

Palestinian refugees and the Right of Return



Who are the Palestinian refugees?

The Palestinian refugees are the indigenous Arab inhabitants of historic Palestine (what is now Israel, the occupied West Bank and the Gaza Strip), who were displaced or expelled from their original homes, and their descendants. They have never been allowed to return to their homes and now comprise one of the world's largest refugee populations. They are the longest suffering too – 2008 marked the 60th anniversary of their initial dispossession.

Today there are more than seven million Palestinian refugees exiled around the globe. The number is made up of three groups: those who were made refugees before and during the 1948 war, after the British withdrew; those who were made refugees during the 1967 'Six Day War'; and those who were made refugees as a result of policies of the Israeli government, policies that amount to 'low intensity population transfer'.



An UNRWA school, Syria



Map – Walid Khalidi, *All That Remains: the Palestinian villages occupied and depopulated in 1948*. Institute for Palestine Studies, Washington DC, 1992.

Numbers

- It is difficult to calculate the number of Palestinian refugees with total accuracy. This is due to the absence of a comprehensive system for registering the refugees; the secondary displacement of the refugees, which has resulted from changing political and economic circumstances; and the lack of a uniform definition of a Palestinian refugee.
- However, it has been estimated that there are now more than 7 million Palestinian refugees and displaced persons.
- The refugees make up the majority of the total Palestinian population – 70 percent of Palestinians are refugees.
- They comprise the largest single group of refugees in the world; in fact almost one in three refugees is Palestinian.¹
- Approximately 4.5 million 1948 refugees and their descendants are registered with the UN², a third of whom live in camps in Jordan, Lebanon, Syria, the West Bank and the Gaza Strip. An estimated 1.54 million 1948 refugees and their descendants are not registered.
- The Palestinian refugees from 1967 and their descendants number 950,000.
- There are 338,000 1948 internally displaced Palestinians and their descendants living in Israel, with citizenship but unable to return to their original homes and villages.
- In the West Bank and Gaza Strip there are 150,000 1967 internally displaced people and their descendants.

The Nakba

For hundreds of years, a small Jewish community had lived peacefully as part of the general Palestinian population. However, the British policy of allowing massive Jewish immigration led to rising tensions between the Zionist colonisers and the indigenous Palestinian population. The UN General Assembly passed resolution 181 on 19 November 1947, without the agreement of the Palestinian people. The resolution recommended that Palestine be divided into two states: one Arab and one Jewish.

Even before partition was due to take effect, the Zionists launched 'Plan Dalet', a military campaign to destroy Palestinian villages and take over the towns.

The Palestinians fought back, and called on other Arab countries for support. Help came, but too little, too late. The Israeli state was established on 15 May 1948, on 78% of what had been Palestine. The Nakba, meaning 'catastrophe', is the name the Palestinians give to the events surrounding the creation of Israel, in which 85% of the Palestinian inhabitants of that area became refugees: dispossessed, displaced and exiled.



Nakba mural in Ayda Camp, Bethlehem

These events included planned acts of terror by the Israeli/Zionist military forces, such as attacks on civilians, looting, and destruction of property. Many Palestinians fled after hearing news of massacres and military attacks on civilians in other villages. Many more were forcibly expelled from their homes.

Some refugees remained in Israel and eventually gained second-class Israeli citizenship. However, they remained internally displaced, prevented from returning to their original homes and residing instead in 'unrecognised' villages, completely unattended to by the government. The majority of the 1948 refugees, around 750,000, were exiled to areas outside of the state of Israel.³

After the war the Israeli military forces operated a 'shoot-to-kill' policy along the armistice lines in order to prevent refugees from returning. Another strategy to prevent return was the demolition of about 500 villages, after the original inhabitants had fled. It has been revealed by historians, including the Israeli academic Ilan Pappé⁴, that the Nakba was the result of a determined policy of ethnic cleansing, to drive out the Palestinian population and ensure the Israeli state would have a large Jewish majority. (See the PSC Nakba factsheet for more information.)

The Right of Return in International Law

In addition to its clear moral basis, the right of return of Palestinian refugees has a solid foundation in international law and is enshrined in a number of UN resolutions:

- **Universal Declaration of Human Rights, Article 13:** "Everyone has the right to leave any country, including his own, and to return to his 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... to leave any country, including one's own, and to return to one's country."
 - **International Covenant on Civil and Political Rights, Article 12:** "No one shall be arbitrarily deprived of the right to enter his own country."
 - **Fourth Geneva Convention, Article 49:** "Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory... are prohibited, regardless of their motive... Persons thus evacuated must be transferred back to their homes as soon as hostilities in the area in question have ceased."
 - **UN Declaration on the Rights of Indigenous People, Article 3:** "States shall provide effective mechanisms for prevention of, and redress for...: (b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources; (c) Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights..."
 - **1948 – UN General Assembly Resolution 194, Article 11:** "the refugees wishing to return to their homes and live at peace with their neighbours should be permitted to do 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."
 - **1967 – UN General Assembly Resolution 237:** "Calls upon the Government of Israel to... facilitate the return of those inhabitants who have fled the areas since the outbreak of hostilities."
 - **1974 – UN General Assembly Resolution 3236, Subsection 2:** "Reaffirms also the inalienable right of the Palestinians to return to their homes and property from which they have been displaced and uprooted, and calls for their return."
 - **1997 – UN General Assembly Resolution 52/56, Subsection 1:** "Reaffirms that the Palestine Arab refugees are entitled to their property and to income derived therefrom, in conformity with the principles of justice and equality."
- The right of return is an inalienable and basic human right and as such it cannot be negotiated away. Israel's denial of this right is illegal under international law.**

The 'Six Day War'

During the war with Egypt in 1967 (also known as the 'Six Day War') Israel occupied the Palestinian West Bank and the Gaza Strip. 430,000 of the population of these areas became refugees, almost half of them for a second time. Many of the refugees were fleeing after attacks on civilian areas, but planned to return after the hostilities had ceased. Meanwhile two per cent of West Bank and Gazan villages were destroyed, in addition to several refugee camps.

An ongoing policy of dispossession

Palestinians continue to be dispossessed as a result of Israeli policies in the Occupied Palestinian Territories. These include revocation of residency rights, house demolitions and the confiscation of land in order to build illegal settlements, policies which have contributed to the 115,000 internally displaced persons in the West Bank and the Gaza Strip. This figure includes 1967 IDPs and their descendants and 15,000 recently displaced by Israel's construction of a 400 mile long Apartheid wall through Palestinian land.

During Israel's onslaught on the Gaza Strip in the winter of 2008–2009, when 1400 Palestinians were killed, thousands of homes and much of the infrastructure were destroyed. 20,000 Gazans still remain homeless, as Israel prevents materials for reconstruction from entering the Strip.⁵



An UNRWA school in Gaza, after the bombing

Why are they still refugees?

Israel refuses to acknowledge any responsibility for creating the refugee problem and, apart from a minute number of family reunification cases, has completely denied the refugees their basic human right of return. Israel's laws bar Palestinian refugees and

internally displaced persons from returning to their original homes. Palestinians can only return if they are able to prove that they were living in the state of Israel on or after 14 July 1952 or are the children of a Palestinian who satisfies this stipulation. Since most Palestinian refugees were displaced outside Israeli territory before this date they are unable to return home. Israel's occupation and border control over the West Bank and the Gaza Strip, and its related military orders and administrative procedures has prevented refugees from returning to these areas.

The refusal to allow Palestinian refugees to return to their homes is based on Israel's self-definition as a Jewish state rather than a state of and for all its citizens. This means that Jewish citizens and residents of Israel and Jews in the diaspora are given special entitlements concerning citizenship and land ownership. This has been challenged by many Jewish academics and activists who support the vision of a state for all its citizens. Just before the Balfour Declaration in 1917, David Alexander, then president of the Board of Deputies of British Jews, and Claude Montefiore, president of the Anglo-Jewish Association, published a statement in the Times, seconded a few days later by several other prominent members of the Jewish community, deploring any suggestion that Jewish settlers in Palestine should be invested 'with certain rights in excess of those enjoyed by the rest of the population'. This could only 'prove a veritable calamity for the Jewish people', as it negated the principle of equal rights for all.⁶

Discrimination

In Israel today, Palestinian refugees are denied their right of return, while Israel's discriminatory Law of Return gives any person who is Jewish, or has a Jewish parent, grandparent or spouse, the automatic right to immigrate to Israel and gain Israeli citizenship. Additionally, a combination of emergency regulations, absentee property laws, military orders and other administrative strategies have transferred the land of the dispossessed Palestinians into the ownership of the state of Israel and the Jewish National Fund as the inalienable property of the Jewish people.

The Palestinian refugees have not received an apology or any financial compensation for their dispossession and the destruction of their property. Meanwhile, the international community has made no significant attempt to ensure a solution to the refugee issue that respects international law and UN resolutions.

Refugees in the 'peace process'

A durable peace can only be achieved if the refugee issue is resolved in accordance with international law and UN resolutions.

However, in the Middle East the so-called 'peace process' has proceeded, from the Madrid conference in 1992 to the talks at Annapolis in 2007, without

reference to the refugees' rights. International law has not been allowed to play any role in providing a framework for resolving the conflict or for regulating future relations, after a peace agreement.

The 'peace process' has omitted any reference to the legal right of the refugees to return to their homes, and has also failed to mention the right to the restitution of property. Instead, the various Accords merely establish forums in which the future status of the refugees will be discussed, and even then Israel has made it clear that it opposes any negotiation based on the principles enshrined in UN resolution 194. At best, Israel envisages the return of some refugees, not to their homes, but to a future Palestinian state in the West Bank and the Gaza Strip.

No attempt has been made by the negotiating parties to include the refugees themselves in the process of finding a durable solution to their plight.



What the refugees want

More than 60 years after their dispossession in the Nakba, the Palestinian refugees still hope to return to their homes and live in peace with their neighbours, and they continue to demand their right to do so:

“We will not renounce the Right of Return whatever it costs and under any condition. It is true that I am a Palestinian refugee, and that my children were born outside Palestine, but I raised my children to love Palestine and to draw Palestine’s map in their hearts so that they will never forget it.”

“We want the right of return of the ‘48 refugees and a peaceful coexistence.”

“Return is a legal and legitimate demand. We will not accept anything other than returning to our lands and properties. I refuse to return to ‘67 territories because I will return then as a refugee.”

(Quotations from Palestinian refugees worldwide, participating in public meetings as part of the Civitas project⁷.)

For further information on Palestinian refugees and the feasibility of return, see the work of Salman Abu Sitta (www.plands.com).

FOOTNOTES

1 Based on the UNHCR statistic of 9.9 million refugees at the beginning of 2007 (www.unhcr.org/basics/BASICS/4034b6a34.pdf), a figure which excludes the 4.5 million Palestinian refugees registered with UNRWA as of June 2007 (www.un.org/unrwa/publications/pdf/uif-june07.pdf)

2 UNRWA, www.un.org/unrwa/publications/pdf/uif-june07.pdf

3 UNRWA, www.un.org/Pubs/ourlives/unrwa.htm

4 Pappe, Ilan. *The Ethnic Cleansing of Palestine*. Oneworld, 2006.

5 www.pchrgaza.org/files/PressR/English/2009/news/73-2009.html

6 www.iht.com/articles/2004/07/03/edwheat_ed3_.php

7 www.nuffield.ox.ac.uk/Projects/Civitas

All other statistics from BADIL (www.badil.org)

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