move NATO headquarters to Poland if "politicized" cases against the US and its close allies in Belgian courts were not halted forthwith.

Such arm-twisting helped to sway a number of Belgian MPs' views concerning the interpretative legislation that had already been initiated to update and fine-tune the 1993 and 1999 anti-atrocity laws. MPs from centrist parties who had earlier given verbal support for minor changes to the 1993 and 1999 universal jurisdiction law now changed their minds and voiced approval for more far-

reaching and radical changes to the law. Belgium's right-wing parties, largely representing Flemish regions, attempted to parlay the new international balance of forces to their own local and national advantage. They were suddenly empowered by US and Israeli pressures to curtail the 1993 and 1999 anti-atrocity legislation to a degree that few watching Belgian politics could have predicted just six months earlier.

### ***The Will and the Way: Politics are Inescapable***

Assessing the strengths and weaknesses of the principle of universal jurisdiction in practice, Amnesty International and Human Rights Watch have both stressed the crucial role of national governments' political will in aiding the successful prosecution of international crimes in national courts. Recent events in Belgium have illuminated some important socio-political dimensions of the rapidly transforming international criminal prosecution environment. Although the role of other states' governments and emissaries has already been discussed, such political pressures from above are not the whole story. Grassroots' pressures from below have been equally crucial in shaping Belgium's universal jurisdiction legislation, and played no small part in the events that led to last February's dramatic decision by Belgium's Supreme Court.

The 26 June 2002 ruling by the Belgian Appeals court that Sharon, Yaron and others could not be tried since they were not present in Belgium sparked an unprecedented joint initiative by local, transnational, and international human rights organizations as well as members of the Belgian Parliament and government to save and strengthen Belgium's 1993 and 1999 universal jurisdiction law. The subsequent emergence of a grassroots, multi-party legislative initiative did not bear all the fruits it seemed to promise, largely as a result of sudden and unexpected US pressures following the attempt to try former President George H.W. Bush. Yet this attempt served as a good illustration of the key ingredients required for the collaborative construction of the necessary political will to prosecute war crimes, from the ground up. Not only states, but also individuals and non-governmental organizations, have a stake in the future of international criminal prosecution. To be heard, they will have to organize, collaborate, initiate and delegate. In other words, they will have to take up a political role as advocates and educators, not only on the international level, but even more so at home. The goal of advocates of halting impunity for war crimes must not be to bring more and more cases to Belgium, but

rather, to increase and widen venues for the prosecution of war crimes, crimes against humanity and genocide, whether by incorporating the principle of universal jurisdiction formally into more states' national criminal code, or by urging more states to become signatories to the treaty establishing the ICC.

As a result of the many lessons learned and the various legal corners turned over the past two years, the International Campaign for Justice for the Victims of Sabra and Shatila ([www.indictsharon.net](http://www.indictsharon.net)) will be renamed "The International Campaign for Justice in the Middle East" ([www.icjme.net](http://www.icjme.net)), acknowledging the fact that an initial aim of the campaign, the indictment of Ariel Sharon, was effectively achieved when the public prosecutor brought the case forward on two separate occasions in the early and late Summer of 2001, and the competence of the Belgian courts to look into the hideous crime perpetrated

in September 1982 was confirmed by the 12 February Supreme Court ruling. Our campaign will continue to focus and report on the continuing Sabra and Shatila case in the Belgian courts, but will also collect, analyze, summarize and disseminate information about international

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criminal prosecution with a special focus on war crimes, crimes against humanity, and genocide in the Middle East. We aim to recognize and responsibly address the fact that politics cannot be separated entirely from the pursuit of international justice at the local, national, or international levels. We will aim to assist others in building the political will - from the ground up - to halt war crimes and other grave violations of human rights in the Middle East.

We will endeavor to foster and facilitate multi-national and broad-based alliances of individuals and groups - Arab, Iranian, Israeli, Turkish, European, Latin American, African, and North American - who share a common concern to halt the toxic effects of continuing impunity in this most volatile region of the contemporary world, and who are ready to engage in an honest, open, and self-critical dialogue about the legal, moral, political, cultural, and historical dimensions and prerequisites of the search for justice in the Middle East. Just as this campaign began, in part, when a group of friends and colleagues in the US, Lebanon, Belgium and Latin America, inspired by Spain's attempt to extradite Augusto Pinochet, decided to launch an email petition calling for a judicial inquiry into the Sabra and Shatila massacre, we hope that the courage of the Sabra and Shatila survivors and the unstinting efforts of their lawyers will inspire individuals and groups throughout the Middle East to bring other authors of atrocities to account.

To that end, the campaign's web site will continue to focus on the ongoing Sabra and Shatila case as an object lesson in the pursuit of international justice in national courts. The campaign will also urge activists, scholars, journalists and lawyers throughout the Middle East to strive to bring their own countries' policies and judiciaries into compliance with the Geneva Conventions, the Convention against Torture, and the Genocide Convention, while encouraging more countries in the region to ratify the treaty establishing the International Criminal Court. The legal struggle continues in Belgium's courts, while further efforts are just beginning on the ground in the Middle East.

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#### **April 2003: One Year Since 'Jenin' BADIL Launches Special Memorial Website:**

The first week of April marked the 1<sup>st</sup> anniversary of the destruction of large parts of Jenin refugee camp that left more than 400 families homeless, more than 50 dead and hundreds injured. The Israeli military attack on Jenin refugee camp, a protected civilian area under international law, took place in the context of Israel's massive assault and reoccupation of Palestinian cities, towns, villages, and refugee camps across the West Bank in April-May 2002.

Despite documentation of war crimes and crimes against humanity committed by Israeli military forces during this period no one has been held accountable. UN Security Council Resolution 1405 (19 April 2002), calling for an international and impartial investigation into events in Jenin refugee camp has never been implemented due to Israeli non-cooperation. Examples of war crimes include extensive destruction of property not justified by military necessity, the use of protected persons as human shields, and intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects.

On the first anniversary of the atrocities committed by Israeli military forces in Jenin refugee camp, numerous memorial events were organized in Palestine and abroad. BADIL launched a special memorial webpage dedicated to the memory of those Palestinians who lost their lives and homes in the camp. The webpage also serves to remind that those responsible for the commission of serious human rights violations and grave breaches of international humanitarian law should be held accountable.

[www.badil.org/Resources/War\\_Crimes/Jenin.htm](http://www.badil.org/Resources/War_Crimes/Jenin.htm)

#### **Postscript**

As this article was going to press, The Brussels Court of Appeals decided (10 June 2003) that none of the numerous arguments developed by the state of Israel, Ariel Sharon and Amos Yaon can invalidate or oppose a criminal investigation in Belgium into the Sabra and Shatila massacre. In response to political pressure exerted by the Israeli government, the Belgian Ministry of Justice announced on 13 June that it had started procedures to transfer the case to an Israeli court.

#### **Endnotes**

<sup>(1)</sup> The case lodged in Belgium on 18 June 2001 by 23 survivors of the 1982 Sabra and Shatila massacres charges Ariel Sharon, former Israeli defense minister and Israel's current prime minister, formal IDF Gen. Amos Yaron, as well as other Israelis and Lebanese with war crimes, crimes against humanity, and genocide related to the massacres committed between 16-18 September 1982 in two refugee camps in Beirut. The central argument of the case hinges upon Ariel Sharon's and other Israelis' Command Responsibility as General and high officers of the Israeli Defense Forces (IDF), which were in full control of Beirut when the massacres took place in the contiguous refugee camps of Sabra and Shatila. Although the killings of between 1000-2000 unarmed Lebanese and Palestinian civilians were carried out by Lebanese militia units directly or indirectly affiliated with the Israeli-allied Christian Lebanese Forces (the Phalange), the legal, military, and decision-making responsibility for the massacre ultimately rests with Ariel Sharon under established and recognized principles of International Law.

<sup>(2)</sup> The Court of Cassation (Belgium's Supreme Court) on 12 February 2003 upheld the competence of Belgian courts under the 1993 and 1999 universal jurisdiction laws to address serious violations of international humanitarian law, namely war crimes, crimes against humanity and genocide, regardless of where the plaintiff is or any other condition not specified by the law. It thus reversed the 26 June 2002 decision of the Court of Appeals and sent the case back for correction (by the Court of Appeals, but with a different composition than the earlier court), allowing the investigation and trial to go forward. The Court drew a clear distinction, however, between Ariel Sharon and the rest of the accused. For the former, being Prime Minister of Israel, enjoys procedural immunity from prosecution under international customary law so long as he holds that position. The others accused do not, however, enjoy immunity, and their trial can go forward.

<sup>(3)</sup> Although this author previously wrote in a January 2002 analysis ("Detonating Lebanon's War Files: The Beirut Car Bomb and the Belgian Court Case" at <http://www.merip.org/mero/mero013102.html>) that Israel was probably not behind Hobeika's assassination, or at least not the sole party responsible for his killing, new information received from a confidential source indicates that Israelis ordered Hobeika's killing.

<sup>(4)</sup> For the complete text of the 27 May 2003 Press Release by lawyers Luc Walley, Michael Verhaeghe, and Chibli Mallat, see the website of the International Campaign for Justice for the Victims of Sabra and Shatila at [www.indictsharon.net](http://www.indictsharon.net).



*BADIL 2003 - 2004 Expert Forum*

## **for the Promotion of a Rights-Based Approach to the Palestinian Refugee Question**

**"The Role of International Law and Human Rights in Peacemaking and Crafting Durable Solutions for Palestinian Refugees"**

*Between the 22-23 May 2003 BADIL held the first of four scheduled 'Expert Forums' on Palestinian refugees. The Expert Forums aim to enhance understanding of the merits of and support for a rights-based approach to durable solutions for Palestinian refugees among policymakers, politicians and the media and build a critical mass of experts in the field of refugee issues who are familiar with the Palestinian case and support a solution based on international law and UN Resolution 194.*

### **Summary of Proceedings**

The first Expert Forum, hosted by the University of Ghent/Department of Third World Studies, focused on "The Role of International Law and Human Rights in Peacemaking and Crafting Durable Solutions for Refugees." Participants included legal experts, academics, Palestinian and European NGOs, UN officials, PLO representatives, and European and Canadian policymakers.

The seminar was structured around a series of expert presentations followed by questions and debate. Primary issues raised at the outset of the seminar included: Are international law and human rights important for peacemaking and the durability of solutions? What principles are essential? What are lessons learned from other experiences of peace making and crafting durable solutions for refugees? How are these lessons applicable to the Israeli-Palestinian conflict and durable solutions for Palestinian refugees?

*This report is an abridged summary of the proceedings. A full summary of the proceedings as well as all working papers submitted to the seminar are available on the BADIL website: [www.badil.org/Campaign/Expert\\_Forum.html](http://www.badil.org/Campaign/Expert_Forum.html)*

#### **Session One: 'The Role of International Law and Human Rights, Overview and Lessons Learned from Comparative Experiences'**

Three papers, summarized below, were presented for discussion. Additional input was provided by three more background papers ('The Right to Housing and Property Restitution in Bosnia and Herzegovina,' a case study by Paul Prettitore, Organization for Security and Cooperation in Europe; a case study on 'Land Problems in the Context of Sustainable Repatriation in Afghanistan' by Reem Alsalem, UNHCR; and 'Justice Against Perpetrators, the Role of Prosecution in Peacemaking and Reconciliation' by Alejandra Vicente, International Criminal Tribunal for the Former Yugoslavia).

The first paper, 'UN General Assembly Resolution 194(III) and the Framework for Durable Solutions for 1948 Palestinian Refugees', presented by Terry Rempel (BADIL), examined the meaning and intent of UN General Assembly Resolution 194, the primary UN resolution relating to the majority of Palestinian refugees - i.e., refugees displaced in 1948. The paper was based on the



drafting history of the resolution, working papers prepared by the Secretariat of the UN Conciliation Commission for Palestine (UNCCP), and the reports and correspondence of the UN Mediator in Palestine. The presentation summarized the guiding principles (voluntariness, refugee choice); the specific rights-based solutions for Palestinian refugees (a primary durable solution, i.e. return, housing and property restitution and compensation for damages suffered; a secondary solution, i.e. the choice not to return, restitution and compensation); and the mechanism initially set up for the implementation of durable solutions - i.e., the UNCCP. The paper also addressed the specific meaning of the three core rights of Palestinian refugees - return, restitution, compensation.

Lynn Welchman (School of Oriental and African Studies) presented a paper entitled, 'Comparative Comment on the Role of International Law and Human Rights in Peacemaking and Crafting Durable Solutions for Refugees.'

Drawing on Christine Bell's *Peace Agreements and Human Rights* (2000), it was noted that resolution of the 'meta-conflict', or the 'conflict about what the conflict is about' is crucial for the durability of and the respect of individual human rights in peace agreements. As demonstrated by the cases considered by Bell (South Africa, Northern Ireland, Bosnia-Herzegovina, and Israel/Palestine), it is particularly the 'meta-bargaining' over 'the deal' on collective rights (to self-determination) that implicates the handling of individual rights arising from past human rights violations, which in the case of Israel-Palestine includes the right of return. The paper reviews the tension between peace and justice in peace agreements, and considers examples of both retributive justice (e.g. criminal prosecution) and restorative justice (e.g. amnesty, truth commissions). It concludes by suggesting that current Palestinian civil society efforts at developing the 'Palestinian legal narrative' with a specific focus on Palestinian refugees and the quest for inclusion and participation of Palestinian refugees are initiatives that may contribute to ending the almost complete divorce between the concept of peace and the concept of justice in Israeli-Palestinian peacemaking.

A plan for 'Temporary Protection as an Instrument for Implementing the Right of Return for Palestinian Refugees' was presented by Susan Akram (Boston University School of Law). Temporary protection is widely regarded as an international legal norm that is now obligatory on states in certain circumstances with regard to their treatment of a mass influx of refugees, or persons fleeing situations of armed conflict or civil strife. As a recognized status, it is the most recent of the three major possibilities for protection of refugees which a state can

offer-the other two being the now-universal obligation of *non-refoulement* ("non-return"), and the non-obligatory protection of political asylum. The paper argues that due to the unique situation (i.e. partial exclusion) of Palestinian refugees under the international protection regime, temporary protection linked with phased return and a system of incentives and disincentives to ensure participation of all stake holding states would create the necessary structures for implementation of rights-based durable solutions based on refugee choice and the right of return.

### **Session Two: 'Past and Current Diplomatic Approaches to Crafting Durable Solutions for Palestinian Refugees'**

Mike Molloy (Special Coordinator for the Middle East Peace Process, Department of Foreign Affairs and International Trade, Canada) reviewed the achievements and failures of the multilateral Refugee Working Group (RWG) over the past decade (1992-2003). The RWG met for the last time on the plenary level in 1995 and was frozen by decision of the Arab governments following the election of the Likud government in Israel. Complementary Canadian initiatives (via the International Development Research Centre) included a first stocktaking conference on research on the Palestinian refugee question (1998), a workshop on compensation (1999) and support of research into the parameters of a solution.

Addressing the topic of the seminar, Malloy noted that the multilateral process was designed to break away from debate driven by UN processes and bring together the resources, capabilities and political will of the international community on regional problems, including that of the refugees. This is why new fora and terminology were created, such as the RWG headed by a 'gavel holders' and 'shepherds,' etc. The RWG was never intended to supplant bilateral, Israeli-Palestinian negotiations. As a forum established to support the bilateral negotiations it could tackle only issues approved by all parties. Some agenda/projects had to be dropped due to the objection of one or more parties (e.g. assistance with the search for a comprehensive solution and the 10-year vision document on Palestinian refugees were nixed by Israel; the inclusion of refugee shelter rehabilitation in the RWG agenda was nixed by the PLO).

With the start of the second *Intifada*, even informal multilateral activity was frozen by the Amman Arab Summit (October 2000). Following extensive consultations, the Canadians shifted the focus from development support to support of the negotiators, who were defined as the primary clients. Project selection is determined according to whether a specific project

contributes to the signing, implementation or marketing of 'the deal.' Malloy concluded by noting that political will by the parties and the availability of resources are key to agreements and solutions. International law and principles are secondary factors. If there is political will, the appropriate legal framework can be found.

Christian Berger (European Commission, Political Advisor - Near East) noted that the official European position holds that a solution of the Palestinian refugee question must be 'fair, just, agreed upon and realistic.' The Commission is aware of the centrality of the refugee issue for a durable solution of the Israeli-Palestinian conflict. It was Berger's view that irrespective of the type of agreement that will be reached, Palestinian refugees must be involved in the process. He also drew attention to the fact that the international community 'cannot be more Palestinian than the Palestinians' also with regard to proposed solutions of the refugee question.

While it is true that political will is the key to solutions, it is important to keep in mind that it is usually the political will of the most dominant party that shapes agreements and the role given to principles and international law. Looking at the past, one can see that solutions were formed by political preferences, and not by universal principles. There were, for example, Greek-Turkish population transfers in the 1920s and the lack of support for refugee return after the beginning of the cold war; in contrast, there has been strong support for refugee return in the Balkans in the past decade. Berger also referred to the EU's role in trying to improve the socio-economic situation of refugees, particularly through its support to UNRWA (EU being the largest donor) and support to the PA.

Dr. As'ad Abdul Rahman (former Head of the PLO Refugee Department) presented a paper ('Revisiting Israeli-Palestinian Peace Negotiations on the Palestinian Refugee Problem 1991 - 2000') that summarized the important steps in Middle East peacemaking efforts since 1991: the Madrid Peace Conference, Oslo Accords, the Refugee Working Group, the Camp David II Summit and the Taba Negotiations. He clarified that according to his information, there never was an agreement on final status issues between Abu Mazen and Yossi Beilin. He also raised that the Palestinian position on the refugee issue has always included a realistic practical element. He held that the Palestinian leadership might have been willing to compromise on the refugee issue, if Israel had agreed to a full withdrawal from the 1967 occupied territories, plus providing at least relative justice for Palestinian refugees.

Two additional participants were asked to summarize the arguments of their papers. Glen Rangwala of Cambridge University ('Negotiating the Non-negotiable: the Right

of Return and the Evolving Role of Legal Standards') raised the problematics of negotiations over the right of return, which - as a basic human right - is outside the realm of the negotiable. He outlined four not mutually exclusive options for future negotiations: international law and human rights, including the right of return, could be taken as a starting point by the parties themselves or enforced by a third party - two options which he considers unlikely; separation between the territorial solution and the solution of the wider conflict, especially the refugee question - an option which has so far not won the support of any of the parties; and, a renewed joint effort by the Palestinian negotiators and the refugees themselves aimed at asserting that no one has the capacity to override the individual right of return, thus preserving the international standing of this right.

Karma Nabulsi of Nuffield College, Oxford ('Popular Sovereignty, Collective Rights, Participation and Crafting Durable Solutions for Palestinian Refugees') emphasized that when talking about 'the deal' in peace agreements, it is important to specify what kind of deal is implied. The Oslo framework was based on the assumption that postponement of the refugee issue would help build confidence and lower refugee expectations, while in fact the opposite has happened.

The narrow focus on the Palestinian Authority has, moreover, led to a total disconnection between the Palestinian people, its body politic, the negotiators and the international community. The findings of a 2000 Joint British Parliamentary Commission of Inquiry, for example, show that Palestinians everywhere agree that the PLO is their representative, but they want more effective representation. She also argued that popular sovereignty, democracy and representation are the components which can resolve the apparent dichotomy between law and politics. Palestinian refugees, if granted a mechanism for participation and representation can take the role of political actors and make law matter in future peace efforts.

### **Concluding Session: 'Law and Politics: How to Put Legal Principles into Action?'**

The final session of the seminar focused on suggestions for re-inserting international law back into the political process. The suggestions below were made by individual participants of the NGO community and academia during the final session. The suggestions are not necessarily endorsed by all participants, nor do they necessarily reflect the views of the officials who attended the meeting nor the views of the governments of institutions they represent. The suggestions, however, do reflect the general themes that arose during the two days of presentations, discussion and debate.

*The argument for the right of return must be made as part of a strong and broader message built on basic principles, such as the principle of non-discrimination. This message must include analysis of the nature of the state of Israel, its discriminatory laws and the para-statal organizations used for the dispossession and displacement of the Palestinian people. Moral arguments must be made, and they must include legal authority and details (facts, figures, etc.).*

*A rights-based and durable solution for Palestinian refugee rights must also be promoted by means of an interdisciplinary approach framed by a common message. Different types of work must be done in different arenas, political, academic, UN agencies, NGO, popular, etc. While each party must operate according to its specific mandate and style, activities should be complementary. People can act together but also work autonomously.*

*Palestinian refugees and broader Palestinian civil society must be engaged in debate and clarification of agenda. There is not enough Palestinian debate about the rights of and solutions for Palestinian refugees. The broader Palestinian civil society must be engaged, not only refugees themselves. The Palestinian campaign for the right of return must be strengthened. It has been able to show a way forward to many Palestinian community activists in exile and in Palestine, and it has succeeded to set up a global coalition and recruit international NGO partners who were initially very hesitant. Civil society structures of the Palestinian communities in exile must be re-built and strengthened, in order to facilitate participation and democratic decision making.*

*Intensify efforts at alliance-building. Recognition and implementation of the right of return of Palestinian refugees cannot be achieved by force of arms. It is vital therefore to find ways to engage the Israeli side. Members of the Israeli political establishment are representatives of institutionalized discrimination. Therefore, Israeli civil society must be the primary target for a rights-based engagement in the Palestinian refugee issue. Israeli civil society must be engaged in a principled debate on a human level about core issues, such as institutionalized discrimination, the Palestinian *Nakba* of 1948 and refugees' right of return (via workshops, media campaigns, etc.). Unless this succeeds, there is little chance for support of a rights-based approach by the dominant political actors (especially since the United States hold that the legal approach is 'not helpful' or 'practical').*

*Develop research and new tools for the advancement of rights-based solutions for Palestinian refugees. Advance efforts at developing a common Palestinian*



*Photos in this section by Tineke d'Haese, Oxfam Solidarity*

and Israeli approach to the Palestinian *Nakba* of 1948 (e.g. through public debate, visits to destroyed Palestinian villages, meetings between Israelis and Palestinian refugees, panel of historians along the lines of recent work of Karma Nabulsi/Ilan Pappé, Zochrot, a.o.) as a step in advance of more formal means for dealing with the past. Study the current debate about restorative and retributive justice, judicial and non-judicial forms of dealing with the aftermath of conflict.

*Education and lobbying based on international law principles and an inclusive message must be undertaken in all arenas. European NGOs emphasize the need for public education in order to close the gap between the knowledge among politicians and negotiators and the street. The media in Europe and elsewhere must be sensitized and educated about the refugee issue and the merits of an international-law based argument. European NGOs can support a rights-based approach by recruiting support among the donor community (NGOs and governments). UN fora can be used to develop a body of *lex foranda* (soft law) that will eventually be recognized in hard law.*

The seminar was sponsored by: the Swiss Federal Department of Foreign Affairs (PD IV), Stichting Vluchteling/Netherlands, ICCO/Netherlands, Oxfam Solidarity/Belgium, the Flemish Palestine Solidarity Committee and the APRODEV NGO Network.

# Refugee *Protection*

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## Report, Committee on Economic, Social and Cultural Rights, 30<sup>th</sup> Session, May 2003 Official Israeli Positions vs. the NGO Community

*On May 15-16, the UN Committee on Social, Economic and Cultural Rights reviewed Israel's second periodic report as well as parallel information submitted by numerous Palestinian, Israeli and international NGOs. The Committee's Concluding Observations issued on 23 May include analysis and recommendations highly critical of Israel's 'excessive emphasis' on the state as a 'Jewish state', which was identified as a major source of widespread discrimination against the state's non-Jewish population.*

These Concluding Observations, which re-affirm and strengthen the position that institutions and laws of the 'Jewish state' are not in line with Israel's obligations under the International Covenant on Economic, Social and Cultural Rights (ICESCR) are significant and timely, especially in light of the fact that the Israeli government has launched an unprecedented campaign for assurances by all parties of the Quartet that implementation of the Middle East 'Road Map' will include recognition of Israel as a 'Jewish State.'

The current Israeli quest for international legitimacy and support for the 'Jewish character of the state' is aimed at

avoiding future challenges to its 55-year old system of institutionalized discrimination against Palestinian citizens and implementation of the right of return of the Palestinian refugees. This ongoing systemic discrimination must be challenged based on the 2003 findings of the Committee on Economic, Social and Cultural Rights.

Throughout the 30<sup>th</sup> session in Geneva, which coincided with the 55<sup>th</sup> anniversary of the Palestinian Nakba (15 - 16 May), Israel's official delegation continued to uphold that Israel was not accountable for the situation of the economic, social and cultural rights of the Palestinian

**Excessive emphasis upon the State as a 'Jewish State' encourages discrimination. CESCR, May 2003.**

### **CESCR Concluding Observations, May 2003 (Excerpts)**

#### **Paragraph 16:**

"The Committee is deeply concerned about the continuing difference in treatment between Jews and non-Jews, in particular Arab and Bedouin communities, with regard to their enjoyment of economic, social and cultural rights in the State party's territory. The Committee reiterates its concern that the "excessive emphasis upon the state as a 'Jewish State' encourages discrimination and accords a second-class status to its non-Jewish citizens (1998 Concluding Observations, paragraph 10)."

#### **Paragraph 18:**

"The Committee is particularly concerned about the status of 'Jewish Nationality' which is a ground for exclusive preferential treatment for persons of Jewish nationality under the Israeli Law of Return, granting them automatic citizenship and financial government benefits, thus resulting in practice in discriminatory treatment against non-Jews, in particular Palestinian refugees. The Committee is also concerned about the practice of restrictive family reunification with regard to Palestinians, which has been adopted for reasons of national security. [...]"

#### **Paragraph 34:**

"The Committee reiterates its recommendation contained in paragraph 36 of its 1998 concluding observations that, in order to ensure equality of treatment and non-discrimination, the State party undertake a review of its re-entry and family reunification policies for Palestinians."

#### **Paragraph 43:**

"The Committee further urges the State party to recognize all existing Bedouin villages, their property rights and their right to basic services, in particular water, and to desist from the destruction and damaging of agricultural crops and fields, including in unrecognized villages. The Committee further encourages the State party to adopt an adequate compensation scheme that is open to redress for Bedouin who have agreed to resettle in 'townships' [...]"

The full text of the Concluding Observations by the UN Committee on Social, Economic and Cultural Rights, 30<sup>th</sup> session, 23 May 2003 is available at: [www.ohchr.org/tbruc/cescr/Israel.pdf](http://www.ohchr.org/tbruc/cescr/Israel.pdf)

population in the 1967 occupied Palestinian territories. Officials argued that 'the latter are located outside the area of Israeli sovereignty and jurisdiction.' Israel did, however, recognize its obligation to ensure the social, economic and cultural rights of the Jewish settlers living in the same territory.

The Israeli delegation moreover argued that international human rights law, including the ICESCR, was not applicable in the 1967 OPT where the situation of armed conflict is ruled by the standards set by international humanitarian law. In line with these arguments, Israel abstained from reporting about the situation of the Covenant-protected rights of the Palestinian people in the 1967 OPT also in its second periodic report to the Committee.

With regard to the area inside the 'Green Line,' Israel's delegation produced a contradictory stream of denials that portrayed only progress in the enjoyment of economic, social and cultural rights by all.

Twenty-four Palestinian, Israeli and international NGOs, among them BADIL, presented formal testimony to the Committee on related human rights conditions in Israel and the 1967 OPT. The broad base of evidence demonstrated a seamless continuity of deprivation that Israel has carried out over time and territory against Palestinian refugees, the million Palestinian Arab citizens and the more than three million Palestinian residents

under its occupation of the West Bank and Gaza Strip.

Palestinian, Israeli and international NGOs urged the Committee to strengthen its 1998 Concluding Observations, to identify Israel's ongoing human rights violations as 'breaches' of its ICESCR obligations, to renew its call upon the UN Economic and Social Council (ECOSOC), first raised in 2001, to step in and provide urgently need resources and mechanisms for rights enforcement, and to renew the request to Israel for additional information about the situation of economic, social and cultural rights in the 1967 OPT.

While the Committee reiterated its previous position that Israel is obliged to guarantee ICESCR protected rights in the 1967 occupied Palestinian territories (paragraph 31), its 2003 Concluding Observations are disappointing in numerous aspects. Committee members largely sufficed with re-iterating their 1998 Concluding Observations and issued a position, which apparently reflects their lowest-possible common denominator at the expense of human rights principles. The Committee, moreover, exempted Israel from all additional reporting requirements on its ICESCR obligations until 30 June 2008, when Israel's third periodic report will be due. A series of follow-up options and lobbying strategies were identified by the NGOs present in Geneva, in order to ensure that Israel's violations of the social, economic and cultural rights of the Palestinian people will remain challenged, irrespective of the disappointing results of the Committees 2003 session.



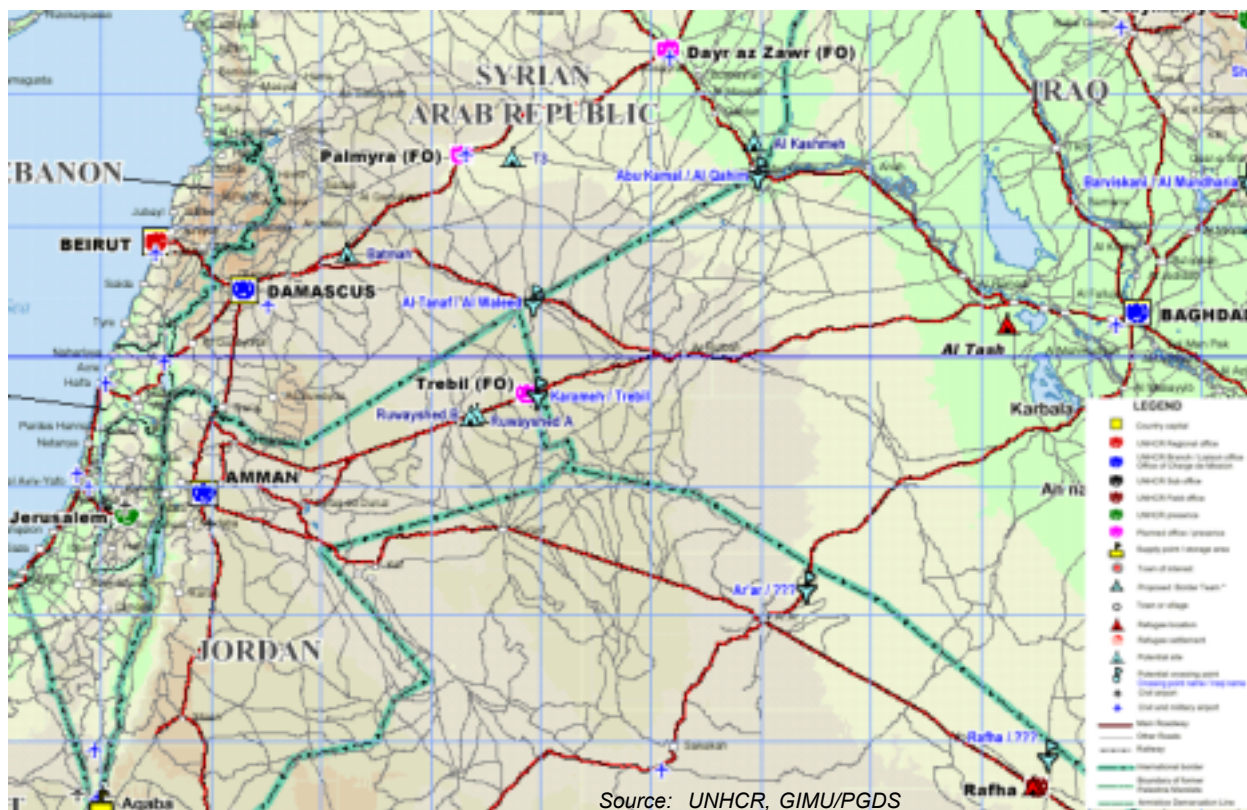
Jenin Refugee Camp 2003, (UNRWA)

### **BADIL Reports to the Committee on Economic, Social and Cultural Rights, 30<sup>th</sup> session, Geneva, May 2003**

Follow-up Information Regarding CESCR's 1998 and 2001 Concluding Observations on Israel's Serious Breaches of the ICESCR-Protected Rights of Palestinian Refugees and Internally Displaced Persons, prepared by Kara Krolkowski and Susan Akram, Boston University School of Law and BADIL Resource Center. This submission is published at: [www.badil.org/Publications/Legal\\_Papers/L\\_Papers.htm](http://www.badil.org/Publications/Legal_Papers/L_Papers.htm)

Shadow Report regarding the Report of Israeli concerning the International Covenant on Economic, Social and Cultural Rights, prepared by 12 Palestinian NGOs, among them BADIL, and coordinated by the Palestinian Independent Commission for Citizens' Rights (PICCR). The full report as well as a short summary are published on the PICCR website: [www.piccr.org](http://www.piccr.org)

## Displaced Once Again, Palestinian Refugees in Iraq Seek International Protection



*While the US-UK led war and occupation of Iraq in April 2003 did not lead to the mass displacement that some had predicted, one of the unforeseen consequences of the war was renewed displacement of Palestinian refugees living inside the country.*

It is estimated that between 60,000-90,000 Palestinian refugees currently reside in Iraq. Relatively little is known about the situation of Palestinian refugees in Iraq as compared to the larger number of refugees in frontline Arab host states such as Jordan, Lebanon and Syria. Approximately 5,000 Palestinian refugees, many from the Haifa area, found refuge in Iraq during the 1948 conflict and war in Palestine. Within the last decade thousands of other Palestinian refugees who were forced to leave Kuwait and other states in the Gulf during and as a result of the 1991 war found shelter in Iraq. The majority of Palestinian refugees in Iraq live in Baghdad, with smaller communities elsewhere in the country.

Large numbers of Palestinian refugees, many with Jordanian-born wives, first began showing up at al-Karama along the Iraq-Jordan border in the third week of April following the US-UK invasion and occupation of Iraq. In interviews with UNHCR, UNRWA and the PLO Refugee Affairs Department refugees reported that they had fled the city of Baghdad because they felt unsafe in the midst of the chaos and lawlessness that followed the toppling of the regime of Saddam Hussein. Many reported that they had been forced to leave the homes in which they had been living in under threat of violence. In many cases Iraqi landlords claimed that they were

reclaiming property they had been forced by the government to rent out to the refugees for minuscule sums, sometimes as little as US\$ 1 per month.

On 21 April the Jordanian government agreed to admit Palestinians with Jordanian spouses or other close family members of Jordanian nationality. UNHCR reported, however, that Jordanian authorities were apparently requiring mixed Palestinian/Jordanian families to sign waivers indicating that they would return to Iraq once the crisis was over. By the end of the month some 550 Palestinian refugees had taken up temporary refuge in the camp. Another 64 Palestinian refugees remained in no-man's land unable to enter Jordan. Jordanian authorities stated that the refugees lacked valid documents. A visit to the camp by the PLO Refugee Affairs Department on 28 April found refugees living in severe conditions, especially the elderly, women and children. By the 9 May it was reported that around 1,000 Palestinian refugees had been forced to leave their homes and were camping in poor conditions in disused buildings and various open areas around Baghdad.

Saji Salameh, head of the Refugee Affairs Department, called upon the international community, the UN, and other international agencies, including UNRWA, the

ICRC and human rights organizations to carry out their protection responsibilities vis-à-vis the refugees. The Department also called upon US-UK occupation forces in Iraq to work immediately to provide Palestinian refugees inside Iraq and along the borders with needed protection.

UNHCR is designated as the lead agency for refugees from Iraq, including Palestinian refugees. Prior to the US-UK led war, UNHCR assistance to Palestinian refugees in Iraq was mainly confined to legal assistance, including the provision of documents. Material assistance (including housing and food), medical care and education were provided for them by the state, under the provisions of Iraq's 1971 National Refugee Act. As of result of the war and subsequent displacement of Palestinian refugees from their homes, UNHCR has also taken on the task of providing basic assistance.

In mid-May, for example, UNHCR sent three truck loads of supplies for some 2,000 Palestinian refugees, including 400 tents, 1,200 mattresses, 2,000 blankets as well as stoves, jerry cans and soap, to be distributed by the Palestinian Red Crescent. The Red Crescent had earlier set up a makeshift camp adjacent to the Red Crescent hospital in Baghdad to provide temporary shelter for

other Palestinian refugees who had decided not to make the long trek to the Jordanian border.

While Iraq is outside the area of UNRWA operations, the Agency has been in close contact with UNHCR and has assisted the Refugee Agency with the new case load of Palestinian refugees from Iraq. Based on its specific expertise, for example, UNRWA dispatched several teams to the Jordan-Iraq border to interview

refugees newly arrived in Jordan, assess their health status, and advise UNHCR on issues relevant to protection and the search for longer-term solutions to their plight. UNRWA also provided some refugees with in kind and cash support and facilitated specialized medical treatment. In addition, a joint UNRWA-UNHCR information form was developed and used, in order to collect information relevant to both organizations. UNRWA

is not currently involved on the ground inside Iraq, however, it continues to follow closely the situation of newly displaced Palestinian refugees in consultation with UNHCR and the US government.

*Based on reports by UNHCR, the PLO Refugee Affairs Department, and email correspondence with UNRWA.*

Children all over the world learn how to use computers while the Palestinian child learns how to live in a tent.

Thamir Mohammad

Quoted in Huda Majeed Saleh, 'Evicted Palestinians live in Tents in Iraq,' *Jordan Times*, 5 May 2003



## Beer Sheba: The Forgotten Half of Palestine

by Salman Abu Sitta PhD

*The Beer Sheba (Bir Saba') district is the least understood and most misrepresented part of Palestine in terms of the number of refugees and related land and property claims. In 1948, the entire district was occupied by Zionist/Israeli forces. Today the district comprises 62 percent of the area of Israel. In the southern half where rainfall is less than 100 mm/year sustained agriculture is minimal. Apart from grazing, this southern half is rich in minerals and archeological sites dating back to the 4th century A.D. Ninety-five percent of the indigenous Arab population used to live in the fertile north where land cultivation was extensive. Today, the total population of Beer Sheba district is about 700,000.*



1945 aerial photo of Beer Sheba (courtesy of Salman Abu Sitta)

Documentation, which dates back to the time of Napoleon dispels the myth that the land was barren and had no owners. In 1799 Napoleon ventured into the Arab East with dreams of establishing an Eastern Empire. Napoleon's campaign marked the first European invasion of Arab lands since the Crusades of the 12<sup>th</sup> century. While the military campaign ended in failure, Napoleon's expedition left behind a rich scientific legacy. The encyclopedic *La Description de l'Egypte*, compiled by Napoleon's seventy-nine savants, for example, includes a detailed description of Arab clans all the way from Cairo to Damascus.

When Napoleon crossed the Sinai and advanced into Palestine in February 1801, he and his troops were amazed to encounter the wintry climate and the green landscape of Palestine. To his haggard soldiers, the landscape of Palestine was a welcome respite - in appearance much "like France." As they marched north through Palestine, Napoleon's savants and 'Syrian'<sup>(1)</sup> dragomen documented the size of the Arab clans in the south, a description of their homelands, and the number of their cavalry (*fursan* [*faris*, singular]). This is probably the first modern European record of the inhabitants of *Bilad Ghazzeh* (Beer Sheba and Gaza), Gaza city being the capital of the southern half of Palestine.

European travellers, priests, spies, soldiers and 'Syrian' and Egyptian historians also wrote extensively about life in Palestine during the 18<sup>th</sup> century. At the time, the area was under the control of the Ottoman Empire. The authority of the Ottoman-appointed governors (*mutassarref*), aided by a small armed garrison, however, was limited to the main cities of Palestine. Palestine was thus effectively ruled by its people. This was no more true than in the southern half of Palestine known as Beer Sheba. Arab clans largely governed their own territory, administered their own affairs, and even had their own 'armies.'

While the clans of Beer Sheba were never conscripted by the Ottoman regime, they would often acquiesce to the Sultan's wishes, if so persuaded, to put forward an independent 'regiment' during times of war. In 1914-1915, for example, Beer Sheba clans sent 1,500 cavalry to fight the British at the Suez Canal. The clans also fought against each other. Almost always the source of conflict revolved around territorial disputes. Within the tribal homeland, everyone knew the limits of his own property. As was customary in Palestine, boundaries were well marked by a wadi, road, distinctive trees or a cairn. Trespassing on another clan's property was regarded as a valid reason for a 'war' which could last for 20 years.



All suitable lands in *Bilad Ghazze* were cultivated, dependent on the rainfall in any given year. North and north west of the town of Beer Sheba, rainfall exceeded 300 mm/year and was suitable for growing winter wheat and maize and water melon in summer. Wheat crops extended from the city of Majdal in the north all the way to Wadi Ghazze in the south. Rev. W. M. Thompson, who visited the area in April 1856, described the horizon in his famous book, *The Land and the Book*, as "wheat, wheat, an ocean of wheat." According to the head of the British Geological Mission to Palestine in 1883, Edward Hull, "The extent of the ground here [near Beer Sheba] cultivated, as well as on the way to Gaza, is immense and the crops of wheat, barley and maize vastly exceed the requirements of the population." To Hull, the area looked like southern Italy. Just before the First World War, the Gaza port was crowded with vessels carrying wheat for export. Beer Sheba was truly the bread basket of Palestine.

In 1863, Victor Guerin, the French scholar who wrote volumes and drew maps of all Palestine, recorded the land ownership of each clan. It was not until the late 19<sup>th</sup> and early 20<sup>th</sup> centuries, however, when serious scholars began mapping and recording the territory in great detail. Some of these scholars were also professional spies, working on behalf of European states each vying for a piece of the Ottoman cake. Anxiously waiting for the demise of the 'sick man' of Europe they began staking out territorial claims to parts of the vast Ottoman Empire. Records of these scholars/spies include the voluminous work of the Austrian-Czech scholar Alois Musil. Musil, who was working unofficially on behalf of the Hapsburg Empire, documented the names, numbers and the lands for all clans, including those in Sinai, Syria and Hejaz. Not to be outdone, the Germans sent their spy, a.k.a. scholar, Baron Max von Oppenheim. Father Jaussen of

l'Ecole Biblique in Jerusalem worked on behalf of the French.

Ironically, it was the latecomers who eventually took control of Palestine. The British, who were stationed in Egypt since 1882, began surveying the 'Negev' (a word foreign to the Arabs, meaning south) rather late. Stewart Francis Newcombe, a British officer and surveyor who rose to prominence as the person responsible for the delineation of the boundary between Palestine, Syria and Lebanon, produced an excellent map of the 'Negev' in 1914. This map was the main source of information for General Allenby, Commander-in-Chief of the British Expeditionary Forces, during his campaign in Palestine in 1917.

The famous Lawrence of Arabia, made a fleeting visit to Beer Sheba in 1914 disguised as - what else - an archeologist, and wrote a report on it, under the title of *Wilderness of Zin*. In addition, the Palestine Exploration Fund began work in Palestine in 1871. The survey took 8 years to complete, 4 years in the field and 4 years of writing in London and included 26 maps and 10 volumes covering the area. However, it only covered one third of Beer Sheba district, ending at Wadi Ghazze in the south.

### *The Mandate Period*

Beer Sheba District was the largest district of Palestine during the period of the British Mandate, comprising 12,577,000 dunums (4 dunums = 1 acre) out of a total area of some 26.3 million dunums. According to British Mandate government records there were 77 official Arab clans (*ashiras*) grouped into 7 major tribes in the district, in addition to Beer Sheba town and about a dozen police stations. (See Table below)

CULTIVATED LAND AND RAINFALL 1948 AND POPULATION 1998										
TRIBE By order of rainfall	LAND AREAS UNDER DIFFERENT CONDITIONS (dunums)							Populati on in 1998	Of which Remaining in Israel	
	Tribal Land	Cultivate d Area	Crop:	Wheat	Wheat/Barley	Barley	Grazing			
			Rain: % Cultivated	Wet Rain Over 300mm/yr	Rainy Rain 300-300	Fair Rain 300- 100	Dry Rain 100- 100			
Marajneh	78,325	78,325	100.0%	78,325					45,666	
Jibzat	379,175	379,175	100.0%	319,175	60,000				56,825	
Tarabin	1,362,475	1,099,980	80.0%	60,825	900,825	870,825			201,866	1,366
Tayaha				48,325	507,500	64,175				
Zuhri					198,325	636,675	630,825			
<b>TOTAL TAYAHA</b>	<b>2,066,825</b>	<b>1,543,511</b>	<b>74.0%</b>	<b>48,325</b>	<b>705,825</b>	<b>700,980</b>	<b>630,825</b>		<b>207,666</b>	<b>109,166</b>
Azazma	4,700,000	427,900	7.5%			1,821,675	4,078,325		111,325	8,486
Saidyan	1,238,375						1,238,375		8,058	
Ehwal	1,732,825						1,732,825		7,400	
Beer Sheba Town and Police Stations									42,344	
<b>TOTAL</b>	<b>12,577,000</b>	<b>3,518,481</b>	<b>28.0%</b>	<b>536,850</b>	<b>1,866,650</b>	<b>3,293,350</b>	<b>7,698,350</b>		<b>681,340</b>	<b>118,637</b>

Land ownership in the Beer Sheba district was always held on the basis of tribal custom - i.e., customary law. On the basis of established tribal customs individual plots were sold, inherited, mortgaged, rented, divided or taxes paid. Official records identifying general land ownership of each clan were first prepared in relation to the establishment of a border between Egypt and Palestine known as 'the administrative line of separation.' Official correspondence between Captain R.R. Owen and W.E. Jennings Bramly, Sinai Inspector, between 1895-1906, which culminated in the Palestine-Egypt Agreement (1 October 1906), refer to the Arab clans and their tribal homelands. W.C. Churchill, British Colonial Secretary, and Herbert Samuel, the first High Commissioner of Palestine, also recognized the customary property rights of Arab clans in the Beer Sheba district.<sup>(2)</sup>

Article 45 of the Palestine Order in Council confirmed that legal jurisdiction in the Beer Sheba district would be governed by tribal custom<sup>(3)</sup>. The British Mandate government waived the Land Registry fees in Beer Sheba to facilitate acquisition of title deeds. Arab clans, however did not take up the offer as they saw no need for confirming land ownership on paper. They responded with what became a classic answer, "With this (pointing to their swords), we register."

In 1920, the pro-Jewish British Mandate government created a Land Settlement Commission in order to examine the status and ownership of land and facilitate the settlement of Jewish immigrants in Palestine. Members of the Commission included an Arab (Faidi Alami), a Jew (Haim Kalvarisky) and the Chairman was British (Albert Abramson). Kalvarisky was also the manager of the Palestine Jewish Colonization Association (PICA) established to acquire land for Jewish settlement. Kalvarisky therefore had a vested interest in minimizing the estimate of cultivated land in Palestine.

The Commission's Report for 1921<sup>(4)</sup>, essentially written by Kalvarisky, estimated the amount of cultivated land in the Beer Sheba district at 2,829,880 dunums. It also listed 1,059,000 dunums as grazing land. The estimate was based on agricultural production and tax receipts. Commission estimates, however, used double the commonly accepted yield/dunum value, hence the real area should have been double that calculated. Further, estimates of the total area under cultivation were based on the assumption that the land was cultivated one year and left fallow the following year. While this may have been acceptable for moderate rainfall, it is not so for light rainfall as in Beer Sheba where land may lie fallow for between 1 and 3 years. The maximum cultivated area in the Beer Sheba district at the time should therefore have been estimated at least double that listed in the Commission's report or about 5,500,000 dunums.

Other estimates for cultivated areas, based on rainfall figures, gave a minimum of 3,750,000 dunums and a maximum of 5,500,000 dunums plus about 750,000 dunums for grazing. Still, this is considerably less than the total area which receives rainfall from above 300 to 100 mm/year. Areas by maximum rainfall are by measurement: above 300 mm/year (1,042,250 dunums); 300-200 mm/year (2,080,000 dunums); and 100-200 mm/year (5,784,000 dunums). The total area of rainfall in the Beer Sheba district thus amounted to 8,900,000 dunums. Aerial surveys of the heavily populated northern half of the district taken by the British Royal Air Force between 1945 and 1946 show intensive and close cultivation. It is thus evident that the regularly cultivated land in the Beer Sheba district owned by Arab clans was not less than 5,500,000 dunums of which 3,750,000 dunums was cultivated annually. Total land utilized for cultivation at one time or another for grazing was around 8,900,000 dunums. So much for the Zionist myth that the land in southern Palestine was not cultivated.

Under the 1940 Land Transfer Regulations, the British mandate government divided Palestine into three zones in order to regulate the transfer of land between Arabs and Jews. The measure was put in place as an attempt to stem the growing number of landless Palestinian Arabs and their decline in living standards. The Beer Sheba district was included in 'Zone A' (comprising 16,860,000 dunums in total) where transfer of land save to a Palestinian was prohibited except in certain circumstances. Much of the land claimed by Jews in Beer Sheba was not legally registered. Total land registered in Jewish possession on the eve of the UN recommendation to partition Palestine in 1947 did not exceed 60,000 dunums or 0.5 percent of the Beer Sheba district.

The fortnightly reports of the District Commissioners to the High Commissioner in Jerusalem, forwarded to London, are replete with examples of Jewish fraud and illegal land dealings, particularly in the 1940s. The following excerpt from the Gaza Fortnightly Report No. 161, of 1-15 October 1945 from District Commissioner (Gaza) to Chief Secretary, Jerusalem, is one example:

Protests have been raised at attempted ploughing by Jews of land in Asluj to which they have an extremely doubtful title. I am hearing a case under the Land Dispute (Possession) Ordinance, pending a decision by the Land Court. There are large areas in Beer Sheba sub-district which the Jews claim to have bought before the date of the Land Transfer Regulations but which are not registered in the Land Registry.<sup>(5)</sup>

In order not to be exposed, the Jewish defendants submitted an undertaking to the District Commissioner not to plough the land in question otherwise the Court would have clearly ruled against them. The land was never registered in the British Mandate Land Registry, yet it appears as 'Jewish' in maps prepared by Yosef Weitz, Director of the Jewish National Fund Land Department/Development Division.

### ***Al-Nakba***

Jewish presence in the Beer Sheba district expanded exponentially as a result of Zionist/Israeli military occupation during the conflict and war of 1948. The district was nearly completely cleansed of its indigenous Arab population. From October to December 1948, Zionist/Israeli forces expelled almost all the population to the Gaza Strip, al-Khalil (Hebron), and Jordan. A smaller number ended up in the Sinai.

Many of the Jubarat tribe were expelled in early July 1948. The complete expulsion of the tribe, however, took place after Operation Yoav which started in mid-October 1948. A small group went westwards to Gaza and eastwards to Hebron in the West Bank, but the absolute majority ended up in Jordan especially after 1967. The Terabin remained in their homes until November/December 1948. They were expelled towards Gaza in the Israeli attack against Egypt that came close to al-Arish in the Sinai. Today the majority are refugees in Gaza with a considerable number in Jordan. About 1,000 remain in Israel.

The Tayaha tribe, including Dhullam, were split during the war. Almost half were expelled to Gaza and Jordan and half remained in Israel. They represent about 90 percent of those Palestinians who remained in Beer Sheba. Remnants of other tribes make up the remaining 10 percent. The al-Hanjera, whose land straddles the railway line, leaving half of their land in Gaza and the other half in Beer Sheba, were displaced to Gaza Strip after the main Israeli attack on Gaza at the end of December 1948. The al-Azazema had a mixed fortune. Their land extends from Palestine south into the Sinai (Egypt). They were expelled to the Sinai during the war. Some, however, returned, but were expelled again between 1950 and 1954. Ariel Sharon, then commander of the infamous unit 101, massacred many members of al-Azazema during land and air attacks. Some fled to Egypt but eventually returned.

Smaller tribes in the southern part of the district were expelled to Jordan through Wadi Arabeh. The files of the Arab Legion, then commanded by Glubb Pasha, are filled with reports of their expulsion and mistreatment by Israeli forces.

### ***After 1948***

Approximately 12 percent of the population of the Beer Sheba district remained within the territory that became the state of Israel in 1948. As elsewhere the remaining Palestinian Arab population was placed under military administration. Moreover, Israel transferred the remaining inhabitants of the district into a reserve (*siyag*) north and north-east of the town of Beer Sheba. The area of the *siyag* comprised a mere 900,000 dunums or about 7 percent of the total area of the district. The cultivated area of the reserve was about 360,000 dunums. Out of the total area of the district (12,577,000 dunums), Israel 'leases' 250,000 dunums annually to Palestinians for cultivation in addition to recognizing ownership rights to only 150,000 dunums. The 'lease' can be revoked any year, rendering cultivation a risky business. Granting the 'lease' is subject to coercion and frequently conditional on providing 'services' to the state.



*Unrecognized Bedouin village in the Naqab. Photo: Regional Council for Palestinian Bedouin Unrecognized Villages (RCUV)*

As in other areas that became part of the new Jewish state, the Israeli government adopted pseudo-legal measures to confiscate and acquire control of land in the Beer Sheba district. Israel maintains that Beer Sheba District is 'state land' on the basis it is "Mawat" land, according to the Ottoman Land Law of 1858. Article 103 of the 1858 Ottoman Land Law specifies Mawat land as (1) vacant; (2) grazing land not possessed by any body; (3) not assigned *ab antiquo* to the use of inhabitants; and, (4) land where no human voice can be heard from the edge of habitation, a distance estimated to be 1.5 miles (2.85 km). The latter is a distance travelled on a horse in about 40 minutes, such as in wilderness where no human being lives ordinarily.

Israeli authorities thus claimed that tribal lands in the district had no owners while the remaining inhabitants of the district were simply 'nomads.' This claim is entirely false. It is clearly evident that such description does not fit in any way the populated and cultivated areas mentioned above. Indeed any casual observation of the

district at the time would confirm this. There is a great deal of historical evidence, including British Mandate documents, maps and aerial surveys. Israel's claim that land held in customary ownership by Arab clans in the Beer Sheba district is Mewat, hence state land, cannot constitute a serious legal claim. If the term Mewat applies at all, it may apply to the southern tip of the district, but certainly not to where 95 percent of the population live.

Israel also reactivated the 1921 Mawat Land Ordinance which prohibits cultivation of Mewat land, unless the cultivator obtained legal acquisition by registering the land within two months of the promulgation of the law. Israeli officials claimed that since the Palestinian Arab cultivators/owners did not register their land in 1921, they are not entitled to ownership rights. Israel refused to consider Ottoman and British tax records (*tithe*) and other evidence, when available, as proof of ownership. The state, however, recognized Palestinian ownership rights if the same land was sold to Jews before 1948. Israel also initiated a settlement of title plan by which the state agreed to recognize Palestinian ownership if the owner agreed to forfeit 50 percent of his property to the state, 30 percent be compensated for a pittance and with the owner allowed to keep the remaining 20 percent. There were few takers.

Israel considers itself a *successor state* to the former Mandatory Palestine. If this assumption refers to its military conquest outside the limits of the partition plan, the inadmissibility of the acquisition of territory by force and the Fourth Geneva Convention safeguard the property of the subjugated people. International law stipulates that, upon extending a new sovereignty on a territory, people and land go together. Expelling people and confiscating their land is not permissible. On the other hand, if this assumption refers to the UN Partition Plan (Resolution 181), which was the basis of Israel's declaration of independence in 1948, this resolution clearly stipulates that Arabs in the Jewish state (and vice versa) shall enjoy full civil and political rights, including ownership, without discrimination on any grounds.

When military rule was lifted in 1966 and it was possible for the remaining Arab clans to leave the siyag, many owners submitted applications to repossess their land. In 1969, however, the state adopted a new law declaring "all Mewat land as state land." Moreover, the law stipulated that long-time possession does not confer ownership rights. Until 1979, 3,220 applications were filed - none was recognized. Still, confiscation continued. Land was expropriated under the 1953 Land Acquisition (Validation and Compensation) Law and the 1980 Negev Land Acquisition (Peace Treaty with Egypt) Law. It is curious that the Peace Treaty with Egypt should be the

### Update on Bedouin in the Naqab

Over the past three months the Israeli government has continued its assault on the indigenous Bedouin population of the Naqab. On 2 April the Israel Lands Administration once again sprayed toxic chemicals on crops planted by local Bedouin. Villages affected included Umm Batin, east of Omer; al-Mekiman, south of Laqiyya; A'ojan, west of Laqiyya; A'araqeeb, south of Rahat; and Sa'wa and Umm Heran, both east of Hura. A total of 2,000 dunums of crop land was destroyed.

At the same time, the government set aside new money in the "Emergency Economic Plan" to fund a plan to remove the remaining Bedouin living in unrecognized villages from their land and extinguish all outstanding land claims. Some 56 million NIS are budgeted for the implementation of a transfer program under a new amendment entitled "The Eviction of Trespassers." The amendment will give Israeli officials the power to classify anyone living on state lands as a trespasser without going through lengthy court procedures. Under the amendment it is not possible to argue that the villages have existed since before the creation of the state of Israel, or in other cases that villagers are living on land that were transferred to by the state following the confiscation of their original lands.

The program will create a military and judicial system to expedite the transfer of 70,000 Bedouins from 'unrecognized villages' into the 7 'legal' settlements. According to the Mossawa Center, some 12.5 million NIS will go to the Green Patrol (an environmental paramilitary group), 15.5 million NIS for the creation of a new police unit, and part of the remaining 27 million to the Israel Lands Administration to be used for the purchase of airplanes most likely to monitor Bedouin development and agriculture.

**Mossawa Center, 4 April 2003; and, Jonathon Cook, Bedouin in the Negev Face New 'Transfer', MERIP, 10 May 2003.**

excuse for land confiscation. Restoration of land to owners would be more in the spirit of peace.

Israel also established 7 planned townships (Rahat, Tel Sheva, Kessifa, Ar'ara, Shegib, Hura, Laqiya) in order to resettle or rather 'sedentarize' the Bedouin population and uproot them from their traditional life. The combined area of the townships is a mere 57,778 dunums. Approximately 50 percent (about 130,000) of the Palestinian population of the district lives in these so-called "recognized villages." The remaining 50 percent have refused to be uprooted and remain in 46 "unrecognized villages." These villages are not shown on Israel's maps. They are not connected to roads or provided electricity, water, health and education services. Because of distances, residents must travel miles for these services. They receive no subsidies or economic support.

In 1976, the the government established a so-called "Green Patrol" to prevent, in the government's words, "Arab encroachment on state land." Dubbed as the

"Black Patrol", the government funded patrol regularly demolishes Palestinian Bedouin homes and tents, ploughs over crops, uproots fruit and olive trees, sprays crops with toxic chemicals, demolishes dams, shoots dogs and flocks, and evicts people from their traditional lands. Despite overwhelming evidence of brutality, charges against Green Patrol are not upheld in court.

The purpose of all these measures is to confiscate land and gather the Palestinian population of the former Beer Sheba district in residential centres (reserves) to provide cheap labour for Jewish industries. Uprooting them from their land and depriving them from their livelihood (mostly agriculture) is meant to achieve this purpose.

Early in 2003 the Sharon government initiated a five-year plan, with a budget of US\$ 100 million to Judaize the Beer Sheba district. This includes a plan to establish 14 new Jewish colonies, increase the power of the Green Patrol, and erase the 46 unrecognized villages. The first colony

to be built is slated to be built on the land of Araqeeb village, the site of a massacre of Palestinians by Zionist/Israeli forces in 1948.

*Salman Abu Sitta is founder and president of the Palestine Land Society.*

## Endnotes

<sup>(1)</sup> The word 'Syrian' refers to *Bilad ash-Sham*, which included Palestine, Jordan, Lebanon and modern Syria.

<sup>(2)</sup> Public Records Office CO 733/2/21698/folio 77, 29 March 1921; McDonnell, *Law Reports of Palestine, 1920-1923*, p. 458.

<sup>(3)</sup> Kenneth W. Stein, *The Land Question in Palestine, 1917 - 1939*. The University of North Carolina Press, Chapel Hill and London, 1984, p. 60 and footnote 65.

<sup>(4)</sup> Public Records Office CO 733/18-174761, May 31, 1921.

<sup>(5)</sup> *Political Diaries of the Arab World - Palestine and Jordan, 1945-1946*, Vol. 8, Archive Editions, Reading, UK, 2001, p. 228.

## Attacks on Camps

Attacks on refugee camps and refugee-populated areas violate international humanitarian, human rights, and refugee law. In order to continue to bring attention to the ongoing Israeli attacks on Palestinian refugee camps in the 1967 occupied territories and the urgent need for international protection, BADIL has prepared this short summary of attacks on refugee camps and refugee populated areas. The table covers the period 1 April - 1 June 2003. The information is based on reported cases.

- 2 April, Tulkarem RC
- 4 April, Nuseirat RC and Jenin RC
- 6 April, Rafah RC (Block J), 1 wounded
- 10 April, Rafah RC (Block L), 1 injured
- 15 April, Balata RC
- 16 April, Rafah RC (Block O), 1 injured
- 17 April, Jenin RC. 1 child injured.
- 17 April, Rafah RC (Block O), 3 children injured
- 19 April, Rafah RC, 5 houses destroyed, 20 damaged.
- 5 killed, including 2 children and 30 wounded
- 28 April, Jenin RC. 1 child killed, 2 injured
- 1 May, Rafah RC (Block J). 1 injured
- 2 May, Qalandiya RC. 5 injured
- 4 May, Khan Younis RC. 3 injured.
- 4 May, Balata RC. 1 child killed, 7 injured
- 5 May, Khan Younis RC. 1 child injured, some houses damaged
- 5 May, Khan Younis RC. 3 houses damaged
- 6 May, Tulkarem RC. 2 injured
- 11 May, Khan Younis RC. 3 homes destroyed. 1 injured
- 12 May, Khan Younis RC. 26 homes destroyed, 30 damaged. 20 injured including 6 children
- 14 May, Jenin RC. 6 children and 1 woman injured. 1 child later died
- 17 May, Rafah RC (Block J). 6 houses demolished. 3 injured
- 18 May, Khan Younis RC. 1 killed
- 18 May, Rafah RC (Block J). 10 houses demolished, others damaged
- 21 May, Rafah RC (Block J). 10 houses demolished
- 29 May, Jenin RC. 1 killed
- 29 May, Rafah RC (Block J). 8 houses demolished



**Sources:** Palestine Human Rights Information Center (Gaza).

For more information see, 'Physical Protection for Refugee Populated Areas,' BADIL Occasional Bulletin No. 6 (May 2001) available on the BADIL website, [www.badil.org/Publications/Bulletins/Bulletins.htm](http://www.badil.org/Publications/Bulletins/Bulletins.htm)

# Refugee Voices

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## "The People's Campaign for Peace and Democracy", A Clear Call for Waiving the Rights

by Issa Qaraq'a

The initiative for the People's Campaign for Peace and Democracy, headed by Dr. Sari Nusseibeh and based on a joint document with the former head of Israeli intelligence Ami Ayalon came at a time when the Palestinian people is confronted with aggression of a scope probably unprecedented since 1967. This aggression, including the re-occupation of Palestinian land, summary killing, the erasure and destruction of the very fabric of Palestinian life and society and massive use of Israeli military force against the popular Palestinian *intifada* since 28 September 2000, is motivated by reasons not related in narrow terms to the conflict over the 1967 occupied territories. These territories had in principle been slated for withdrawal by the Israeli government in line with UN Resolution 242, the Oslo Accords and subsequent interim agreements, and thus there was nothing to prevent the establishment of a Palestinian state within the 1967 borders. The real motives for the Israeli aggression are different. They were expressed by the Israeli leadership and exposed by various Israeli analysts and media since the beginning of the *intifada* in terms of a war against the Palestinian mind and the Palestinian people's cultural and historical heritage, a war aimed at causing Palestinians to give up their dreams, rights, history and identity. In the words of Israel's general Sha'ul Mofaz it is a "battle over the consciousness" aiming to internalize the defeat in the Palestinian mind and memory, and to force Palestinians to relinquish their demand for the right of return to the villages and homes they were expelled from in the war of 1948 and join the victorious Israeli system in a reservation on its margins and under its rule.

Observers of Israeli political and cultural speech in the wake of the failed Camp David negotiations and explanations for the subsequent *al-Aqsa intifada* find an intensive propaganda - and media campaign launched by the Israeli establishment, in order to convince the Israeli people that the negotiations failed and the peace process ground to a halt, because the Palestinian leadership clung to the right of the refugees to return to their homes and the state of Israel was threatened by an existential danger. This story was nurtured also by the large, popular Palestinian demonstrations on the occasion of the 52<sup>nd</sup> anniversary of the *Nakba* on 15 May 2000

that revitalized the Palestinian dream and determination to return - seen as bringing about the destruction of the state of Israel or as pushing it into the sea. In this context, Israeli propaganda re-exposed Israeli citizens to the slogans of Zionist mythology, spread fear and concern about their lives and their future, and prepared them for the existential war with the Palestinian people - a war which was soon to be launched.

This pre-mediated propaganda also caused the strong shift among Israeli society towards the extreme political right as indicated in the public opinion polls conducted during the first two years of the *intifada*. It eventually brought about the massive victory of Sharon, thus - for the second time - lifting the greatest opponent and enemy of the rights of the Palestinian people into the highest echelons of the Israeli government, with control over the army, security and political affairs.

Thus, while the Palestinian narrative of the failure of the negotiations at Camp David and Taba did not majorly touch on the issue of the refugees' right of return, the Israeli narrative focused on this issue to a degree which suggests that Israel had concluded that the current peace process - even under the conditions as defined by Israel and the United States - was not enough to end the historical and human dreams of the Palestinian people. This is the basis for the current aggression against the Palestinian people - an aggression that targets their basic understandings, convictions and rights, a war on the international resolution for the right of return, a war against everybody who thinks that he owns land he was expelled from, or a home he was evicted from, a war on the Palestinian memory, which is to be forced to give up this right completely and to surrender to the current reality.

In line with the above, an Israeli victory in the war against the *intifada* requires a clear and official Palestinian decision that waives the refugees' right of return and declares the end of conflict. This is Sharon's current demand in the context of his reservations to the 'Road Map.' It is raised following the failure of two-and-a-half years of continuous and brutal aggression against the Palestinian people to bring about such decision by

military means. Sharon hasn't heard it from anybody, except from the leaders of the People's Campaign for Peace and Democracy.

Some have raised doubts about whether implementation of UN Resolution 194 is "realistic and practical" and can bring about the return of the Palestinian refugees to their homes. The Israeli government, however, rejects recognition even in principle of its moral and political responsibility for the misery incurred to the Palestinian people in the 1948 war. And here is where the People's Campaign for Peace and Democracy comes in. Its "Destination Map" is a declaration of free and voluntary compromise on this human, individual and collective right.

It would have been better for the members of the People's Campaign for Peace and Democracy to push for a change of Israel's cultural vision, its elements and goals, to encourage Israelis to liberate themselves from the ancient times and to move on towards new times, free of superstitions, arrogance and the illusion of force and total victory. It is not the role of the victims, who suffer from the occupation and lack of human independence and dignity, to deny their identity and suffering. It is upon the victims to fight the concepts of Zionism, which prevent understanding and recognition of the victims' rights. Understanding and recognition of the crimes

committed against the other and their reasons are basic requirements for a meeting on new grounds.

If we had accepted a settlement based on the existing balance of power and not on justice - even relative justice - we would have to ask ourselves why we had not accepted the UN partition plan of 1947, or even the 1917 Balfour Declaration. We did not reject partition and the Balfour Declaration, because we thought that these would not lead to a Palestinian state, but because we saw them as an aggression against the Arab people and the land of *Bilad al-Sham*, or southern Sham, known as Palestine. We are not in need of Caananite mythology in order to justify the defense of this land. Of course, if the conditions of the victorious are accepted as the basis of a settlement, the history of the owner of the defeated right is seen as a history of mistakes that require an apology.

Finally, however, the full hand of the strong might own the present, but the empty hand is the one that points towards the future.

*Issa Qaraq'a is a member of the Fatah High Committee and the Head of the Palestinian Prisoners' Society in the West Bank. He is also a member of the BADIL General Assembly. He is a refugee from the 1948 depopulated and destroyed village of Illar and living in the Aida refugee camp, Bethlehem. email: admin@ppsmo.org*

Archmandrite Dr.  
Atallah Hanna,  
spokesperson  
for the Greek Orthodox  
Patriarchate in a lecture  
on Palestinian  
Refugees' Right of  
Return. Deheishe  
Camp, Nakba Memorial  
Week, May 2003



# Refugee Assistance

## UNRWA Launches Micro-Finance and Micro-enterprise Programs in Syria - Implications for Durable Solutions



Photo: UNRWA

On 1 June 2003, UNRWA launched its Micro-Finance and Microenterprise Programme in Syria. The program will begin in Yarmouk camp, an unofficial camp in Syria and home to the largest concentration (112,500) of Palestinian refugees in Syria. Eligible Palestinian and Syrian recipients will receive millions of dollars in loans for thousands of small businesses.

The program targets Palestinian refugees and the urban poor in Syria, and is expected to issue 1,500 loans during its first year of operations, 3,320 in the second year, and by the third year outreach should achieve a sustainable level of 3,360 loans, valued at some US\$ 4 million annually. The loan aims to improve the quality of life of small business owners and microentrepreneurs, sustain jobs, decrease unemployment, reduce poverty, empower women and open up new income-generating opportunities.

The programme is being launched in Yarmouk since this is the largest gathering of Palestine refugees in Syria. A second office is expected to open within a year, and a network of branch offices will gradually be developed in Damascus and other urban regions of Syria. UNRWA's Microfinance and Microenterprise Programme won first prize in the AGFUND 1999 international competition for Pioneering Development Projects. The Programme is now the largest non-bank financial intermediary in the occupied Palestinian territories, where it has invested US\$ 67 million over the past decade in 57,000 small business and microenterprise loans.

*Source: UNRWA Press Release No. S/3/2003, 1 June 2003, UNRWA launches microfinance programme in the presence of Mrs. Asma al-Assad.*

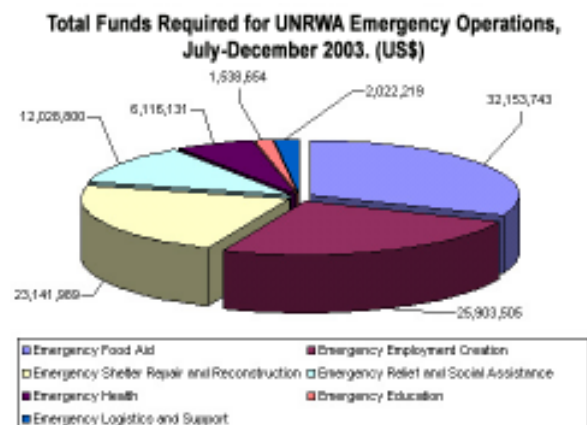


## UNRWA Emergency Appeal, July-December 2003 (Excerpts)

The UN Relief and Works Agency for Palestine Refugees (UNRWA) has issued a further appeal for emergency funds to cover activities in the 1967 occupied Palestinian territories for the second half of 2003. The appeal for US\$ 103 million covers emergency food aid, employment creation, shelter repair and reconstruction, relief and social assistance, health, education and related logistics and support costs.

### Highlights of the funding appeal include:

- 127,000 families will benefit from the Agency's emergency food aid operation in the Gaza Strip. In the West Bank the number of recipient families will increase from 90,000 to a total of 100,500 families.
- UNRWA has hired 36,491 people since the start of the Emergency Appeals in late 2000. These employees have been able to support over one quarter of a million direct and indirect dependents.
- A total of 834 shelters accommodating 1,110 refugee families were completely demolished or damaged beyond repair in the Gaza Strip between September 2000 and March 2003 as a consequence of Israeli military operations. The first three months of 2003 saw a dramatic increase in the scale of destruction in the Gaza Strip, with 350 families made homeless as a result of military activity. In the West Bank a total of 13,131 families have sustained varying degrees of damage to their shelters from heavy weaponry, including tanks, attack helicopters and armoured bulldozers used in assaults on densely populated neighbourhoods.



➤➤ UNRWA lost approximately 1,600 workdays for health staff in the first three months of 2003 due to curfews and closures imposed by the Israeli military. The demand for out-patient medical services has increased by 61 percent in Gaza and 36 percent in the West Bank since September

2000. There has also been a marked increase in the workload for medical staff reaching an average of 126 medical consultations per doctor per day in the Gaza Strip. At risk to their health, approximately 20 percent of patients are curtailing their stay in hospital, because they cannot afford the cost.

➤➤ UNRWA lost 31,874 teachers days from September 2002 through March 2003 in the West Bank and another 4,894 in the Gaza Strip due to severe restrictions on freedom of movement.

### Update on Reconstruction in Jenin Refugee Camp



By the end of February 2003, financial assistance had gone to a total of 3,134 families in Jenin camp to repair minor damages to their homes that resulted from the April 2002 invasion. Another 419 families who needed to make major repairs were also assisted. UNRWA removed 15,500 cubic meters of rubble from building debris caused by the invasion. A 14,203 square meter plot of land adjacent to the camp was identified and surveyed by UNRWA following donor agreement to purchase it. Approximately 11,000 square meters will be required for replacement housing which could not be rebuilt on ground zero.

**Source: UNRWA 20th Report of Emergency Activities in the OPT, January - March 2003**

# In Memoriam

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List of 96 Palestinian victims of Israeli violence between 1 April and 1 June 2003. In total 32 of those killed were 18 and under. Between 29 September 2000 and 1 June 2003, 1916 Palestinians, including 16 inside Israel, have been killed by Israeli security forces. 51 Palestinians were killed since the release of the Road Map by the Quartet on 30 April until 1 June 2003. **Source:** Jerusalem Media and Communication Center.

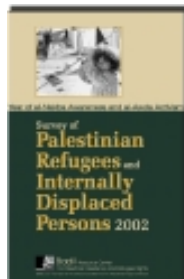
Between 29 September 2000 and 31 May 2003, 497 Israeli civilians were killed and 226 members of the Israeli security forces. 19 Israelis were killed since the release of the Road Map on 30 April until 31 May 2003. **Source:** Btselem.

Ibrahim Abdul Nour Abu Shallouf, 18, Rafah  
Mahmoud Nafeth Shaath, 24, Rafah  
Wisam Abdul Kareem Al-Shaer, 24, Rafah  
Walid Tawfiq Al-Liddawi, 19, Rafah  
Jihad Aziz Abdul Raouf Nazzal, 14 [CHECK]  
Amro Matar, 14, Ramallah  
Khaled Ali Sanaqrah, 33, Nablus  
Iyad Mohammed Eliyyan, 26, Jabalia camp  
Iyad Mohammed Eliyyan, 13, Al-Masdar  
Marwan Abu Jiyab, 24, Al-Masdar  
Bader Abdul Ra'oof Yaseen, 23, Salfeet  
Taleb Joum'a Badriyeh, 17, Gaza  
Sa'd al-'Arabeed, 33, Gaza  
Ashraf Halabi, 28, Gaza  
Omar Nassar, 20, Gaza  
Anas Kahloot, 12, Jabalya camp  
Imad al-Hindi, 19, Jabalya camp  
Hassan Masharqa, 35, Jabalya camp  
Ahmad Abu al-Qumsan, 16, Jabalya camp  
Ramez Talmas, 27, Jabalya camp  
Abdul Mun'im Najim, n/a, Beit Hanoun  
Mahmoud Saqer al-Zatmeh, 47, Rafah  
Fadi Alawneh, 22, Azmout  
Ghaseb al-Hawareen, 21, Thahriyeh  
Fadi Totah, 18, Gaza  
Muhammad Isma'eel, 11, Hebron  
Mazen Freitekh, 29, Nablus  
Muhamd Younis, 18, Jabalia camp  
Abdul Hameed Abu al-'Aish, 29, Rafah  
Hassan Manasrah, 35, Bani Na'eem  
Nahed al-Nawjha, 32, Gaza  
Mahmoud Abu Kosh, 15, Gaza  
Muhammad al-Hamayed, 20, Gaza  
Nazeeh Darwazeh, 44, Nablus  
Mohammed Ibrahim al-Hamaydeh, 15, Rafah  
Ibrahim al-Masri, 28, Rafah  
Hussein Mohammed Zannoun, 22, Rafah  
Sa'di Juma' Abu Hadayed, 25, Rafah  
Rahman Zuhdi Abed, 16, Azzoun  
Mohammed Ajjawi, 22, Jenin  
Faker Izzat Arar, 18, Qarawa Bani Zeid  
Osama Hamadallah Shareef, 24, Qarawa Bani Zeid  
Nidal Mohammed Odeh Salameh, 35, Khan Yunis  
Mahmoud Salah, 31, al-Khader  
Anan Jawareesh, 26, Bet Jala  
Abdullah Farajallah al-Omrani, 17, Gaza  
Mohammed Kamal Abu Zreineh, 30, Gaza  
Amir Ahmad Ayyad, 2, Gaza  
Baker Mheisen, 40, Gaza  
Ahmad Ramadan al-Tatar, 13, Gaza  
Mohammed al-Dahdoud, 13, Gaza  
Naser Omar Hallas, 36, Gaza  
Shihteh Mohammed al-Gharabli, 36, Gaza  
Rami Khader Saed, 27, Gaza  
Yousef Khaled Abu Hein, 30, Gaza  
Mahmoud Khaled Abu Hein, 33, Gaza  
Ayman Khaled Abu Hein, 29, Gaza  
Zahi Majdi Hijazi, 14, Dahyeit al-Kibrit  
Amin Fadel al-Manzalawi, 28, Askar Camp  
Ayman Izziddin Hoji, 20, Tulkarem  
Ahmad Isam Joudeh, 18, Jabalia  
Eliyyan al-Bashiti, 18, months Khan Yunis  
Mohammed Atta al-Shaer, 20, Khan Yunis  
Ikram Qdeih, 23, Khan Yunis  
Zaher al-Sholi, 40, Khan Yunis  
Abdul Kareem Afaneh, 22, Khan Yunis  
Ahmad Hamshari, 13, Khan Yunis  
Mohammed Abu Irmaneh, 19, Khan Yunis  
Saleem al-Arja, 20, Rafah  
Hasan Ahmad al-Astal, 18, Khan Yunis  
Zuhdi Yasin, 63, Tulkarem  
Dyia' Ghawadrah, 14, Tulkarem  
Taysir Shihab, 22, Nablus  
Mohammed Nabil Za'anin, 12, Bet Hanoun  
Zuheir Khaled Abu Jarad, 13, Bet Hanoun  
Nidal Karim, 22, Tufah  
Khalil Mohammed Qarmout, 33, Bet Lahia  
Abdul Qader Abu Kas, 16, Shujayyia  
Khaled Ibrahim al-Ziq, 22, Shujayyia  
Khaled Ziad Naser, 13, Bet Hanoun  
Ali Abu Namous, 26, Khan Yunis  
Mustafa Issa Nazzal, 65, Arranah  
Suleiman Mahmoud al-Nabaheen, 23, Der al-Balah  
Rasmiyye Hamdallah Shareef Arar, 38, Qarawa Bani Zeid  
Ramez Ayed Khalil Arar, 18, Qarawa Bani Zeid  
Hamdi Abed Rabbo Abu Khouza, 28, Bureij camp  
Ghassan Mohammed Abu Sharkh, 25, Jabaliya camp  
Nithar Fathi Arar, 11, Qarawa Bani Zeid  
Nasim Amin Mahmoud Awad, 16, Tulkarem  
Kamal Nawahdah, 14, Jenin  
Mahmoud Zayed al-Isawi, 32, Hebron  
Mohammed Shafer Tmeizi, 20, Hebron  
Saed Fahmawi, 22, Jenin  
Mohammed Jad al-Qidra, 25, Khan Yunis  
Mohammed Abed Abu Sbitan, 20, Der al-Balah  
Mahmoud Abu Amrah, 23, Rafah

# Resources on refugees

## New BADIL Publications

### **Survey of Palestinian Refugees and Internally**



**Displaced Palestinians 2002.** This new publication by BADIL provides basic historical and current information on Palestinian refugees and internally displaced persons. The Survey includes 6 chapters covering the historical circumstances of Palestinian displacement, population, legal status, socio-economic profile, international protection and assistance, and durable solutions. The Survey will be published annually by BADIL

Resource Center.

Available in English and Arabic. 200 pages. ISSN 1728-1679. For orders contact, [admin@badil.org](mailto:admin@badil.org) (US \$10/copy).

### **Experiencing the Right of Return, Palestinian Refugees**



#### **Visit Bosnia.**

This 20 video documents a study visit of a delegation of Palestinian refugees to Bosnia-Herzegovina in June 2002. The delegation, comprised of refugees from Palestine/Israel, Lebanon, Jordan, Syria, and Europe traveled to Bosnia in order to understand: What was done and how? What didn't work and why? What are the lessons for Palestinians and their struggle for the implementation of the right of return and real property restitution?

**Producer** (Copyright): BADIL Resource Center.

**Technical Production:** ISIS for Audio-Visual Production.

**Director:** Alexander Goekjian. Palestine, 2002.

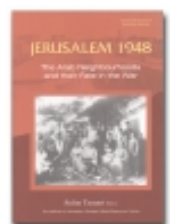
Available in English and Arabic. For orders contact, [admin@badil.org](mailto:admin@badil.org) (US \$10/copy).

### **Al-Quds 1948: al-ahya' al-'arabiyah wa-masiruha fi harb 1948.** Salim Tamari (ed.).



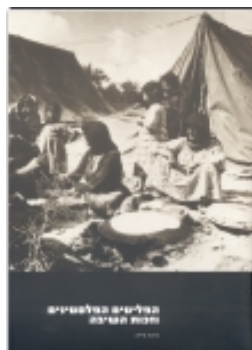
Published by BADIL Resource Center and the Institute for Palestine Studies, 2002. ISBN 9953-9001-9-1. To order contact [IPS-Beirut, ipsbrt@cyberia.net.lb](mailto:ipsbrt@cyberia.net.lb), or [www.palestine-studies.org](http://www.palestine-studies.org).

### **Jerusalem 1948, The Arab Neighborhoods of the City and their Fate During the War.** Salim Tamari (ed.) 2nd Revised and Expanded Edition. Published by BADIL Resource Center and the Institute for Jerusalem Studies, 2002. The revised and expanded version includes a new chapter on photographs of Jerusalem before the 1948 war. ISBN 0-88728-274-1.



For orders contact, [IPS-Beirut, ipsbrt@cyberia.net.lb](mailto:IPS-Beirut), or [www.palestine-studies.org](http://www.palestine-studies.org).

### **BADIL Hebrew Language Packet/The Right of Return.**



The Packet includes:

- Main Reader, 'Palestinian Refugees:' overview of the issue and demands of Palestinian refugees; law and principles guiding solutions to refugee problems; answers to frequently asked questions; obstacles to be tackled by a law- and rights-based solution (24 pages);

- Legal Brief, 'Palestinian Refugees and their Right of Return, an International Law Analysis' (16 pages);

- Executive Summary, 'The Right of Return:' Report of the Joint British Parliamentary Commission of Inquiry into Refugee Choice (28 pages; translation from the English original published in London, March 2002);

- Readers' feedback sheet and background information about BADIL Resource Center for Palestinian Residency and Refugee Rights.

*The BADIL Hebrew-language Information Packet is available for NIS 30. For postal orders inside Israel, please send a check to Andalus Publishers, PO Box 53036, Tel Aviv 61530 ([andalus@andalus.co.il](mailto:andalus@andalus.co.il)).*

### **BADIL Expert Forum, Ghent Seminar:**

[www.badil.org/Campaign/Expert\\_Forum.htm](http://www.badil.org/Campaign/Expert_Forum.htm)

Including:

- Summary of the Proceedings;
- Working Papers submitted to the Seminar:

➤ "UN General Assembly Resolution 194(III) and the Framework for Durable Solutions for 1948 Palestinian Refugees" (Terry Rempel, coordinator of BADIL Research and Information)

➤ "The Role of International Law and Human Rights in Peacemaking and Crafting Durable Solutions for Refugees: Comparative Comment" (Lynn Welchman, director, Center of Islamic and Middle Eastern Law, SOAS);

➤ "Temporary Protection for Palestinian Refugees: A Proposal (Susan Akram, Boston University School of Law, and Terry Rempel, BADIL Research and Information);

➤ "Justice Against Perpetrators, the Role of Prosecution in Peacemaking and Reconciliation" (Sandra Vicente, Assistant Legal Officer, International Tribunal for the Former Yugoslavia);

➤ "The Right to Housing and Property Restitution in Bosnia-Herzegovina: A Case Study" (Paul Prettitore, Legal Advisor, OSCE, Bosnia-Herzegovina);

➤ "Case Study, Afghanistan: Land Problems in the Context of Sustainable Repatriation in the Eastern Region" (Reem Alsalem, UNHCR, Afghanistan);

➤ "Revisiting Isra eli-Palestinian Peace Negotiations on the Palestinian Refugee Problem 1991 - 2000" (As'ad Abdelrahman, Former Head of the PLO Refugee Department);

➤ "Popular Sovereignty, Collective Rights, Participation and Crafting Durable Solutions for Palestinian Refugees" (Karma Nabulsi, Nuffield College, University of Oxford);

➤ "Negotiating the Non-negotiable: The Right of Return and the Evolving Role of Legal Standards" (Glen Rangwala, lecturer in Politics, Cambridge University);

➤ "Fact Sheet: Stichting Vluchteling/Netherlands Refugee Foundation" (Jan Habraken, Program Officer, Stichting Vluchteling).

## Resources from other Publishers

### **Access Denied: Palestinian Land Rights in Israel**

Hussein Abu Hussein and Fiona McKay



The struggle for land has been a key element of the conflict between Jews and Arabs in Palestine for the past hundred years. While international attention focuses on Israeli settlements in the West Bank and Gaza Strip, legally outside Israel's boundaries, there is another dimension to the land question altogether. Nearly one-fifth of Israel's population is Palestinian. This book examines how Israeli land policy today inhibits access to land for its own Arab citizens even within the 1948 boundaries of the state of Israel.

Its authors - one a Palestinian lawyer and Israeli citizen, the other a British international human rights lawyer who worked in Israel for many years - examine the system of land ownership, the acquisition and administration of public land, and the control of land use through planning and housing regulations. The book reveals that the law is used to discriminate against non-Jewish citizens and restrict Israeli Palestinians' access to land. The authors demonstrate that Israeli land policies breach international human rights standards and that these standards could be used as a basis to challenge discriminatory policies.

The book may be ordered from Zed Books, [www.zedbooks.demon.co.uk](http://www.zedbooks.demon.co.uk)

Hb ISBN 1 84277 122 1 £ 49.95 \$75.00

Pb ISBN 1 84277 123 X £ 15.95 \$25.00

### **Records of Dispossession, Palestinian Refugee Property and the Arab-Israeli Conflict**

Michael R. Fischbach



Afforded unprecedented access to the UN Conciliation Commission for Palestine's untouched archives, Michael Fischbach has written a path-breaking study of one of the largest and most vexing refugee movements of the twentieth century. From late 1947 through 1948, more than 726,000 Palestinians - about one-half the entire population - left their homes and villages. While some middle class refugees fled with liquid capital, the majority consisted of small-

scale farmers whose worldly fortunes were the land, livestock, and crops they had left behind. For the first time this book tells the full story of how much property was left behind, what it was worth and how it was used by the fledgling state of Israel. It then traces the subsequent decades of diplomatic activity on the issue.

December 2003, 520 pages, 99 figures. ISBN 0-231-12978-5. USD 39.50. Contact [www.columbia.edu/cu/cup](http://www.columbia.edu/cu/cup)

### **National Perspectives on Housing Rights**

Scott Leckie (ed.) Forward by Nelson Mandela



More than one billion people around the world do not have adequate housing. How far does human rights law help to remedy this problem? What measures must governments take to protect people against housing rights violations? What are the strengths and weaknesses of human rights law in the housing area? Is the current law enough, or are new laws necessary? These and many other questions are addressed in the various chapters contained in this book.

May 2003, 335 pages/hardcover. ISBN 90-411-2013-0. USD 125.00. To order contact, [www.kluwerlaw.com](http://www.kluwerlaw.com)

### **Forced Migration Review (FMR):**

FMR is the in-house journal of the Refugee Studies Centre, Queen Elizabeth House, University of Oxford. FMR is a 48-page magazine published three / four times a year in English, Spanish and Arabic and produced in collaboration with the Global IDP Project of the Norwegian Refugee Council. FMR serves the humanitarian community by providing a practice-oriented forum for debate on issues facing refugees and internally displaced people in order to improve policy and practice and to involve refugees and IDPs in programme design and implementation.

Current and back issues of the English language version are online at [www.fmreview.org](http://www.fmreview.org) and in Arabic at [www.hijra.org.uk](http://www.hijra.org.uk).

Contact: Editors, Refugee Studies Centre, University of Oxford, Queen Elizabeth House, 21 St Giles, Oxford OX1 3LA, UK tel: +44 (0)1865 280700 Fax +44 (0)1865 270721

Email: [fmr@qeh.ox.ac.uk](mailto:fmr@qeh.ox.ac.uk)

### **Beer Sheba and Gaza Map 1948**

Palestine Land Society



Second Edition, February 2003

This map, covers an area which has been largely unknown or misunderstood. It provides information 77 Bedouin clans in the Beer Sheba and Gaza area, including their location in 1948, their expulsion, their current place of refuge and their land claims. The map is based on travellers and military maps before WWI, British Mandate maps, papers of the Beer Sheba District Officer Aref al-Aref, information from Beer Sheba Societies in Gaza, Jordan and Israel, and personal interviews.

Scale 1:120,000. Size: 70 x 100 cm.

For orders contact: [info@prc.org.uk](mailto:info@prc.org.uk)

### **Returning Home: Housing and Property Restitution Rights of Refugees and Displaced Persons.**

Scott Leckie (ed.). Forward by Theo van Boven



This volume is a unique effort to cover the topic of the restitution of housing and property in light of lessons learned in the Balkans, South Africa, East Timor, and in a range of other countries that have made the shift from conflict to peace. Individual chapters by authors with direct experience dealing with housing and property restitution in particular contexts will bring into focus the legal and human rights aspects of this question. Several chapters deal with unresolved restitution cases, all of which will require resolution sooner or later, including in Georgia, Turkey, and for specific groups including Palestinian refugees, indigenous peoples and the internally displaced themselves. Housing and property restitution is now viewed as an essential element of post-conflict reconstruction. It is a primary means of reversing 'ethnic cleansing' and vital to securing a war-torn nation's future stability. All parties involved in human rights, refugee assistance, post-conflict reconstruction and reconciliation, and property rights will find this volume to be an indispensable resource.

Summer 2003. Approx. 450 pages. ISBN 1-57105-241-0. USD 125.00/hardcover. Special 30% Pre-Publication Discount for Orders Received by 8/30/2003.

Contact Transnational Publishers, Inc., [info@transnationalpubs.com](http://info@transnationalpubs.com) or [www.transnationalpubs.com](http://www.transnationalpubs.com)

# Documents

*This section includes recent statements from refugee community organizations, human rights organizations, and other relevant documents related to Palestinian refugee rights.*

## 1. A Statement Issued by the Palestinian National Liberation Movement / Fatah - Hebron District 2. A Statement Issued by Union of Youth Activity Centers / Palestinian Refugee Camps - Palestine

### 1. A Statement Issued by the Palestinian National Liberation Movement / Fatah - Hebron District

To our heroic people, brave men and women, old and young, our leaders in all parts of this blessed land, who are willing to sacrifice their freedom and lives, our brave people in the homeland and in exile, our people displaced in the homeland,

**Dear residents in every place,**

Today, just a few days before the 55th anniversary of the Palestinian Nakba, the racist Zionist assault against our Palestinian people continues and escalates in every place, whether by means of daily massacres, or by means of efforts to erase our awareness and our people's collective memory of history and struggle by undermining the substance of international resolutions and principles of international law and justice. Our people, however, stand up strongly against these assaults. They employ all their means to remain steadfast and continue their resistance. Nonetheless we are in danger: the Zionist affront has succeeded to find some mercenaries - or frustrated or ignorant people - who have adopted a project entitled "The Goal Map" prepared by the former head of Israeli intelligence, Ami Ayalon. Spending effort and unlimited resources, they are now trying to obtain support and infiltrate Palestinian collective conscience and popular memory in various ways and under different names. Their major aim is to erase the Palestinian right of return, because this right represents the core of the issue and conflict in Palestine. Therefore, we of the Palestinian National Liberation Movement/Fatah in the District of Hebron call upon the rank and file of our Movement to be alert and to strengthen our unity. We alert our people and our communities in Palestine and outside to not fall prey to the tricky ambush of the Zionist intelligence by, for example, participating in workshops, signing documents or memoranda, or filling out opinion polls. The latter were carefully designed to undermine the right of return, because they are tools for a political purpose, i.e. to shake the foundations and the essence of Palestinian rights. In this context, **we affirm the following:**

1. The right of return of Palestinian refugees in accordance with UN Resolution 194 is a sacred, individual and collective right and part of the Palestinian people's right of self-determination. It is a right that cannot be compromised or negotiated, and a principle that requires implementation in a way that permits every refugee to return to the original home he was evicted from, to receive compensation for losses and damages incurred and to be reinstated into his civil rights and personal properties.
2. Our Palestinian community inside the "Green Line" is part and parcel of the Arab Palestinian people and entitled to full citizens' rights as prescribed by international law, including the Law of Nationality, the Law of State Succession and UN Partition Resolution 181 (1947), which, although the basis for Israel's establishment, did not resolve for the establishment of two racist states, but rather for two states whose citizens would live in equality and exercise their rights. It is amazing, therefore, that mercenaries or ignorant people are raising racist notions that promote an apartheid-like system of ethnic separation at the beginning of the 21st century.

3. Jerusalem is the only and eternal capital of the Palestinian state, and Palestinian sovereignty includes the holy sites of Islam and Christianity in accordance with the Ummariyya Convention. There is no need, therefore, for lofty ideas, which will fly only with stupid people, such as "God is the sovereign over Jerusalem" and not this or that party. God is the sovereign of the skies and the land everywhere, not only in Jerusalem!

4. The undermining of the legitimate Palestinian leadership headed by our leader Abu Ammar does not require lengthy explanation. It is driven by Sharon and his racist mafia and represents the Zionist-U.S. position, enemy of our people's rights. We hope that no one of us in Fatah will share in the undermining of Yasser Arafat, the symbol, the elected leader and recipient of the Nobel Peace Prize.

5. Efforts and projects aimed at finding alternatives to the legitimate Palestinian leadership and the PLO have continued since the 1970s and led to the establishment of the "Village Leagues." All these projects aiming to destroy the independence of Palestinian political will and decision-making and establish an elite that would adopt and promote locally and internationally the program and notions of the racist occupation, however, have failed.

6. Despite the ongoing attack against the international resolutions concerning our people's historical rights, we of Fatah and our leadership have accepted these resolutions as representing the minimum of our national, political and civil rights, in order to build a just, comprehensive and durable peace. Therefore, Fatah stands for a peace built on the international resolutions 181, 194, 242, 273, 338 and on all decisions affirming human rights principles and justice - and not for initiatives of the kind promoted by Ami Ayalon, his accomplice Sari Nusseibeh and some other frustrated and ignorant people, who, when confronted with the first obstacle, forgot or try to forget international law, principles of rights and fairness and the principle of modern democracy and raise deceptive and empty slogans calling for "rationalism," "realism" and "democracy."

7. The Fatah Movement affirms that the personal history and the current position of these persons, whether former colonels, major generals or other, does not give them the right to market Zionist proposals and to pull others into the swamp of U.S.-Americanization and Israelization.

Our heroic people, you have challenged and brought to a fall numerous projects aimed at compromising your cause, your right of return and your right of self-determination. You have rejected all projects of resettlement, expulsion and transfer. You will certainly be able to challenge and fail these compromise projects in their new disguise. Our people will remain able to stand steadfast and continue on the road to freedom and independence based on the implementation of the return program, self-determination and the independent sovereign state with Jerusalem as its capital.

**Long Live the Free Arab Palestine...Eternal Glory to Our Martyrs  
Rapid Recovery to the Injured...Freedom to the Brave Prisoners  
With the Revolution until Victory**

The Palestinian National Liberation Movement  
Three Regions/Hebron District  
4 May 2003

## **2. A Statement Issued by Union of Youth Activity Centers / Palestinian Refugee Camps - Palestine**

To:

Our Colleagues in Institutions, Unions, Committees and Centers Operating among Palestinian Refugees in the Homeland and Exile,

Guided by our national and historical responsibility and by our firm belief in the sacred character of the right of return of Palestinian refugees - and in our right to defend the issue of Palestinian refugees, the core of the conflict in the region - we approach you with our call for urgent action, in order to expose the false and deceptive character of the initiative sponsored by Dr. Sari Nusseibeh, the academic from Jerusalem. This initiative organized under the banner of democracy and freedom of expression is working to relinquish the individual and collective rights of the Palestinian refugees in line with the policy of acceptance of the status quo as dictated by the Israeli occupation.

This dangerous initiative, which has been launched in different forms, targets the Palestinian refugee issue and aims at the cancellation of the right of return. It also aims - under the title of 'proposals' and 'initiatives' - to create a new culture among our national Palestinian society, in which open and declared treason is part of the legitimate public discourse.

It is, therefore, our national duty to block with all our strength all those who compromise our basic rights, and we call upon all of you to live up to your national and historical responsibility, and to avoid cooperation with initiatives and schemes of this kind.

**Union of Youth Activity Centers -  
Palestinian Refugee Camps Palestine**

**30 April 2003**

## About the meaning of al- Majdal

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Al- Majdal is an Aramaic word meaning fortress. The town was known as Majdal Jad during the Canaanite period to the god of luck. Located in the south of Palestine, al- Majdal had become a thriving Palestinian city with some 11,496 residents on the eve of the 1948 war. Al- Majdal lands consisted of 43,680 dunums producing a wide variety of crops, including oranges, grapes, olives and vegetables. The city itself was built on 1,346 dunums. During Operation Yoav (also known as 10 Plagues) in the fall of 1948, al- Majdal suffered heavy air and sea attacks by Israel which hoped to secure control over the south of Palestine and force out the predominant Palestinian population. By November 1948, more than three quarters of the city's residents, frightened and without protection, had fled to the Gaza Strip. Within a month, Israel had approved the settlement of 3,000 Jews in Palestinian homes in al- Majdal. In late 1949 plans surfaced to expel the remaining Palestinians living in the city along with additional homes for new Jewish immigrants. Using a combination of military force and bureaucratic measures not unlike those used today against the Palestinian population in Jerusalem, the remaining Palestinians were driven out of the city by early 1951. Palestinian refugees from al- Majdal now number over 71,000 persons of whom 52,000 are registered with UNRWA. Like millions of other Palestinian refugees, many of whom live close to their original homes and lands, they are still denied the right to return. Al- Majdal, BADIL's quarterly magazine reports about and promotes initiatives aimed at achieving the Palestinian right of return and restitution of lost property as well as Palestinian national rights in Jerusalem.



*Remnants of AL-Majdal / Asqalan*  
Source: [www.palestineremembered.com](http://www.palestineremembered.com)

## **2003 Year of**



## ***Al-Nakba Awareness & Al-Awda Activism***

**al- Majdal** is a quarterly magazine of BADIL Resource Center that aims to raise public awareness and support for a just solution to Palestinian residency and refugee issues