

PLO NEGOTIATIONS AFFAIRS DEPARTMENT

PALESTINIAN REFUGEES

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“No Settlement can be just and complete if recognition is not accorded to the right of the Arab refugee to return to the home from which he has been dislodged... It would be an offence against the principles of elemental justice if these innocent victims of the conflict were denied the right to return to their homes while Jewish immigrants flow into Palestine, and indeed, offer the threat of permanent replacement of the Arab refugees who have been rooted in the land for centuries.”

- Count Folk Bernadotte, U.N. Mediator for Palestine, September 16th, 1948¹

“I’m not ready to even discuss the ‘right of return’ of even one refugee.”

- Avigdor Lieberman, Israel’s Foreign Minister, April 28th, 2009²

May 15th, 2010 marked 62 years since the Palestinian “Nakba” -the catastrophe- that struck the Palestinian people through the policies and actions surrounding the establishment of the State of Israel on 78% of Historic Palestine. Between 1947 and 1949, as the nascent Israeli state sought to acquire the territory upon which to construct a Jewish state, the world witnessed the expulsion of at least 726,000 Muslim and Christian Palestinians from their cities, towns and villages, the killing of hundreds of civilians, and the destruction of hundreds of Palestinian communities. Palestinians were expelled and dispossessed from their homes, creating the largest and most enduring refugee population in the world.

Today, sadly, the Nakba is not over for those Palestinians remaining on the land of their former state. Israel continues to employ the same policies and practices in an effort to forcibly displace thousands more in the occupied Palestinian territory (“oPt”) and inside Israel.

The following document provides answers to the most frequently asked questions.

FREQUENTLY ASKED QUESTIONS

1- Who are the Palestinian Refugees?

The original Palestinian refugees are the estimated 726,000³ indigenous Muslims and Christians who fled or were expelled from their homes and country in the war and violence

¹ UN Doc. A/648, *Progress Report of the United Nations Mediator on Palestine*, September 16th, 1948. Available at; <http://domino.un.org/unispal.nsf/9a798adb322aff38525617b006d88d7/ab14d4aafc4e1bb985256204004f55fa?OpenDocument>.

² David Horovitz and Amir Mizroch, ‘The world according to Lieberman’, *The Jerusalem Post*, April 28th, 2009.

that attended the establishment of the state of Israel. They and their descendents are often referred to as the “1948 refugees.” (See map: *Population Movements, 1948-1951*, <http://www.nad-plo.org/images/maps/pdf/palreg.pdf>).

In 1967, approximately 400,000-450,000 Palestinians⁴ fled their homes in the occupied West Bank and the Gaza Strip during the war launched by Israel against Jordan and Egypt, resulting in the capture and occupation of the West Bank, including occupied East Jerusalem, and the Gaza Strip (the oPt). They and their descendents are often referred to as the “1967 refugees.”

Since 1967, hundreds of thousands more have been displaced from the oPt due to Israeli colonization. Home demolitions, forced evictions, the construction of Israel’s Wall, as well as revocation of residency rights⁵ and deportation of Palestinians are some of the by-products of Israel’s colonization efforts.

Like their counterparts inside the oPt, Palestinian citizens of Israel have also faced home demolitions, forced evictions, and land expropriation in an effort to “judaize” the Galilee and the Naqab in Israel.⁶

Those victims of these illegal acts who are and continue to be displaced within the “borders” of the oPt or inside Israel are referred to as Internally Displaced Persons (“IDPs”). The exact number is unknown due to the absence of a comprehensive registration system, but they are believed to number in the hundreds of thousands.⁷

Neither those civilians displaced during the 1948 and 1967 armed conflicts nor those displaced more recently have been allowed by Israel to return to their homes.

2- How many Palestinian refugees are there?

Today, the original Palestinian refugees and IDPs and their descendents are estimated to number more than 7 million out of a worldwide total of 10.6 million.⁸ They include:

- a) 4.7 million 1948 refugees and their descendants who are registered with UNRWA⁹ (2008);

³ United Nations Conciliation Commission for Palestine, *Final Report of the United Nations Economic Survey Mission for the Middle East: An Approach to Economic Development in the Middle East, Part I.*, December 28th, 1949.

⁴ Between 95,000 and 193,500 of the 1948 refugees became refugees a second time in 1967: *Report of the Secretary-General under General Assembly Resolution 2252 (ES-V) and Security Council Resolution 237 (1967)*, U.N. Doc. A/6797 (1967). Badil Resource Center for Palestinian Residency & Refugee Rights, *Survey of Palestinian Refugees and Internally Displaced Persons*, 2008-2009, p.17.

⁵ Between 1967 and 2008, the Ministry of Interior revoked the status of over 13,000 residents. Half of these revocations occurred between 2006-2008 (<http://www.acri.org.il/pdf/eastjer2010.pdf>)

⁶ See BADIL’s *Written Report in Response to Israel’s Third Periodic Report to the UN Human Rights Committee* at p. 25-28, submitted Sept. 30m 2009, available at http://www2.ohchr.org/english/bodies/hrc/docs/ngos/BadilResourceCenter_Israel99.pdf.

⁷ BADIL, *Survey of Palestinian Refugees & Internally Displaced Persons*, p.19.

⁸ BADIL, *Survey of Palestinian Refugees & Internally Displaced Persons*, p.57.

⁹ United Nations Relief and Works Agency for Palestine Refugees. For figures of UNRWA-registered refugees, see: <http://www.un.org/unrwa/publications/pdf/uif-dec08.pdf>.

- b) 1.5 million 1948 refugees and their descendants who are not registered with UNRWA either because they did not register or because they did not need assistance at the time they became refugees;
- c) 950,000 1967 refugees and their descendants; and
- d) 350,000 internally displaced Palestinians in Israel and their descendants;

See map: *Palestinian Refugees, 2001*, <http://www.nad-plo.org/images/maps/pdf/palreg.pdf>

3- Where do the Palestinian refugees live?

Palestinian refugees are dispersed throughout the world, although the majority live within 100 miles of Israel's border.¹⁰ The largest UNRWA-registered refugee communities reside in Jordan (1,950,000), Syria (460,000) and Lebanon (422,000)¹¹. Some 1,830,000 UNRW-registered refugees live inside the oPt, while an additional 335,000 internally displaced Palestinians live in Israel. The remainder live scattered around the world, primarily in the rest of the Arab World, Europe and the Americas.¹²

More than 1.4 million Palestinian refugees live in 58 UNRWA-administered refugee camps in the oPt, Jordan, Syria and Lebanon, and 12 unrecognized refugee camps (5 in the occupied West Bank, 3 in Jordan and 4 in Syria).¹³

4- How did they become refugees?

“These operations can be carried out in the following manner: either by destroying villages (by setting fire to them, by blowing them up, and by planting mines in their debris) and especially of those populations centers which are difficult to control continuously; or by mounting combing and control operations according to the following guidelines: encirclement of the villages, conducting a search inside them. In case of resistance, the armed forces must be wiped out and the population expelled outside the borders of the State.”

Plan Dalet, March 10th, 1948¹⁴

Like other refugees of armed conflicts, in 1947-1949, Palestinians fled their homes out of either fear for their safety or because they were forced out at gunpoint. In the case of Palestinian refugees, their forced displacement was part of a systematic plan implemented by Zionist militias known as the Irgun and Hagana—the precursors to the Israeli Defense Forces.¹⁵

¹⁰ BADIL, *Questions and Answers: (Q&A): Palestinian Refugees*, available at: www.badil.org/Refugees/Answers/questions_and_answers.htm.

¹¹ UNRWA Publications/Statistics, available at <http://www.un.org/unrwa/publications/index.html>

¹² BADIL, *Survey of Palestinian Refugees and Internally Displaced Persons*, 2008-2009.

¹³ www.unrwa.org

¹⁴ Ilan Pappé, *The Ethnic Cleansing of Palestine*, (2006, Oxford: Oneworld Publications).

¹⁵ For a comprehensive view of these military operations carried on in 1948, please see: Ilan Pappé, *The Ethnic Cleansing of Palestine*, (2006, Oxford: Oneworld Publications), pp.86-126.

Military attacks on Palestinian villages and neighborhoods began as early as December 1947, a few days after the UN Partition Resolution Plan was adopted on November 29th, 1947. Forced displacement and expulsions intensified with the establishment of the Plan Dalet on March 10th, 1948 which called for the destruction of Palestinian villages and urban centers and the expulsion of the Arab population living in these areas. Thus, many Palestinians fled due to direct military assaults on their towns and villages. Others were forcibly expelled by the Zionist militias. In many cases, news of massacres of Palestinian civilians in neighboring villages created an atmosphere of fear that caused many Palestinians to seek safety elsewhere, on the understanding that they would return once the hostilities subsided.

The most infamous massacre occurred in Deir Yassin (not far from what is now Israel's Holocaust Memorial) where, by most conservative estimates, the Irgun and Stern troops¹⁶ murdered at least 100 Palestinian men, women and children.¹⁷

It is difficult for Israelis to accept that their independence came at the expense of the indigenous Palestinians, who were dispossessed of their homeland and property. As a result, Israel and its supporters perpetuate a number of myths with respect to the causes of the Palestinian refugee crisis, including that Arab armies or Arab radio broadcasts encouraged or instructed Palestinian to flee, that Palestinians do not originally come from Palestine, or that the refugee crisis was the result of a war started by Arabs.

These myths have been debunked not only by newspaper reports (the *New York Times* in particular), U.N. documents, and Palestinian sources, but also by Israeli historians.

Regardless of whether there is any truth to these explanations for Palestinian flight during the armed conflict, none negate the internationally recognized Palestinian right of return. Under international law, refugees have the right to return regardless of the circumstances of their refugeehood.

5- Why are there internally displaced Palestinians in Israel?

By the end of the hostilities in 1949, approximately 150,000 Palestinians remained within the borders of Israel and acquired Israeli citizenship. Although Israeli citizens, some 32,000 of these Palestinians were not permitted to return to their homes and villages in the country. These "internally displaced" were left to find new places to live within the country as their homes and property, like that of Palestinian refugees, were either demolished or given to the new Jewish immigrants to Israel.

6- What happened to the property of the Palestinian refugees?

¹⁶ The Irgun was a national military organization which in the 1930's and 1940's organized Jewish clandestine immigration to Israel, fought the British mandate and perpetuated numerous terrorist attacks against Arab civilians. It was led by Menahem Begin between 1943 and 1948. The Stern Gang is another military group which was created by Irgun members who rejected the cease-fire with the British in 1939.

¹⁷ Benny Morris, *Righteous Victims*, (1999, New York: Vintage Books), p.209.

Following the 1948 war, at least 418 Palestinian villages were destroyed and depopulated. Some destroyed Palestinian villages were rebuilt as Jewish towns and given Hebrew names. Although no exact accounting of refugee property exists in Israeli records, site surveys reveal that much of the Palestinian refugee rural property remains vacant. Nearly all of Palestinian refugee property continues to be held by the State of Israel or the Jewish National Fund. To date, Israel has refused to discuss the restitution of these confiscated properties. Indeed, Israel appears to be selling such properties. Reports indicate that in the last three years, Israel has sold nearly 300 Palestinian refugee properties to private individuals. Such sales constitute a clear violation of international law.

7- What are Palestinian refugees' rights according to international law?

Under international law, Palestinian refugees are entitled to the following:

- recognition of Israel's responsibility for the creation of their plight and a prolonging of their unprotected status;
- recognition and implementation of the principle of the right of return;
- where possible, restitution of all illegally expropriated property. Where restitution is not feasible or at the refugee's choosing, full compensation for the illegally expropriated property;
- full compensation for damages resulting from the illegal expropriation of refugee properties as well as compensation for the refugee's longstanding displacement and suffering, referred to as 'refugeehood'.

8- Do the Palestinian refugees have the right to return to their homes?

Yes. Under international law, civilians fleeing a war are entitled to return to their homes. The right is embodied in:

U.N Resolution 194 – (passed on 11 December 1948 and reaffirmed numerous times since 1948):¹⁸

"...the (Palestinian) refugees wishing to return to their homes and live at peace with their neighbors should be permitted to do so at the earliest practicable date, and that compensation should be paid for the property of those choosing not to return and for loss of or damage to property which, under principles of international law or in equity, should be made good by the Governments or authorities responsible".

Universal Declaration of Human Rights, 10 December 1948:

"Everyone has the right to leave any country, including his own, and to return to his country" (Article 13 (2)).

¹⁸To be precise, Resolution 194 did not create the refugees' right of return. It merely restated and reaffirmed a well-established norm in customary international law.

International Convention on the Elimination of All Forms of Racial Discrimination, 21 December 1965:

“...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... (t)he right to leave any country, including one’s own, and to return to one’s country” (Article 5(d)(ii)).

International Covenant on Civil and Political Rights, 16 December 1966:

“No one shall be arbitrarily deprived of the right to enter his own country” (Article 12(4)).

International Practice:

In Bosnia, East Timor, Kosovo, and Rwanda, refugees have had their right of return honored. In Kosovo, the right of return was considered a “non-negotiable” issue.

9- Why haven’t the Palestinian refugees been able to return to their homes in Israel?

Israel refuses to abide by international law with respect to the rights of the indigenous non-Jewish population. Israel defines itself as a “Jewish state” and Palestinian refugees are Christians and Muslims. Jews from all over the world and even converts to Judaism are allowed to immigrate to Israel under Israel’s “Law of Return.” However, and in a clear demonstration of religious/ethnic discrimination, the indigenous Palestinian Muslim and Christian populations are banned from returning to their homes. Those who left in and around 1948 were effectively denationalized.

10- What has the international community done about the Palestinian refugees?

The international community has largely supported the principle of the Palestinian right of return, including through the UN General Assembly’s repeated reaffirmation of UNGA 194.

In 1949, the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) was created. It is the primary organization responsible for the welfare of the refugees.

Nevertheless, the international community has failed to take any concrete measures to force Israel to abide by international law and allow the refugees to return

11- Doesn’t the right of return threaten Israel’s “Jewish character”?

Allowing Muslims and Christians to choose whether to return to their homes does not negate Jewish historical attachment to Israel nor would it prevent Jews from immigrating to Israel. The right of return is essentially a right of choice and seeks only to address historic injustices and to affirm the rights of the indigenous non-Jewish population.

12- Why can't the host countries simply absorb the Palestinian refugees?

The 1948 Palestinian refugees are not from the host countries. They are from what is now Israel and have the internationally recognized legal right to return to Israel. While some countries have granted Palestinian refugees full citizenship, acquiring rights in another country does not negate a refugee's right to return home.

13- Why can't the future Palestinian State absorb the Palestinian refugees?

Again, according to international law, including UNGA Resolution 194, Palestinian refugees have a right to choose whether to return to their original homes or resettle elsewhere. For the 1948 refugees, resettlement in the Palestinian state may be an attractive option but providing refugees with such an option cannot preclude their right to return.

14- Is property restitution realistic in this case?

Refugees, like any other person wrongfully deprived of property, are entitled to restitution, which is the primary and preferred remedy under international law.¹⁹ Palestinian refugees have the right to recover their properties. It is only in cases where restitution is not feasible or possible, or where the refugee specifically chooses compensation that compensation should be provided.

The right to restitution is independent of the right to return so that even if a refugee chooses not to return, he remains entitled to claim his property. The fact that most (by some accounts over 70%) of refugee property remains unsettled or vacant means that it would be materially possible to provide restitution in many cases. At the very least, refugees should be given the choice as to how they want to resolve their property claims, irrespective of whether they return to what is now Israel.

15- Can't the Palestinian refugee crisis be resolved through financial compensation to alleviate the poverty?

The term "refugee" does not refer to economic status – it is a legal status. Financially successful refugees who have obtained citizenship in other countries are still refugees and still have, for instance, the right to return. Compensation is only one of the remedies to which refugees are entitled. Compensation is therefore necessary but not sufficient to resolve the issue.

¹⁹ Michael Kagan, *Restitution as a Remedy for Refugee Property Claims in the Israeli-Palestinian Conflict*, Florida Journal of International Law, August 2007, vol. XIX, no. 2.

16- How has the issue of refugees been addressed in negotiations with Israel?

In 1948, immediately following the adoption of UNGA Resolution 194, Israeli leaders did not reject the Resolution or the right of return or restitution. Instead they sought to delay addressing these matters until a comprehensive peace with Arab states was possible.

At Camp David, in 2000, Israel refused to discuss the rights of the Palestinian refugees, arguing that it bore no responsibility for the refugee problem or its solution. At the Taba negotiations, Israel continued to press for an abandonment of the right of return.

In 2002, the Arab Peace Initiative called for “*A just solution to the Palestinian refugee problem to be agreed upon in accordance with UN General Assembly Resolution 194*”. This position represents a willingness on the part of the PLO to consider the legitimate interests and concerns of all stakeholders involved in the matter. Despite Palestinian overtures to discuss Israeli interests, Israeli leaders continue to reject acknowledging their responsibility or addressing the rights of the refugees. In an interview given to *The Jerusalem Post* on March 30th, 2008, the then-Israeli Prime Minister Ehud Olmert reiterated that Israel would not accept the return to Israel of any refugees and refused to recognize any responsibility in this regard. In an interview with the same newspaper on April 28th, 2009, Israeli Foreign Minister Avigdor Lieberman insisted that he is “not ready to even discuss the 'right of return' of even one refugee.”

17- How can the 62-year plight of the Palestinian refugees be resolved?

The Palestinian refugee issue can be resolved in accordance with international law. In practice, this would mean the following:

- **The recognition of Israel’s responsibility** for the creation and perpetuation of the refugee problem.
 - The displacement of the civilian population in a time of war is an illegal act in contravention of international law and human rights. Israel was responsible for the displacement and dispossession of the refugees in the first place and then for the subsequent prevention of their return to their homes.
 - Israel will have to recognize formally its primary responsibility for the Palestinian displacement and dispossession. This formal apology is a right according to international law and is essential for the satisfaction of Palestinian refugees.
- The recognition that Palestinian refugees and their descendants have **the right to return** to their homes in principle.

- United Nations General Assembly Resolution 194 is unequivocal in mandating that *“the refugees wishing to return to their homes and live in peace with their neighbors should be allowed to do so”*.
- In recent years, the right of refugees to return to their homes has been recognized by the international community and put into practice in numerous instances, some of the most notable being in Bosnia and Kosovo.

The modalities of the implementation of this right will be worked out in negotiations.

- Palestinian refugees must be given the option to exercise their right of return, though refugees may prefer other options such as:
 - resettlement in third countries,
 - resettlement in a new independent Palestine (even though they originate from a part of Historic Palestine which became Israel), or
 - normalization of their legal status in the host country where they currently reside.

What is important is that refugees decide for themselves which option they prefer – a decision must not be imposed on them. This is a principle which is clearly established under international law and respected by international practice.

- **The recognition of the right for the restitution of the properties lost by Palestinians.**
 - According to international law, restitution is the primary remedy to repair a loss. It is only if restitution is practically impossible (or if the victim of the loss prefers compensation to restitution) that compensation should be made available.
- **Compensation** should be provided in full:
 - for material damages (real estate properties, movable assets, loss of livelihood), and
 - for non-material damages: compensation as a result of their longstanding displacement and suffering (‘refugeehood’).