

# Q and A

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

## **Q and A: What you need to know about Palestinian Refugees and Internally Displaced Persons**

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**Cover photo:** Palestinian refugee woman holding the key of her original house in her depopulated village in Haifa, Jalazone camp, Ramallah, May 2013.

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# 1. DEMOGRAPHICS OF DISPLACEMENT



## Who is a Palestinian Refugee?

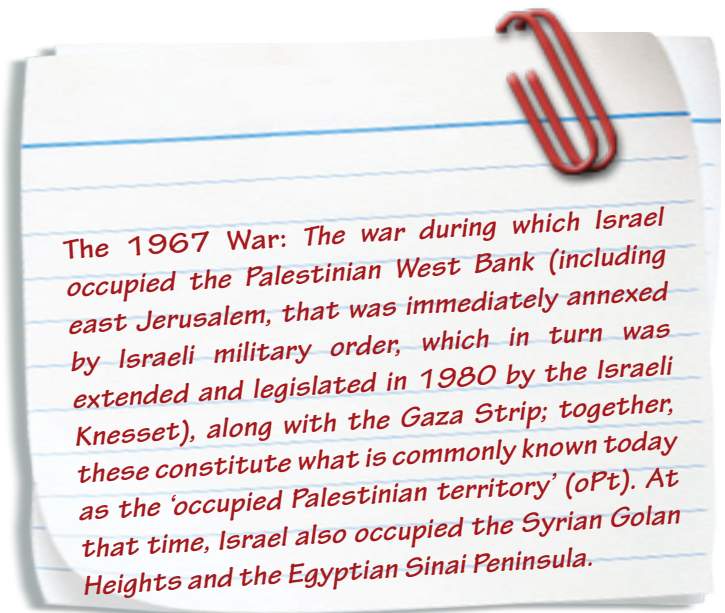
Palestinian refugees are those who have been displaced from their homes of origin and are still denied reparations (return, property restitution, compensation and rehabilitation) as a result of the Zionist-Israeli strategy of “taking over the maximum area of land with minimum Palestinians”.

Palestinian refugees constitute one of the largest and longest-standing unresolved refugee groups in the world today. There is no single authoritative source for the global population of Palestinian refugees and internally displaced persons (IDPs). Estimates of the current size of Palestinian refugee and IDP populations are based on uneven and shifting data, primarily due to the absence of a comprehensive registration system, frequent subsequent forced displacement, and the lack of a uniform definition of a Palestinian refugee. However, according to the most recent estimates, at least 8.7 million (66.7 percent) of 13.05 million Palestinians worldwide are forcibly displaced persons. Among them are at least 7.94 million Palestinian refugees, and the rest are IDPs.


There are three groups of Palestinian refugees. The **FIRST** and largest is made up of those who were forced to flee their homes and country during the *Nakba* (1947-1949), (Arabic for catastrophe; see Question 2.1 below), and their descendants. The total number of this group of Palestinian refugees is approximately 6.71 million, a figure that includes the 5.55 million refugees who are registered with and assisted by the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) (See box below).

Palestinian refugees registered with UNRWA are often referred to as “registered” or “Palestine” refugees. Importantly, UNRWA defined eligibility as a “Palestine refugee” on the basis of need for its services at a particular point in time, rather than their status as a forcibly displaced person. There are a further 1.16 million Palestinian refugees who were also displaced in 1948 who were either not eligible or did not register for assistance with UNRWA.

The **SECOND** major group of Palestinian refugees is comprised of those displaced for the first time from their homes and country during the 1967 War, and their descendants. The number of Palestinian refugees originating in 1967 is estimated to be 1.24 million refugees.



The **THIRD** group of refugees is comprised of an unknown number of Palestinians who are neither 1948 nor 1967 refugees, but who have also been displaced outside the area of Mandatory Palestine (what is now Israel and the 1967 occupied Palestinian territory) as a result of Zionist-Israeli policies.



The United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) was established in 1950 as a subsidiary organ of the UN General Assembly, by UNGA Resolution 302 (IV) of 8 December 1949, "to carry out [...] direct relief and works programs" for 'Palestine refugees'. UNRWA is the lead international agency mandated to assist Palestine refugees in five geographical areas of operation (Syria, Lebanon, Jordan, the West Bank and the Gaza Strip) with humanitarian assistance in the form of education, health, relief and social services.

The Agency does not hold an explicit mandate to protect or promote durable solutions for Palestine refugees. In principle, primary responsibility for protection of the Palestinian refugees in the Agency's area of operations lies with the Arab host governments in Lebanon, Syria and Jordan, and with Israel as the Occupying Power in the occupied Palestinian territory, in addition to the Palestinian National Authority in areas under its control.

Without an explicit protection mandate, UNRWA's provisions are limited and do not include the full breadth of international protection. The lack of an explicit protection mandate for Palestinian refugees has received only periodic attention from the international community, usually in the aftermath of notable crises, and for limited periods of time or scope.

Despite lacking a mandate to seek durable solutions (see Q1.3), UNRWA became, for refugees and host governments alike, the embodiment of international recognition and responsibility for the situation of Palestinian refugees.

# 1.2 Q

## Who is an internally displaced Palestinian?

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According to the Guiding Principles on Internal Displacement (UN, 1998), internally displaced persons (IDPs) 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.” Internally displaced Palestinians can be divided into two groups.

The **FIRST** is comprised of persons displaced in the area that became Israel in 1948. This group includes those who were displaced during and after the 1948 *Nakba* (approximately 415,876 persons today), as well as those subsequently displaced by Israel.

The **SECOND** group (approximately 344,599 persons today), is composed of Palestinians internally displaced in the occupied Palestinian territory (oPt) since 1967, as a result of Israel’s regime of colonization, annexation and apartheid. This figure of IDPs also includes Palestinian refugees who suffered subsequent secondary forced displacement inside the oPt. However, the number of 1948 refugees displaced a second time in or since 1967 is largely unknown, due to the absence of a comprehensive registration or follow-up system, as well as the high frequency of displacement.







### **Why are descendants of refugees and internally displaced persons considered in today's figures?**

The international community classifies the descendants of Palestinian refugees as refugees, because their entitlements to international assistance, protection and reparation are 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 or resettlement in third states) and reparations (including restitution, compensation and satisfaction) which they voluntarily choose in accordance with international law. The same approach is applied by the international community to other refugees (such as with Bosnian and Guatemalan refugees) and IDP situations worldwide. Therefore, persons retain their status as refugees vis-a-vis the state of origin (Israel in the Palestine context), if they have not been enabled to freely choose one of the three durable solutions. Even those that acquire other state citizenship, which normally occurs in protracted refugee cases, they are still entitled to the right to reparation (return, property restitution and compensation) from the state of origin.



### **Where do Palestinian refugees and internally displaced persons live today?**

Palestinian refugees live very close to their homes and villages of origin, because they left based on the assumption that they would return once the armed conflict ceased. In 1948, an estimated 65 percent of Palestinian refugees remained in the territory of Palestine which was not under Israeli control at the time – i.e., the West Bank and the Gaza Strip. The remaining 35 percent of the Palestinian refugee population displaced in 1948 found

refuge in neighboring states, mainly Jordan, Lebanon, Syria and Egypt.

The majority of Palestinians displaced from the oPt during the 1967 War found refuge in neighboring states. Most of them (95 percent) were displaced to Jordan, with smaller numbers displaced to Syria, Egypt and Lebanon. UNRWA estimates that half of the refugees forced out of the oPt in 1967 were also refugees from 1948.

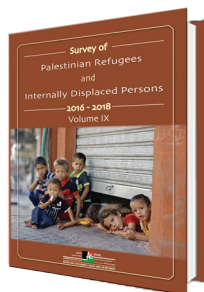
Most refugees still live within 100 km of the borders of Mandatory Palestine where their homes of origin are located. By the end of 2018, approximately 40.4 percent (2,242,579) of all UNRWA-registered refugees were residing in Jordan; 25.6 percent (1,421,282) in the Gaza Strip, 15.3 percent (846,465) in the occupied West Bank, 10 percent (560,139) in Syria, and 8.6 percent (475,075) in Lebanon. Most Palestinian refugees (approximately 79 percent) live outside the 58 UNRWA official camps.

The majority of internally displaced Palestinians in what is now Israel are currently concentrated in the Galilee, in the north of the country in cities such as Nazareth and Shafa-'Amr, and in cities with a mixed Israeli-Jewish and Palestinian population, such as Haifa and Akka (Acre). Internally displaced Palestinians are also located in the Naqab, in the south of Mandatory Palestine. In addition to the systematic discrimination that Palestinians experience, IDPs are also not recognized by Israel and are denied their rights of return, restitution and compensation.

Palestinian refugees in the various host countries face different legal, economic and social realities that shape their struggles and identities. In addition to the lack of a uniform legal system

to protect them, they are vulnerable to the political, social, and economic transformations in host countries.

*(For more details on the living conditions of Palestinian refugee communities in the different host countries, please see BADIL's Survey on Palestinian Refugees and Internally Displaced Persons, 2016-2018.)*




## 1.5 Q What nationality and citizenship do Palestinian refugees have?

As a geopolitical territory and from a legal perspective, the final status of Palestine was determined by the Treaty of Peace with Turkey signed at Lausanne (Treaty of Lausanne) of 1923. Also, the Treaty of Lausanne transformed the *de facto* status of Palestinians (previously inhabitants of the Ottoman Empire) to *de jure* Palestinian nationality from an international law perspective. Further, by the enactment of the Palestinian Citizenship Order of 1925, Palestine's inhabitants were legally established at the national level. As such, the status of Palestine as a defined geopolitical sovereign territory, and the status of the Palestinian people as a nationally identified people, were legally well established prior to the creation of the state of Israel.

The Palestinian people are the habitual residents of Palestine and their descendants, of whom two thirds are displaced. Article 5 of the Palestinian National Charter stipulates that,

[t]he Palestinians are those Arab nationals who, until 1947, normally resided in Palestine regardless of whether they were evicted from it, or have stayed there. Anyone born, after that date, of a Palestinian father – whether inside Palestine or outside it – is also a Palestinian.



Palestinians are arbitrarily denied both nationality and citizenship. Under international customary law concerning state succession, all Palestinians habitually residing in Israel at its creation are entitled to citizenship. However, while Israel conferred its citizenship to those Palestinians that remained, it denied the majority (who were displaced during the Nakba) their right to citizenship. By doing this, Israel has denationalized those Palestinians and their descendants. Moreover, those Palestinians with Israeli citizenship are subjected to unique forms of discrimination, as they are denied the right of nationality. This is because Israeli law, official institutions or records do not recognize an "Israeli nationality". Israel's High Court confirmed that no such status exists. All Israeli-Jews qualify as "Israeli citizens", however, their nationality status is "Jewish". The state of Israel is defined as belonging to the "Jewish nation", which includes not only the Israeli-Jews but also all Jews that do not live in Israel.

This unusual distinction between "citizenship" and "nationality" and the special status given to the Jewish nationality, has been a way to undermine citizenship rights of non-Jews living/residing inside Israel. Although all residents of Israel qualify as citizens, the only nationality conferring automatic status to enjoy all civil, political, economic, social and cultural rights in Israeli law is the "Jewish nationality". Palestinian citizens of Israel are categorized in different groups, but their main defining characteristic is that they are non-Jews, and therefore are not entitled to the same rights and privileges as Israeli-Jews. This is seen in the fact that there are more than 65 Israeli laws that discriminate against

*Palestinian citizens of Israel based on their non-Jewish nationality.*

*These laws, in particular the Israeli Law of Return and Nationality Law, allows for any Jew to enter Israel and to obtain nationality and citizenship at any time, and to live in Israel or colonies in the West Bank, as they are seen to be "returning" to their homeland. There is no need for them to be born in Israel or to have any previous connection with Israel to enjoy these rights. Ironically, Israel prevents the return of Palestinians who are the indigenous people of that land, in breach of international law.*



Street Vendor with Newspaper "Palestine" in Jaffa (1921-1923) ©Frank Scholten

## 2. THE ONGOING NAKBA

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### What is the *Nakba*?

The term *Nakba* (Arabic for 'catastrophe'), designates the first wave of massive population transfer undertaken by the Zionist movement and Israel, in the period between November 1947 (UN Palestine Partition Plan) and the ceasefire (Armistice) agreements with Arab states in 1949. The *Nakba* was an act of forced population transfer (or ethnic cleansing) undertaken for the purpose of establishing Israel, that would ensure permanent dominance of Israeli-Jewish colonizers over the indigenous Palestinian population. More than 750,000 Palestinians were forcibly displaced from their homes and lands during the *Nakba* and were also prevented from returning.



### What have been the main waves of displacement?

At the beginning of the 20<sup>th</sup> century, most Palestinians lived inside the borders of Palestine, now divided into Israel and the oPt. Four major waves of forcible displacement (coupled with the denial of return) have transformed Palestinians into the largest and longest-standing unresolved refugee case in the world today.

- British Mandate (1922-1947): more than 150,000 Palestinians were displaced within and beyond the borders of Palestine in the context of British support of Zionist colonization, including a significant proportion who were denationalized by the 1925 Citizenship Order;

- *Nakba* (1947-1949): over 750,000 Palestinians were displaced in the context of a UN General Assembly recommendation to partition Palestine which led to armed conflict, ethnic cleansing and the establishment of Israel;
- Israel's military government (1949-1966): between 35,000 and 45,000 Palestinians out of the 150,000 who had managed to remain in the area that became Israel in 1948 were displaced;
- Arab-Israeli War (1967): between 400,000 and 450,000 Palestinians were displaced in the context of armed conflict and Israel's occupation of the Palestinian West Bank and Gaza Strip, the Egyptian Sinai Peninsula and the Syrian Golan Heights;
- In addition to the main waves of displacement, the ongoing *Nakba* (1948 – present), embodied in Israel's policies and practices of colonization, annexation and apartheid, has and continues to displace Palestinians within and out of Mandatory Palestine and keep them in a state of exile.



## What is the Ongoing *Nakba*?

One fundamental truth is that the *Nakba* is ongoing; in other words, the *Nakba* is not isolated explicitly to historic events but is an ongoing phenomenon that was initiated well before that period. As such, the Ongoing *Nakba* is terminology adopted and promoted by BADIL to describe this phenomenon that began as early as the occupation by the British in 1917 and continues to this day. This reality is achieved by a vicious cycle of ongoing displacement and simultaneous prevention of return. The cycle is a consequence of a plethora of Zionist-Israeli policies, practices and laws culminating in a colonial

and apartheid regime, that perpetrates population transfers to alter the demographic composition of Mandatory Palestine and annexation of all its historic lands. By the end of 2018, approximately 8.7 million Palestinians were displaced persons, with many in Mandatory Palestine and in exile still vulnerable to persecution and renewed displacement in and from their host countries.



## What does the Ongoing Nakba look like today?

Today, Israel's regime (combining occupation, colonization, annexation and apartheid) is the root cause of the historic and ongoing forced displacement of and denial of return for Palestinians, in and from Mandatory Palestine. Contemporary forced displacement is induced by a set of interrelated, discriminatory and oppressive Israeli policies and practices that are implemented in the context of military operations and routine administration. These policies individually or collectively create a coercive environment, with conditions so oppressive, that Palestinians are forced to leave their places of habitual residence, thus creating a situation of forcible population transfer.

The coercive environment is a combination of actual conditions and their psychological impact that makes normal life of an individual or group in a specific area unbearable, or impossible. The coercive environment is created by the violation of one or more basic rights, or the denial of basic freedoms. For example, the violation of right to water, housing, basic services, adequate living and/or the denial of the freedom of speech, expression, worship and family unification: the victim(s) of the coercive environment is/are induced to leave, being deprived of the genuine will to be able to stay under such circumstances.



BADIL has identified at least nine policies deployed by Israel as and when necessary to create a coercive environment.

*(For more examples to understand the coercive environment, please see our paper on Coercive Environments: Israel's Forcible Transfer of Palestinians in the Occupied Territory, 2017).*

The nine Israeli policies of forcible transfer of the Palestinian people are:

1. DENIAL OF RESIDENCY: this policy includes the revocation of residency, and the denial or hindrance of child registration, family unification, and change of residence. These impediments combined undermine normal family life and induce forcible transfer.
2. INSTALLMENT OF A PERMIT REGIME: approximately 101 Israeli enforced/issued permits regulate and interfere with various facets of Palestinian life, such as travel, work, development and transporting goods and assets. This regime usually results in the complete denial of access to land, work, health care and education, creating pressure that results in forcible transfer.
3. LAND CONFISCATION AND DENIAL OF USE: in addition to the actual confiscation of land, Israel employs different means to restrict or completely deny the use and access of land – effectively appropriating large areas. Without access to the land and all the associated rights and benefits derived from it, Palestinians are forced into other areas.
4. DISCRIMINATORY ZONING AND PLANNING: this policy targets Palestinians by containing the growing population through municipal planning. The non-recognition of Palestinian communities, substandard living conditions, denial of representation of Palestinians on planning bodies, legalization of annexation, and lack of access to public land, in addition to

obsolete infrastructure, are all policies designed to restrict Palestinian communities' natural growth and expansion, and destroy and reverse their development.

5. **SEGREGATION, FRAGMENTATION AND ISOLATION:** this entails dividing the Palestinian populace by geographical borders in order to segregate, fragment and isolate communities and subject them to different legal statuses in order to create, maintain and enhance Israeli colonial domination and apartheid over Palestinians. The ultimate aim is to erase Palestinian national identity and deny the Palestinian people their right to self-determination.
6. **DENIAL OF ACCESS TO NATURAL RESOURCES AND SERVICES:** this policy focuses mainly on the denial of natural resources such as water, land, oil, gas and sea resources and discriminatory denial to essential and basic services associated with fundamental rights (such as housing, education, health care, etc.)
7. **DENIAL OF REPARATIONS (INCLUDING RETURN):** this legally and militarily enforced policy is critical to the demographically engineered Israeli-Jewish majority and control. It constitutes a violation of Palestinian individual and collective rights to reparations, for the serious human rights violations and breaches of international law to which they have been subjected to. In light of the failure of the international community to act, this policy also perpetuates the vulnerability of the Palestinian population, weakens their ability to resist Israeli policies, and enhances Israeli impunity.
8. **SUPPRESSION OF RESISTANCE:** the policy includes systematic and mass incarceration, torture, the suppression of the freedom of expression and assembly, punitive and collective punishment, as well as criminalizing acts of civil opposition or disobedience, mainly through the illegal and excessive threat or use of force.

9. NON-STATE ACTIONS (WITH THE CONSENT OF ISRAEL): this includes Israeli-Jewish colonizer and civilian actions and violence with impunity against Palestinians and their property. It also includes the discretionary power and ideological role of parastatal organizations, such as the Jewish National Fund and the complicit operations of private businesses and corporations.

The aforementioned policies result in the forcible transfer and displacement of Palestinians. These are the tools and mechanisms utilized to sustain the root causes of the conflict - the Israeli settler-colonial and apartheid regime.

*(For more details on these policies, please see our series of Working Papers: Forced Population Transfer: The Case of Palestine, 2014-Present).*



## What is behind the forcible transfer of Palestinians?

The Zionist Movement was formed in the late nineteenth century with the aim of creating a colonial state under the guise of the formation of a ‘...national movement for the return of the Jewish people to their homeland and the resumption of Jewish sovereignty in the Land of Israel’.

As such, the Zionist movement spearheaded the colonial enterprise by creating and fostering the notion of Jewish nationalism, and combining it with the active colonization of foreign people in Palestine, mostly from Europe, with the support of Western imperial powers.

Under the maxim “a land without a people for a people without a land,” the Zionist movement faced three major obstacles. The following is a brief outline of these obstacles, and the ways the

Zionist movement, and then Israel, have addressed them:

1. **THE INDIGENOUS PALESTINIAN PEOPLE OF Mandatory Palestine:** *The central obstacle to the Zionist colonial endeavor, the Palestinian people themselves, continue to be addressed by mechanisms employed since the early 1900s that were designed to forcibly transfer Palestinians out of Palestine, and are still in force today.*
2. **PALESTINIAN PROPERTY AND LAND RIGHTS:** *The Israeli Absentee Property Law 1950 - among other laws and mechanisms - was used to confiscate Palestinian property, legally owned by Palestinian refugees and IDPs. The term 'absentee' was defined so broadly as to include not only Palestinians who had fled the newly established Israel, but also those who had fled their homes, but remained within its borders.*
3. **LACK OF A DEMOGRAPHIC ISRAELI-JEWISH MAJORITY:** *To ensure a sufficient number of Israeli-Jews in the colonized territory, the Israeli Law of Return 1950 was adopted. It provides that every Jewish person in the world is entitled to 'Jewish nationality', and can immigrate to Israel and acquire Israeli citizenship.*

Overall, forcible population transfer is a necessity for the success of the Zionist colonial endeavor. Zionism also requires a structure of racial and institutionalized discrimination against Palestinians (or whoever is not Jewish) in areas of nationality, citizenship, residency rights and land ownership. This system was originally applied in 1948 in order to dispossess and dominate Palestinians, who remained within the borders of the "1949 Armistice Line" and in 1967, it extended to the rest of Palestine under the guise of occupation.



## What does belligerent occupation, colonization, annexation and apartheid mean?

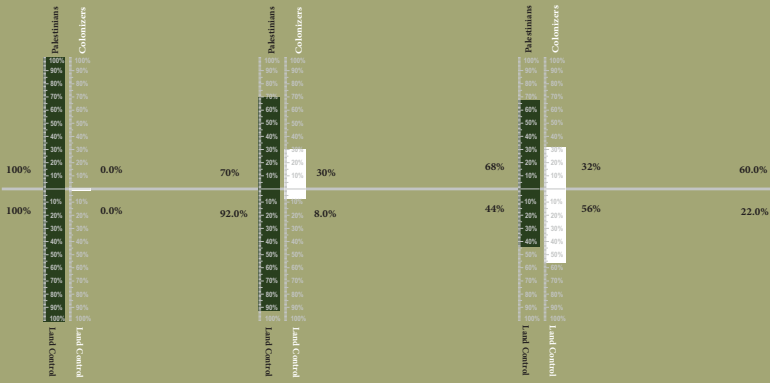
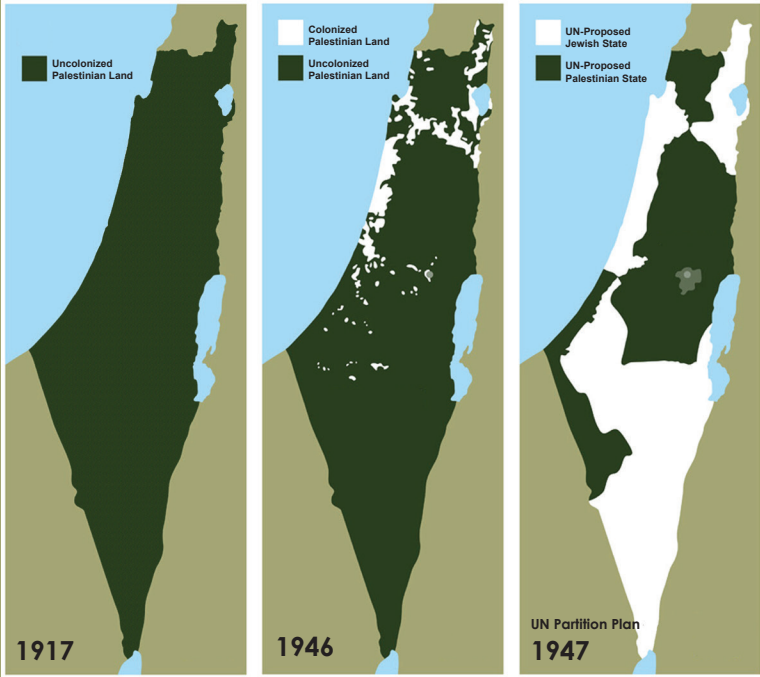
The crime of forcible population transfer is facilitated by and carried out in conjunction with a number of strategies implemented by Israel in violation of international law, in order to achieve the ultimate Zionist objective of maximum land, with minimum Palestinians. These include:

**BELLIGERENT OCCUPATION** is accepted as a possible consequence of armed conflict and allows the occupying power to administer the occupied territory without changing the legal status of the territory, its population and the sovereignty over it. Under the law of armed conflict (international humanitarian law), it is intended to be a temporary state of affairs, with strict legal parameters to ensure the occupied population remains protected. Israel has a *de facto* authority to administer the occupied Palestinian territory, but is not allowed to exercise sovereignty over it or to change or annul existing laws, unless in exceptional circumstances. Israel utilizes the guise of occupation to justify its ongoing presence in the oPt, allowing it the opportunity and pretext to perpetrate its long-term objectives of colonization, forcible population transfer and annexation.

**COLONIZATION** is a practice of colonialism, defined in the Declaration on the Granting of Independence to Colonial Countries and Peoples (1960) as a situation in which the acts of a State have the cumulative outcome that it annexes or otherwise unlawfully retains control over territory and thus aims permanently to deny its indigenous population the exercise of its right to self-determination. Colonialism “constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations and is an impediment to the promotion of world peace and co-

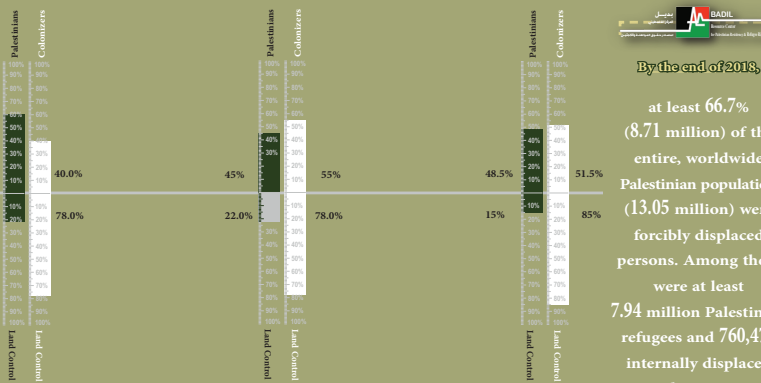
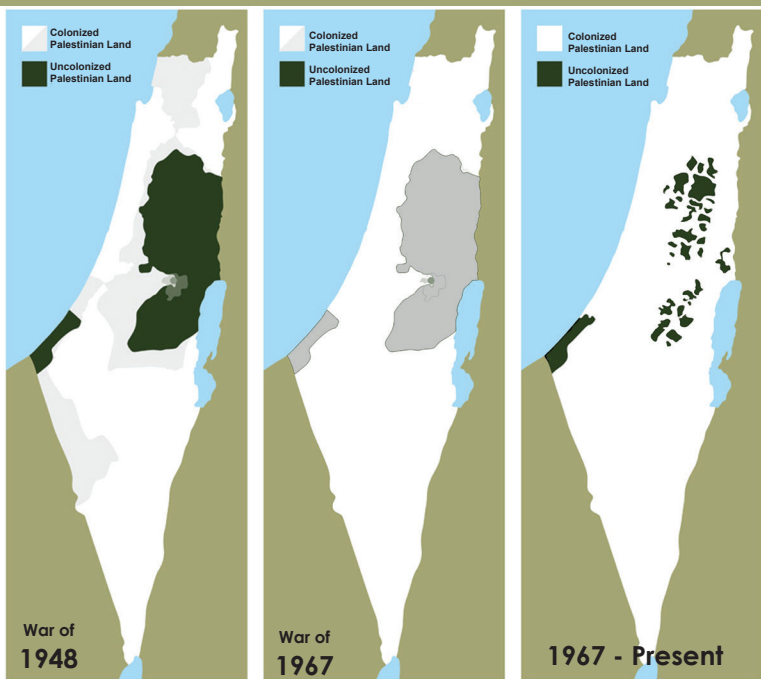
# “Maximum Land with M The Ongoing NA

## THE MECHANISMS OF DISPLAC COLONIZATION A



# Minimum Palestinians” KBA since 1917

## CEMENT, FORCIBLE TRANSFER, AND APARTHEID



By the end of 2013,  
at least 66.7%  
(8.71 million) of the  
entire, worldwide  
Palestinian population  
(13.05 million) were  
forcibly displaced  
persons. Among them  
were at least  
7.94 million Palestinian  
refugees and 760,475  
internally displaced  
Palestinians.

operation.” Israeli colonialism imposes spatial, legal, social and economic subjugation and domination of the Palestinian people.

ANNEXATION is a practice strictly prohibited by international law, which involves the permanent acquisition of territory as a result of the threat or use of force. Under the guise of occupation, Israel is simultaneously colonizing Palestinian land and forcibly transferring the Palestinian population in order to assert a situation of *de facto* annexation, while also pursuing a range of legal and policy tactics to slowly achieve the *de jure* annexation of all Palestinian land.

*(For more details on these practices, please see BADIL's paper: Israeli Annexation: the Case of Etzion Colonial Bloc, 2019).*

APARTHEID is one of the most severe forms of racism, and is “a political system where racism is regulated in law through acts of parliament.” It constitutes a crime against humanity and its prohibition is considered a peremptory norm of international law. It is defined in the Convention on the Suppression and Punishment of the Crime of Apartheid (1976) as a system of policies and practices committed for:

*... the purpose of establishing and maintaining domination by one racial group of persons over any other racial group of persons and systematically oppressing them, in particular by means such as segregation, expropriation of land, and denial of the right to leave and return to their country, the right to a nationality and the right to freedom of movement and residence (Article II).*

As an international crime, apartheid carries individual criminal responsibility under the Rome Statute. Members of organizations and agents of an apartheid state are also subject to criminal prosecution, irrespective of the motive involved, and whenever they commit, participate in, directly incite or inspire, directly abet, and/or encourage or cooperate in the commission of the crime of apartheid (Article III, 1976 anti-Apartheid Convention). At the



same time, all states are obliged to condemn, suppress and punish those involved in the crime of apartheid. Israel relies on a system of apartheid to assert and maintain the Israeli-Jewish majority and domination over Palestinians who remain within the borders of Mandatory Palestine, and those in exile.

*(For more details on these practices, please see BADIL's paper: The Nation State Law: the Culmination of 70 Years of Israeli Apartheid and Colonization, 2018).*



## What is the forced secondary displacement of Palestinians?


Many Palestinians who sought refuge outside their homeland have also experienced further forced displacement. With their right to a nationality and travel document denied by Israel, they became stateless refugees who have been vulnerable to the impacts of armed conflicts and human rights violations in their respective host countries.

The level of protection provided to Palestinian refugees under Arab regional and national instruments and mechanisms is notably low. Ineffective protection, including discrimination against Palestinian refugees and armed conflicts in Arab host countries, as well as by Israel, have been, and remain triggers of forced secondary displacement of Palestinians. Throughout the last century, the following political situations illustrate some critical examples:

- **Mid-1950s:** Palestinian oil industry workers were expelled from the Gulf States;
- **1970:** Numerous families of Palestinian refugees were expelled from Jordan as part of the expulsion of the nascent Palestinian resistance movement (the Palestinian Liberation

Organization) in the events termed “Black September.” Most of them relocated to Lebanon;

- 1976–1991: During the Civil War in Lebanon, more than 100,000 Palestinians were forced to leave the country;
- 1990–1991: More than 400,000 Palestinians were expelled from Kuwait in response to the Palestine Liberation Organization’s political support for Iraq during the Gulf War;
- 1995: Libya expelled some 30,000 Palestinians from its territory after the signing of the Oslo Accords (some were subsequently re-admitted);
- 2003–2019: Several thousand Palestinian refugees were displaced, and many more remain threatened, in the context of the US-led war against, and the occupation of Iraq;
- 2006-2010: Internal displacement of Palestinian refugees inside Lebanon as a consequence of the 33-day war between Israel and Hezbollah, and the siege and bombardment of the Palestinian Nahr Al-Bared refugee camp by the Lebanese army.
- 2008-ongoing: the Gaza Strip has experienced ongoing intermittent Israeli bombardments since Hamas began administering it in 2007, including 3 major escalations in 2008-2009, 2012 and 2014. The 2014 war alone internally displaced more than half a million Palestinians (28 percent of Gaza’s population) and by the end of 2018, 22,000 remained displaced.
- Additionally, the coercive environment created by the Israeli policies detailed in Q2.4 are causing forced secondary displacement, particularly in Area C (in the West Bank), east Jerusalem and the old city of Hebron.



The crisis that broke out in Syria in 2011 has resulted in the forced secondary displacement of thousands of Palestinian refugees. The conflict has deeply affected all 12 Palestinian refugee camps in Syria and all 560,000 registered Palestinian refugees in the country. As a consequence of the violent conflict, more than 50 percent of the registered Palestinian refugees of Syria have been displaced inside the country, with 95 percent identified as requiring emergency assistance. Yarmouk Refugee Camp, once the largest Palestinian camp in Syria containing an estimated 200,000 Palestinians, has been all but destroyed by the conflict. Additionally, more than 20 percent of these Palestinian refugees have tried to seek refuge in neighboring countries.

It is estimated that approximately 150,000 Palestinian refugees experienced secondary displacement from Syria due to the conflict:

- Lebanon: over 29,000
- Jordan: over 17,000

Thousands of refugees additionally fled to countries outside of UNRWA's jurisdiction. These were:

- Egypt: between 5,000 and 6,000
- Turkey: 10,000
- Europe: 85,000

### 3. THE RIGHTS OF REFUGEES AND IDPS



#### What does international law say?

All refugees and IDPs (including those that are Palestinian) are entitled to two sets of rights under the international protection framework. The **FIRST** are basic human rights that all persons continue to be entitled to, even while they have been displaced from their homes. These are human rights enshrined in different international law instruments such as the International Convention on the Status of Refugees of 1951 and associated Protocol of 1967; the Universal Declaration of Human Rights; the International Covenant on Civil and Political Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the International Convention on the Suppression and Punishment of the Crime of Apartheid; the Hague Regulations concerning the Laws and Customs of War on Land; and the Fourth Geneva Convention, among others.

Some of the rights recognized by those instruments include the right to an effective remedy by the competent national tribunals; the right to freedom of movement and residence within the borders of each state; the right to leave any country, including his/her own, and to return to his/her country; the right to security and protection by the State against violence or bodily harm; the right to nationality; the right to freedom of opinion and expression; and the right to housing.

The **SECOND** set of rights include remedies for resolving their situation. On the one hand, when a state or entity commits gross and serious violations of international law, all persons, including refugees and IDPs, are entitled to reparations (including

restitution, compensation, rehabilitation and guarantees of non-repetition). Restitution includes, as appropriate: restoration of liberty; enjoyment of human rights, identity, family life and citizenship; return to one's place of residence; return of property; and restoration of employment. On the other hand, international refugee law sets out a specific international protection framework with a set of durable solutions aimed at resolving the plight of refugees and IDPs. These include repatriation (return), local integration in the host country or resettlement in a third country; among these, only voluntary repatriation is considered a right.

Additionally, the international community has recognized a specific framework of durable solutions for all Palestinians displaced in 1948, including IDPs inside Israel, which 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 in accordance with international principles and justice.

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 calls on Israel to allow the immediate return of all who had fled the hostilities.



### Who is responsible for protecting refugees and IDPs?

States have an obligation to protect people under their jurisdiction. Under the Law of State Responsibility, states that are responsible for the commission of an internationally wrongful act must provide reparations. Successor governments remain bound by the responsibility incurred by predecessor governments to provide

reparations. When the state's actions are the cause of forcible and arbitrary population displacement, the state is, by definition, not providing the protection required by international law. The state is rather committing an "internationally wrongful act" that triggers a legal obligation to make reparation.

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Israel has so far failed or refused to fulfill its obligations towards Palestinian refugees and IDPs. Palestinian victims of forcible and arbitrary displacement lack the protection of their country. The responsibility of the international community and international protection therefore comes into play to ensure that their basic rights are respected.

The international legal regime for the protection of refugees is enshrined in the 1951 Convention Relating to the Status of Refugees, its 1967 Protocol, and the 1950 Statute of the Office of the United Nations High Commissioner for Refugees (UNHCR), governing the rights of refugees and state obligations towards them. The UNHCR is the principal international body mandated to assist host states in providing protection for refugees worldwide, and to supervise the implementation of the Refugee Convention and 1967 Protocol in host countries.



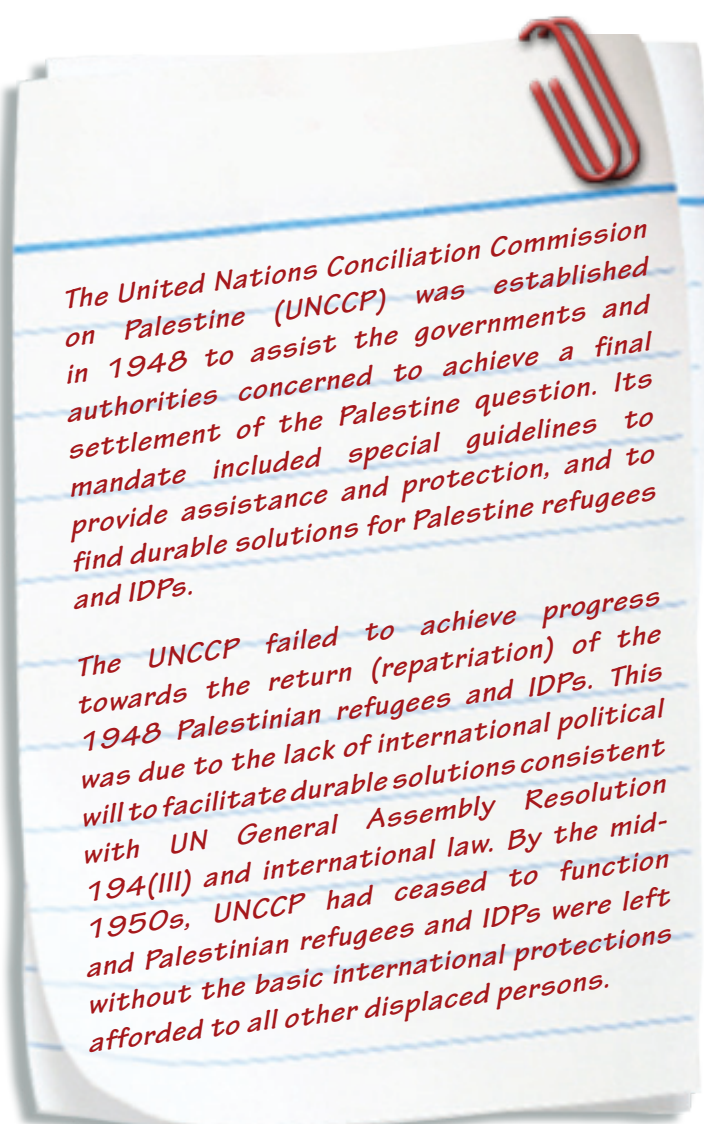
**Why do Palestinians suffer from a "protection gap" that other refugees do not experience?**

Displaced Palestinians are subject to a separate legal protection framework, created prior to the adoption of the Refugee Convention or establishment of the UNHCR. To address the rights of the Palestinian displaced population, the United Nations set up two separate agencies. In 1948, the United Nations Conciliation Commission for Palestine (UNCCP) was mandated to seek durable

solutions for and protect Palestinian refugees. In 1949, the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) was mandated to provide humanitarian assistance, which is one aspect of international protection and necessary to ensure human dignity to displaced Palestinians (see box after Q1.1). It was a protection framework designed and maintained, even after the establishment of the international scheme, for the protection of refugees (UNHCR), in order to recognize the special responsibility of the international community, and ensure proper attention was given to the rights of Palestinians.

Despite this all, today, displaced Palestinians face a substantial lack of protection. This is due to an array of reasons – above all, the blatant unwillingness on the part of all actors involved, to address and solve the world’s largest and most protracted refugee situation. In fact, more than 71 years of uninterrupted and unsanctioned Israeli policies of colonization and apartheid are mirrored by a unique protection gap, that flows from the misinterpretation and improper implementation of the system, initially adopted to provide Palestinian refugees and IDPs with comprehensive protection. Most notably, the separate legal framework designed to ensure Palestinian refugees’ entitlement to international protection has been deactivated and worse, it has been utilized to exclude them from the protection regime of the 1951 Refugee Convention and the oversight of UNHCR. Moreover, the protection of Palestinian IDPs on both sides of the Green Line has been undermined by the unwillingness of Israel to provide them the protection and assistance to which they are entitled to.

*(For more details on the protection gap for Palestinian refugees, please see BADIL’s Survey on Palestinian Refugees and Internally Displaced Persons 2016-2018 and/or BADIL’s Handbook on Protection of Palestinian Refugees)*



The United Nations Conciliation Commission on Palestine (UNCCP) was established in 1948 to assist the governments and authorities concerned to achieve a final settlement of the Palestine question. Its mandate included special guidelines to provide assistance and protection, and to find durable solutions for Palestine refugees and IDPs.

The UNCCP failed to achieve progress towards the return (repatriation) of the 1948 Palestinian refugees and IDPs. This was due to the lack of international political will to facilitate durable solutions consistent with UN General Assembly Resolution 194(III) and international law. By the mid-1950s, UNCCP had ceased to function and Palestinian refugees and IDPs were left without the basic international protections afforded to all other displaced persons.



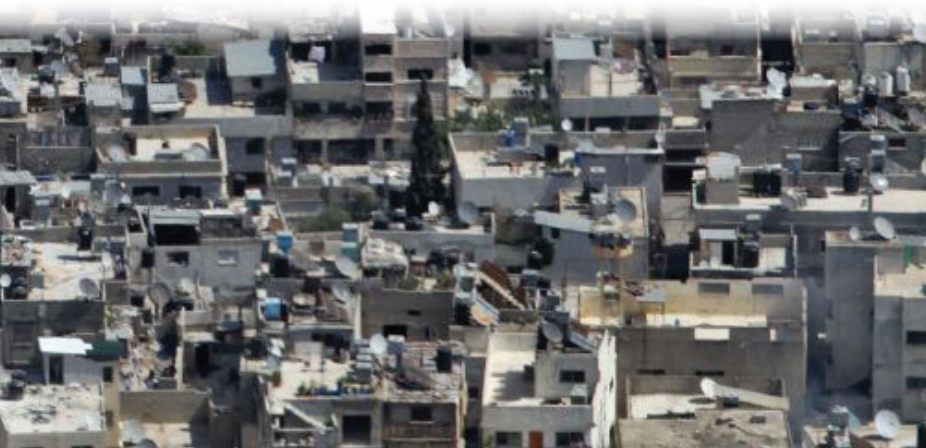




## Why are the rights of Palestinian refugees and internally displaced persons not respected?

Despite numerous subsequent UN resolutions calling for the implementation of UN Resolutions 194 and 237, since the early 1950s, no international organization or entity has actively engaged in providing a comprehensive solution for Palestinian refugees and IDPs. Instead of enabling the UNCCP, international politics have undermined the United Nations as a guardian of Palestinian refugee rights and limited its role to providing humanitarian aid, while solutions have been left to political negotiations. These negotiations have been subject to a balance of power that is overwhelmingly in Israel's favor, and Israel, in turn, has sought consistently to avoid recognition and implementation of its obligations, especially the right of return.

The balance of power, or a politically driven approach, may result in a "peace agreement" for a specific set of conditions or for a particular moment, but such a peace would be temporary and superficial only. Refugees, as a collective and individuals, will always seek their rights to ensure that their humanity and dignity are recognized and protected, which such an agreement is unlikely to properly address. Therefore, a human rights-based approach is the only viable framework for constructing durable solutions to this protracted conflict.





## Why is Israel opposed to durable solutions for Palestinian refugees?

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While it might be possible to argue that Israel is not strictly opposed to durable solutions for Palestinian refugees, it has never entertained a reasonable, sustainable or equitable solution. Instead, it has historically sought to limit the three durable solutions to two: namely, local integration of refugees in the host countries; and resettlement in third states. Israel is unwilling to accept Palestinian return as a right or as a durable solution. At most, Israel claims it is willing to allow the return of a limited number of refugees within its borders as a humanitarian or symbolic gesture only. This number has never exceeded 0.5 percent of all Palestinian refugees, according to documents from the negotiations in the past two decades. Tzipi Livni, leader of the Israeli team in the negotiations that took place in 2013-2014, stated in an interview in 2011 that she was rigidly against any refugee return. 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 occupied Palestinian territory, but blocked negotiations over the mechanism of implementation.

To this day, not one single Palestinian refugee or IDP has been able to properly access durable solutions or reparations.

## 4. PRACTICALITY OF RETURN



### What is the right of return?

The right of return exists principally as a customary norm of international human rights law, enshrined in numerous international conventions, as well as being recognized as a durable solution within the international protection framework for refugees, and as a form of reparation for the commission of gross and serious violations of international law. Therefore, Palestinian refugees and IDPs find themselves in a unique position, where they possess the right of return as a standalone right, as well as legally qualifying as both refugees/IDPs and victims of gross and serious violations of international law, many amounting to war crimes and crimes against humanity under International Criminal Law.

The Palestinian right of return is also specifically recognized as an individual and collective right. It is individual in the sense of UN Resolution 194, which affirms that return must be guided by the individual choice of each refugee. The UN Secretariat stated that “the General Assembly intended to confer upon the refugees, as individuals, the right of exercising a free choice as to their future.” But the right of return is also a collective right of Palestinian refugees, understood as a principle equal to the right to self-determination. In fact, the obligation to implement the collective right to self-determination, first requires enabling refugees and other displaced persons to return to their homes and repossess their properties. Consequently, it would be accurate to say that the Palestinian right to self-determination is meaningless, without ensuring the Palestinian refugees’ right to voluntary repatriation.

The exercise of one does not negate or substitute exercising the

other. So, some Palestinians may choose not to exercise their right to return as an individual right, but this does not in any way affect or diminish the collective right of Palestinian refugees to return to their homes and villages of origin. Also, if the majority of Palestinians or political bodies decided to limit the scope of self-determination to the 'State of Palestine within 1967 borders', the individual right to return of every Palestinian refugee, who chooses to return to his/her home of origin in Israel, is still applicable.

*(For more details on the right of return, please see Chapter 4 of BADIL's Survey on Palestinian Refugees and Internally Displaced Persons, 2016-2018)*



## Why do Palestinian refugees have the right to return to Israel?

International law and practice in other refugee cases provides some answers to this question. 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, 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 what Israel has done in refusing to allow refugees to return to their homes since 1948, and then only granting citizenship to Palestinians that remained in Israel.

Palestinian refugees are not different to 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 UNHCR, return (or repatriation) is the preferred durable solution to the plight of refugees around the world.

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.



### **How can refugees return when their villages and homes have been destroyed and new towns built in their place?**

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.

Moreover, the destruction of refugee houses has not prevented the return of refugees in other parts of the world. In Kosovo, 50 percent of the housing stock was destroyed, 65 percent in Bosnia, and 80 percent in Timor-Leste (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.

It is estimated that 77 percent of villages and towns from where Palestinian refugees originate have never been built over and remain vacant land, while 87 percent of the Israeli population lives on just 13 percent of the land that became Israel. In other words, the return of Palestinian refugees would not result in the displacement of the majority of the existing Israeli-Jewish population. International law and best practice provide creative solutions enabling refugees to return, while maintaining and even developing the existing infrastructure.

## 4.4 Who will own the land when refugees return?

The starting point for resolving outstanding housing and property claims is international law. In practice, Jewish restitution cases in Europe could form the basis for resolving refugee property claims in Palestine. Relevant precedents include: the right of individuals or heirs to repossess homes and properties abandoned during periods of conflict; 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 domiciled or do not hold citizenship. These precedents have been articulated and adopted by the UN in 2005 in the non-binding Principles on Housing and Property Restitution for Refugees and Displaced Persons (the “Pinheiro Principles”).

## 4.5 What happens when someone else is living in a refugee’s home?

Most refugee homes and villages have been destroyed, however, numerous Palestinian refugee homes remain in urban centers. Many of

these homes are regarded as choice real estate due to their location, 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 property restitution which must, if practically possible, be respected. If the property is held by the state, the state is obligated to ensure restitution. In other words, priority is given to the refugee returning, and compensation given to the secondary occupant, with the possibility for alternative adequate housing.



## How can implementation of 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. 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 unattainable. It is the continued denial of the inalienable rights of the Palestinian people to self-determination, national independence, sovereignty and return to their homes and properties from which they have been forcibly displaced, that has been the principle reason behind ongoing instability in the region and the failure of the 'peace process', since the early 1990s.

*(For more details on the views of Palestinian refugee and IDPs youth as to the practicality of return, please see Chapter 5 of BADIL's Survey on Palestinian Refugees and Internally Displaced Persons, 2016-2018)*

## 5. WHAT CAN BE DONE?



### What is the role of refugees in implementing durable solutions?

As a matter of general principle, those most affected by the commission of a wrongful act should be at the heart of determining the solution. In the case of refugees specifically, 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 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, UN General Assembly Resolution 194 (1948) affirms that the refugees should choose their preferred solution (return, integration or resettlement), and it obligates the responsible state (Israel) and other international agencies to compensate and rehabilitate refugees, both those who have chosen to return to their homes, and those who have chosen not to return. As a matter of law and human rights, this means that the question of return should not be sidelined pending the outcome of peace negotiations, nor is it a matter of what is and is not acceptable to Israel, if a just and sustainable solution is to be achieved.

The process of crafting durable solutions should include the refugee and the internally displaced communities, in order to strengthen democratic principles and structures, expand the range of solutions and lend greater legitimacy to peace making. Special emphasis should be accorded to the inclusion of Palestinian refugees outside the oPt and Palestinian IDPs in Israel, and special considerations should be given to women, children, the elderly and persons with disabilities.





## What is the responsibility of international duty bearers in implementing durable solutions?

International duty bearers (the UN and its agencies, third party states and international agencies) should play a pivotal role in holding Israel accountable for its violations of human rights and crimes. In cases where a state is committing particularly serious violations of international law, that is, violations of peremptory norms such as the denial of the right to self-determination and/or the prohibition on annexation and apartheid, ALL states have a dual duty. That is, a positive duty to cooperate to bring an end to the violation, and a negative duty not to acquiesce or recognize as legal a situation that violates such laws. These actions are usually taken in the form of boycotts by civil societies or sanctions imposed by the UN Security Council or states themselves. Of the 30 sanction regimes enforced by the UN Security Council since 1966, none have been against Israel.

In addition, State parties to the Fourth Geneva Convention have a legal obligation to investigate and prosecute Israeli perpetrators of war crimes in the territory under their jurisdiction. All states should facilitate the prosecution of international crimes in their domestic courts and ensure that appropriate legislation is adopted for universal jurisdiction. Courts should be allowed to investigate and prosecute, without undue political interference by governments or interested parties. Robust mechanisms should be developed to bring Israel into compliance with international law, investigate violations, determine responsibility and accountability for injuries, loss of life and property, ensure reparations from those responsible, and prosecute those guilty of serious violations of international human rights and humanitarian law.

The international community is also responsible for the enforcement of international law, and the implementation of international

resolutions. The inability of the United Nations and its agencies to implement its decisions, particularly UNGA Resolution 194 of 1948 and UNSC Resolution 237 of 1967, does not relieve states, individually or collectively, from assuming their responsibilities. Both the UN and third party states are obligated by international law to enable and facilitate the return of Palestinian refugees to their original homes, from which they were displaced and ensure restitution of their property and compensation for the damages inflicted upon them, as a result of their displacement.



### What is the role of international civil society in implementing a durable solution?

One of the most important roles of civil society is to create the political will to pressure their governments to act according to their responsibilities. Civil society and grassroots pressure can become the trigger for states to follow their duties and fulfill their responsibilities in accordance with international law.

International civil society also fulfills an important role in showing and acting in solidarity with the Palestinian people. Solidarity actions offer support to Palestinian refugees all around the world, and encourage them to continue with their steadfastness and their fight for the realization of their right of return. Knowing that people around the world support the right of return and a just solution for all Palestinians is of great importance, and should not be underestimated.

An important consideration of international solidarity movements is that its objectives remain in line with the Palestinian movement for self-determination. At the same time, the space to discuss Palestinian rights and liberation, including the right to return, has shrunk dramatically and is facing increasing attacks from Zionist

and pro-Zionist actors. In this context, the role of international civil society in holding and creating space for these discussions, elevating and centering Palestinian voices and discourse, and adopting a consistent rights-based narrative in their advocacy, has never been more necessary.

In addition, civil society should also take part in direct actions against the Zionist enterprise and try to hold Israel accountable to its legal obligations toward Palestinian refugees. The desired end is to realize a just and equitable solution for the plight of Palestinians, both within Mandatory Palestine, and around the world. With this in mind, one of the most successful campaigns has been the Boycott, Divestment, and Sanctions (BDS) movement. This movement is shaped by a rights-based approach that aims to pressure Israel to meet three main obligations: the end of the military occupation of the land seized in 1967 and dismantling the Annexation Wall; equal rights for Palestinians with Israeli citizenship; and the right of return of Palestinian refugees and internally displaced persons. The BDS campaign is the main international civil society movement supporting the rights of displaced Palestinians, and so far, it has been successful in both exerting economic pressure on Israel and also attracting a wide range of participants.

By the end of 2018, at least 67 percent (8.7 million) of the entire, worldwide Palestinian population (13.05 million) were forcibly displaced persons. Among them were at least 7.94 million Palestinian refugees and 760,000 internally displaced persons.

- 1948 Palestinian refugees

UNRWA-registered refugees

5.55 million (64%)

Refugees not registered with UNRWA

1.16 million (13.3%)

- 1967 Palestinian refugees

1.24 million (14.3%)

- Internally displaced Palestinians in Israel since 1948

415,876 (4.8%)

- Internally displaced Palestinians in the occupied Palestinian territory since 1967

344,599 (3.9%)

Most Palestinian refugees (approximately 79 percent) live outside UNRWA's 58 camps. The majority of the refugees still live within 100 km of the borders of 1948 Palestine (Israel) and the 1967 occupied Palestinian territory, where their homes of origin are located.

Source: Survey of Palestinian Refugees and Internally Displaced Persons 2016–2018, BADIL Resource Center, 2019.



