

# **The Phased Return of the Palestinian Refugees**

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# Refugees

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## Introduction

Half a century has passed since the dispossession and expulsion of the Palestinians from their homes in 1948. This event shaped the history of the area ever since, and remains, until today, the major issue of Middle East politics.

In spite of five major wars, innumerable raids and attacks, *coup d'etats* and removal of rulers in all adjacent countries, this volatile issue remains unresolved. Palestinian rights have not been restored nor has justice been achieved.

Arguments on both sides of the conflict are loaded with propaganda. The Israelis, however, have been more skilful and powerful than the Arabs in presenting their views. They desperately needed to justify the conquest of land, and the expulsion of its people, and portray Israel's "heroic" image in the eyes of the West, from whom they derived material and moral support. Recently, however, partly due to the release of Israeli documents, a number of Israeli historians have re-examined the events of 1948; notable among them: Morris (1987, 1990), Shlaim, Segev, Pappé and Flan.

In this paper, we examine the means to redress this injustice by applying the Right of Return to the Palestinian refugees. By demographic and other considerations, we show how it is possible to effect the return of the refugees with the minimum population dislocation, thus laying the foundation for a truly lasting peace. We start first by estimating the magnitude of *Al Nakba* in terms of the people and their land.

## 1. The Dispossessed: The People

Based on a detailed study of the Palestinian population starting from the Village Statistics of the Mandate, the following estimates are made:

	1948	1995	1998
All Palestinians	1,441,177	7,689,621	7,788,185
1948 Refugees	804,069	4,645,248	4,942,121

Peretz (p.16) gives the number of Palestinians as 6,192,153 (1995), based on U.S. Bureau of the Census estimate. This is an underestimate. It does not include Palestinians outside Arab countries and it assumes smaller growth rates which steadily decrease from 3.3% to 2.5%.

Brand (1988), in a careful study collected from several sources, gives the total as 4,739,158 (1982). He also gives the geographical distribution of the Palestinians. The above-mentioned Brand figure has been adjusted to our total figure given above. McDowall (1994) estimates the number of Palestinians to be 6,882,000 (1995), with a slight underestimation of the Palestinians in Lebanon, West Bank and Gaza Strip, and a lower natural growth rate. Adjustments are made to Brand's population geographical distribution due to movements which occurred since then, notably the exodus from Kuwait (1990), but not from Libya (1995).

**Table 1** shows the geographical distribution of Palestinians. The split between refugees and original citizens is reasonable for the West Bank, Gaza, East Bank, Lebanon and Syria and tentative for others. Of the refugees figure (4,942,121), only 3,602,121 (73%) are registered with

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UNRWA (1998 figures), about 1 million of these live in camps, the remainder outside. The rest are self-supporting refugees, non-eligible or could not register for some reason.

In summary, 3.6 million (46%) Palestinians now live within Mandate Palestine boundaries (i.e. Israel, West Bank and Gaza), 3.3 million (42%) live in border Arab Countries (Jordan, Lebanon, Syria), and about a million (12%) live in other Arab and foreign countries. Thus, 88% of the Palestinians live in or adjacent to Palestine. Those whose lives are somewhat affected by the limited autonomy of the Oslo Agreement are the original citizens of Gaza and West Bank, or about one million (13%).

## 2. The Dispossession: The Land

The total Arab land occupied by Israel is calculated from the sum of net Arab village lands, taken from Village Statistics.

The accumulated Palestinian land of depopulated villages as per this study is	17,166,831 d.	85%
Add: Jewish land (including Public), from Hadawi (1988)	1,682,000 d	08%
Add: Arab land (including Public) of villages remaining in Israel (Hadawi)	1,474,169 d.	07%
Total area of Israel	20,323,000 d.	100%

of which, 18,641,000 d. (92%) is Palestinian.

The Palestine Conciliation Commission's expert, Mr. Jarvis, estimated Arab losses to be a mere 5,194,091 d. However, he omitted Beer Sheba, which is curious and inexplicable. In addition, Jarvis listed only "settled" land, which means reconciliation made between title deed and survey maps. There are other deficiencies in Jarvis' figures. Allowing for the omission of Beer Sheba, the equivalent figures are: 6,469,012 (Hadawi) and 6,131,758 (this study), both are larger than Jarvis' figures. If we add Beer Sheba (12,577,000), Jarvis' figure would add up to 17,771,091 d., Palestinian land.

**Table 2** summarizes the depopulation figures by district. The largest depopulation occurred in districts of Jaffa, Haifa, and Jerusalem, which had a high Jewish concentration. The highest number of depopulated localities is in predominantly Arab areas: Beer Sheba, al-Ramla and Safad. The largest land occupied is in Beer Sheba, followed by Gaza, Haifa, al-Ramla and Safad. The largest percentage of the refugees, 42%, came from the central sector of Palestine, 34% from the north and 24% from the south.

## 3. Why the Refugees Left

For years, it has been a staple of Zionist propaganda to claim that the Palestinians had left their homes on the order of Arab governments, to clear the way for the victorious entry of the "Arab Armies". Khalidi (1988) and Childers have already put this myth to rest. Not finding any sign of this incitement, Morris (1987) confirmed their conclusion. Moreover, he assessed the reasons for the exodus under different categories (see **Table 3**). The results of his assessment applied to his village list are shown in **Table 4**. Of 330 villages assessed by Morris, 41 (12%) had left because of "expulsion by Jewish forces", 195 (59%) by military assault, 46 (14%) by the imminent attack after the fall of a neighboring village. This gives a total of 282 (85%) villages that were depopulated by direct military action. Extending the same method of assessment to our expanded list of depopulated villages, the respective figure is 442 (89%) villages.

Another kind of war had equally devastating results. The "Whispering Campaign," by which a Jewish "friend" advises the villagers to leave or else face a terrible fate, resulted in the

depopulation of 12 villages. Thirty-eight more were depopulated due to “fear of Jewish attack.” This makes 50 (10%) villages.

Five villages (1%) left on orders of a local leader or a village headman. Thirty-five villages could not be determined.

All the heinous crimes of “ethnic cleansing”, now clearly prevalent in Kosovo, were committed against Palestinians in 1948, where there were 34 reported massacres, all part of the military campaign and many more yet uncovered.

The pattern was clear. The village is surrounded from three sides, leaving the fourth open for escape and to spread the news. Young men are shot against a wall, thrown in a well or burnt alive (as happened to Tira inhabitants). Their houses are burnt and later demolished. Even bacteriological warfare was used by poisoning wells and infecting drinking water with malaria and typhus. That was the case in Gaza in the summer of 1948 as Ben Gurion admitted in his diary, p.365. It is a “total” war to destroy the fabric of Palestinian society.

It is clear that the depopulation of the Palestinians, hence the creation of the so-called “refugee problem,” is the direct result of a total war waged against the Palestinians by the Israelis during and after the Mandate, using military and psychological means. That was meant to make true the myth that Palestine is a “land without people.”

#### **4. The Right of Return: A Basic Right**

That a whole population was uprooted and robbed of their land and property is an unprecedented catastrophe. There is no precedent in modern history to the case of a foreign minority destroying the fabric of the indigenous majority, occupying their land and expelling them out of their homes. This crime has no equal by any standards.

The international community, which recommended the partition of Palestine, felt a deep sense of responsibility for this tragedy. Count Folke Bernadotte, the UN Mediator, stated:

*“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, at least offer the threat of permanent replacement of the Arab refugees who had been rooted in the land for centuries.”*

(UN Doc A/648, 1948).

There are aspects to the Right of Return that make it compelling and inevitable.

**First**, the will and determination of the Palestinians. To them, the Right of Return is sacred. In spite of being depopulated and dispersed to the four corners of the earth, they maintained a monolithic structure, based on the family and the village. They intermarry across countries on a family or a neighborhood basis. A grandchild of a 1948 refugee identifies himself as belonging to his original village. On the national level, societies or syndicates for professions, trades, women, students, creative artists and others, representing the Palestinian people, have been functioning in many countries.

**Second**, the Right of Return has a solid legal basis. To begin with, neither the Balfour Declaration of 1917, the UN Partition Plan of 1947, nor Armistice Agreements of 1949, are binding on the Palestinians. They were not a party to them. None of these can grant them any new rights or deprive them of their basic rights.

In recognition of the rights of the Palestinians, the United Nations adopted Resolution 194 on December 11, 1948. Paragraph 11 states:

“(The General Assembly)... resolves that the refugees wishing to return to their homes and live at peace with their neighbors should be permitted to do so at the earliest practical 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.”

This Resolution was affirmed practically every year since. It has a universal consensus. Exceptions are Israel and lately the U.S.

Some notes on this Resolution may be in order. The option of return is left to the refugees themselves. If they decide to return, they “should be permitted” to do so, not hindered or stopped. Doing so will be an act of aggression which deserves condemnation and/or action by the Security Council. The refugees should return “at the earliest practicable date”, which is the cessation of hostilities, i.e. in the period from February 1949 upon signing the Armistice Agreement with Egypt to July 1949 upon signing it with Syria. The delay of the refugees’ return from this date is a continuous violation of the Right of Return. The liability for this violation and its consequences remain with the Israelis.

Those who choose to return are also entitled to compensation for “loss of and damage to their property” whether gardens, houses, workshops, shops or personal belongings. Restitution of their land, homes and property (restoration to original owner) should be made. Thus, they have the Right of Return **plus** compensation. Those who do not wish to return are entitled to compensation for their land as well their other property. The short reference to the Right of Return as “return or compensation” is therefore misleading. The compensation includes the exploitation of their property for 50 years, and the anguish they have suffered for this period, in accordance with the procedures adopted in the case of Nazi victims.

The liability for compensation extends to “the governments or authorities responsible”. These include the Provisional Government of Israel in 1948, the consecutive Governments of Israel, the Jewish Agency, the Haganah, the Irgun and Stern gangs, the Jewish National Fund and others in Israel and abroad.

The Right of Return does not derive its validity merely from UN Resolutions. Article 13 of the Universal Declaration of Human Rights asserts the right of every individual to leave and return to his country. The Right of Return to one’s home is so basic that it has been stated in Magna Carta (Ch. 42) in 1215. The Geneva Civilian Convention of 1949 prohibits “individual or mass forcible transfers ... regardless of motive”. In the words of an authority on the subject, Mallison states that “the advantage of effective prohibition is that it would make it unnecessary to exercise the right [of return]”.

The Principle of self-determination guarantees, *inter alia*, the right of ownership and domicile in one’s own country. The UN adopted this principle in 1947. In 1969 and thereafter, it was explicitly applied to the Palestinian People, including “the legality of the Peoples’ struggle for Self-Determination and Liberation”, (GAOR 2535 (xxiv), 2628 (xxv), 2672 (xxv), 2792 (xxvi)). Resolution 3236 adopted by UN on November 22, 1974 is “one of the most fundamental actions” taken by this international body to reaffirm “the *inalienable* rights of the Palestinians to return to their homes and property from which they have been displaced and uprooted and calls for their return” (para 2).

It is a principle of international law that occupation does not confer sovereignty on the land, due to the “inadmissibility of conquest”. Neither occupation, nor sovereignty diminishes the right of private ownership. When the Ottomans surrendered their sovereignty to the Allies in 1920, Palestinian ownership of their land was maintained. Private ownership was also respected by the mandate government.

Thus, the land and property of the refugees, although now administered by Israel, remains their own, regardless of the applicable sovereignty and the passage of time, and they are entitled to return to it.

### **5. Is the Right of Return Feasible?**

This is the third aspect of the Right of Return. The feasibility of the return is raised frequently by pro-Israel authors who claim that it is “neither feasible nor practical” (e.g. Peretz, 1993, p.72). Peretz says “that Palestinian towns and villages ... have disappeared... (and) ... it would be difficult to re-establish these former sites”. He calls the villages from which the people were expelled “abandoned”, as if the inhabitants left them by their own free will.

The claim that it is not possible to “re-establish former sites” is factually erroneous. There is no land better documented than Palestine. As early as 1871, a full and detailed survey (26 sheets with 15000 names) had been prepared by the [British] Palestine Exploration Fund. In the period 1920-1947, the Survey of Palestine produced detailed maps for the whole of Palestine. After the Israeli occupation of Palestine in 1948, these very same maps, with their Arabic names erased and replaced by Hebrew names, were used by Israel. Physical changes in the critical period of 1949-1959, when Palestinian villages were destroyed and fields ploughed over, were marked over British maps. These were recorded not only by Israel, but by Britain and the U.S as well. Israel Land Administration which leases Palestinian land to Jews has complete records of every plot of land. Today, the satellite mapping system makes the comparison between old and new quite feasible.

Destroyed villages, not only live in the memory of their people and in old maps, but they are preserved in the comprehensive aerial survey conducted by the British over most of Palestine in 1945 and 1946. The photographs cover all 13 occupied Palestinian towns, 419 villages, depopulated by Israeli onslaught and 99 tribal lands. The myth that tribal lands in the Negev had been barren, uncultivated and under-populated is belied by these photographs. Hardly an acre was not cultivated. This so-called “desert” was green before the Israelis came. The real desert in Negev is still desert today.

Then there is the question: to where would the Palestinians return? and what is to be done with all the multi-national immigrants who were brought to Israel? The answer lies in examining Israel's demography.

Demographic analysis of Israel today shows that the concentration of Jews today is largely in and around pre-1948 Jewish land and that Palestinian land is still largely empty (Abu-Sitta 1996, 1998). Israel's 41 natural regions may be divided into 3 areas, designated A, B, C (see **Table 5**). Area A consists of 8 natural regions with a total area of 1,683 sq. km. (8% of Israel) in which 68% of the Jews (2,924,000 - 1994 figures) live. This area is almost the same area in which Jews lived in pre-1948 Palestine.

Area B consists of 5 natural regions with a total area of 1,318 sq. km. (7% of Israel) in which 10% of the Jews and 20% of the Palestinians in Israel live. This mixed area is almost the same in area as the land of the Palestinians remaining in Israel. Thus 78% of the Jews in Israel live in 15% of Israel.

The remaining part, Area C, has a total area of 17,325 sq. km. and is essentially the land of Palestinian refugees. Apart from a few urban centers (mostly Palestinian towns originally) in which urban Jews live, only 154,000 rural Jews control and exploit this vast Palestinian land.

Contrary to Israeli claims, the return of the refugees will not cause mass dislocation of Jewish immigrants, although they have no right to seize Palestinian property in the first place. The return, however, may initiate voluntary relocation of some of the 154,000 rural Jews.

To test the impact of the phasing of the refugees' return, we shall examine two important scenarios. The first is the return of the Palestinian refugees in Lebanon. This is most pressing because of their bad working and living conditions and the political constraints under which they live. The second is the return of the Palestinian refugees in Gaza. Almost one million people are crammed in 360 sq. km. with no identity, employment or future. They are often described as the political dynamite of the Middle East. Although the entire issue of the refugees must be resolved, these two explosive situations must be addressed without delay.

Section (1) of **Table 5** shows the classification of the areas in the part of Palestine that became Israel in 1948. Section (2) shows the demographic distribution of the same area half a century later. The concentration of Jews today is remarkably similar to the 1948 distribution. It is shown that only 154,000 rural Jews live in the land of the expelled refugees (Area C). Total population density in Israel in Area C is 82 persons/sq. km., which is 4% of the density at the center of the country. Although the Jews represent 90% of the population at the center, they are only two-thirds in areas B, C. This two-thirds majority is largely due to the expulsion of the Palestinians.

If the refugees in Lebanon return to their homes in Galilee and elsewhere (Section (3) of **Table 5**), the impact is hardly felt by the Israelis (Jews and Palestinians alike). The density of the whole new population increases by only 1% in Area A, 6% in B, and by 17% in Area C to which most of the refugees would return. The much-touted concern for Jewish majority is not warranted. They remain above 50% where they are least in number. The Jews who may barely feel the effect of the return are the rural Jews (Kibbutz and Moshav) who count only 76,000. Of course, the urban Jews (71% of Jews) will continue to live and flourish in towns. Ninety percent of them live in just 9 towns, 3 of which are Palestinian (Acre, Tiberias, Shafa Amr).

While the Lebanon refugees could return to a largely Arab territory, with minimum effect on the Jews, the Gaza refugees would return to almost totally empty land. Today, the rural Jews who exploit their land are spread at a density of 6 persons/sq. km., or close to one-thousandth of the density in Gaza. There are barely 79,000 rural Jews in the southern half of Israel. In addition, there are 553,000 urban Jews, two-thirds of whom live in 3 Palestinian towns (Beer Sheba, Ashdod and Majdal-Ashqelon) and another 24% live in 3 new towns. These urban Jews are engaged in industry, education and services. The return of the refugees would be of benefit to those Jews and vice versa, and as such, it is a positive element. As shown in Section (4) of **Table 5**, after the return of Gaza refugees, the density of the total population in Israel would increase by only 6% in Area A, 5% in B and 32% in Area C to which the refugees return. Once again as in the case of Lebanon refugees, the Jews will still be over 50% in Area C where they are least in number.

In spite of the proclamation of turning the desert green, the present population is much less than the capacity of the area (Efrat 1988, p.182) and the present cultivated area, largely irrigated, is a fraction of the area cultivated before 1948 by the Palestinians. The Israelis concentrate in half a dozen towns (half in Beer Sheba alone) leaving 32,000 Jews controlling 14,320,000 dunams (Efrat 1988, p.182).

It is significant to observe that the returning Gaza refugees are less in number than the Russian immigrants freely admitted to Israel in this decade. While it is clear that the admission of the Russians is a cause of tension in Israel itself, an obstacle to peace in the region, and a probable cause of a new war (Abu-Sitta 1998), the return of the Gaza refugees will bring peace and stability to the Middle East. This point is not lost on friends and foes alike.

If the Right of Return is implemented and the Palestinians return to their homes, hardly any infringement on the Jews' *Lebensraum* (living space) would occur. The Palestinians, mostly farmers, would return to their fields which their families had tilled for centuries. Their efforts would compensate for the drop in Israel's agricultural production from 11% of GNP (1950) to only 3.5% (1993). This will continue to drop as the rural areas continue to suffer a desertion of Israelis, especially in the south, in favor of towns. Already the farmers in Gaza, in spite of being deprived of economic support and of water supply, produced superior agricultural products to that of Israel. Israelis are frequently accused of destroying their export products at the border point, by obstruction or ill will.

When peace prevails, the historical link between Egypt, Jordan and Saudi Arabia, severed by the Israeli invasion of Negev, shall then be restored. With the projected economic cooperation, the southern tip of Negev, the meeting point of 4 countries at the Gulf of Aqaba, may develop into an important commercial and recreational area.

The return of the refugees from Lebanon to their homes in Galilee would restore their link with their kith and kin in the West Bank. Separated families would unite again. The historical continuity between Jordan and Lebanon through the West Bank and Galilee would be restored. No doubt peace would then be restored to Lebanon's south and Israel's north. Such an important dividend cannot easily be dismissed.

While it is the right of the Palestinians to recover their land and homes from the Jews, their repatriation in this manner would minimize the existing population's dislocation. The transition would be practical and reasonable. The severed link between the Arab east and west, undoubtedly one of the important reasons for continued wars, would be restored.

The Palestinians' dispossession cannot be realistically tolerated or continue to be ignored with any degree of realism. Gaza Strip is packed with refugees (2500 persons/km<sup>2</sup>, or 4,200 persons/km<sup>2</sup>, if net area is used) while the refugees see, across the barbed wire, their land to the east, in which only 6 persons/km<sup>2</sup> live. This striking contrast in demography is the root cause of the conflict.

## **6. The Status of Palestinian Land in Israel**

Soon after the Israeli invasion, a series of laws have been passed to organize the seizure and use of Palestinian property. The "Absentees' Property Law" of March 1950 transferred the right of the natural owner to a Custodian of Absentee Property and made him liable to the real owner for the value, but not the return, of his property (Lehn, p.131). The Palestinians who remained in Israel, especially in the Negev, were relocated away from their homes and declared "Absentee".

The "Development Authority (Transfer of Property) Law" of July 1950 was devised, as a legal ploy, to shield Israel's government from the accusation that it has confiscated "abandoned" property. The Development Authority is an independent body empowered to sell, buy, lease, exchange, repair, build, develop and cultivate Palestinian property. None of these transactions could take place except with a Jew or a Jewish entity. To give effect to this seizure, various Jewish bodies agreed that "under no circumstances should the Arabs return to Israel".

In the first ten years of occupation (1950-1960), a legal quarrel ensued between the Jewish National Fund (JNF) and the just-formed Israeli government. JNF had been purchasing land in the Mandate period in the name of "the Jewish People". Israel's government seized the Palestinian land and intended to acquire title to it in the name of the state in recognition of "the triumph of the Haganah and the flight of the Arabs" (Lehn p.108). The JNF maintained that such land should be turned over to the Jewish people, not the state, since the latter, given the prevailing political and demographic conditions cannot give adequate guarantee of lasting Jewish ownership.

The dispute was settled by formulating, on 25 July 1960, the laws: "Basic Law: Israel-Lands," "Israel-Lands Law" and "Israel-Lands Administration Law," that is, Israel government, not the Jewish people. The JNF rules of restricting transactions to Jews only have been adopted by the state. Palestinian lands, whether acquired by JNF or seized by the state, would be administered by a single authority, the Israel Land Administration (ILA), for the benefit of both parties under the old JNF rules.

The JNF was allowed, however, to increase its pre-Mandate holdings by "purchasing" land seized by the state. The position of land "title" in 1961 is as follows (ILA Report, Jerusalem 1962, in Hebrew, quoted by Lehn p.114):

State and Development Authority	15,205,000 d
JNF (pre Mandate + "purchase" from the state)	3,507,000 d
	<b>18,775,000 d</b>
Private	1,548,000 d
	<b>20,323,000 d.</b>

Thus, ILA administers 92.6% of Israel, which is Palestinian property. With few exceptions, these lands are leased to Jewish tenants. None of these tenants has title to the leased land. The lease term is 49 years, expiring in 1998, a convenient date for the return of the refugees.

With failure and bankruptcy of the Kibbutz movement, ardent Zionists like A. Sharon and R. Eitan introduced ordinances in 1997 to "sell" Palestinian land, now rented by Kibbutz, to builders and Jews anywhere in the world, whether Israelis or not, to dispose of Palestinian property and build more housing for new immigrants. The Kibbutz farmers were given "compensation", which made them rich overnight. This "Great Israel Land Grab", in the words of Ha'aretz, poses a great danger to the refugees (Abu-Sitta, 1998). On 16 September 1998, The Arab League passed a resolution to urge the UN to send a fact-finding mission and appoint a Custodian of Palestinian property in Israel.

## 7. The Israeli Position

Since the Israeli invasion and the declaration of the state in 1948, Israel attempted to prevent the return of the refugees by every means possible, including shooting the returnees as "infiltrators". Israel thwarted the efforts of CCP to facilitate the return of the refugees. Ben Gurion engineered the tripartite campaign against Egypt in 1956 in the hope of altering irrevocably the status of the Armistice line, giving it a mark of permanency. He proposed several schemes to relocate the Palestinian refugees in Sinai, Jordan and even Iraq. All such schemes have failed.

The Israelis claim the right of occupation, since they were in a state of self-defense against the "Arab Invasion". They also claim that the refugees had left on Arab orders, not by Israeli force. They also claim that it is difficult now to find the boundaries of the village lands, as so much has been altered. Much of this study has been devoted to show, using Israeli sources, that these claims are sheer fabrication.

The Israeli legal argument against the Right of Return is the following. Under international law, this right applies to refugees returning to the country of which they are (now) citizens. Palestinians are not Israeli citizens, (Peretz, p.70, Lapidoth cited by Quigley, p.210). But the fact that Israel established a new state in Palestine and created its own citizens does not negate the Right of Return. If a robber breaks into a home, expel its occupants, and changes the nameplate on the door, this does not make him the rightful owner of the house or entitle him to prevent the return of this rightful owner. Expulsion of a people does not deprive them of their citizenship or their right to return.

Peretz (p.73) further states that "well-informed Palestinians are aware that conditions have so changed ... that an actual return is no longer possible". He claims that they envisage a return to a

small enclave, or to the West Bank or Gaza or be satisfied with a token return (*Lam Shaml*). It is difficult to confirm that such statements were made on any significant scale. There is no evidence that such are the views of those “well-informed Palestinians”. The opposite view is widely held.

If peace is to prevail, “the inalienable Palestinian Rights” must be restored. It is impossible to envisage otherwise. A state which violates rights is required under international law to restore the situation as it was before the illegal act.

The Israelis claim that, if the refugees return, Israel would lose its Jewish character. There is no place, or a future, in the civilized world for a state that is based on such exclusivity. Israel must choose between being a Jewish or a democratic state. It cannot claim to be both. In the words of a noted jurist, “The Jewish character is really a euphemism for the Zionist discriminatory statutes of the State of Israel which violate the human rights provisions... The UN is under no more of a legal obligation to maintain Zionism in Israel than it is to maintain *apartheid* in the Republic of South Africa” (Mallison p. 134).

The Palestinians have no obligation to the Israelis to lose their homes and identity and continue to suffer in the Diaspora, in order to provide the Jews a second home. The last 50 years showed clearly that it is the Palestinians who have no home except in Palestine, while only 4 million out of 16 million Jews chose to live in Israel voluntarily. Even those are in a state of flux; many of those who came to Israel soon left to more attractive countries. On the contrary, the Israelis have an obligation to the Palestinians, which must be fulfilled, to account for their dispossession and the crimes committed against them. The Right of Return to the Palestinians is a dire necessity. To the Jews, it is an option, a luxury.

Israel will be forced, by circumstance if not by choice, to turn itself into a democratic state. That is the only future it has. Even internally, the Israeli Palestinians are now 25% of the Israeli Jews. The percentage of those under 20 is 45%. Historically, it is very difficult to deny the rights of such an important minority. The Jews in Israel represent such a wide range of religious, geographical, cultural and economic variety that it is impossible to think of a distinct ‘Jewish character’.

To prevent the return of the refugees in order to maintain the Jewish purity of Israelis is immoral, illegal and simply impractical.

Israel also tries to link the issue of the refugees’ return, mainly in terms of compensation, to the question of the Sephardic Jews who left Iraq, Maghreb and Yemen after the 1948 war. Their claims of compensation are calculated to dwarf any possible Palestinian claims.

The two issues are totally unrelated. First, the Right of Return is an inalienable right recognized and confirmed repeatedly by the international community, through innumerable resolutions. There is no such recognition for the other case. Second, the claims of Sephardic Jews should be addressed to the countries of their former residence, Arab and non-Arab. The Palestinians have nothing to do with it. Third, the Right of Return and compensation is demanded from Israel, not from any Arab country. Therefore, offsetting claims does not arise. Fourth, the Israelis arranged the transfer of the Sephardic Jews, after the Israeli invasion was completed, in order to populate the very towns and villages from which Palestinians were expelled, as Ben Gurion admits (Segev, p.91). As such, these new immigrants are beneficiaries of the Palestinian dispossession. Hence they should pay compensation, not receive it. Frequently, Israeli agents bombed Jewish homes to scare them off. Those Jews abandoned their Arab citizenship voluntarily. Others had foreign passports. Those who wish to return are free to apply to the countries of their former residence.

## **8. Resettlement Schemes**

Armed with convenient myths, pro-Israeli schemes have been advanced in order to get rid of the “refugee problem” forever. These schemes are based on the following assumptions. The Palestinians are not a people, they are a community of Arabs. They have no country called

Palestine. They immigrated to that place recently. They have no roots (mostly nomads); they do not have strong ties to the land (as Jews do). They are backward and they did not fight well, so they do not deserve the country anyway. Accordingly their 'Transfer' to other places does not constitute a human or material loss. The Jews, however, are a people being reconstituted and they must be brought from the far corners of the world to cement a new (or renewed) identity. They are 'civilized' and can develop the land more efficiently. A natural corollary of this is that the dismemberment and the 'end' of the Palestinian people is perfectly acceptable and their replacement by Jewish immigrants to create a new people is a miraculous act of God and a victory for civilization. This zero sum equation is the root of all evil in this conflict.

As Masalha (1992, 1997) clearly demonstrated, the origin of the idea of resettlement lies in the Zionist policy of 'Transfer' (expulsion). After 1948, Western schemes, for example by Thicknesse (1949), have been suggested to resettle refugees in Syria and Iraq (Lebanon was not suggested), possibly with UNRWA as an instrument. After 1967, pro-Israeli authors proposed a plethora of resettlement schemes. Peretz (1993), who writes frequently on the subject, endorses solutions which allow a limited return of the refugees to a toothless state, not to their homes. He also considers limited compensation for lost property to be offset against the unrelated and exaggerated claims of Jews who left Arab countries to settle on Palestinian land. Heller (1983) also proposes resettlement elsewhere and a limited return (for 1980, 750,000 out of eligible 2,700,000), again to a nominal state, not to their homes.

Zureik (1996) presented a comprehensive review of these resettlement plans and other refugee issues. He describes in particular the semi-official Israeli suggestion by Shlomo Gazit. Gazit insists on the 'finality' of the solution, the "renunciation" of the Right of Return, dismantling of UNRWA and abolishing the special status of refugees. As a reward, Gazit wants Israel to issue a "moral-psychological acknowledgement" recognizing the suffering of the Palestinians in the last fifty years. To avoid the notion of Israel's responsibility, this acknowledgement would come as part of a UN resolution abolishing the Right of Return enshrined in Resolution 194, para 11.

More recently, there has been resurgence of proposals for the transfer and resettlement of refugees. Proposals have been circulated under the guise of intellectual seminars and packaged by pro-Israeli western institutes to conceal their real aim: to continue the expulsion of the Palestinians and replace them with fresh Jewish immigrants.

Arzt, in a much publicised report, suggests the permanent dispersal of the Palestinians by their resettlement wherever they are (with cosmetic adjustments), or anywhere they wish, except their homes. Arzt's report suggests a 'final solution' to the Palestinians. The report contains errors of fact and builds on them. In her permanent 'Transfer' plan, Table 4.1, p.88, Arzt quotes US Bureau estimates for the year 2005, cited in Peretz, p.16, which exclude Palestinians in Europe and the Americas. Yet Arzt conveniently halves the figure of "other Mideast States" to include "non-Mideast States". Arzt's table for 1995 is equally doctored. Furthermore, her tables for total Palestinians underestimate the figure by about one million (1995 estimate: 7,025,000 min. - 7,590,000 max.). The substance of Arzt's plan is to resettle the refugees mostly wherever they are, with a new transfer for 1,800,000, half of them to Europe and the Americas and the other half to the West Bank. Most of the latter are 'Displaced Persons' anyway. They would normally have returned had Israel not kept the West Bank under occupation against the will of the international community. Half of Gaza refugees will have to endure another transfer somewhere else while a negligible number will return to their homes in Israel if they satisfy strict rules already in operation since 1950. The new twist for this sour wine in the same cracked bottles is that the Palestinians will maintain their link as a people by holding some kind of

Palestinian identity papers provided that they drop their claim to their land. Upon such event, Israel will retain their land legally. As an act of generosity, Israel will allow back, after rigorous vetting and within a limited period, a total of 75,000. Translated to 1948 figures, this means 8,000 original refugees, a fraction of the 300,000 figure proposed by Truman in 1949 as a price for admitting Israel into the UN. (Israel was finally admitted to the UN upon the promise made by Sharret to allow the return of 100,000, a promise he never fulfilled.)

Recently, a Palestinian writer and an ex-Mossad officer, in a joint proposal (Ha'aretz, 'Inching up a treacherous slope', 9 September 1998) picked up the thread by suggesting a trade-off between paper acknowledgement of Israeli guilt and the admission by the Palestinians that the implementation of the Right of Return is "impossible". This lone view has no echo among the refugees. (See my rebuttal, 'The Mountain to Climb', Al-Ahram Weekly, No. 402, 5-11 Nov 1998).

Needless to say, all the resettlement schemes have utterly failed, because they deny a people the most natural right, to return home. In spite of major wars, suffering and much disappointment, the last fifty years have shown that the Palestinians insist on returning home. Instead of harping on worn out ideas, it is time to face this reality and look afresh at new, natural and permanent solutions.

## **9. Practical Steps for the Return of the Refugees**

It is now clear that all seized Palestinian land is leased to Jews. Its legal "title" is still held by the Palestinians themselves. There is no Jew who can produce a valid title to a Palestinian plot of land. Israel's legal network of Development Authority, ILA etc. is for convenience only. Israel does not, could not, have the title to Palestinian land, which is held by the individual Palestinian owners. The only pretext for Israel to continue to administer and use these lands is to prevent the return of the refugees, which it has successfully done so far.

This legal set-up happens to be very convenient for the return of the refugees. There shall be no occasion for thousands of court cases, which would have been the case had the dispute been between Jewish and Palestinian individual owners. A single agreement with the Development Authority, and its employer, the Custodian for the Absentee Property for the restoration of the property would be sufficient. The expiry date of lease terms in 1998 should have been a convenient date for this agreement.

Apart from the ample documentation of Palestinian property already mentioned, ILA has a wealth of information about such property, which enables it to administer the smallest plot of land.

In order to protect the refugees' rights, it is suggested to form a Palestine Land Society (Abu-Sitta 1998). The PLS functions shall be:

- To represent property rights of the Palestinians everywhere including those in Israel.
- To document, recover, protect, maintain and develop Palestinian land.
- PLS acts as custodian for all Palestinian property until the individual owners are identified and handed over their property. No land is handed over to a non-Palestinian.
- PLS is non-political and cooperates with PLO, PNA, UN and various governments and bodies.
- PLS general assembly has 1,500 elected members representing about 500 depopulated villages and towns.

- PLS term is indefinite.

Formation of the PLS is absolutely necessary. Already, the Jews have the Jewish National Fund (1906), WOJAC (1997) for Jewish property in Arab countries and WJRO (1992) which retrieved Jewish property and assets from Europe.

The return of the refugees should be collectively arranged in units of villages, much the same way as their expulsion. A typical village consists of 4-5 large families. Remarkably, they still maintain their cohesion intact. The village lands may be handed over to PLS, representing the villagers, who own shares in this society, pending the resolution of the final value of these shares, representing the individual property, which may take some time.

UNRWA shall continue to function, not to be disbanded or turned over to another party, until all refugees return, at which time, it shall turn into a development organization, under UNDP, to assist the returning refugees into sorting out their shattered lives.

The whole return operation should be conducted under the auspices of the UN Conciliation Commission of Palestine. CCP shall be the Custodian for the refugees' rights and shall ensure their welfare and safety after return.

The refugees do not consider the sovereignty of the state of Israel, in itself, a problem in realizing their Right of Return. They are however entitled to retain their Palestinian Identity, regardless of any acquired citizenship, including Israeli, at present or in the future. The Palestinian identity is their inalienable birthright, and must not be denied by Israel. In all other respects, they should have all the usual rights of a citizen in any democratic state.

## **10. Summary and Conclusions**

The Palestinian Holocaust is unsurpassed in history. For a country to be occupied, emptied of its people, its physical and cultural landmarks obliterated, its destruction hailed as a miraculous act of God, all done according to a premeditated plan, meticulously executed, internationally supported, and still maintained today, is no doubt the ugliest crime of modern times.

Myths were floated to make this extraordinary event explainable, especially to the West, which supplies Israel with money, arms and political support. For decades, the West has been fed on the myths that the refugees left on Arab orders, that the Arab Goliath attacked little Israel in superior numbers to throw the Jews into the sea from where they came, and that Israel was in a state of self-defense. The corollary is that Israel's occupation of Palestinian land is legitimate and that Israel is not responsible for the "refugee problem"; it is the Arabs who are responsible for their plight, hence for their settlement in their countries. Even if the refugees have the right to return, the former sites are lost and it will not be feasible to effect their return.

Released documents and new research strip these myths from any credibility they may have had. It is demonstrated that the Palestinians did not leave on Arab orders. They were expelled or removed from their villages and towns by force. As shown, 89% left due to direct Israeli military assaults, 10% left due to psychological war and the remaining 1% left on their own initiative.

Whether the military action was direct expulsion or an onslaught, whether the psychological campaign was conducted by "whispering" or loudspeaker vans, is immaterial. The perpetrator, and the beneficiary, of all these actions was their enemy, who wanted the land without its people.

The remarkable fact is that the Palestinians have left, or been removed, only during the fighting when forced to do so. When there was a lull in the fighting, however short, hardly anybody left. The exodus was therefore concurrent with and resultant from Israeli military operations.

About 65% of the Palestinians became refugees mostly before the assorted Arab forces came to their rescue. Barely 27 days after the entry of the Arab forces, the Israelis depopulated 59% of the villages. The fate of Palestine was already sealed.

On 14 May 1948, the state of Israel was declared on 11% of Palestine. Pointedly, no borders for the state were announced. In the words of Morris, (1987, p.3), by July, it was clear that "Israel has won its war for survival, at least in the short term, and that subsequent IDF offensives were geared to securing the political-military future of the Jewish state". This required occupation of more Palestinian land. The pretence of "defense" has given way to naked expansion, resulting in occupying 78% of Palestine, before signing the 1949 Armistice Agreements.

Side by side with the military and psychological wars, a series of massacres, which had become a regular pattern and an effective war weapon, hastened the flight of the reluctant population, who were given a graphic display of the grim future awaiting them if they remained. The war crimes which had been committed are yet to be tried and the responsible people brought to justice.

Thus the "refugee problem" was created. Today, close to five million refugees are dispossessed of their land and identity. For 50 years, they have suffered great injustice which must be remedied. Paramount among the remedies for this injustice is the Right of Return. Unquestionably, it has irrefutable and solid legal basis. It is also an indestructible core of the Palestinian psyche. To them, it is sacred.

In practical terms, the return of the refugees has been shown to be feasible. First, it is shown that there is no difficulty in locating "former sites". Second, the sparsely populated area of Israel, (85%), can accommodate 20% of the Jews (of which 17% live in a few towns), the present and the returning Palestinians. The resulting density would be half that of the West Bank and one-seventh of the present Gaza Strip.

Rural Israel, the traditional home of 4,942,000 Palestinian refugees, is practically empty. Only 154,000 Jews control 17,445,852 dunams. Of these, only 32,000 Jews live in the southern district and control 14,320,000 d. The refugees, mostly fellahin (farmers), can recultivate their fields as they have done for centuries. This will compensate for the drop in Israel's agricultural production to only 3.5% of GNP and for the desertion of Jewish immigrants from rural to urban areas.

As the Kibbutz became bankrupt and their ideology faded, there are voices in Israel calling for Palestinian farmers (living in Israel) to come to the rescue. Reiner wrote in Ha'aretz (September 23, 1998): "Perhaps we can get along with Arab Farmers ... The return of the Jews to their ancestral land seems to be an advent of lasting duration. But the idea of Jews working the land? Apparently, that is a passing historical aberration".

Since a typical village is a monolithic unit of 4-5 large families, the return of the villagers to their village land will not constitute a social or logistical problem. The villagers, through the proposed Palestine Land Society, may collectively hold title to the village land through shares, whose value may be determined later.

The return will not constitute a legal problem, as well. All Palestinian lands are leased to Jews; generally no Jew holds title to a Palestinian land. All Palestinian lands are held in custody; a single transfer of custody to a new Palestine Land Society should be straightforward.

The returning refugees may be under the sovereignty of Israel. They may acquire Israeli or other citizenship, but they shall always maintain their Palestinian Identity. They must enjoy full and equal rights without discrimination or oppression.

UNRWA shall continue to function until all refugees return and settle, then turn into a UNDP organization. The whole process shall take place under the auspices of CCP, which shall be the custodian for the refugees' rights and welfare.

Far fetched? Far from it. Whatever we think of them, the Peace Accords that have been signed gave rise to new facts. Some of these are: the Palestinians will not just disappear as the Zionists had hoped; and traditional Zionism is obsolete. Zionism (the Labour Party brand) now projects itself as an economic force that promises prosperity for all, instead of a military machine that destroys all. (Incidentally, this is the same thesis which Weizmann had preached to the Arabs seventy years ago). Israelis now are split into 3 streams: the fanatic religious Zionism, which has fuelled the drive to transport Jews into Palestine, secular Zionism which used the former for its own ends and now suffers from it; and the military establishment which was elevated to mythical heights and is now unemployed. There are several separate ethnic streams as well, with no hope of becoming a monolithic unit. It is not clear which one will prevail but it is hoped that the fanatic adherents of "Greater Israel" will not lead. There is no future in this world for determinism, whether dictated by the monopoly on military supremacy or by the monopoly on God's favors.

It is said that the return of the Palestinians would dilute Israel's Jewish purity. There is only one way for Israel to end the strife that devastated the lives of millions and to gain permanently for itself the much-desired "security". It is to be and remain democratic. This is the equilibrium state of its existence.

On 25 November 1995, the protracted Bosnian conflict resulted in a settlement that called for "the return of refugees". This is a case of three indigenous peoples of the same country agreeing to the return of refugees. In Palestine, newcomers from overseas replaced the indigenous Palestinians. Here, the return of the refugees is even more compelling.

Not only is the acceptance and implementation of the Right of Return the responsibility of Israel; it is also the responsibility of the international community, particularly the West. The UN has given Israel the legal pretext, however flimsy, for the partitioning of Palestine and creation Israel, and has, through UNRWA, provided meager means of survival for the refugees. In the 1991 Gulf War and the Bosnian conflict, the international community exercised its duty to use all means to implement the Right of Return to the expelled refugees. It should do so again.

For real and lasting peace to prevail, the Right of Return must be implemented. The illusion that the military supremacy and violation of all norms of human rights, which have prevailed during the last 50 years, can continue and gain permanence is dangerous and costly.

## Introduction

Half a century has passed since the dispossession and expulsion of the Palestinians from their homes in 1948. This event shaped the history of the area ever since, and remains, until today, the major issue of Middle East politics.

In spite of five major wars, innumerable raids and attacks, *coup d'etats* and removal of rulers in all adjacent countries, this volatile issue remains unresolved. Palestinian rights have not been restored nor justice done.

Arguments on both sides of the conflict are loaded with propaganda. The Israelis, however, have been more skilful and powerful than the Arabs in presenting their views. They desperately needed to justify the conquest of land, and the expulsion of its people, and portray Israel's "heroic" image in the eyes of the West, from whom they derived material and moral support. Recently, however, partly due to the release of Israeli documents, a number of Israeli historians have re-examined the events of 1948; notable among them: Morris (1987,1990), Shlaim, Segev, Pappé and Flan.

In this paper, we examine the means to redress this injustice by applying the Right of Return to the Palestinian refugees. By demographic and other considerations, we show how it is possible to effect the return of the refugees with the minimum population dislocation, thus laying the foundation for a truly lasting peace. We start first by estimating the magnitude of *al Nakba* in terms of the people and their land.

### 1. The Dispossessed: The People

Based on a detailed study of the Palestinian population starting from the Village Statistics of the Mandate, the following estimates are made:

	1948	1995	1998
All Palestinians	1,441,177	7,689,621	7,788,185
1948 Refugees	804,069	4,645,248	4,942,121

Peretz (p.16) gives the number of Palestinians as 6,192,153 (1995), based on U.S. Bureau of the Census estimate. This is an underestimate. It does not include Palestinians outside Arab countries and it assumes smaller growth rates which steadily decrease from 3.3% to 2.5%.

Brand (1988), in a careful study collected from several sources, gives the total as 4,739,158 (1982). He also gives the geographical distribution of the Palestinians. The above-mentioned Brand figure has been adjusted to our total figure given above. McDowall (1994) estimates the number of Palestinians to be 6,882,000 (1995), with a slight underestimation of the Palestinians in Lebanon, West Bank and Gaza Strip, and a lower natural growth rate. Adjustments are made to Brand's population geographical distribution due to movements which occurred since then, notably the exodus from Kuwait (1990), but not from Libya (1995).

**Table 1** shows the geographical distribution of the Palestinians. The split between refugees and original citizens is reasonable for the West Bank, Gaza, East Bank, Lebanon and Syria and tentative for the others. Of the refugees figure (4,942,121), only 3,602,121 (73%) are registered with UNRWA (1998 figures), about 1 million of these live in camps, the remainder outside. The rest are self-supporting refugees, non-eligible or could not register for some reason.

In summary, 3.6 million (46%) Palestinians now live within Mandate Palestine boundaries (i.e. Israel, West Bank and Gaza), 3.3 million (42%) live in border Arab Countries (Jordan, Lebanon, Syria), and about a million (12%) live in other Arab and foreign countries. Thus, 88% of the Palestinians live in or adjacent to Palestine. Those whose lives are somewhat affected by the limited autonomy of the Oslo Agreement are the original citizens of Gaza and West Bank, or about one million (13%).

## 2. The Dispossession: The Land

The total Arab land occupied by Israel is calculated from the sum of net Arab village lands, taken from Village Statistics.

The accumulated Palestinian land of depopulated villages as per this study is	17,166,831 d.	85%
Add: Jewish land (including Public), from Hadawi (1988)	1,682,000 d	08%
Add: Arab land (including Public) of villages remaining in Israel (Hadawi)	1,474,169 d.	07%
Total area of Israel	20,323,000 d.	100%

of which, 18,641,000 d. (92%) is Palestinian.

The Palestine Conciliation Commission's expert, Mr. Jarvis, estimated Arab losses to be a mere 5,194,091 d. Jarvis, however, omitted Beer Sheba, which is curious and inexplicable. Jarvis listed only "settled" land, which means reconciliation made between title deed and survey maps. There are other deficiencies in Jarvis' figures. Allowing for the omission of Beer Sheba, the equivalent figures are: 6,469,012 (Hadawi) and 6,131,758 (this study), both are larger than Jarvis' figures. If we add Beer Sheba (12,577,000), Jarvis' figure would add up to 17,771,091 d., Palestinian land.

**Table 2** summarises the depopulation figures by District. The largest depopulation occurred in districts of Jaffa, Haifa, and Jerusalem, which had a high Jewish concentration. The highest number of depopulated localities is in predominantly Arab areas: Beer Sheba, al-Ramla and Safad. The largest land occupied is in Beer Sheba, followed by Gaza, Haifa, al-Ramla and Safad. The largest percentage of the refugees, 42%, came from the central sector of Palestine, 34% from the north and 24% from the south.

## 3. Why the Refugees Left:

For years, it has been a staple Zionist propaganda to claim that the Palestinians had left their homes on the order of Arab governments, to clear the way for the victorious entry of the "Arab Armies". Khalidi (1988) and Childers have already put this myth to rest. Not finding any sign of this incitement, Morris (1987) confirmed their conclusion. Moreover, he assessed the reasons for the exodus under different categories, (see **Table 3**). The results of his assessment applied to his village list are shown in **Table 4**. Of 330 villages assessed by Morris, 41 (12%) had left because of "expulsion by Jewish forces", 195 (59%) by military assault, 46 (14%) by the imminent attack after the fall of a neighbouring village. This gives a total of 282 (85%) villages which were depopulated by direct military action. Extending the same method of assessment to our expanded list of depopulated villages, the respective figure is 442 (89%) villages.

Another kind of war had equally devastating results. The "Whispering Campaign", by which a Jewish "friend" advises the villagers to leave or else face a terrible fate, resulted in the depopulation of 12 villages. Thirty-eight more were depopulated due to "fear of Jewish attack". This makes 50 (10%) villages.

Five villages (1%) left on orders of a local leader or a village headman. Thirty-five villages could not be determined.

All the heinous crimes of "ethnic cleansing", now clearly prevalent in Kosova, has been committed in 1948. There are 34 reported massacres, all part of the military campaign and many more yet uncovered.

The pattern was clear. The village is surrounded from three sides, leaving the fourth open for escape and to spread the news. Young men are shot against a wall, thrown in a well or burnt alive (as happened to Tira inhabitants). Their houses are burnt and later demolished. Even bacteriological warfare was used by poisoning wells and infecting drinking water with malaria and typhus. That was the case in Gaza in the

summer of 1948 as Ben Gurion admitted in his diary, p.365. It is a “total” war to destroy the fabric of Palestinian society.

It is clear that the depopulation of the Palestinians, hence the creation of the so-called “refugee problem”, is the direct result of a total war waged against the Palestinians by the Israelis during and after the Mandate, using military and psychological means. That was meant to make true the myth that Palestine is a “land without people”.

#### **4. The Right of Return; a Basic Right:**

That a whole population was uprooted and robbed of their land and property is an unprecedented catastrophe. There is no precedent in modern history to the case of a foreign minority destroying the fabric of the indigenous majority, occupying their land and expelling them out of their homes. This crime has no equal by any standards.

The international community, which recommended the partition of Palestine, felt a deep sense of responsibility for this tragedy. Count Folke Bernadotte, the UN Mediator, stated:

*“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, at least offer the threat of permanent replacement of the Arab refugees who had been rooted in the land for centuries.”*

(UN Doc A/648, 1948).

There are three aspects to the Right of Return which make it compelling and inevitable.

**First**, the will and determination of the Palestinians. To them, the Right of Return is sacred. In spite of being dismembered and dispersed in the four corners of the earth, they maintained a monolithic structure, based on the family and the village. They intermarry across countries on a family or a neighbourhood basis. A grandchild of a 1948 refugee identifies himself as belonging to his original village. On the national level, societies or syndicates for professions, trades, women, students, creative artists and others, representing the Palestinian people, have been functioning in many countries.

**Second**, the Right of Return has a solid legal basis. To begin with, neither the Balfour Declaration of 1917, the UN Partition Plan of 1947, nor Armistice Agreements of 1949, are binding on the Palestinians. They were not a party to them. None of these can grant them any new rights or deprive them of their basic rights.

In recognition of the rights of the Palestinians, the United Nations adopted Resolution 194 on December 11, 1948. Paragraph 11 states:

**“(The General Assembly)... resolves that the refugees wishing to return to their homes and live at peace with their neighbours 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”.**

This Resolution was affirmed practically every year since. It has a universal consensus. Exceptions are Israel and lately the U.S.

Some notes on this Resolution may be in order. The option of return is left to the refugees themselves. If they decide to return, they “should be permitted” to do so, not hindered or stopped. Doing so will be an act of aggression which deserves condemnation and/or action by the Security Council. The refugees should return “at the earliest practicable date”, which is the cessation of hostilities, i.e. in the period from February 1949 upon signing the Armistice Agreement with Egypt to July 1949 upon signing it with Syria. The delay of the refugees’ return from this date is a continuous violation of the Right of Return. The liability for this violation and its consequences remain with the Israelis.

Those who choose to return are also entitled to compensation for “loss of and damage to their property” whether gardens, houses, workshops, shops or personal belongings. Restitution of their land, homes and property (restoration to original owner) should be made. Thus, they have the Right of Return **plus** compensation. Those who do not wish to return are entitled to compensation for their land as well their other property. The short reference to the Right of Return as “return *or* compensation” is therefore misleading. The compensation includes the exploitation of their property for 50 years, and the anguish they have suffered for this period, in accordance with the procedures adopted in the case of Nazi victims.

The liability for compensation extends to “the governments or authorities responsible”. These include the Provisional Government of Israel in 1948, the consecutive Governments of Israel, the Jewish Agency, the Haganah, the Irgun and Stern gangs, the Jewish National Fund and others in Israel and abroad.

The Right of Return does not derive its validity merely from UN Resolutions. Article 13 of the Universal Declaration of Human Rights asserts the right of every individual to leave and return to his country. The Right of Return to one’s home is so basic that it has been stated in Magna Carta (Ch. 42) in 1215. The Geneva Civilian Convention of 1949 prohibits “individual or mass forcible transfers ... regardless of motive”. In the words of an authority on the subject, Mallison states that “the advantage of effective prohibition is that it would make it unnecessary to exercise the right [of return]”.

The Principle of Self Determination guarantees, *inter alia*, the right of ownership and domicile in one’s own country. This principle was adopted by the UN in 1947. In 1969 and thereafter, it was explicitly applied to the Palestinian People, including “the legality of the Peoples’ struggle for Self-Determination and Liberation”, (GAOR 2535 (xxiv), 2628 (xxv), 2672 (xxv), 2792 (xxvi)). Resolution 3236 adopted by UN on November 22, 1974 is “one of the most fundamental actions” taken by this international body to reaffirm “the *inalienable* rights of the Palestinians to return to their homes and property from which they have been displaced and uprooted and calls for their return” (para 2).

It is a principle of international law that occupation does not confer sovereignty on the land, due to the “inadmissibility of conquest”. Neither occupation, nor sovereignty diminish the right of private ownership. When the Ottomans surrendered their sovereignty to the Allies in 1920, Palestinian ownership of their land was maintained. Private ownership was also respected by the mandate government.

Thus, the land and property of the refugees, although now administered by Israel, remains their own, regardless of the applicable sovereignty and the passage of time, and they are entitled to return to it.

## **5. Is the Right of Return Feasible?**

This is the third aspect of the Right of Return. The feasibility of the return is raised frequently by pro-Israel authors who claim that it is “neither feasible nor practical” (e.g. Peretz, 1993, p.72). He says “that Palestinian towns and villages ... have disappeared... (and) ... it would be difficult to re-establish these former sites”. He calls the villages from which the people were expelled “abandoned”, as if the inhabitants left them by their own free will.

The claim that it is not possible to “re-establish former sites” is factually erroneous. There is no land better documented than Palestine. As early as 1871, a full and detailed survey (26 sheets with 15000 names) had been prepared by the [British] Palestine Exploration Fund. In the period 1920-1947, the Survey of Palestine produced detailed maps for the whole of Palestine. After the Israeli occupation of Palestine in 1948, these very same maps, with their Arabic names erased and replaced by Hebrew names, were used by Israel. Physical changes in the critical period of 1949-1959, when Palestinian villages were destroyed and fields ploughed over, were marked over British maps. These were recorded not only by Israel, but by Britain and the U.S as well. Israel Land Administration which leases Palestinian land to Jews has complete records of every plot of land. Today, the satellite mapping system makes the comparison between old and new quite feasible.

Destroyed villages, not only live in the memory of their people and in old maps, but they are preserved in the comprehensive aerial survey conducted by the British over most of Palestine in 1945 and 1946. The photographs cover all 13 occupied Palestinian towns, 419 villages, depopulated by Israeli onslaught and 99 tribal lands. The myth that tribal lands in the Negev had been barren, uncultivated and under-populated is belied by these photographs. Hardly an acre was not cultivated. **This so called “desert” was green before the Israelis came. The real desert in Negev is still desert today.**

Then there is the question: where would the Palestinians return to? and what is to be done with all those multi-national immigrants who were brought to Israel?. The answer lies in examining Israel’s demography.

Demographic analysis of Israel today shows that the concentration of Jews today is largely in and around pre-1948 Jewish land and that Palestinian land is still largely empty (Abu-Sitta 1996, 1998). Israel’s 41 natural regions may be divided into 3 areas, designated A, B, C (see **Table 5**). Area A consists of 8 natural regions with a total area of 1,683 sq. km. (8% of Israel) in which 68% of the Jews (2,924,000 - 1994 figures) live. This area is almost the same area in which Jews lived in pre-1948 Palestine.

Area B consists of 5 natural regions with a total area of 1,318 sq. km. (7% of Israel) in which 10% of the Jews and 20% of the Palestinians in Israel live. This mixed area is almost the same in area as the land of the Palestinians remaining in Israel. Thus 78% of the Jews in Israel live in 15% of Israel.

The remaining part, Area C, has a total area of 17,325 sq. km. and is essentially the land of Palestinian refugees. Apart from a few urban centres (mostly Palestinian towns originally) in which urban Jews live, only 154,000 rural Jews control and exploit this vast Palestinian land.

Contrary to Israeli claims, the return of the refugees will not cause mass dislocation of Jewish immigrants, although they have no right to seize Palestinian property in the first place. The return, however, may initiate voluntary relocation of some of the 154,000 rural Jews.

To test the impact of the phasing of the refugees return, we shall examine two important scenarios. The first is the return of the Palestinian refugees in Lebanon. This is most pressing because of their bad working and living conditions and the political constraints under which they live. The second is the return of the Palestinian refugees in Gaza. Almost one million people are crammed in 360 sq. km. with no identity, employment or future. They are often described as the political dynamite of the Middle East. Although the entire issue of the refugees must be resolved, these two explosive situations must be addressed without delay.

Section (1) of **Table 5** shows the classification of the areas in the part of Palestine that became Israel in 1948. Section (2) shows the demographic distribution of the same area half a century later. The concentration of Jews today is remarkably similar to the 1948 distribution. It is shown that only 154,000 rural Jews live in the land of the expelled refugees (Area C). Total population density in Israel in Area C is 82 persons/sq. km., which is 4% of the density at the centre of the country. Although the Jews represent 90% of the population at the centre, they are only two-thirds in areas B, C. This two-thirds majority is largely due to the expulsion of the Palestinians.

If Lebanon refugees return to their homes in Galilee and elsewhere (Section (3) of **Table 5**), the impact is hardly felt by the Israelis (Jews and Palestinians alike). The density of the whole new population increases by only 1% in Area A, 6% in B, and by 17% in Area C to which most of the refugees would return. The much-touted concern for Jewish majority is not warranted. They remain above 50% where they are least in number. The Jews who may barely feel the effect of the return are the rural Jews (Kibbutz and Moshav) who count only 76,000. Of course, the urban Jews (71% of Jews) will continue to live and flourish in towns. Ninety percent of them live in just 9 towns, 3 of which are Palestinian (Acre, Tiberias, Shafa Amr).

While Lebanon refugees could return to a largely Arab territory, with minimum effect on the Jews, the Gaza refugees would return to almost totally empty land. Today, the rural Jews who exploit their land are spread at a density of 6 persons/sq. km., or close to one-thousandth of the density in Gaza. There are barely 79,000 rural Jews in the southern half of Israel. In addition, there are 553,000 urban Jews, two-thirds of whom live

in 3 Palestinian towns (Beer Sheva, Ashdod and Majdal-Ashqelon) and another 24% live in 3 new towns. These urban Jews are engaged in industry, education and services. The return of the refugees would be of benefit to those Jews and vice versa, and as such, it is a positive element. As shown in Section (4) of **Table 5**, after the return of Gaza refugees, the density of the total population in Israel would increase by only 6% in Area A, 5% in B and 32% in Area C to which the refugees return. Once again as in the case of Lebanon refugees, the Jews will still be over 50% in Area C where they are least in number.

In spite of the much-touted proclamation of turning the desert green, the present population is much less than the capacity of the area (Efrat 1988, p.182) and the present cultivated area, largely irrigated, is a fraction of the area cultivated before 1948 by the Palestinians. The Israelis concentrate in half a dozen towns (half in Beer Sheva alone) leaving 32,000 Jews control 14,320,000 dunums (Efrat 1988, p.182).

It is significant to observe that the returning Gaza refugees are less in number than the Russian immigrants freely admitted to Israel in this decade. While it is clear that the admission of the Russians is a cause of tension in Israel itself, an obstacle to peace in the region, and a probable cause of a new war (Abu-Sitta 1998), the return of the Gaza refugees will bring peace and stability to the Middle East. This point is not lost on friends and foes alike.

If the Right of Return is implemented and the Palestinians return to their homes, hardly any infringement on the Jews' *Lebensraum* (living space) would occur. The Palestinians, mostly farmers, would return to their fields which they had tilled for centuries. Their efforts would compensate for the drop in Israel's agricultural production from 11% of GNP (1950) to only 3.5% (1993). This will continue to drop as the rural areas continue to suffer a desertion of Israelis, especially in the south, in favour of towns. Already the farmers in Gaza, in spite of being deprived of economic support and of water supply, produced superior agricultural products to that of Israel. Israelis are frequently accused of destroying their export products at the border point, by obstruction or ill-will.

When peace prevails, the historical link between Egypt, Jordan and Saudi Arabia, severed by the Israeli invasion of Negev, shall then be restored. With the projected economic cooperation, the southern tip of Negev, the meeting point of 4 countries at the Gulf of Aqaba, may develop into an important commercial and recreational area.

The return of the refugees from Lebanon to their homes in Galilee would restore their link with their kith and kin in the West Bank. Separated families would unite again. The historical continuity between Jordan and Lebanon through the West Bank and Galilee, would be restored. No doubt peace would then be restored to Lebanon's south and Israel's north. Such an important dividend cannot easily be dismissed.

While it is the right of the Palestinians to recover their land and homes from the Jews, their repatriation in this manner would minimize the existing population's dislocation. The transition would be practical and reasonable. The severed link between the Arab east and west, undoubtedly one of the important reasons for continued wars, would be restored.

The Palestinians dispossession cannot be realistically tolerated or continue to be ignored with any degree of realism. Gaza Strip is packed with refugees (2500 persons/km<sup>2</sup>, or 4,200 persons/km<sup>2</sup>, if net area is used) while the refugees see, across the barbed wire, their land to the east, in which only 6 persons/km<sup>2</sup> live. This striking contrast in demography is the root cause of the conflict.

## **6. The Status of Palestinian Land in Israel:**

Soon after the Israeli invasion, a series of laws have been passed to organize the seizure and use of Palestinian property. The "Absentees' Property Law" of March 1950 transferred the right of the natural owner to a Custodian of Absentee Property and made him liable to the real owner for the value, but not the return, of his property (Lehn, p.131). The Palestinians who remained in Israel, especially in the Negev, were relocated away from their homes and declared "Absentee".

The “Development Authority (Transfer of Property) Law” of July 1950 was devised, as a legal ploy, to shield Israel’s government from the accusation that it has confiscated “abandoned” property. The Development Authority is an independent body empowered to sell, buy, lease, exchange, repair, build, develop and cultivate Palestinian property. None of these transactions could take place except with a Jew or a Jewish entity. To give effect to this seizure, various Jewish bodies agreed that “under no circumstances should the Arabs return to Israel”.

In the first ten years of occupation (1950-1960), a legal quarrel ensued between the Jewish National Fund (JNF) and the just-formed Israeli government. JNF had been purchasing land in the Mandate period in the name of “the Jewish People”. Israel’s government seized the Palestinian land and intended to acquire title to it in the name of the state in recognition of “the triumph of the Haganah and the flight of the Arabs” (Lehn p.108). The JNF maintained that such land should be turned over to the Jewish people, not the state, since the latter, given the prevailing political and demographic conditions, cannot give adequate guarantee of lasting Jewish ownership.

The dispute was settled by formulating, on 25 July 1960, the laws: Basic Law: Israel-Lands, Israel-Lands Law and Israel-Lands Administration Law, that is, Israel government, not the Jewish people. The JNF rules, of restricting transactions to Jews only, have been adopted by the state. Palestinian lands, whether acquired by JNF or seized by the state, would be administered by a single authority, Israel Land Administration (ILA), for the benefit of both parties under the old JNF rules.

The JNF was allowed, however, to increase its pre-Mandate holdings by “purchasing” land seized by the state. The position of land “title” in 1961 is as follows (ILA Report, Jerusalem 1962, in Hebrew, quoted by Lehn p.114):

State and Development Authority	15,205,000 d
JNF (pre Mandate + “purchase” from the state)	3,507,000 d
	<b>18,775,000 d</b>
Private	1,548,000 d
	<b>20,323,000 d.</b>

Thus, ILA administers 92.6% of Israel, which is Palestinian property. With few exceptions, these lands are leased to Jewish tenants. None of these tenants has title to the leased land. The lease term is 49 years, expiring in 1998, a convenient date for the return of the refugees.

With failure and bankruptcy of the Kibbutz movement, ardent Zionists like A. Sharon and R. Eitan introduced ordinances in 1997 to “sell” Palestinian land, now rented by Kibbutz, to builders and Jews anywhere in the world, whether Israelis or not, to dispose of Palestinian property and build more housing for new immigrants. The Kibbutz farmers were given “compensation”, which made them rich overnight. This “Great Israel Land Grab”, in the words of Ha’aretz, poses a great danger to the refugees (Abu-Sitta, 1998). On 16 September 1998, The Arab League passed a resolution to urge the UN to send a fact-finding mission and appoint a Custodian of Palestinian property in Israel.

## **7. The Israeli Position:**

Since the Israeli invasion and the declaration of the state in 1948, Israel attempted to prevent the return of the refugees by every means possible, including shooting the returnees as “infiltrators”. Israel thwarted the efforts of CCP to facilitate the return of the refugees. Ben Gurion engineered the tripartite campaign against Egypt in 1956 in the hope of altering irrevocably the status of the Armistice line, giving it a mark of permanency. He proposed several schemes to relocate the Palestinian refugees in Sinai, Jordan and even Iraq. All such schemes have failed.

The Israelis claim the right of occupation, since they were in a state of self defence against the “Arab Invasion”. They also claim that the refugees had left on Arab orders, not by Israeli force. They also claim

that it is difficult now to find the boundaries of the village lands, as so much has been altered. Much of this study has been devoted to show, using Israeli sources, that these claims are sheer fabrication.

The Israeli legal argument against the Right of Return is the following. Under international law, this Right applies to refugees returning to the country of which they are (now) citizens. Palestinians are not Israeli citizens, (Peretz, p.70, Lapidoth cited by Quigley, p.210). But the fact that Israel established a new state in Palestine and created its own citizens does not negate the Right of Return. If a robber breaks into a home, expel its occupants, and changes the name-plate on the door, this does not make him the rightful owner of the house or entitle him to prevent the return of this rightful owner. Expulsion of a people does not deprive them of their citizenship or their right to return.

Peretz (p.73) further states that “well-informed Palestinians are aware that conditions have so changed ... that an actual return is no longer possible”. He claims that they envisage a return to a small enclave, or to the West Bank or Gaza or be satisfied with a token return (*Lam Sham!*). It is difficult to confirm that such statements were made on any significant scale. There is no evidence that such are the views of those “well-informed Palestinians”. The opposite view is widely held.

If peace is to prevail, “the inalienable Palestinian Rights” must be restored. It is impossible to envisage otherwise. A state which violates rights is required under international law to restore the situation as it was before the illegal act.

The Israelis claim that, if the refugees return, Israel would lose its Jewish character. There is no place, or a future, in the civilized world for a state that is based on such exclusivity. Israel must choose between being a Jewish or a democratic state. It cannot claim to be both. In the words of a noted jurist, “The Jewish character is really a euphemism for the Zionist discriminatory statutes of the State of Israel which violate the human rights provisions... The UN is under no more of a legal obligation to maintain Zionism in Israel than it is to maintain *apartheid* in the Republic of South Africa” (Mallison p. 134).

The Palestinians have no obligation to the Israelis to lose their homes and identity and continue to suffer in the diaspora, in order to provide the Jews a second home. The last 50 years showed clearly that it is the Palestinians who have no home except in Palestine, while only 4 million Jews out of 16, chose to live in Israel voluntarily. Even those are in a state of flux; many of those who came to Israel soon left to more attractive countries. On the contrary, the Israelis have an obligation to the Palestinians, which must be fulfilled, to account for their dispossession and the crimes committed against them. The Right of Return to the Palestinians is a dire necessity. To the Jews, it is an option, a luxury.

Israel will be forced, by circumstance if not by choice, to turn itself into a democratic state. That is the only future it has. Even internally, the Israeli Palestinians are now 25% of the Israeli Jews. The percentage of those under 20 is 45%. Historically, it is very difficult to deny the rights of such an important minority. The Jews in Israel represent such a wide range of religious, geographical, cultural and economic variety that it is impossible to think of a distinct ‘Jewish character’.

To prevent the return of the refugees in order to maintain the Jewish purity of Israelis is immoral, illegal and simply impractical.

Israel also tries to link the issue of the refugees’ return, mainly in terms of compensation, to the question of the Sephardic Jews who left Iraq, Maghreb and Yemen after the 1948 war. Their claims of compensation are calculated to dwarf any possible Palestinian claims.

The two issues are totally unrelated. First, the Right of Return is an inalienable right recognized and confirmed repeatedly by the international community, through innumerable resolutions. There is no such recognition for the other case. Second, the claims of Sephardic Jews should be addressed to the countries of their former residence, Arab and non-Arab. The Palestinians have nothing to do with it. Third, the Right of Return and compensation is demanded from Israel, not from any Arab country. Therefore, offsetting claims does not arise. Fourth, the Israelis arranged the transfer of the Sephardic Jews, after the Israeli invasion was

completed, in order to populate the very towns and villages from which Palestinians were expelled, as Ben Gurion admits (Segev, p.91). As such, these new immigrants are beneficiaries of the Palestinian dispossession. Hence they should pay compensation, not receive it. Frequently, Israeli agents bombed Jewish homes to scare them off. Those Jews abandoned their Arab citizenship voluntarily. Others had foreign passports. Those who wish to return are free to apply to the countries of their former residence.

## **8. Resettlement Schemes:**

Armed with convenient myths, pro-Israeli schemes have been advanced in order to get rid of the “refugee problem” forever. These schemes are based on the following assumptions. The Palestinians are not a people, they are a community of Arabs. They have no country called Palestine. They immigrated to that place recently. They have no roots (mostly nomads); they do not have strong ties to the land (as Jews do). They are backward and they did not fight well, so they do not deserve the country anyway. Accordingly their ‘Transfer’ to other places does not constitute a human or material loss. The Jews, however, are a people-being-reconstituted and they must be brought from the far corners of the world to cement a new (or renewed) identity. They are ‘civilised’ and can develop the land more efficiently. A natural corollary of this is that the dismemberment and the ‘end’ of the Palestinian people is perfectly acceptable and their replacement by Jewish immigrants to create a new people is a miraculous act of God and a victory for civilization. This zero sum equation is the root of all evil in this conflict.

As Masalha (1992, 1997) clearly demonstrated, the origin of the idea of resettlement lies in the Zionist policy of ‘Transfer’ (expulsion). After 1948, Western schemes, for example by Thicknesse (1949), have been suggested to resettle refugees in Syria and Iraq (Lebanon was not suggested), possibly with UNRWA as an instrument. After 1967, pro-Israeli authors proposed a plethora of resettlement schemes. Peretz (1993), who writes frequently on the subject, endorses solutions which allow a limited return of the refugees to a toothless state, not to their homes. He also considers limited compensation for lost property to be offset against the unrelated and exaggerated claims of Jews who left Arab countries to settle on Palestinian land. Heller (1983) also proposes resettlement elsewhere and a limited return (for 1980, 750,000 out of eligible 2,700,000), again to a nominal state, not to their homes.

Zureik (1996) presented a comprehensive review of these resettlement plans and other refugee issues. He describes in particular the semi-official Israeli suggestion by Shlomo Gazit. Gazit insists on the ‘finality’ of the solution, the “renunciation” of the Right of Return, dismantling of UNRWA and abolishing the special status of refugees. As a reward, Gazit wants Israel to issue a “moral-psychological acknowledgement” recognizing the suffering of the Palestinians in the last fifty years. To avoid the notion of Israel’s responsibility, this acknowledgement would come as part of a UN resolution abolishing the Right of Return enshrined in Resolution 194, para 11.

More recently, there has been resurgence of proposals for the transfer and resettlement of refugees. Proposals have been circulated under the guise of intellectual seminars and packaged by pro-Israeli western institutes to conceal their real aim: to continue the expulsion of the Palestinians and replace them by fresh Jewish immigrants.

Arzt, in a much publicised report, suggests the permanent dispersal of the Palestinians by their resettlement wherever they are (with cosmetic adjustments), or anywhere they wish, except their homes. Arzt’s report suggests a ‘final solution’ to the Palestinians. The report contains errors of fact and builds on them. In her permanent ‘Transfer’ plan, Table 4.1, p.88, Arzt quotes US Bureau estimates for the year 2005, cited in Peretz, p.16, which exclude Palestinians in Europe and the Americas. Yet Arzt conveniently halves the figure of “other Mideast States” to include “non-Mideast States”. Arzt’s table for 1995 is equally doctored. Furthermore, her tables for total Palestinians underestimate the figure by about one million (1995 estimate: 7,025,000 min-7,590,000 max.). The substance of Arzt’s plan is to resettle the refugees mostly wherever they are, with a new transfer for 1,800,000, half of them to Europe and the Americas and the other half to the West Bank. Most of the latter are ‘Displaced Persons’ anyway. They would normally have returned had Israel not kept the West Bank under occupation against the will of the international community. Half of Gaza refugees will have to endure another transfer somewhere else while a negligible number will return to

their homes in Israel if they satisfy strict rules already in operation since 1950. The new twist for this sour wine in the same cracked bottles is that the Palestinians will maintain their link as a people by holding some kind of Palestinian identity papers provided that they drop their claim to their land. Upon such event, Israel will retain their land legally. As an act of generosity, Israel will allow back, after rigorous vetting and within a limited period, a total of 75,000. Translated to 1948 figures, this means 8,000 original refugees, a fraction of the 300,000 figure proposed by Truman in 1949 as a price for admitting Israel into the UN. (Israel was finally admitted to the UN upon the promise made by Sharret to allow the return of 100,000, a promise he never fulfilled.)

Recently, a Palestinian writer and an ex-Mossad officer, in a joint proposal (Ha'aretz, 'Inching up a treacherous slope', 9 September 1998) picked up the thread by suggesting a trade-off between paper acknowledgement of Israeli guilt and the admission by the Palestinians that the implementation of the Right of Return is "impossible". This lone view has no echo among the refugees. (See my rebuttal, 'The Mountain to Climb', Al-Ahram Weekly, No. 402, 5-11 Nov 1998).

Needless to say, all the resettlement schemes have utterly failed, because they deny a people the most natural right, to return home. In spite of major wars, suffering and much disappointment, the last fifty years have shown that the Palestinians insist on returning home. Instead of harping on worn out ideas, it is time to face this reality and look afresh at new, natural and permanent solutions.

## **9. Practical Steps for the Return of the Refugees:**

It is now clear that all seized Palestinian land is leased to Jews. Its legal "title" is still held by the Palestinians themselves. There is no Jew who can produce a valid title to a Palestinian plot of land. Israel's legal network of Development Authority, ILA etc. is for convenience only. Israel does not, could not, have the title to Palestinian land, which is held by the individual Palestinian owners. The only pretext for Israel to continue to administer and use these lands is to prevent the return of the refugees, which it has successfully done so far.

This legal set-up happens to be very convenient for the return of the refugees. There shall be no occasion for thousands of court cases, which would have been the case had the dispute been between Jewish and Palestinian individual owners. A single agreement with the Development Authority, and its employer, the Custodian for the Absentee Property for the restoration of the property would be sufficient. The expiry date of lease terms in 1998 should be a convenient date for this agreement.

Apart from the ample documentation of Palestinian property already mentioned, ILA has a wealth of information about such property, which enables it to administer the smallest plot of land.

In order to protect the refugees' rights, it is suggested to form a Palestine Land Society (Abu-Sitta 1998). The PLS functions shall be:

- to represent property rights of the Palestinians everywhere including those in Israel.
- to document, recover, protect, maintain and develop Palestinian land.
- PLS acts as custodian for all Palestinian property until the individual owners are identified and handed over their property. No land is handed over to a non-Palestinian.
- PLS is non-political and cooperates with PLO, PNA, UN and various governments and bodies.
- PLS general assembly has 1,500 elected members representing about 500 depopulated villages and towns.
- PLS term is indefinite.

Formation of the PLS is absolutely necessary. Already, the Jews have the Jewish National Fund (1906), WOJAC (1997) for Jewish property in Arab countries and WJRO (1992) which retrieved Jewish property and assets from Europe.

The return of the refugees should be collectively arranged in units of villages, much the same way as their expulsion. A typical village consists of 4-5 large families. Remarkably, they still maintain their cohesion intact. The village lands may be handed over to PLS, representing the villagers, who own shares in this society, pending the resolution of the final value of these shares, representing the individual property, which may take some time.

UNRWA shall continue to function, not to be disbanded or turned over to another party, until all refugees return, at which time, it shall turn into a development organization, under UNDP, to assist the returning refugees into sorting out their shattered lives.

The whole return operation should be conducted under the auspices of the UN Conciliation Commission of Palestine. CCP shall be the Custodian for the refugees rights and shall ensure their welfare and safety after return.

The refugees do not consider the sovereignty of the state of Israel, in itself, a problem in realising their Right of Return. They are however entitled to retain their Palestinian Identity, regardless of any acquired citizenship, including Israeli, at present or in the future. The Palestinian Identity is their inalienable birthright, and must not be denied by Israel. In all other respects, they should have all the usual rights of a citizen in any democratic state.

## **10. Summary and Conclusions:**

The Palestinian Holocaust is unsurpassed in history. For a country to be occupied, emptied of its people, its physical and cultural landmarks obliterated, its destruction hailed as a miraculous act of God, all done according to a premeditated plan, meticulously executed, internationally supported, and still maintained today, is no doubt the ugliest crime of modern times.

Myths were floated to make this extraordinary event explainable, especially to the West, which supplies Israel with money, arms and political support. For decades, the West has been fed on the myths that the refugees left on Arab orders, that the Arab Goliath attacked little Israel in superior numbers to throw the Jews into the sea from where they came, and that Israel was in a state of self-defence. The corollary is that Israel's occupation of Palestinian land is legitimate and that Israel is not responsible for the "refugee problem"; it is the Arabs who are responsible for their plight, hence for their settlement in their countries. Even if the refugees have the right to return, the former sites are lost and it will not be feasible to effect their return.

Released documents and new research strip these myths from any credibility they may have had. It is demonstrated that the Palestinians did not leave on Arab orders. They were expelled or removed from their villages and towns by force. As shown, 89% left due to direct Israeli military assaults, 10% left due to psychological war and the remaining 1% left on their own initiative.

Whether the military action was direct expulsion or an onslaught, whether the psychological campaign was conducted by "whispering" or loudspeaker vans, is immaterial. The perpetrator, and the beneficiary, of all these actions was their enemy, who wanted the land without its people.

The remarkable fact is that the Palestinians have left, or been removed, only during the fighting when forced to do so. When there was a lull in the fighting, however short, hardly anybody left. The exodus was therefore concurrent with and resultant from Israeli military operations.

About 65% of the Palestinians became refugees mostly before the assorted Arab forces came to their rescue. Barely 27 days after the entry of the Arab forces, the Israelis depopulated 59% of the villages. The fate of Palestine was already sealed.

On 14 May 1948, the state of Israel was declared on 11% of Palestine. Pointedly, no borders for the state were announced. In the words of Morris, (1987, p.3), by July, it was clear that "Israel has won its war for survival, at least in the short term, and that subsequent IDF offensives were geared to securing the political-military future of the Jewish state". This required occupation of more Palestinian land. The pretence of "defence" has given way to naked expansion, resulting in occupying 78% of Palestine, before signing the 1949 Armistice Agreements.

Side by side with the military and psychological wars, a series of massacres, which had become a regular pattern and an effective war weapon, hastened the flight of the reluctant population, who were given a graphic display of the grim future awaiting them if they remained. The war crimes which had been committed are yet to be tried and the responsible people brought to justice.

Thus the "refugee problem" was created. Today, close to five million refugees are dispossessed of their land and identity. For 50 years, they have suffered great injustice which must be remedied. Paramount among the remedies for this injustice is the Right of Return. Unquestionably, it has irrefutable and solid legal basis. It is also an indestructible core of the Palestinian psyche. To them, it is sacred.

In practical terms, the return of the refugees has been shown to be feasible. First, it is shown that there is no difficulty in locating "former sites". Second, the sparsely populated area of Israel, (85%), can accommodate 20% of the Jews (of which 17% live in a few towns), the present and the returning Palestinians. The resulting density would be half that of the West Bank and one-seventh of the present Gaza Strip.

Rural Israel, the traditional home of 4,942,000 Palestinian refugees, is practically empty. Only 154,000 Jews control 17,445,852 donums. Of these, only 32,000 Jews live in the southern district and control 14,320,000 d. The refugees, mostly fellahin (farmers), can recultivate their fields as they have done for centuries. This will compensate for the drop in Israel's agricultural production to only 3.5% of GNP and for the desertion of Jewish immigrants from rural to urban areas.

As the Kibbutz became bankrupt and their ideology faded, there are voices in Israel calling for Palestinian farmers (living in Israel) to come to the rescue. Reiner wrote in Ha'aretz (September 23, 1998): "Perhaps we can get along with Arab Farmers ... The return of the Jews to their ancestral land seems to be an advent of lasting duration. But the idea of Jews working the land? Apparently, that is a passing historical aberration".

Since a typical village is a monolithic unit of 4-5 large families, the return of the villagers to their village land will not constitute a social or logistical problem. The villagers, through the proposed Palestine Land Society, may collectively hold title to the village land through shares, whose value may be determined later.

The return will not constitute a legal problem, as well. All Palestinian lands are leased to Jews; generally no Jew holds title to a Palestinian land. The term for most leases expire in 1998, a convenient date for the refugees return. All Palestinian lands are held in custody; a single transfer of custody to a new Palestine Land Society should be straightforward.

The returning refugees may be under the sovereignty of Israel. They may acquire Israeli or other citizenship, but they shall always maintain their Palestinian Identity. They must enjoy full and equal rights without discrimination or oppression.

UNRWA shall continue to function until all refugees return and settle, then turn into a UNDP organization. The whole process shall take place under the auspices of CCP, which shall be the Custodian for the refugees' rights and welfare.

Far fetched? Far from it. Whatever we think of them, the Peace Accords which have been signed gave rise to new facts. Some of these are: the Palestinians will not just disappear as the Zionists had hoped; and traditional Zionism is obsolete. Zionism (the Labour Party brand) now projects itself as an economic force that promises prosperity for all, instead of a military machine which destroys all. (Incidentally, this is the

same thesis which Weizmann had preached to the Arabs seventy years ago). Israelis now are split into 3 streams: the fanatic religious Zionism, which has fuelled the drive to transport Jews into Palestine, secular Zionism which used the former for its own ends and now suffers from it; and the military establishment which was elevated to mythical heights and is now unemployed. There are several separate ethnic streams as well, with no hope of becoming a monolithic unit. It is not clear which one will prevail but it is hoped that the fanatic adherents of "Greater Israel" will not lead. There is no future in this world for determinism, whether dictated by the monopoly on military supremacy or by the monopoly on God's favours.

It is said that the return of the Palestinians would dilute Israel's Jewish purity. There is only one way for Israel to end the strife which devastated the lives of millions and to gain permanently for itself the much-desired "security". It is to be and remain democratic. This is the equilibrium state of its existence.

On 25 November 1995, the protracted Bosnian conflict resulted in a settlement which called for "the return of refugees". This is a case of three indigenous peoples of the same country agreeing to the return of refugees. In Palestine, the indigenous Palestinians were replaced by newcomers from overseas. Here, the return of the refugees is even more compelling.

Not only is the acceptance and implementation of the Right of Return the responsibility of Israel; it is also the responsibility of the international community, particularly the West. The UN has given Israel the legal pretext, however flimsy, for the partitioning of Palestine and creation Israel, and has, through UNRWA, provided meagre means of survival for the refugees. In the 1991 Gulf War and the Bosnian conflict, the international community exercised its duty to use all means to implement the Right of Return to the expelled refugees. It should do so again.

For real and lasting peace to prevail, the Right of Return must be implemented. The illusion that the military supremacy and violation of all norms of human rights, which have prevailed during the last 50 years, can continue and gain permanence is dangerous and costly.

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