

Q & A

What you need to know about
Palestinian Refugees and
Internally Displaced Persons

BADIL Resource Center
for Palestinian Residency and Refugee Rights



Cover Photo:

Palestinian refugee girl in 'Azza/Beit Jebrin Refugee Camp, Bethlehem 2010. (Photo: Reem Mazzawi - BADIL)



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Q WHO IS A PALESTINIAN REFUGEE?

Generally, the term Palestinian refugee refers to those Palestinians who were displaced from their places of origin in British Mandate Palestine (today Israel and the 1967 occupied Palestinian territory) and are unable to exercise their basic human right to return to their homes and properties.

The UN Relief and Works Agency (UNRWA), which provides basic health, education and relief services, has a working definition of Palestine refugees. This definition, however, does not fully encompass the range of Palestinians displaced by the Palestinian-Israeli conflict; it only includes 1948 Palestinian refugees who are entitled to register for assistance with UNRWA.

Q WHO IS A PALESTINIAN INTERNALLY DISPLACED PERSON OR IDP?

Internally displaced persons are persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, or violations of human rights and who have not crossed an internationally recognized state border. Palestinian IDPs include:

- ▶ Palestinians originating from that part of Palestine in which Israel was established on 15 May 1948, who were displaced from their homes during the 1947-49 armed conflict, but remained inside what became the State of Israel and who are unable to return to their homes.



Al-Araqib is a Bedouin village in the Naqab that has been destroyed over 20 times from July 2010 to July 2011 as part of Blueprint Negev, a plan to bring 250,000 Jewish settlers to the Naqab. Prior to its repeated destruction, the village's classification as an 'unrecognized' village meant that it had no official status, was excluded from state planning and government maps, had no local councils, and received little-to-no basic services, including electricity, water, telephone lines, or education or health facilities. 16 January 2011 (by palestinalibre.org)

- ▶ Palestinians who were (and continue to be) displaced from their homes inside Israel after 1948, and who are unable to return to their homes.
- ▶ Palestinians originating from the West Bank or the Gaza Strip, who were internally displaced for the first time during the 1967 Israeli-Arab war, and who are unable to return to their homes.
- ▶ Palestinians originating from the West Bank or the Gaza Strip who were (and continue to be) internally displaced for the first time as a result of human rights violations by the Israeli occupation regime occurring after the 1967 Israeli-Arab war (e.g., home demolition, evictions, land confiscation, the Wall, etc.)

Internal displacement of Palestinians continued following the establishment of Israel. IDPs who had returned spontaneously to their villages and Palestinians who had not been displaced during the 1948 war were expelled. Israeli officials also transferred Palestinians from one village to another within the borders of the state in order to facilitate colonization of these areas.

Q WHAT IS THE NAKBA AND THE ONGOING NAKBA?

The term Nakba (Arabic for «Catastrophe») designates the first round of massive population transfer undertaken by the Zionist movement and the State of Israel in the period between November 1947 (UN Palestine Partition Plan) and the cease-fire agreements with Arab states in 1949. The Nakba was an act of forced population transfer (ethnic cleansing) undertaken

for the purpose of establishing Israel as a state that would ensure permanent dominance of the Jewish settler-immigrants over the indigenous Arab people of Palestine. More than 750,000 Palestinians were forcibly displaced from their homes and lands during the Nakba of 1948 and prevented from returning.

The Ongoing Nakba describes the ongoing Palestinian experience of forced displacement, as well as Israel's policies and practices which have given rise to one of the largest and longest-standing populations of refugees, IDPs and stateless persons worldwide. The intentional displacement of Palestinians by Israel from 1948 until the present amounts to a policy of forced population transfer i.e. ethnic cleansing. By the end of 2008, approximately 7.1 million Palestinians were displaced persons. Forcible displacement of Palestinians by Israel continues to this day, while those in exile are vulnerable to persecution and renewed displacement in their host countries.

Q **HOW MANY PALESTINIAN REFUGEES AND IDPs ARE THERE IN THE WORLD?**

It is difficult to give exact numbers of Palestinian refugees and IDPs because no comprehensive registration has ever been undertaken. Available global estimates rely on partial registers of UN agencies, research information, census data released by host countries, and estimates by Palestinian communities themselves. Today it is estimated that there are more than seven million Palestinian refugees and IDPs. This number includes:

- ▶ 5.7 million 1948 Palestinian refugees

and their descendants, out of them 4.7 displaced in 1948 and registered for assistance with the UN Relief and Works Agency (UNRWA) and an estimated 1.0 million Palestinian refugees displaced in 1948 but not registered for assistance;

- ▶ 940,000 refugees displaced in 1967;
- ▶ an estimated 335,000 internally displaced Palestinians in Israel; and
- ▶ an estimated 129,000 internally displaced Palestinians in the OPT.

By the end of 2008, at least 7.1 million (67 percent) of 10.6 million Palestinians worldwide were forcibly displaced persons. Among them are at least 6.6 million Palestinian refugees and 427,000 internally displaced persons (IDPs). Palestinians are one of the largest displaced populations in the world today, constituting half of all refugees worldwide.

The number of Palestinian refugees registered with UNRWA (UNRWA refugees or registered refugees) is often and incorrectly cited as the total Palestinian refugee population. Many refugees were not registered with UNRWA either because they did not qualify for assistance or because they had been displaced to countries where UNRWA does not provide assistance. Other refugees, such as IDPs who are citizens of Israel, were subsequently dropped from UNRWA's registration system. The refugees displaced in 1967 and as a result of subsequent hostilities, while they may receive emergency assistance from UNRWA, were never registered as UNRWA refugees.

Q WHY ARE DESCENDANTS OF REFUGEES AND IDPs COUNTED IN TODAY'S FIGURES?

In short, the international community continues to classify children and grandchildren of Palestinian refugees as refugees because their entitlement to international assistance and protection and reparations is the same. This situation will remain until old and new generations of Palestinian refugees and IDPs have access to durable solutions (repatriation, integration in their current host country and resettlement in third states) and reparations (including return, restitution and compensation) which they voluntarily choose in accordance with international law. The same approach is applied by the international community to other refugee situations in the world (such as with Bosnian and Guatemalan refugees) as well as to IDPs worldwide.

Q WHERE DO PALESTINIAN REFUGEES LIVE TODAY?

Today Palestinian refugees live in forced exile in most areas of the world. The majority of the refugees, however, still live within 100 km of the borders of Israel where their homes of origin are located. Some were displaced twice from their homes of origin; UNRWA estimates that half of the refugees forced out of the occupied Palestinian territory in 1967 had already been made refugees in 1948. The majority of the Palestinian refugee and IDP population is distributed throughout



*Dheisha Refugee Camp, Bethlehem.
Photo by Joanna Brown (2010)*



the Middle East, primarily in Arab countries that border Israel and the occupied Palestinian Territory (OPT). Most Palestinian refugees (approximately 81 percent) live outside the 58 UNRWA-serviced camps.

Q WHAT DO PALESTINIAN REFUGEES WANT?

63 years after their displacement and dispossession, Palestinian refugees continue to demand their right to return to their homes and properties. Palestinian poet Mahmoud Darwish said in a 2001 interview:

I dream of us no longer being heroes or victims; we want to be ordinary human beings. When a man becomes an ordinary being and pursues his normal activities, he can love his country or hate it, he can emigrate or stay. However, for this to apply there are objective conditions which are not in place. As long as the Palestinian person is deprived of his homeland, he is obliged to be a slave for that homeland.

Q WHAT DO REFUGEES MEAN WHEN THEY TALK ABOUT THE RIGHT OF RETURN? WHY DO REFUGEES WANT TO RETURN TO THEIR HOMES OF ORIGIN IN ISRAEL?

Palestinian refugees are no different than other refugees around the world. Just as other refugees have sought to return

to the places they call home, as difficult as that may be following persecution, armed conflict and destruction of the very threads of life, so too do Palestinian refugees regard return as the main solution to their plight. According to the Office for the UN High Commissioner of Refugees, return (or repatriation) is the preferred durable solution to the plight of refugees in the world.

Recognition of Palestinian refugees' right of return is also a recognition of what happened to them, their individual and collective history, and of the injustice that they have experienced. For 63 years, Palestinian refugees have made clear that they will not accept financial compensation instead of full reparations, which include the right to return and property restitution.

The creation of a Palestinian state without full recognition of the right of return to their homes of origin offers no remedy and reparations to Palestinian refugees; it limits self-determination by restricting Palestinian nationhood and abandoning many Palestinians to a state of permanent exile. Thus, the issue of the right of return of the refugees is tied to who Palestinians are as a people, and who they will be. A comment often heard by refugees is that they can't turn back the clock. What happened in 1948 is history. There's no going back. The right of return, however, is not about going back in time. Return is much more about the future. It is really about starting to live, answering the deep sense of belonging to the land from which refugees were torn decades ago, and about building relations between Palestinians and Jews that are based on justice and equality. Return is thus about the return of rights, all rights.

My name is Ali. I am from the village of Bayt Jibrin, 24 km from Hebron, on the road to Gaza. On 4 October, 1948 Israeli aircraft began to attack the village. All the population, about 5,000 people, fled, except my parents and their seven children, who refused to leave. Two days after the occupation of the village by the Jews, they discovered us, and in the morning a group of six Jews, led by a woman, invaded the house. We were scared to death when one of them started shooting around the house. My father, who was 60 years old, told them in Arabic, "Please do not frighten the children." They left us for four days then came back and repeated shooting inside the house. They said, why did you not leave the village. We said, this is our country and our town and our house, where are we to go? We stayed there for 45 days. Then they came back with a bigger group of 15 soldiers, and started to shoot between my siblings' legs, and forced us out of the house. They said, you have got one night, either to leave and go to Prince Abdullah [of Jordan], or we will kill all of you. Terrified for her children, my mother said to my father, "We will leave." We had a donkey and a horse; they took them from us. In the evening, we walked out of the village, my dad carrying some of the kids and my mother carrying the rest. After we left the village, while we were sitting down for a rest, we saw a wild animal hovering around us to attack one of the children. Then we walked for a day and a night until we arrived in Hebron, without food or water. We did not know where to go and live. We stayed in the open for a week until someone came and took us into his house. I want to say that we do not want to throw Israel into the sea, nor do we want to slaughter them or their children. Neither my brothers, children, nor I have done anything wrong to be prevented from returning to our home.

—Ali Abd al-Rahman al-Azza (Bayt Jibrin)

Q WHY DID THE REFUGEES FLEE? DIDN'T ARAB LEADERS TELL THEM TO LEAVE?

The majority of Palestinians became refugees as a result of war crimes and serious human rights violations committed by Zionist forces, and later Israel, which sought to induce the flight of the indigenous population of Palestine. Documented incidents include attacks on civilians, massacres, looting, destruction of property (including entire villages), and forced expulsion by Zionist fighters. In some cases, refugees were forced to sign papers that they were leaving voluntarily. Israeli forces adopted a 'shoot to kill' policy along the armistice lines to prevent the return of refugees.

It is estimated that approximately 50% fled under the assault of Zionist forces before the 1948 war had even started. Sixty percent of refugees displaced to Jordan in 1967 fled as a result of direct military assault.

In 1948, 85% of Palestinians living in what is now the state of Israel became refugees. More than 500 Palestinian villages were depopulated and later destroyed to prevent the return of the refugees. In the districts of Jaffa, Ramla and Bir Saba' not one Palestinian village was left standing. In the 1967 war, approximately 35% of the Palestinian population of the West Bank, eastern Jerusalem, and Gaza Strip was expelled. Villages in Latroun and Jerusalem were destroyed, as well as several refugee camps.

Claims have been made that, in 1948, the Arab Higher Committee called on Palestinians to leave their homes until its invading armies could defeat the Zionists. No evidence of

such a call has ever been found. However, regardless of why a refugee flees, international law states that they must be permitted to return to their home.

Q **HOW CAN WE SOLVE THE PALESTINIAN REFUGEE AND IDP CRISIS?**

The international community has established three 'durable solutions' for resolving refugee crises: repatriation (implementation of the right of return and the only solution that is a fundamental right), resettlement in a third country and local integration in the host country. All durable solutions are driven by the fundamental principle of refugee choice (principle of voluntariness) in which refugees choose which durable solution is appropriate for them. Voluntary repatriation - returning to one's home country in safety and dignity - is recognized both in principle and in state practice as the most desirable durable solution. Return, property restitution and compensation are part of durable solutions, in particular where refugees have been victims of population transfer, i.e. ethnic cleansing.

Q **WHAT DOES INTERNATIONAL LAW SAY?**

The rights of Palestinian refugees and IDPs are enshrined in the law of nations, international humanitarian and human rights law, the law on state responsibility and international best practice, as well as numerous UN resolutions.

The framework for durable solutions for all persons displaced in 1948, including

IDPs inside Israel, is set forth in Article 11 of UN General Assembly Resolution 194, passed on 11 December, 1948. Resolution 194 resolves that the refugees be allowed to return to their homes at the earliest practicable date and that compensation be paid to those choosing not to return and for loss or damage to property.

Palestinian refugees and IDPs displaced in 1967 have a similar framework provided in Paragraph 1 of UN Security Council Resolution 237, passed on 14 June, 1967 and calling on Israel to allow the immediate return of all who had fled the hostilities. Other references are:

HUMAN RIGHTS LAW (SELECTED INSTRUMENTS)

► Universal Declaration of Human Rights

Article 8: Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 13: Everyone has the right to leave any country, including his own, and to return to his country.

► International Covenant on Civil and Political Rights

Article 2(3): Each State Party to the present Covenant undertakes:

- (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;

- (b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;
- (c) To ensure that the competent authorities shall enforce such remedies when granted.

Article 12: No one shall be arbitrarily deprived of the right to enter his own country.

► International Convention on the Elimination of all forms of Racial Discrimination

Article 5: State parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, color, or national or ethnic origin, to equality before the law, notably in the enjoyment of the right to leave any country, including one's own, and to return to one's country.

Article 6: States Parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination.

► International Convention on the Suppression and Punishment of the Crime of Apartheid

...For the purpose of the present

Convention, the term «the crime of apartheid» [...] shall apply to the following inhuman acts...

- (c) Any legislative measures and other measures calculated to prevent a racial group or groups from participation in the political, social, economic and cultural life of the country and the deliberate creation of conditions preventing the full development of such a group or groups, in particular by denying to members of a racial group or groups basic human rights and freedoms, including the right to work, the right to form recognized trade unions, the right to education, the right to leave and to return to their country, the right to a nationality, the right to freedom of movement and residence,...

INTERNATIONAL HUMANITARIAN LAW (SELECTED INSTRUMENTS)

- ▶ Hague Regulations concerning the Laws and Customs of War on Land

Article 3: A belligerent party which violates the provisions of the said Regulations shall, if the case demands, be liable to pay compensation. It shall be responsible for all acts committed by persons forming part of its armed forces.

- ▶ Fourth Geneva Convention

Excerpt from Article 49:

Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive. Nevertheless, the Occupying Power may undertake total or partial evacuation of a given area if the security of

the population or imperative military reasons so demand. Such evacuations may not involve the displacement of protected persons outside the bounds of the occupied territory except when for material reasons it is impossible to avoid such displacement. Persons thus evacuated shall be transferred back to their homes as soon as hostilities in the area in question have ceased.

► Additional Protocol 1

Article 74: The High Contracting Parties and the Parties to the conflict shall facilitate in every possible way the reunion of families dispersed as a result of armed conflicts and shall encourage in particular the work of the humanitarian organizations engaged in this task in accordance with the provisions of the Conventions and of this Protocol and in conformity with their respective security regulations.

Article 91: A Party to the conflict which violates the provisions of the Conventions or of this Protocol shall, if the case demands, be liable to pay compensation. It shall be responsible for all acts committed by persons forming part of its armed forces.

LAW OF NATIONS

► International Law Commission Articles on Nationality/ State Succession (customary international law)

Article 5: Subject to the provisions of the present draft articles, persons concerned having their habitual residence in the territory affected by the succession of States are presumed to acquire the nationality of the successor State on the date of such succession.

Article 14: The status of persons concerned as habitual residents shall not be affected by the succession of States. A State concerned shall take all necessary measures to allow persons concerned [i.e. habitual residents] who, because of events connected with the succession of States, were forced to leave their habitual residence on its territory to return thereto.

- ▶ International Court of Justice (ICJ) Advisory Opinion on Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory: Israel must further make reparation for all damage suffered by all natural or legal persons affected by the walls construction. Reparation includes restitution and return...

150. The Court observes that Israel also has an obligation to put an end to the violation of its international obligations flowing from the construction of the wall in the Occupied Palestinian Territory. The obligation of a State responsible for an internationally wrongful act to put an end to that act is well established in general international law, and the Court has on a number of occasions confirmed the existence of that obligation.

INTERNATIONAL CRIMINAL LAW

- ▶ Rome Statute of the International Criminal Court (ICC)

Crime Against Humanity: The following act when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack: Deportation or forcible transfer of population' means forced displacement of the persons

concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law (Article 7(2d)).

War Crime: Grave breaches of the Geneva Conventions in particular when committed as part of a plan or policy or as part of a large-scale commission of such crimes, such as: The transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory (Article 8 (2b)(viii)).



The Apartheid Bus, part of a demonstration to commemorate the 60th year of the Palestinian Nakba in London, May 2008. Photo courtesy of: Indymedia.org.uk

Law of State Responsibility

► UN Guiding Principles on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, 16 December 2005

“In accordance with domestic law and international law, and taking account of individual circumstances, victims of gross violations of international human rights law and serious violations of international humanitarian law should, as appropriate and proportional to the gravity of the violation and the circumstances of each case, be provided with full and effective reparation, which include the following forms: restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.

Restitution should, whenever possible, restore the victim to the original situation before the gross violations of international human rights law or serious violations of international humanitarian law occurred. Restitution includes, as appropriate: restoration of liberty, enjoyment of human rights, identity, family life and citizenship, return to one’s place of residence, restoration of employment and return of property.

Compensation should be provided for any economically assessable damage, as appropriate and proportional to the gravity of the violation and the circumstances of each case, resulting from gross violations of international human rights law and serious violations of international humanitarian law, such as: Physical or mental harm; Lost opportunities; Material damages and loss of earnings; Moral damage; Costs required for legal or expert assistance, and medical, psychological and social services.

Rehabilitation should include medical and psychological care as well as legal and social services.

Satisfaction should include: Effective measures aimed at the cessation of continuing violations; Verification of the facts and full and public disclosure of the truth ...; An official declaration or a judicial decision restoring the dignity, the reputation and the rights of the victim and of persons closely connected with the victim; Public apology, including acknowledgement of the facts and acceptance of responsibility; Judicial and administrative sanctions against persons liable for the violations; Commemorations and tributes to the victims; Inclusion of an accurate account of the violations that occurred in international human rights law and international humanitarian law training and in educational material at all levels.”

Q WHAT IS THE ROLE OF REFUGEES IN IMPLEMENTING A DURABLE SOLUTION?

International best practice insists that refugees be offered their choice of a solution in a voluntary and informed manner. A rights-based approach to assistance and protection, moreover, requires that refugees are consulted and given a right to participate in the design and implementation of national and international interventions. The UN High Commissioner for Refugees (UNHCR) has adopted both the principle of voluntariness (refugee choice) in the search for durable solutions, and a participatory approach in its operations. In the case of Palestinian refugees, UNGA Resolution 194 (1948) affirms that the refugees should choose their preferred solution (return or resettlement), and it obligates those who have chosen to return to their homes to live at peace with their neighbours.

Q HOW DO REFUGEES ENVISION A FUTURE RELATIONSHIP WITH ISRAELIS?

One of the common fears raised about the return of Palestinian refugees is that decades of exile have taught them to hate Israel. Thus, the right of return becomes no more than a code word for the destruction of Israel. Here one refugee responds:

We should not repeat the mistake of the Israelis and make our existence in our land dependent on the non-existence of the people who are already living there. Israelis or Jews thought that their existence on the soil of Palestine meant the non-existence of the other.

We do not believe that.

—Ismail Abu Hashash from pre-1948 Iraq al-Manshiya, now a refugee in the West Bank

In numerous workshops and public debates conducted in Palestinian refugee communities since the early 1990s, Palestinian refugees have clarified that they envision a future where they can return and build a society where relations between Palestinians and Israeli Jews are defined by the principles of dignity and equality. In order to achieve this, the mechanisms for refugee return must be formulated in order to ensure that the rights of all groups are protected in the process of returning refugee to their homes.

Q IF PALESTINIAN REFUGEES ARE NOT NATIONALS OF THE STATE OF ISRAEL, HOW CAN THEY CLAIM TO HAVE A RIGHT TO RETURN TO ISRAEL AND REPOSSESS THEIR PROPERTIES?

International law and practice in other refugee cases provides some answers. Under the law of nationality, as applied upon state succession, newly-emerging successor states are obligated to accord nationality status to all habitual residents of the territory undergoing the change in sovereignty, including to refugees and regardless of where they may have been on the actual date of succession.

States may not denationalize their own nationals in an attempt to cast them out, especially when denationalization is based on discriminatory grounds such as ethnic, national or religious criteria. This is in fact what Israel did when it refused to allow refugees to return to their homes, and then only granted citizenship to Palestinians that remained in their homes.

Q WHAT IS THE REASON BEHIND THE FORCIBLE TRANSFER OF PALESTINIANS?

Population transfer has played a key role in Zionist thinking since the founding of the Zionist movement in the late nineteenth century. According to the movement's Basle Program (1897), "the aim of Zionism is to create for the Jewish people a home in Palestine secured by public international law" as the only solution to the persecution of Jews around the world.

Jewish immigration, colonization and labor were the primary means through which the Zionist movement sought to establish a state in Palestine. Since mass immigration alone would not be sufficient to establish a Jewish majority, and because most Palestinian Arab landowners were unwilling to part with their land, many leaders of the Zionist movement resorted to the idea of transferring the indigenous population out of the country.

Transfer was succinctly expressed by Theodor Herzl, the founding father of political Zionism: "We shall try to spirit the penniless population across the border by procuring employment for it in the transit countries, while denying it any employment in our own country. The property owners will come over to our side. Both process of expropriation and removal of the poor must be carried out discreetly and circumspectly."

Leading Zionist thinkers developed numerous plans to carry out the ethnic cleansing of Palestine so as to enable their movement to establish and maintain a homogenous Jewish state. During the British Mandate, these included the



The destruction of the Shepherd's Hotel in Jerusalem, January 2011, one on dozens of demolitions that have taken place in the city as part of Israel's forcible transfer of Palestinians in the city. (photo: Justin Randle)

Weizman Transfer Scheme (1930), the Soskin Plan of Compulsory Transfer (1937), the Weitz Transfer Plan (1937), the Bonne Scheme (1938), the al-Jazirah Scheme (1938), the Norman Transfer Plan to Iraq (1934–38), and the Ben-Horin Plan (1943–48).

The idea of transfer did not end with the establishment of Israel in 1948. Between 1948 and 1966, various official and unofficial transfer plans were put forward to resolve the “Palestinian problem.” These included plans to resettle Palestinian refugees in Iraq (1948), in Libya (1950–58), and further plans for resettlement as a result of the 1956–57 Israeli occupation of the Gaza Strip and the Sinai. Israel also established several transfer committees during this period.

The notion of population transfer was raised again during the 1967 war. Resettlement schemes focused on the Jordan Valley, but also considered locations as far afield as South America. Thousands of refugee shelters were destroyed in the Gaza Strip in an attempt to resettle refugees

outside of refugee camps. Similar proposals for population transfer also emerged during the second Intifada against the Israeli occupation of the West Bank and Gaza Strip.

Transfer has existed on both the left and right wings of the Zionist political spectrum as an ideology and political program. While the right-wing has formed entire political parties explicitly for this purpose, it was left-wing (Labor) Zionism which controlled the pre-state movement, governed Israel during the mass expulsions of Palestinians of 1948 and 1967, and formulated the policies of not allowing refugees and IDPs to return. Transfer policies continue against the Palestinian population of Israel and the OPT. For example the 2009 Israeli government coalition includes political parties and individuals who have directly or indirectly called for such transfer.

Today, Israel's regime combining occupation, apartheid and colonization is the root cause of contemporary and ongoing forced displacement of Palestinians on both sides of the Green Line. Contemporary forced displacement is induced by a set of inter-related, discriminatory and oppressive Israeli policies and practices which are implemented in the context of military operations and routine administration.

Some of these policies and practices have caused large numbers of Palestinians to suffer forcible displacement in a very direct and immediate manner, among them: excessive and indiscriminate use of force by military or police forces; deportation; detention and torture; home demolition and forced eviction; as well as, attacks and harassment by violent non-state actors. Other policies and practices appear to trigger forced displacement in a more indirect and long-term manner, among them: revocation of residency rights; closure and segregation; confiscation

and discriminatory distribution of land; and settler implantation and “judaization” of Palestinian localities. The latter create a situation of vulnerability among the affected Palestinian population and are directly related to the root cause of the conflict.

Q HOW CAN THE REFUGEES RETURN IF ISRAEL IS TO MAINTAIN ITS JEWISH/ ZIONIST CHARACTER?

More often than not the importance of maintaining Israel’s Jewish majority is enough to shut down any talk about the right of return as an option for refugees. The «need» by Israel to maintain a Jewish majority, in a country where the majority of the population are not Jewish (i.e. Palestinians in the OPT, Israel and those living in forced exile), and in which mass immigration has not been sufficient to establish a Jewish majority, has inevitably lead to discriminatory policies aimed at forcibly transferring the indigenous Palestinians from their homes and denying them the right to return to them.

However, preventing refugees from returning to their homes based on their ethnicity and other practices of separation, segregation and/or discrimination based on racial, ethnic, national or religious background are morally wrong, not to mention illegal under international law. Over the years, Israel has developed a regime of institutional discrimination against non-Jews, which is based on extra-territorial and privileged nationality status of Jews in Israel. Israeli citizens are thus divided under the law into Jewish nationals, and non-Jews (mainly Palestinians) who are second-class citizens under a nearly separate legal and bureaucratic umbrella.

Discrimination is particularly obvious in Israel's laws and policies regulating immigration and access to citizenship, land and public services. Formal endorsement of this discriminatory regime is a requirement for all political parties wishing to participate in parliamentary elections. This system and the privileged Jewish nationality status it seeks to uphold are the main obstacles to a durable solution to the Palestinian refugee problem.

In the past, Jews and Arab Christians and Muslims lived together on this land in harmony. By supporting the commonly-shared values of human rights that are embodied in international law, we come closer to a society where nobody is valued over the other and all are protected equally under the law.



Israel continues to discriminate against Palestinian refugees and IDPs by forbidding them from returning to their homes. This policy and other practices of racial separation, segregation and discrimination are illegal under international law. Texas 2008 (photographer unknown)

Q WHY CAN'T ISRAEL DEFINE ITSELF AS BOTH A JEWISH AND A DEMOCRATIC STATE?

While Israel claims to be a Jewish and democratic state, the result of Israeli policies is that Israel is neither truly Jewish (1.2 million of five million Israelis are non-Jewish Palestinian) nor truly democratic. The reference to equality found in Israel's declaration of independence is not recognized in Israeli courts; there is in fact no right to equality in Israel. Inevitably, democratic characteristics lose out to the various policies that are required to maintain a Jewish majority.

Q WHY DON'T REFUGEES RETURN TO A FUTURE PALESTINIAN STATE IN THE WEST BANK AND GAZA STRIP?

UNGA Resolution 194 and other bodies of international law clearly state that Palestinian refugees and IDPs should be allowed to return to their homes in the areas that became Israel after 1948. If there were any doubt as to the meaning of this phrase, it is dispelled by the fact that the General Assembly twice rejected amendments to the resolution calling more generally for refugees to return to the areas from which they have come.

The only way to repair the forced population transfer that has been carried out by Israel since 1948 is to permit the refugees and IDPs to return home. To create two states based on

different ethno-religious identities is to perpetuate current inequalities.

Those refugees and IDPs whose places of origin are the areas Israel occupied in 1967 must have the option of returning there. Refugees from other areas may choose to resettle there, particularly if those areas become a Palestinian state, in lieu of exercising their right of return. Nevertheless, to allow refugees to return only to a Palestinian state in the West Bank and Gaza Strip is not a solution that meets the requirements in international law, in particular the principles of justice and voluntariness (i.e. a free and informed choice made by refugees).

Q DOES THE RIGHT OF RETURN TO ISRAEL CONFLICT WITH A TWO-STATE SOLUTION? ISN'T THAT JUST A ONE-STATE SOLUTION?

The decision to accept the two-state solution (a Palestinian state in the 1967 OPT alongside Israel) was a political decision made by the PLO in 1988. It constituted a compromise over territory and state sovereignty in which the PLO accepted Israeli sovereignty over 78% of historical Palestine.

The two-state solution promoted by the PLO has always included the demand for a solution of the Palestinian refugee question in accordance with UNGA Resolution 194. The PLO has never formally presented a different proposal, simply because no legitimate Palestinian leadership can ignore the international law-enshrined rights of the refugees, who form some 70% of its constituency. Under international law, no conflict exists

between a two-state solution and refugee's right to return to their places of origin in Israel.

Simultaneously, the one-state solution continues to be embraced as a vision by many Palestinians. In this vision, Palestinians and Israelis would live together as equal citizens in the combined area of Israel and the OPT. This solution to the conflict could easily integrate the right of return for refugees and IDPs. Proponents of one state view it as the outcome most able to deliver rights-based solutions for all aspects of the Palestinian-Israeli conflict in the long term, and as the most practical solution in times when the option of Palestinian statehood in the 1967 OPT appears no longer feasible due to Israel's ongoing colonization.

Q WHY DON'T THE ARAB STATES ABSORB THE PALESTINIAN REFUGEES?

Some have suggested that the refusal of Arab states to resettle Palestinian refugees is related to their refusal to accept the existence of the state of Israel. While the policies of Arab states concerning the refugee issue are certainly related to the wider Arab-Israeli conflict, the most important points to keep in mind here are that Arab states are not obliged under international law to permanently integrate/ resettle Palestinian refugees, and that forced resettlement of Palestinian refugees who wish to exercise their right to return would violate international law and best practice.

Palestinian refugees and Arab states are not opposed to local integration and resettlement as part of a package of the three options offered to refugees around the world, including the option of return (repatriation).

Opposition to local integration and resettlement only comes when they are offered as the only options or as part of a package in which the right of return is refused or restricted to a limited quota of Palestinians refugees to be chosen by Israel.

Q HOW CAN REFUGEES RETURN WHEN THEIR VILLAGES AND HOMES HAVE BEEN DESTROYED AND NEW TOWNS BUILT IN THEIR PLACE?

Already in the early 1950s, Israeli officials informed the UN that “the individual return of Arab refugees to their former places of residence is an impossible thing. Their houses have gone, their jobs have gone.” While it is true that many Palestinian refugee homes and villages were by that time razed to the ground, it is important to remember that many refugee homes and villages were not destroyed until the mid-1960s. At the same time, Israel has absorbed hundreds of thousands of people who were unfamiliar with the country and its culture and had no work or homes, simply because they were Jews. Since 1990 alone, Israel has absorbed over a million new immigrants from the former Soviet Union.

The destruction of refugee housing, moreover, has not prevented the return of refugees in other parts of the world. In Kosovo, 50% of the housing stock was destroyed, 65% in Bosnia, and 80% in East Timor. In each of these cases, the international community supported the right of refugees and displaced persons to return to their places of origin. The logical solution to the problem of damaged or destroyed housing is rehabilitation and reconstruction. The reconstruction of refugee houses is

aided by the fact that the land expropriated from the refugees has remained largely vacant. The Jewish population of Israel is concentrated primarily in urban centres with some 160,000 rural Jewish Israelis living in an area of around 17,000 sq. km or some three-quarters of the state of Israel. It is this latter area where the majority of refugees originate.

Moreover, it is estimated that in 90% of the communities from which Palestinian refugees originate inside Israel, there is no conflict with existing built-up Jewish communities. In other words, the return of Palestinian refugees would not result in the displacement of the existing Jewish population from their homes and communities. In addition, international law and best practice provide creative solutions enabling refugees to return while maintaining and even developing the existing infrastructure.



90% of the land from which Palestinians were forcibly expelled remains uninhabited until today, meaning that in most cases of Palestinian refugee return there will be no conflict with existing occupants.

Al-Qabu Depopulated village, west Jerusalem 2006.

Photo: BADIL

Q BUT WHO WILL OWN WHAT LAND?

The starting point for resolving outstanding housing and property claims is international law (see above tenets). In practice, Jewish restitution cases in Europe could form the basis for resolving refugee property claims in Israel. Relevant precedents include the right of individuals or heirs to repossess homes and properties abandoned during periods of conflict, the right of individuals to repossess housing and property regardless of the passage of time, the right of organizations to receive communal and heirless assets, the role of non-governmental organizations as a party to negotiations concerning housing and property restitution, and the right of individuals to housing and property restitution in states where they are not domicile or do not hold citizenship.

Q WHAT HAPPENS WHEN SOMEONE ELSE IS LIVING IN A REFUGEE'S HOME?

Most refugee homes have been destroyed. Numerous Palestinian refugee homes remain, however, in urban centres. Many of these homes are regarded as choice real estate due to their traditional design and spaciousness. In all other refugee cases where housing and property restitution has been implemented, solutions to the problem of secondary occupancy have been governed by refugees' right to restitution which must, if practically possible, be respected. If the property is held by the state, the state is obligated to ensure restitution. In the event that current

occupants of refugee homes can show that they have purchased the property in good faith—i.e. they were unaware that the house belonged to someone else—they may also file a claim for the property. In any case, the administrative or judicial body handling restitution claims must ensure that the current occupants' basic housing rights are protected. In other words, the current occupant cannot simply be thrown out into the street. Governments and, in some cases the international community, are responsible for ensuring that the secondary occupant has access to alternative housing of similar standards. Compensation is often paid to the secondary occupant for any improvements made to the house.

Q WHY ARE PALESTINIAN REFUGEE AND IDP RIGHTS NOT RESPECTED?

Despite numerous United Nations resolutions calling for the implementation of UN resolutions 194 and 237, no international organization has actively engaged in the search for a comprehensive solution of the Palestinian refugee and IDP problem since the early 1950s. Rather, international politics has divided the United Nations as guardian of Palestinian refugee rights and limited its role to providing humanitarian aid, while solutions have been left to political negotiations between the parties. These negotiations have been subject to a balance of power that is in Israel's favour, and Israel, in turn, has sought at all times to avoid recognition and implementation of the right of return.

Q WHY IS ISRAEL OPPOSED TO DURABLE SOLUTIONS FOR PALESTINIAN REFUGEES?

Israel is not opposed to durable solutions for Palestinian refugees but has historically sought, however, to limit the three durable solutions to two: namely, local integration in refugee host countries and resettlement in third states. The state of Israel is unwilling to accept return as a right. At most, Israel is willing to allow the return of a limited number of refugees within its borders as a humanitarian gesture only. In the 1990s, Israel accepted in principle the right of Palestinians displaced for the first time in the 1967 war to return to the 1967 OPT but blocked negotiations over the mechanism of implementation.

Q IS ISRAEL A COLONIAL STATE? IS IT GUILTY OF THE CRIME OF APARTHEID?

Increasingly, as Israel seeks to protect a dwindling Jewish majority by legislating and implementing discriminatory laws and military orders against non-Jews, a chorus of voices is raising the charge of apartheid. Apartheid is a crime against humanity under international law, defined as any legislative or other measures calculated to prevent a racial group or groups from participation in the political, social, economic and cultural life of the country including the right to leave and to return to their country. It also includes any legislative measures, designed to divide the population along racial lines through the creation of separate reserves and ghettos for the members of a racial group or groups,



Nakba Commemoration, Bethlehem. Photo: BADIL

the expropriation of landed property belonging to a racial group or groups or to members thereof.

Both the former UN Special Rapporteur on the Situations of Human Rights in the Occupied Palestinian Territory, Professor John Dugard, and the current Rapporteur, Professor Richard Falk, have concluded that Israel's regime in the 1967 OPT is one of occupation with components of colonialism and apartheid and that measures like the Wall and its associated regime are creating a new generation of refugees and IDPs. Also, in 2007, the UN committee overseeing implementation of the Convention on the Elimination of All Forms of Discrimination recommended that Israel incorporate the prohibition of racial discrimination and the principle of equality as general norms of high status in Israeli domestic law. Yes, comparisons between Israel and apartheid South Africa produce contrasts. (For one, Israel effectively controls all of the 1967

OPT, but Palestinians there do not hold nor demand Israeli citizenship). However, the charge that Israel is propagating two separate and unequal systems based on ethnic, national and religious identity in all of historic Palestine is easily true. Israel's continued rejection of durable solutions that respect the right of return for Palestinian refugees and IDPs is part of this phenomenon. Indeed, international law lists denial of refugee return as one policy characteristic of an Apartheid regime if committed in the context of a regime of institutionalized racial discrimination and domination, such as that established by Israel.

Q **HOW CAN THE RIGHT OF RETURN CONTRIBUTE TO PEACE AND RECONCILIATION?**

In cases of mass forced displacement, enabling displaced persons to choose the solution to their plight, whether that choice is return, local integration or resettlement, is considered essential to peace-building and reconciliation. The opportunity to make this choice is an individual act of self-determination that in turn contributes to the collective sense of justice restored. This, finally, is a key component for a durable and lasting peace. When refugees are denied the option of returning to their homes and forced to remain in exile, the peace and stability sought by all parties is delayed. It is this continued denial of the inalienable rights of the Palestinian people to self-determination, national independence, sovereignty and return to the homes and properties from which they have been forcibly displaced that has been the principle reason behind the failure of the «peace process» for the past 20 years.

By the end of 2008, at least 67% (7.1 million) of the entire, worldwide Palestinian population (10.6 million) were forcibly displaced persons. Among them were at least 6.6 million Palestinian refugees and 427,000 internally displaced persons (IDPs).

1948 Palestinian refugees	5.7 million (80.5% of all displaced Palestinians):
UNRWA-registered refugees	4.7 million
Refugees not registered with UNRWA	1.0 million
1967 Palestinian refugees	955,247 (13.5%)
IDPs in Israel since 1948	335,000 (4.7%)
IDPs in the OPT since 1967	129,000 (1.3%)
<i>This number includes displaced refugees (approximately 37,000).</i>	

Most Palestinian refugees (approximately 79%) live outside UNRWA's 58 camps. The majority of the refugees still live within 100 km of the borders of Israel and the 1967 OPT, where their homes of origin are located.

Source: *Survey of Palestinian Refugees and Internally Displaced Persons 2008 – 2009*, BADIL Resource Center, 2009.

***We will never give up
our rights.....We will not
remain refugees forever,
and we will never give up
the hope of return.*** ¶

Sabri 'Umuri, 14 years old, Jenin
Refugee Camp, village of origin -
Sabbarin, Haifa

