

A Political and Economic Role for the EU in Solving the Palestinian Refugee Issue

Prepared by BADIL Resource Center (Palestine) for

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General Comments

1. The Oslo model (DoP) is incapable of achieving stability, peace and reconciliation in the Middle East, because it:

- Pretends to be built on the idea of demographic and territorial separation into two states while including *neither Israeli guarantees for withdrawal from the 1967 occupied Palestinian territories nor an independent international mechanism for monitoring and enforcement* of such withdrawal.
- Disregards the fact that the Israel of today is *not* a mono-ethnic (Jewish) state, but a bi-ethnic/national state with a growing Palestinian minority (of currently 20 percent) engaged in an increasingly powerful, non-violent struggle for non-discrimination, equality and collective rights (i.e. towards the transformation of Israel into a state of its citizens). The "Jewish character" of Israel today is maintained by means of *systematic discriminatory legislation and policies*, which were found to violate international human rights conventions and are *not accepted by Europe/the international community elsewhere* (e.g. in the context of transition in former Yugoslavia and the former Soviet Union).
- As a model built on the (deliberately) vague notion of demographic and territorial separation into two states, *the DoP and the subsequent Oslo Process does not include human rights protections*. It has particularly excludes protection of the individual human rights of Palestinian refugees as enshrined in international human rights law (especially refugee law), human rights conventions, and UN Resolutions 181 (1947 UN Partition Plan) and 194 (1948).

2. While implementation of international law and UN resolutions cannot, in itself, guarantee a durable solution to protracted conflicts, a solution reached *outside* the framework of international law and UN resolutions *will not be perceived as legitimate. It will neither be just, binding, or durable*. A comparison of human rights provisions in four recent peace agreements (South Africa, Northern Ireland, Bosnia-Herzegovina, Israel-PLO) shows that human rights are most excluded in DoP/Oslo Process: "In summary, in both their text and their implementation the Israeli/Palestinian peace agreements demonstrate an almost complete divorce between the concept of peace and the concept of justice. The concept of peace embodied in the agreements is a concept of managed separation, whose contours are shaped by Israeli security concerns." (Christine Bell: *Peace Agreements and Human Rights*; Oxford University Press, 2000)

3. The unresolved *issue of the Palestinian refugees is the most substantial human rights issue* to be addressed in the context of Israeli-Palestinian peace and reconciliation, because of the large size of the population effected and the massive scope of human rights violations involved:

- Some 800,000 Arab inhabitants Palestine were forcefully displaced and made refugees in the context of armed conflict between the Zionist movement (later Israel), local Arab forces and Arab armies between 1947-9. By 2002, these refugees and their descendents (the so-called 1948 refugees) count over 5 million persons. *All of them have the right, based on their individual, free and informed choice, to return to their homes now located in Israel and become citizens of this state.*
- Until 1947 Palestinian Arabs owned/controlled 90% of the land in Mandate Palestine (Jewish people had legal title to no more than 7% of the land). Today, 90% of the land in the same area is owned/controlled by Israel (Palestinian citizens own only 3% of the land inside Israel). Property relations in Palestine/Israel were reversed by means of Israel's systematic and massive violation of the individual and communal ownership rights of the Palestinian people, the majority of whom had become refugees. *Palestinian refugees have the right to real property restitution through an independent and fair mechanism* (mechanisms developed for real property restitution worldwide and for restitution of Jewish property in Europe should serve as models). *Palestinian refugees are entitled to financial compensation for property, which cannot be restituted and for damages incurred.*
- Today, 5 million Palestinian refugees are aware of their rights and of the fact that the international community has supported and facilitated refugee return and real property restitution in many parts of the world. They organize and mobilize in all areas of exile and will not accept a political agreement that violates their individual rights. *Since Palestinian refugees make up two-thirds of the Palestinian people, they are a constituency that cannot be disregarded by any legitimate and democratic Palestinian leadership.*

A Political and Economic Role for the EU

Humanitarian Aid alone = collaboration with the occupation

Pending political will, the EU can play a key-role in the development of a model for Israel-Palestinian peace that is based on international law and includes strong human rights provisions and mechanisms for human rights protection. Such a step by the EU is overdue. *Ending the situation where justice and international law are perceived as obstacles for peace is a basic requirement for the re-launching of a meaningful and constructive peace process between the Israel and the Palestinian people.*

1. Launch activities which re-affirm European commitment to international law and human rights, including Palestinian refugees' right to return, real property restitution and compensation, in the context of renewed peace effort in the Middle East, among them:

- a) **Halt all military cooperation with Israel** (arms supply and arms development) until its policies with regard to the Palestinian people comply with international law, human rights conventions, and UN resolutions, including UN Resolution 194.
- b) Use available means (e.g. trade association agreements, agreements of cultural/scientific cooperation) in order to **impose sanctions on Israel**, until its policies with regard to the Palestinian people comply with international law and UN resolutions, including UN Resolution 194.
- c) Work in all relevant fora for the **speedy establishment of an international monitoring force** in the 1967 occupied Palestinian territories and exert pressure on the Israeli government to accept its presence. Such a monitoring force should have a mandate clearly based on international law, human rights conventions and relevant UN resolutions, report to an independent arbitration and enforcement mechanism, and its reports should be public. Hightened attention should be given to the situation of especially vulnerable groups, including Palestinian refugees in camps of the West Bank and Gaza Strip.
- d) **Facilitate (a) Europe-wide (or international) conference/s on the rights and status of Palestinian refugees under international law:** Such conference/s should be convened on the technical (expert) level, outside the realm of current *realpolitik*. Domestic, European and international organizations (e.g. OSCE, UNHCR, UNRWA), academic experts and NGOs involved in the solution of refugee issues worldwide should be invited to study and issue recommendations on two issues of major concern:
 - **The current exclusion of Palestinian refugees from the international refugee regime** and consequent serious gaps, in Europe and elsewhere, in the provision of day-to-day protection (current interpretations of the 1951 Refugee Convention and the 1967 Protocols, as well as regional refugee conventions must be re-examined);
 - **The lack of familiarity of the European/international expert community with the legal principles which must guide a durable solution for Palestinian refugees under international law and UN Resolution 194**, as well as available

international mechanism and experience that could play a constructive role in its implementation.

2. Improve UNRWA Assistance to Palestinian Refugees:

- a) **Raise UNRWA contributions by the EU and its member states** to a level permitting adequate UNRWA services for the growing refugee population (close to 4 million registered refugees in 2002). Although international awareness of UNRWA's important role for regional stability has convinced UNRWA donors to not reduce their annual contributions, the current level of funding is insufficient (per capita UNRWA support to refugees has declined from some US \$200 to US \$70).

- b) **Encourage debate, in all relevant fora, about a new and more efficient international policy for UNRWA funding, to replace the current policy of annual pledges and voluntary contributions.** In absence of a political solution to the refugee question, a new policy will have to be designed in order to avoid a situation where UNRWA is fighting with a chronic budget crisis at a time when frustration and need among Palestinian refugees is on the rise.