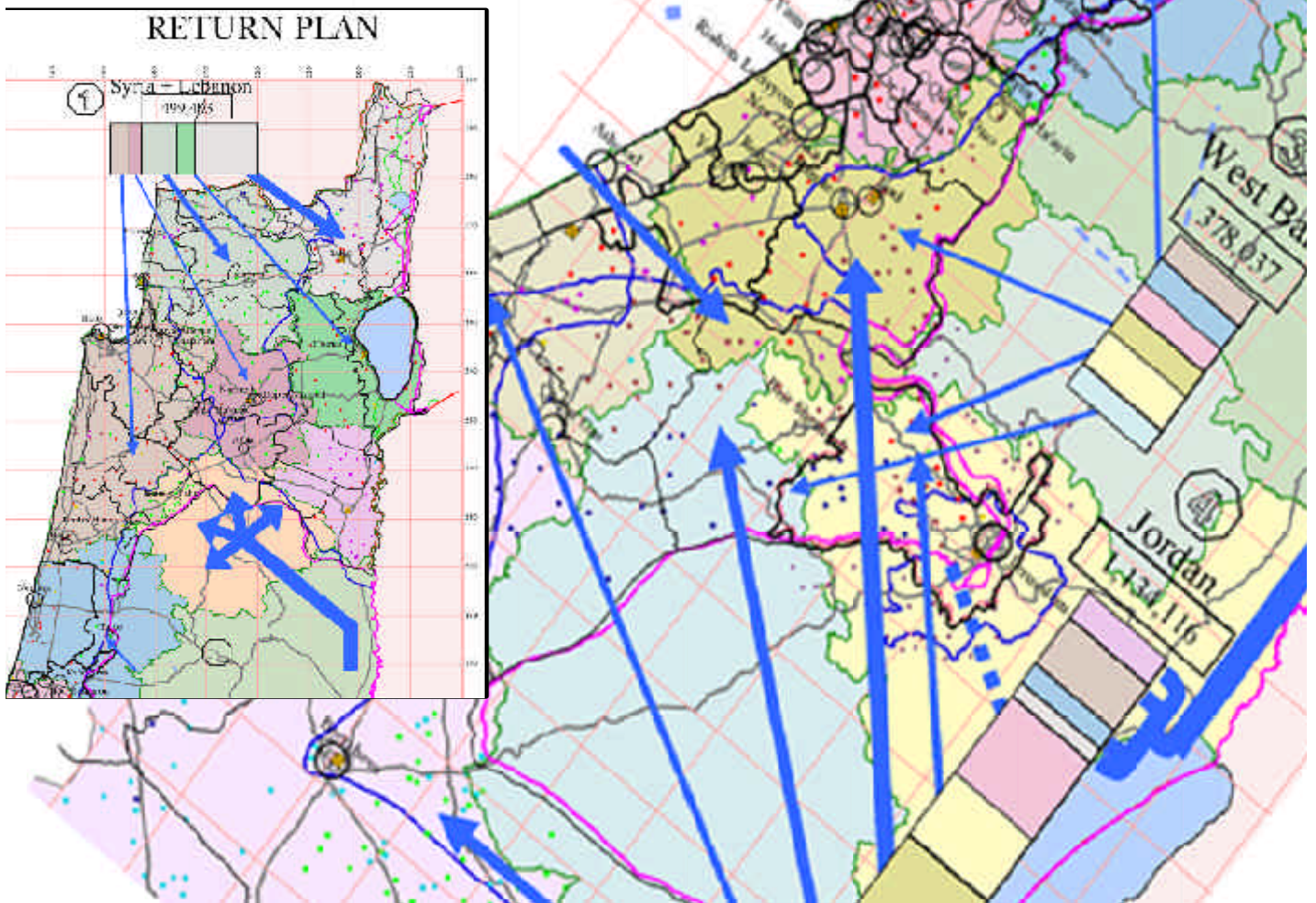


al majdal

ISSUE NO.12 ~ DECEMBER 2001

al majdal aims to raise public awareness and support for a just solution to Palestinian residency and refugee issues

**BADIL Resource Center
for Palestinian Residency
and Refugee Rights**



Collective AND Individual Rights: Palestinian Statehood and the Right of Return

- Report from the 2nd Annual Workshop - Coalition for the Right of Return
 - War Crimes Case Against Ariel Sharon Continues
- The PLO and the Right of Return: Interview with Saji Salameh, Director General, PLO Department for Refugee Affairs
 - From Rights to Reality: An Introduction to Mechanisms for Return and Restitution
- "From Refugees to Citizens at Home" (Excerpts from a new book by Palestinian researcher Salman Abu Sitta)
 - Updates on Refugee Protection and Assistance

Table of Contents

- 3 Collective AND Individual Rights: Palestinian Statehood and the Right of Return**
- 6 Campaign for Palestinian Refugee Rights**
- Community and International Mobilization: Report from the 2nd Annual Workshop - Coalition for the Right of Return; Over 100,000 Refugees in Jordan affirm the Right of Return; Refugees in the West Bank Criticize Public Statements Calling on Palestinians to Cede the Right of Return
 - The PLO and the Right of Return: Interview with Saji Salameh, Director General, PLO Dept. for Refugee Affairs
 - Lobbying the UN and the International Community: Right of Return Advocacy Lectures in Switzerland; Statement on the Anniversary of UN Resolution 194; NGO Parallel Conference on the Fourth Geneva Convention
 - War Crimes: Update on the Case Against Ariel Sharon
- 14 Refugee Protection**
- Update on Impact of Israel's Military Siege on Palestinian Refugees
 - UN and International Protection: High Contracting Parties to Fourth Geneva Convention Adopt Declaration on Protection; US Vetoes Draft Security Council Resolution for International Protection Force; General Assembly Adopts Resolution Calling for International Protection Force; Update on ICRC and UNRWA Protection Activities
 - Protection Issues Inside Israel: Update on the Or Commission of Inquiry; Israeli Government Rejects Return of Internally Displaced Palestinians; Confiscation of Palestinian Land Continues; Israeli Government Creates Mechanism to Restitute Jewish Heirs of Absentee Property
- 23 From Rights to Reality: An Introduction to Mechanisms for Return and Restitution**
- 26 "From Refugees to Citizens at Home" (Excerpts from a new book by Palestinian researcher Salman Abu Sitta)**
- 28 Refugee Assistance**
- Update on UNRWA Regular and Emergency Operations
- 34 Refugee Voices**
- 35 BADIL Resources**
- 36 Documents**

Cover Maps: Salman Abu Sitta, *From Refugees to Citizens at Home*, (2001). reprinted with the permission of the author. For a review of the book, see pages 26-27.

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Collective AND Individual Rights: Palestinian Statehood and the Right of Return

Intensified diplomatic efforts by the United States and the European Union applied against the Palestinian leadership and Israel in the context of the so-called global war on terrorism over the past several months have failed to put the Oslo negotiation process "back on track." The dispatch of Anthony Zinni, the third in a series of special American envoys (the "Mitchell-Tenet-Zinni process"), to the region in November failed to accomplish the minimum objective of restoring some sense of calm on the ground in the 1967 occupied Palestinian territories.

The average weekly toll of Palestinians killed as a result of the *intifada* has more than doubled since 11 September 2001. The relative ease with which Israel has been able to temporarily reoccupy areas of the West Bank and Gaza Strip under Palestinian control and destroy the infrastructure of the Palestinian Authority (PA) underline not only the abject failure of US and European efforts, but point towards an Israeli policy bent on destroying Palestinian resistance to Israel's 34-year long military occupation and the denial of the Palestinian right to self-determination in all of the 1967 occupied territories as well as the right of Palestinian refugees to return to their places of origin inside Israel.

Israel's unprecedented military response to the *intifada* over the last three months is reminiscent of the attempt by Ariel Sharon, then defense minister, to destroy Palestinian resistance in Lebanon in the early 1980s culminating in the massacre of several thousand Palestinian refugees in Beirut. The significance of the widespread military attacks on the PA over the past several months, however, goes beyond a strike at symbols of Palestinian sovereignty. With more Palestinians employed in the government sector than in other sectors, and the linkage between government sector employment and a household income above the poverty line, the destruction of PA institutions appears to be aimed at undermining the political as well as the civil and economic autonomy of the Palestinian Authority and the Palestinian people.

Ariel Sharon's decision to prevent Yasser Arafat from traveling to Bethlehem for Christmas celebrations encapsulated the inherent problem of Oslo. The asymmetry of power between the PLO and Israel, the absence of any reference to international law as an objective guideline to resolve disputes between the parties, and the lack of an implementing mechanism always have meant that the very course and content of the process has been determined largely by Israel. If the US and Europe do not have the political will (interventions were made by both parties) to lift Israel's travel-ban on Arafat, how will they muster the necessary political will to ensure a total freeze on Jewish colonies (settlements) in the occupied territories, one of the major confidence building measures of the Mitchell process?

Three Strikes and You're Out!

The abject failure of US 'mediation' over the course of the Oslo process - particularly in the context of the last 15 months of the second *intifada* (i.e., Mitchell, Tenet, Zinni) - has not engendered thoughtful or significant reassessment of American policy. In response to the failure of the Zinni visit in December, for example, the US administration has requested Israel's Defense Ministry to avoid reference to the total number of incidents and injuries during upcoming visits of the special envoy. The standard rule of American baseball (3 strikes and your out!) apparently does not apply to US policy in the Middle East. US Secretary of State Colin Powell's much-touted on-again/off-again address outlining US policy concerning the Palestinian-Israeli conflict and a two-state solution, the so-called "positive vision for the region", moreover, proved to be little more than warmed-up leftovers of Oslo.

The so-called vision includes the usual reaffirmation of America's "ironclad commitment" to Israel's security followed by the demand that Palestinians end violence and terror. The phrase "Palestinians must..." is used repeatedly in reference to a shopping list of demands that

Palestinians must fulfill to restart political negotiations. No such demands are made of Israel. Israel is not even required to end the occupation; it only must be *willing* to do so - i.e., Israel will decide when and under what terms to end the illegal occupation. The vision lacked any reference to international law as an objective set of guidelines to resolve the conflict. Those who criticize the failings of Oslo, moreover, Powell labeled as so-called "rejectionists." As President Bush noted in reference to his global war on terrorism, "you are either for us or against us." It seems the same applies to America's vision of peacemaking in the Middle East; you are either for the Oslo-Mitchell-Tenet-Zinni process or you are against peace.

As regards Palestinian refugees, the American vision calls for a "just solution that is both fair and realistic." There is no mention of UN Resolution 194 or the right of return. The definition of fair and realistic is buried in the American demand that Palestinians accept "the legitimacy of Israel as a Jewish state." In other words, the US vision of a just solution requires Palestinians to accept Israeli policies and practices that various UN human rights treaty bodies have deemed to discriminate against non-Jewish, i.e. mainly Palestinian, citizens and residents (including internally displaced Palestinians) inside Israel as well as the (non-Jewish) Palestinian refugees in exile since 1948. This vision is completely contrary to that espoused by the United States in other refugee cases, such as Bosnia, and in opposition to the human rights principles elaborated by leading international human rights organizations.

According to the US plan, the path towards the realization of this vision of a two-state solution and an end of the Israeli-Palestinian conflict is none other than the Mitchell-Tenet-Zinni process, no doubt due to the success of the special envoys over the past year. The American veto of UN Security Council draft resolution (S/2001/1199) in

December, condemning all acts of violence, calling upon the parties to return to the negotiating table, and proposing the establishment of a mechanism to monitor implementation of agreements and assist in creating a better situation in the occupied territories, combined with the US boycott of the

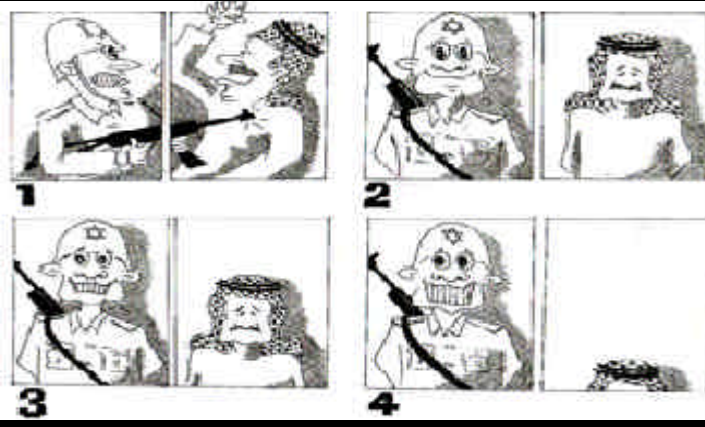
conference of High Contracting Parties to the Fourth Geneva Convention, underlined the continued US monopoly over the so-called peace process. Despite attempts by Europe to mold an independent foreign policy in the region

parallel to its role of bankrolling the Oslo process, European states remain largely complicit with American policy initiatives, even while the Israeli military destroys the physical infrastructure of the Palestinian Authority (paid for by Europe) with US-made weapons.

Statehood and the Right of Return

The US vision of the broad parameters of a two-state solution to the conflict has been largely welcomed by Israel, particularly, in reference to the refugee issue. Israeli politicians, academics, as well as many activists in the so-called peace camp have long argued that a Palestinian state and the right of return are mutually exclusive - i.e., the (non-Jewish) Palestinian refugees should be absorbed by the Palestinian state rather than return to their places of origin inside Israel. The US vision, shared by Israel, would thus save the Jewish people from having to live together with Palestinians, or in their words, drowning in a sea of Palestinians. *The amount of sheer effort expended by Israeli politicians, academics and activists in designing a solution to prevent refugees from exercising their right to return begs the simple question: What is so awful about having to live together with Palestinians?*

The US vision for a solution to the refugee issue also received support from an expected source. Over



The Oslo-Mitchell-Tenet-Zinni process.
Artist: Nihad Boka'ee ©

the course of the past several months Palestinian intellectual Dr. Sari Nusseibeh - recently appointed as the PLO point-person for Jerusalem affairs following the death of Faisal Husseini - has repeatedly emphasized to the foreign press and in the company of Israeli interlocutors such as Yossi Beilin, that a two-state solution is incompatible with the right of return. Refugees must, therefore, cede their right to return to their places of origin inside Israel. The statements have elicited strong condemnations from refugees in the region and around the world, while some Israeli politicians have rushed to embrace Nusseibeh as their new Palestinian knight in shining armor.

This vision for a solution to the refugee issue, however, is problematic on both the legal and political level. The vision clearly violates basic tenets of international human rights law. UN human rights treaty monitoring committees and major international human rights organizations such as Amnesty International and Human Rights Watch, for example, hold that all refugees have the individual human right to return to their places of origin, including Palestinian refugees. *Moreover, there is no contradiction between collective and individual rights in international law. They are complimentary. In other words, the creation of a Palestinian state in the 1967 occupied territories does not negate the individual right of Palestinian refugees to return to their places of origin inside Israel.* Under international refugee law, the starting point in crafting durable solutions to refugee problems is the wishes of the refugees themselves.

At the political level, the vision contradicts the official position of the Palestinian leadership and the content of the Palestinian proposal presented during the last round of final status negotiations in Taba (January 2001). The US vision, apparently shared by Nusseibeh, is based on the assumption that Israel will never agree to the return of Palestinian refugees and therefore a different solution must be found. The US, Israel and Nusseibeh have all failed, however, to explain why Israel's refusal to allow

refugees to return is more valid as a starting point for crafting a solution than the Palestinian refugees' demand (and right) to return to their villages of origin? The obvious answer it seems is the current balance of power. This elicits another obvious (unanswered) question: *Why does the balance of*

"The conflict between the Palestinians and Israel will be solved only on the basis of two states for two nations." "I believe the Palestinians understand that they cannot simultaneously demand both the right of refugees to return [to Israeli territory] and a Palestinian state. The refugee problem will be solved within the framework of a Palestinian state, which will provide the refugees a solution to their problem." "I believe the refugees need to return to a Palestinian state that will give them the possibility to return and build new lives, and the Palestinians need to recognize that." Dr. Sari Nusseibeh (*Ha'aretz*, 24 December 2001)

power provide a better set of guidelines for a solution than international law, especially since this formula - peacemaking based on the balance of power - has guided more than 50 years of unsuccessful efforts in the Middle

East? The vision also fails to square several inherent contradictions. Why, for example, does a law or right of return apply to all other refugees (and every Jew under Israel's Law of Return) but not to Palestinians? Why do other refugees, including Jews of European origin have a right to real property restitution, but Palestinians are denied the same right?

While this vision of a solution to the refugee issue has been given wide press coverage, it does little to advance a durable and comprehensive solution to the refugee issue and the conflict as a whole. The vision only engenders confusion regarding the legal parameters for durable solutions to refugee problems and harbors the potential to create false expectations among Jews in Israel regarding the demands of Palestinian refugees and the official position of the Palestinian leadership. At the same time, the US vision underscores or exposes the real obstacle to a durable solution to the Palestinian refugee issue - i.e., Israel's definition of itself as a Jewish state characterized by a Jewish demographic majority and Jewish control of refugee land, which negates the possibility of Jews and Palestinians living side-by-side on the basis of equality and non-discrimination. Given the unlikelihood that the present generation of Jewish Israeli politicians will change their position on the return of refugees, it will be necessary to find ways to engage the Jewish public in Israel in ways that move beyond the simple rhetoric that the return of refugees will mean the "destruction of the state of Israel" or "national suicide."■

UPDATE

Campaign for the Defense of Palestinian Refugee Rights

Community and International Mobilization

Second Annual Workshop: Coalition for the Palestinian Right of Return: The international umbrella network Coalition for the Palestinian Right of Return successfully concluded its second annual coordinating meeting in Brussels on 30 November 2001. The meeting was organized by BADIL Resource Center (Bethlehem), in cooperation with OXFAM/Belgium and all other participants.

Over the course of four days, the participants evaluated the achievements of the right of return coalition in 2000-2001, discussed agenda and priorities for 2002, developed a joint plan of action, held stocktaking discussions with representatives of European solidarity and human rights organizations, and delved into the mechanics of return and real property restitution with invited guest expert Paul Prettitore, legal advisor to the Office of the High Representative in Bosnia. Four papers were presented outlining prospective future activities.

Reviewing the achievements of the previous year, all participants agreed that the Cyprus (October 2000) meeting, as well as information disseminated by BADIL during 2000-2001 gave a push to the formation of new right of return initiatives and the regrouping of existing ones. In general, 2001 witnessed the expansion of the right of return network, which succeeded to develop more efficient lobby strategies with politicians (especially in Europe and in the US). Several right of return conferences were held in Europe, including Denmark, Norway, Germany and France, in order to form a Europe-wide coalition. A conference held in Copenhagen just prior to the Brussels workshop in November elected a Steering Committee for the Palestinian Right of Return Coalition/Europe. In Sweden 18 Palestinian institutions formed a new Coalition of the Palestinian Community residing in the country.

In North America and in the UK, the al-Awda network has provided a new platform for identity and expression since its establishment in the spring 2000. Media and lobby work were evaluated especially positively, along with several large annual demonstrations in support of the right of return in Washington, DC and New York. The *al-Awda* network also organized the delivery of humanitarian aid to Palestinian refugees in Lebanon (in coordination with the NGO Forum Lebanon). Membership in *al-Awda* continues to grow (now standing at 1,800 active members). Participants noted that the participation of the NGO Forum Lebanon in the annual coordinating meeting this year was a particularly positive step towards the broadening of coordinated right of return activities in the region.

Participants agreed to maintain the existing structure of the global umbrella network Coalition for the Palestinian Right of Return, which includes all current member organizations. It was agreed that the Coalition should be broadened and strengthened, both within the Palestinian community and also by building networks with solidarity organizations and groups outside the Palestinian community (in a south-south type of international solidarity campaign approach). Additional NGOs, committees and centers working for the right of return will be invited to join the coalition. The participants agreed that the general principles on return, which were part of the Concluding Statement of last year's workshop (*See*, www.badil.org/Campaign/principles.htm), remain the unified basis for the Coalition. BADIL will continue to serve as a coordinator for this coalition-broadening work in the year 2002.

Participants also held a one-day stocktaking and planning session with the European Solidarity movement represented by the European Coordinating Committee on Palestine (ECCP), the Belgian-Palestinian Association (ABP), the Flemish Palestine Committee (VPK), Oxfam

Solidarity, the French NGO Platform on Palestine, and the Comité Inter-Mouvements Aupres Des Evacués (CIMADE). Following the session, participants attended a public meeting marking the annual International Day of Solidarity with the Palestinian People (29 November), which included a panel on the Palestinian-Israeli conflict and the inalienable right of return of Palestinian refugees.

At the end of the four-day workshop, the participants recognized the steadfastness and resolve of the ongoing *al-Aqsa intifada* as part of the struggle of the Palestinian people to achieve their full rights. The participants identified the achievements of the *intifada* as the strengthened unity of the Palestinian people in their shared determination to achieve three, interrelated goals: (1) to end the Israeli occupation; (2) to establish an independent sovereign Palestinian state, with Jerusalem as its capital; and (3) to implement the Palestinian refugees' right of return, as spelled out in UN General Assembly Resolution 194.

Ten organizations representing seven different geographical areas attended the Brussels meeting. These included, Committee for the Defense of Palestinian Refugee Rights & Yafa Cultural Center - Palestine; Union of Youth Activity Centers - Refugee Camps, Palestine; National Society for the Rights of the Internally Displaced - 1948 Palestine/Israel; High Committee for the Defense of the Right of Return - Jordan; 'Aidun Group - Syria; 'Aidun Group - Lebanon; Forum of NGOs in Lebanon (an umbrella coalition including most major Palestinian NGOs operating in Lebanon) - Lebanon; Palestine Right to Return Coalition (*Al-Awda Network*) - North America; Al 'Awda Network, UK; Palestine Right of Return Coalition - Europe; and, BADIL Resource Center for Palestinian Residency and Refugee Rights - Palestine.

A full text of the Concluding Statement of the Second Coordinating Meeting of the Coalition for the Palestinian Right of Return is reprinted in al-Majdal "Documents" (pages 37-38). Papers and conference proceedings will be published by BADIL in Arabic with an English summary in 2002.

Refugees in Jordan Reaffirm Right of Return: As of mid-November, the Committee for the Defense of the Rights of Palestinian Refugees had collected some 110,000 signatures of refugees residing in Jordan reaffirming their right to return to their

homeland in Palestine and compensation for their losses resulting from Israel's occupation of their homes and lands over the past 50 years. Collection of signatures intensified following remarks by Sari Nusseibeh to the effect that Palestinian refugees would have to relinquish their right to return as part of a final peace deal with Israel. Refugees also reaffirmed their right to return through the creation of an embroidered mural consisting of 1,134, thirty cm² squares, each representing an existing or destroyed Palestinian town or village. The 100 m² mural was unveiled during a public ceremony at the Palace of Culture in Amman on December 6 attended by several thousand people. The mural is scheduled to be exhibited in Baghdad, Beirut, Cairo, Damascus, Tunis, United Arab Emirates, and Libya.

Refugees in the Occupied Territories Reaffirm the Right of Return: Palestinian refugees who feel most directly affected by Dr. Sari Nusseibeh's call for Palestinian refugees to cede the right of return, have been in the forefront of public protest in Palestine. In a public meeting convened in Balata refugee camp/Nablus in mid-November, refugee community activists were joined by members of the Palestinian Legislative Council (PLC) and National Council (PNC), in order to formulate steps for an effective public response. The meeting, hosted by Yafa Cultural Center/Balata Camp and BADIL Resource Center, decided to launch a series of activities, which will serve to challenge the political environment that opens the gate to Palestinian individuals who do not reflect the public consensus and official position of the PLO. The Balata camp meeting decided among others, to activate and improve coordination among grass-roots organizations and Palestinian institutions, especially those operating among Palestinian refugees; to hold a series of rights awareness raising activities during the month of Ramadan; to launch a renewed media effort aimed at clarifying the Palestinian consensus on the right of return; to convene a popular refugee conference at the earliest date possible; and, to submit a memorandum of protest to the official Palestinian leadership against the suggestions promoted by Dr. Nusseibeh.

The Public Statement issued by Palestinian popular institutions, organizations and unions concerning statements by Dr. Nusseibeh is reprinted in al-Majdal "Documents" (page 36)

The PLO and the Right of Return,

Interview with Saji Salameh, Director General, the PLO Department for Refugee Affairs

In response to the Israeli and US-led campaign to delegitimize the Palestinian refugees' right of return in the context of a durable solution of the Israeli-Palestinian conflict, BADIL approached the PLO Department of Refugee Affairs for a more detailed discussion of the right of return. The following interview with Mr. Saji Salameh, Director General, Department of Refugee Affairs, was conducted via email in mid-December.

BADIL: *Politicians in Europe, the United States, and in fact all of the western world, have been very reluctant to integrate the Palestinian refugee issue into their public statements and initiatives for a durable solution of the Israeli-Palestinian conflict. While many of them are quite outspoken about the need for Palestinian statehood, the refugee issue, especially reference to refugees' right of return, is almost absent from their proposals. How do you explain this, especially in the light of the fact that all of their governments (with the exception of the US) continue to vote annually for UN Resolution 194?*

Saji Salameh: Most states and governments, especially those directly concerned with the Middle East conflict, realize the importance of resolving the Palestinian refugee issue, taking into consideration that this issue is the core of the Palestinian-Israeli conflict. These governments know that without a just solution to refugee issue that is accepted by all Palestinians, there will not be durable peace and stability in the Middle East. But those governments also know the sensitivity of this issue and the complications surrounding it, especially the inflexible and immoderate Israeli position, which refuses to recognize the Palestinian refugees' right of return, and denies any responsibility for the creation of the Palestinian refugee issue. For that reason we simply find that most countries just avoid addressing elements of a suitable framework and practical basis for resolving the Palestinian refugee issue, as they consider this task to be the responsibility of the parties of the conflict (the Palestinians and the Israelis).

On the other hand, those countries clearly show their support for the necessity of solving the refugee issue, and most acknowledge that they support the right of return of Palestinian refugees. Most of these countries vote for General Assembly Resolution 194 [i.e., return, restitution, compensation] every year. Some other states take more cautious positions toward the proposed mechanisms for resolving the refugee issue, and avoid public pronouncements of

their views. We find that they are more interested and concerned with the humanitarian aspects related to the refugees. This is reflected through support for projects and programs aiming to reduce the amount of suffering of the refugees (i.e., support of UNRWA...etc.).

From our side, we work on pushing those governments to develop their positions toward the refugee issue, and urge them to show more support for the refugees' right of return and oblige Israel to recognize this right and its responsibility for the creation of the refugee issue.

Recent public statements by Dr. Sari Nusseibeh about a need by the PLO to compromise refugees' right of return to their homes now located in Israel in order to increase the chances for a rapid political agreement leading to a Palestinian state alongside a Jewish state have been very much welcome by the international community and Israel, and have caused much confusion and protest among Palestinians. Would you say that Nusseibeh is correct when he says that the Palestinian leadership has been unclear, or sending contradictory messages, concerning the issue of the right of return throughout the Oslo process? Is he correct in saying that the message sent to the Israeli side and to the international community has been different from the message sent to the Palestinian public?

The Palestinian position concerning the refugee issue is very clear. There is no contradiction in the messages we release to the Palestinian public and to the Israeli side. This position has been expressed in all events and meetings, including Camp David and Taba negotiations, and also in all formal press releases. Our position is simply to uphold the right of refugees to return to their homes and properties in accordance with UN Resolution 194, and enable those refugees who wish to exercise their choice of return and compensation. Concerning this position, there is a Palestinian national consensus that makes it impossible for anyone to sacrifice the right of return. This right is applicable and implementation

in accordance with agreed upon mechanisms is possible.

We do not forbid anyone from expressing his own view, and we will not make an issue out of an individual statement, whether it was Dr. Sari Nusseibeh's or someone else's. We are concerned with the official Palestinian position that upholds basic rights, the position, which has more public support. The statement issued by the PLO Refugee Department on 10 November clearly summarizes the official Palestinian position.

What is the official Palestinian proposal for a solution of the Palestinian refugee question? Where has it been presented?

The official Palestinian position is widely known, it was presented in Camp David and Taba and then it was announced and released to the public. The core of this proposal is that a comprehensive and durable peace in the region will not be achieved without solving the refugee issue, according to a solution that leads to the implementation of UN Resolution 194.

According to that resolution, refugees who wish to return to their homes inside Israel and live in peace with their neighbors can freely do so, taking into consideration that the exercise of this right is possible through finding agreed upon mechanisms. This solution includes an Israeli recognition of its full legal and moral responsibility for the mass displacement of Palestinians, including compensation payments for material and non-material loss or damage.

Who are the official Palestinian departments mandated to represent the official position and proposals concerning the refugee question? What is the division of tasks between them?

The Palestinian leadership represents the official Palestinian position. It chose the negotiators and delegations, and it decides who can speak on behalf of it in all international meetings whether they are negotiations, conferences or international fora. Concerning the follow up with the refugee portfolio and refugee affairs, this is the responsibility of PLO Refugee Department and the Department for Negotiation Affairs in coordination with other departments and ministries such as the Ministry for Planning and International Cooperation.

Why do you think that the Palestinian position and proposals concerning recognition and implementation of the refugees' right of return are so little known among the public, both on the Palestinian/Arab and international level? Why is it so frequently mis-understood?

On the contrary, the Palestinian position concerning refugees is well known and clear as I already explained. But maybe not concerning the mechanisms for the implementation of the right of return. There is some obscurity due to the fact that this issue includes many procedural or technical issues (very important issues because they have both political and legal dimensions).

And do not forget that negotiations on the refugee question have not started yet in a comprehensive, deep and detailed way. We are just in the beginning stages and things are not easy.

What are the obstacles in front of more offensive publicity around the official Palestinian position and proposals on the right of return?

We have to admit that we need more serious public and internal dialogue about all aspects related to the mechanisms of resolving the refugee issue. We must not be satisfied only with easy slogans. We have to crystallize a clear vision on the level of public opinion toward all issues related to the refugee question and the right of return and compensation. Media, press, cultural groups and popular committees must play a more efficient role of mobilization, and inform the Palestinian public in camps and among refugees in general about the refugees' basic rights and about facts on the ground. This is the best way to protect the refugees' rights.

What are the obstacles that have prevented the responsible official Palestinian departments from being more accessible to, and transparent for, Palestinian refugees themselves?

I think that the official Palestinian departments should do more to start initiatives and carry the responsibility for mobilizing public opinion and facilitating national dialogue about refugee rights and the solution which should be based on international law, including Resolution 194. The solution must be acceptable to all Palestinian people.■

Lobbying the UN and International Community

Right of Return Advocacy (Switzerland): In December, BADIL participated in a series of public lectures, debates and workshops in Basel, Berne, Geneva, Zurich, and Lucerne under the title "The Palestinian Right of Return, A Human Right?" The speakers, which included Ingrid Jaradat Gassner (Director of BADIL), Susan Akram (Associate Professor, Boston University School of Law), and Ya'el Stein (Director of Research, B'tselem), addressed the history and scope of the refugee problem, the Palestinian position, Palestinian refugee rights under international refugee law and the Israeli debate on the right of return.

The rights-based approach (i.e., based on international refugee law) was well received by audience members, which included solidarity activists, professionals in the field of asylum/migration, academics, journalists and members of the liberal Jewish community in Switzerland, suggesting that the approach is a credible and convincing way to present the refugee issue to the Western public. The series of events was sponsored by the Swiss Human Rights Forum Israel/Palestine, operating as a coalition of Amnesty International/Switzerland, Christian Peace Service/CFD, Centrale Sanitaire Suisse/CSS Zurich, OeME/Reformed Churches, Society for Threatened Peoples Switzerland, and Society Suisse-Palestine.

The speakers also met with Swiss parliamentarians to discuss the status of Palestinian refugees, including their status as refugees in Europe under international refugee law. While focused on day-to-day protection, clarification of the legal status of Palestinian refugees in Europe would reflect positively on efforts to reach a durable solution based on return. The parliamentarians responded positively to the initiative. BADIL, along with expert partner Susan Akram, also met with representatives of the Swiss Foreign Ministry to urge them to formulate a clear, rights-based position regarding the solution of the Palestinian refugee issue. The Swiss government has been a major contributor to humanitarian aid for Palestinian refugees.

53rd Anniversary of Resolution 194 (11 december):

On the 53rd anniversary of General Assembly Resolution 194 an open letter was drafted calling upon the entire United Nations system - including UN Secretary-General Mr. Kofi Annan, UN Member States and all UN agencies/organs (including the UN High Commissioner for Human Rights, Mrs. Mary Robinson) - to undertake the following measures to implement fully and forthwith the three fundamental, inalienable rights of the Palestinian refugees enumerated in Resolution 194 - return, restitution and compensation:

1. Convene an international conference on mechanisms necessary to implement the three fundamental rights affirmed in Resolution 194 - return, restitution and compensation.
2. Reinvigorate the UN Conciliation Commission for Palestine (UNCCP) by nominating new states to comprise its membership. The current membership - composed of the U.S., France and Turkey - is completely inactive (and, in the case of the U.S., completely biased).
3. Make public the property and land records of the UNCCP for inspection by Palestinian refugees and others, for example to be used in designing a mechanism for securing the restitution rights of the refugees under Resolution 194.
4. Issue a definitive pronouncement that under international law, the ethno-national concept of a "Jewish state" (i.e., a Zionist state) is completely prohibited and therefore illegal because it necessarily involves discrimination in favor of Jews and discrimination against non-Jews.
5. Mandate the creation of an internationally supported return and restitution mechanism whereby Palestinian refugees would be fully restituted of their properties, with interest calculated from the date of taking.
6. Call for the imposition of comprehensive sanctions upon Israel until it agrees to implement the rights of the refugees under Resolution 194. This is a minimum requirement, since Israel's admission to the United Nations was expressly conditioned upon its implementation of Resolution 194.

NGO Conference on International Protection: In an effort to redirect the attention of the High Contracting Parties to the Fourth Geneva Convention back to their binding Article 1 enforcement obligations, the Palestine Center for

Human Rights (PCHR) and the Palestinian Society for the Protection of Human Rights and the Environment (LAW) decided to co-organize a "Civil Society & Human Rights Parallel Conference on the Fourth Geneva Convention" held in Geneva on 4-5 December. The parallel conference brought together human rights activists, jurists, academics, and solidarity groups, in order to ensure that the voices of the victims were not drowned out by the legally questionable governmental Declaration issued by the official Conference of High Contracting Parties on 5 December. The parallel conference called upon the signatory states to use their 5 December conference as an opportunity to take immediate and practical steps to enforce international humanitarian law in the 1967 occupied Palestinian territories; protest against the decision to exclude non-governmental organizations from the official conference; and, reiterate its condemnation of the United States and Israel for boycotting the official conference.

The complete statement of the NGO parallel conference is available on the



LAW (www.lawsociety.org) and
PCHR (www.pchrgaza.org) websites.

War Crimes

Update on Ariel Sharon: At the end of November, a Brussels Appeals Court held the first of several sessions to decide whether the Belgian judiciary has jurisdiction to continue legal proceedings against Ariel Sharon who is charged with genocide, war crimes and crimes against humanity.

The legal investigation was delayed in early September when lawyers acting on behalf of Sharon asked the investigative judge to drop the case on several grounds. Sharon's lawyer, Adrien Masset, has argued that the purpose of the case is not to provide justice but to attack Israel. Moreover, Masset has argued that: 1) Hearing the case in a Belgian court is an impingement on Israel's legal system, since the case was already heard by the Kahan Commission; 2) Belgium has no legal status in the case, since the plaintiffs are not Belgian, the defendant is not Belgian, and the alleged offence did not take place on Belgian soil; 3) Belgium has signed the agreement setting up the International Criminal Court (ICC), which states that it will hear

cases of crimes against humanity from this time onward, but not retroactively. Belgium, however, is considering trying a case that happened 20 years ago; and 4) Sharon enjoys diplomatic immunity.

The legal team representing the more than 20 Palestinian plaintiffs, including survivors of the massacre, rejects the arguments raised by Sharon's lawyers. According to the plaintiffs' lawyers, Sharon has not been the subject of a judicial procedure. The Kahan Commission was a governmental commission of inquiry (much like the current Or Commission investigating the killing of 13 Palestinian citizens of Israel by Israeli police in October 2000), not a court, and therefore not capable of imposing sanctions or issuing a conviction. Moreover, the lawyers maintain that according to the 1993 Belgian law (and 1999 amendment), under which the complaint was filed, Belgium has jurisdiction to try the case according to the legal principle of universal jurisdiction. This includes foreign heads of state. The Belgian Prosecutor, Pierre Morlet, also rejected the Israeli arguments of immunity, lack of jurisdiction and the retroactive application of the Belgian law. Morlet did take into account the argument about the difference between how Belgium's own politicians are tried and how it would try foreign leaders. Drawing on the minutes of the original debates in the Belgian legislature concerning special procedures for foreign leaders, the lawyers for the plaintiffs have argued that the special procedures were established to preserve the separation of power in the Belgian government and that concern did not apply to foreign leaders.

Additional evidence that corroborates the claim that Israeli officials, including Sharon, were aware of the dangers facing Palestinian refugees (including a potential massacre) and encouraged if not supported the atrocities carried out by its ally, the Phalange, continues to come to light as the case progresses through the Belgian judicial system. In late November, for example, *The Guardian* published excerpts from documents delivered to the British newspaper that cover the period June-November 1982. The lawyers for the plaintiffs say the importance of the documents lies in recurring evidence that the IDF had "command responsibility" for the Lebanese Forces before, during and after the massacre. "In international law,

Testimony from the "Complaint Against Sharon"

I was 11 years old. It was night and we could hear shelling and gunfire. (...) We took refuge in the bedroom and stayed there. As soon as they arrived, they went straight to the living room, and they tore down the photos from the walls, including the one of my brother who was killed in "Black September." They ransacked the living room, cursing and swearing. After having looked for us without finding us, they went up to the roof and stayed there all night long. We spent that night in terror in our hiding place, listening to the shooting and people screaming, while Israel fired flares to light the sky until sunrise.

The next morning they started saying, "give yourself up and your life will be spared." My nephew was 18 months old. He was hungry and we were far from the kitchen. My sister wanted him to quieten down, and she put her hand over his mouth for fear that they would hear. Her husband decided that we would have to give ourselves up, adding that each person's fate was anyway preordained by God. The women went out first, my brothers, my father, my brother-in-law and other members of the family followed. My brother was ill. As soon as they heard our voices, they shot in our direction and came straight back inside the house. They asked us where we had been the day before when they had come in and not found anyone there. Then they ordered the women and children to go out. My brother-in-law started kissing his little girl as if he were saying goodbye. An armed man came towards my niece, tied a rope around her neck and threatened to strangle her if her father didn't let go of her. He let go of her and gave her to me. They wanted to take me too but my mother told them I was a girl. They made my mother and the women walk to the Sports Centre. While I was walking I saw my aunt's husband, Abu Nayef, killed near our house with blows of an axe to his head. The dead bodies were disfigured. While I was carrying my niece, I bumped into a dead body that had been hit with an axe and I fell over. They knew then that I was a boy, and one of them put me up against the wall; he wanted to fire a bullet into my head. My mother begged him and kissed his feet so that he would let me go. He pushed her away. When he did that, he heard the clinking of some money she had hidden next to her chest. He asked her what that meant. She replied that he could have all the money he wanted but he had to let me stay with her. In this way we carried on our way and we arrived at the Sports Centre. The Israeli bulldozers were busy digging large trenches. We were told that we all had to get in because they wanted to bury us all alive. My mother started begging him again, and then she asked for a mouthful of water before dying.

At the Sports Centre, I saw the Israeli military, as well as tanks, bulldozers and artillery, all Israeli. We also saw groups of Phalangists with the Israelis.

The Sports Centre was packed with women and children. We stayed there until sunset. An Israeli came then and he said, "Everyone go to the Cola region, whoever comes back to the camp will die." We left, as they fired shots in our direction.

Mahmoud Younis. Mr. Younis lost his father, three brothers, his maternal uncle, his maternal cousin, two paternal cousins and other members of his family.

www

The Complaint Against Ariel Sharon, Official Translation, archived on
www.lawsociety.org/sharon/complaint.htm

command responsibility - also known as indirect responsibility - is more severe than the direct responsibility of those who actually do the killing," says Chibli Mallat, one of three lawyers representing the plaintiffs. "Whether in the Yugoslav massacres or in Germany or Japan in World War II, those who sat at the top, often miles away from the death camps, are more responsible than those who pulled the trigger."

In a meeting between Sharon and Bashir and Pierre Gemayel on August 21, as the first PLO fighters were leaving Beirut, Sharon demanded that the Lebanese "clean the camps." After repeated queries about the Lebanese response to Sharon's demand, Bashir informed Sharon that "We are planning a real zoo" for the camps. The minutes of the meeting contradict testimony by Sharon to the Kahan commission that no one imagined the Phalange would carry out a massacre in the camps. According

to testimony by Mossad chief Yitzhak Hoffi to the Kahan commission, the Phalangists "talk about solving the Palestinian problem with a hand gesture whose meaning is physical elimination ... I don't think anybody had any doubts about this ... They raised the issue of Lebanon being unable to survive as long as this size of population existed there." In a meeting with another Israeli official, Bashir Gemayel "adds that it is possible that in this context they will need several Dir Yassins." ("The Sharon Files", Julie Flint, *The Guardian*, 28 November 2001). Film taken by a television crew at the time, which has recently come to light, also appears to corroborate testimony given by survivors of the massacre. Some 1,800 Palestinian refugees "disappeared" within 24 hours of the massacre, often in areas under direct Israeli military control. The film appears to show Israeli officers in the presence of Phalangist gunmen - long after the Israelis knew their Phalangist allies had carried out

the massacre. (Robert Fisk, *The Independent*, 28 November 2001)

Israeli officials themselves have recognized the principle of command responsibility not only in relation to the conclusions of the Kahan Commission which found Sharon indirectly responsible for the Sabra and Shatila massacre, but also in relation to other massacres committed by Israeli forces. In 1956, for example, following the massacre of some 50 men, women and children from Kafr Qasem, Israeli Prime Minister Ben Gurion stated, according to government protocols, "Not every soldier can make the fundamental calculation that a commander has to make.... So, I say the commanders should be judged most severely, and the higher the rank, the more severe the punishment." (Excerpts from State Archives, reprinted in *Ha'aretz*, 28 March 2001)

Despite efforts by Israeli officials to turn the case into a political issue, both the government of Belgium and the legal team for the plaintiffs, have made it clear that the issue is a legal one and the process must respect the clear separation of powers between the judicial and executive branches of government. Israeli officials have become increasingly frustrated by the case. Ehud Olmert, the Israeli mayor of occupied Jerusalem, for example, recently described the government of Belgium as a "government of bastards" who should "go to hell." Still others have tried to de-legitimize the legal proceedings by labeling them as anti-semitic.

Since the case was filed in June 2001 several international human rights organizations have issued statements in support of the legal process. Following an earlier statement by Human Rights Watch, Amnesty International issued a statement in October, welcoming "actions taken in accordance with international law to combat impunity. "We support the judicial investigation into Ariel Sharon's responsibility with regard to the Sabra and Shatila massacre." (AI Press Release, 3/10/01)

If the Belgian Appeals Courts rules in favor of the plaintiffs it will be the first time that a sitting head of state will face war crimes while in office. The court recently found two nuns guilty of abetting the genocide in Rwanda under the same law.

According to the legal team representing the plaintiffs, the Belgian court would be able to try Sharon in absentia, but it would also be capable of demanding his extradition. The appeals hearings are to last through the end of January at which time the Court of Appeals will rule whether the investigative judge should continue with the case.

www

For more information on the case, including copies of the complaint (French, English, Arabic), see, www.mallat.com;

www

For information on the Sabra and Shatila massacre and war crimes see the BADIL website.

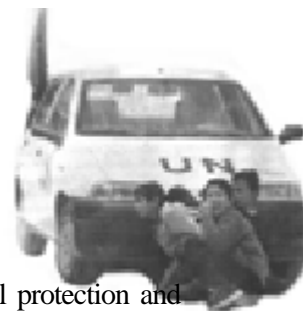
Tantura Massacre

In early November, the Supreme Court ordered historian Teddy Katz of Haifa University to publish an apology for his claim in his Master thesis that the Alexandroni Brigade massacred Palestinians at the village of Tantura in 1948. Testimony from villagers and others indicates that some 200 Palestinians were massacred in Tantura. The Court rejected Katz's appeal against a decision reached by the Tel Aviv District Court, authorizing a compromise agreement that called for a public apology, and ordering Katz to pay NIS 20,000 to the Alexandroni veterans for court expenses and a further NIS 10,000 to Haifa University. The compromise agreement ended a libel suit against Katz filed by veterans of the Alexandroni brigade. Katz has argued that the deal was signed under duress. Later in November, the Council for Graduate Studies at Haifa University disqualified Katz's thesis. The Council has demanded that the thesis be revised and the Haifa University rector ordered the library to take the thesis off its shelves until it is rewritten. (*Ha'aretz*, 7 and 20 November 2001)

Kafr Qasem Massacre

The Public Committee for the Commemoration of the Kafr Qasem Massacre organized several activities on the 45th anniversary of the massacre. This included approaching schools for activities, a march in Kafr Qasem and a special leaflet about the massacre. Forty-nine Palestinian men, women and children from the village were killed on 29th October 1956 when Israeli forces opened fire on villagers working in their fields. Villagers were unaware of a curfew imposed by the IDF on Palestinian villages in the southern "triangle" following the start of the Suez crisis.

Refugee *Protection*



The last three months of 2001 witnessed a significant rise in the number of Palestinians killed by Israeli forces as well as a steep rise in damage to private properties and public infrastructure in the 1967 occupied Palestinian territories. According to figures from the Palestinian Central Bureau of Statistics (PCBS), 223 Palestinians were killed by Israeli forces between 28 September and 20 December 2001, an increase of 50% over the previous 12 week period. In Bethlehem alone, the Israeli reoccupation of the city in October resulted in more than US\$ 17 million in damage, including heavy damage to 'Aida and 'Azza/Beit Jibrin refugee camps.

A follow-up survey (previous surveys were conducted in January and June 2001) conducted by the Graduate Institute of Development Studies (IUED), University of Geneva, in early November, highlighted the ongoing vulnerability of Palestinian refugees in relation to the non-refugee sector of the population in the occupied territories. Palestinian refugees, who comprise over 50% of the population in the occupied territories continue to represent one of the most vulnerable sectors of the population in

relation to both physical protection and protection of basic social and economic rights.

Deaths and Injuries

In a statement to the High Contracting Parties to the Fourth Geneva Convention on 5 December, UNRWA Commissioner-General Peter Hansen noted that more than half of Palestinian killed since October 2000 were refugees registered with UNRWA. UNRWA data is consistent with previous studies conducted by IUED and BADIL fieldwork. As noted in the June IUED survey, moreover, a significant proportion (nearly 50%) of those killed are from West Bank and Gaza Strip refugee camps. The number of Palestinians killed by Israeli forces over the last three months increased by 50% from the previous three-month period. A total of 871 Palestinians were injured. Thirty-one percent were injured by live ammunition with the remaining injuries resulting from rubber/plastic coated bullets, tear gas and miscellaneous causes.

www

For more statistics, see www.palestinercs.org

"At around 11 am on Wednesday 24 October, Israeli occupation troops opened fire with tank shells and machineguns towards civilian homes in the neighborhood. I gathered my family and went to my parent's home on the bottom floor. The shooting continued for over an hour. An Israeli tank then approached our building and began its shelling, setting our home on fire. It was only when my nephew called us, however, that we found out the house was on fire. You see, we couldn't get anywhere near the windows to see what was going on."

"I rushed to our home to investigate what happened. As soon as I opened the door, I was thrown aback by the enormity of the burning flames. Our whole house was on fire. Above that, the Israeli occupation forces did not allow the fire department engines to reach our home and extinguish the fire until 2 hours had passed and the flames had already consumed the house."

"Everything we own is gone; our furniture, clothes, money, belongings, and memories. Not only have my children lost their school books and clothes that should keep them warm this winter, they have also lost their very sense of safety and security."

"It's true that we only lost our home and thankfully our children are all safe and sound. But you know, everyday that has passed since then, it feels like we were dying a hundred times each day. That is too much to bear."

Sufian Qatamesh, father of eight, oldest are 13 year old twins and youngest is two. Resident of 'Aida refugee camp (Palestinian Media Center, 30 October 2001)



Unemployment

Unemployment has almost tripled since the *intifada* began at the end of September 2000. There was no change in this trend over the past three months. The IUED November survey found that there is a statistically significant relationship between loss of job, poverty status, and refugee camp status. On average, 37% of refugees in West Bank and Gaza Strip refugee camps were unemployed in November compared to 33% of Palestinians not in refugee camps in the West Bank and Gaza Strip (not including Jerusalem). Nearly 50% of Palestinian refugees in Gaza Strip refugee camps were unemployed.

Palestinian refugees residing in camps in the Gaza Strip also suffer from substantially lower incomes. Nearly 60% of refugee households in Gaza camps reported a monthly income of NIS 2000 (US\$ 460) or below with more than 60% of Palestinians outside Gaza refugee camps reporting an income above NIS 2000. The distribution of income between refugees in camps and Palestinians outside camps in the West Bank is more equally spread.

The loss of day labor inside Israel also has a particularly significant impact on Palestinian refugees residing in camps. According to the IUED survey, of those respondents who were employed in Israel and now have a household income below the poverty line, 91% are respondents residing in refugee camps. Some 58% of those day laborers rendered unemployed, according to UNRWA, are registered refugees.

Poverty Level

As of November, 40% of the population in the occupied territories was living below the poverty line (defined as an income of less than NIS 1600 or US\$ 400 per month). The World Bank estimates poverty will rise to 43.7% by the end of 2001. Again, studies continue to indicate that Palestinian refugees, especially those living in camps, face significantly greater economic problems as a result of Israel's 15 month military and economic siege. Gaza Strip refugee camps are the poorest. While 46% of West Bank camp households fall below the poverty line, in the Gaza Strip refugee camps, the rate is as high as 65%. These rates exceed those

households outside of camps falling below the poverty line by 10-14% with similar rates only in the West Bank villages (64%) according to the November IUED survey. In a statement to the High Contracting Parties to the Fourth Geneva Convention, the Commissioner-General of UNRWA noted that approximately 75% of refugee households in camps are living below the poverty line.

Damage to Property

Damage to property from Israeli military attacks continues to be widespread in the occupied territories. Between July and November 2001 over 50% of Palestinians surveyed by the IUED suffered some type of damage. As with other indicators mentioned above, Palestinian refugees, especially camp refugees, continue to experience a significantly higher rate of damage to private



Khan Younis Camp, Gaza, 10 October 2001 (Photo: UNRWA)

property, particularly in relation to the destruction of homes. The number of respondents reporting damage to housing in West Bank refugee camps in the November IUED survey, for example, was over three times higher than Palestinians living outside of refugee camps. The number of households reporting multiple damages inside refugee camps is double to triple that of households outside of refugee camps in the West Bank and Gaza Strip

respectively. The number of households reporting no damages in refugee camps is also notably smaller than households outside of refugee camps.

According to UNRWA, by the end of November 2001, Israeli forces had bulldozed 205 refugee shelters that accommodated 1,573 persons and 74 non-refugee shelters accommodating 470 persons. In total 461 shelters have been demolished or destroyed since September 2000 accommodating 3,333 persons of whom 2,636 are refugees. In the West Bank 4 shelters in refugee camps and 12 shelters outside refugee camps have been demolished. In total during the last year 51 refugee shelters have been demolished as well as destroyed by shelling.

Sources: UNRWA Emergency Appeals Progress Reports, Graduate Institute of Development Studies, University of Geneva - IUED (Report III, December 2001), *Palestinian Public Perceptions on Their Living Conditions, The Role of International and Local Aid during the Second Intifada*.

UN and International Protection

Despite the ongoing urgent need for international protection of the Palestinian population in the 1967 occupied territories, in general, and Palestinian refugees, in particular, the United Nations and the international community remains largely paralyzed by the US monopoly over the political process and the US veto in the UN Security Council. Over the past 15 months every major relevant body of the United Nations has called for the deployment of international monitors in the 1967 occupied territories, including the High Commissioner for Human Rights, the UN General Assembly, the Commission on Human Rights, Commission of Inquiry (Falk/Dugard/Hussein Committee), and the UN Special Rapporteur on the Situation of Human Rights in the Occupied Territories. Efforts to facilitate some form of international protection over the past several months - including 4 attempts in the UN Security Council - have been blocked repeatedly by Israel and the United States. The continued US obstruction has led to the creation of an International Civil Protection Force, composed of European and American activists, launched on 24 December. The civilian force has been carrying out non-violent resistance to challenge Israel's 15 month long military and economic siege on the West Bank and Gaza Strip.

16 December 2001



Near Nitsarim junction, Gaza, November 2001 (UNRWA Photo)

Conference of the High Contracting Parties to the Fourth Geneva Convention: On 7 November, the Swiss government, as depository of the Geneva Conventions called for a "Conference of High Contracting Parties" to be convened in Geneva on 5 December. Under US pressure a previous conference in 1999 dispersed after 20 minutes. Both Israel and the United States announced early on that they would boycott the conference. Palestinian NGOs, meanwhile, expressed their shock that the outcome of the conference had already been determined in advance, in the form of a weak draft Declaration of the High Contracting Parties. In response, NGOs organized a parallel conference in Geneva during the same period. (**See page 10-11 above**) The High Contracting Parties to the Convention eventually adopted the Declaration in its original form. The Declaration lacks reference to concrete enforcement actions to be undertaken by the High Contracting Parties themselves to enforce Israel's compliance with the Convention. This lack of enforcement is completely unacceptable under Article 1 of the Convention as a legal matter, given Israel's openly-admitted policies of deliberate, mass-scale commission of "violations" and "grave breaches" of the Convention (equivalent to "war crimes," under international law) against the civilian Palestinian population throughout the 34-year-long occupation, and especially during the current *intifada*.



A copy of the Declaration is available at the PCHR website, <http://www.pchrgaza.org>

US Vetoes Draft Security Council Resolution for International Monitors: For the fourth time in 12 months the United States obstructed international efforts in the UN Security Council in December to authorize the deployment of international monitors

Statement by the International Committee of the Red Cross, Geneva, 5 December 2001, to the High Contracting Parties

"[T]he ICRC has always affirmed the *de jure* applicability of the Fourth Geneva Convention to the territories occupied since 1967 by the State of Israel, including East Jerusalem. This Convention, ratified by Israel in 1951, remains fully applicable and relevant in the current context of violence. As an Occupying Power, Israel is also bound by other customary rules relating to occupation, expressed in the Regulations annexed to the Hague Convention respecting the Laws and Customs of War on Land of 18 October 1907."

"In the course of its activities in the territories occupied by Israel, the ICRC has repeatedly noted breaches of various provisions of international humanitarian law, such as the transfer by Israel of parts of its population into the occupied territories, the destruction of houses, failure to respect medical activities, and detention of protected persons outside the occupied territories. Certain practices which contravene the Fourth Geneva Convention have been incorporated into laws and administrative guidelines and have been sanctioned by the highest judicial authorities."

"Article 1 common to the four Geneva Conventions stipulates that the 'High Contracting Parties undertake to respect and ensure respect for the present Convention in all circumstances'. This conference is to be viewed within that context. The ICRC has always welcomed all individual and joint efforts made by States party to the Geneva Conventions to fulfil this obligation and ensure respect for international humanitarian law."

"The means used to meet these legal and political responsibilities are naturally a matter to be decided upon by States. Whatever the means chosen, however, the ICRC wishes to emphasize that any action States may decided to take at international level must be aimed at achieving practical results and at ensuring application of and compliance with international humanitarian law, in the interests of the protected population."

www

To read the full statement, refer to the ICRC website, <http://www.icrc.org>

in the occupied territories. While the United States had successfully garnered enough support to avoid using its veto to obstruct two of three previous draft Resolutions, the overwhelming support for the creation of the international monitoring mechanism in the Council meant that the US was forced to use its veto to prevent the adoption of the draft resolution (SC/7242, 14 December 2001). The draft resolution was voted in favour by 12 members with two abstentions (Norway and UK). In explaining the US veto, US representative on the Council John Negroponte, stated that the resolution, which also condemned violence on all sides and encouraged the parties to return to the negotiating table, would not "make a meaningful contribution to improving the situation in the Middle East." The veto represents the continued effort by the United States to keep the Middle East conflict off the agenda of the UN and maintain the American monopoly over the political process.

The full text of the draft resolution is archived on the BADIL website

www

www.badil.org/Resources/Intifada/al-Aqsa_Intifada.htm

UN General Assembly Calls for the Creation of an International Monitoring Mechanism: Four days after the US veto in the Security Council, Egypt (on behalf of the Arab League) and South Africa (on behalf of the non-aligned movement) submitted a similar resolution for consideration in the UN General Assembly during an emergency session on 19 December. The resolution condemned "acts of terror" against Israelis and Palestinians, demanded an end to nearly 15 months of Mideast violence and the establishment of a monitoring mechanism to bring in observers to the occupied territories. The resolution (A/Res/ES-10/8) was adopted by the General Assembly by a vote of 124-6 with 25 abstentions. The Assembly also adopted a resolution demanding Israel as an occupying power to immediately refrain from such acts as willful killing, torture, and extensive destruction of property. The resolution was adopted by a vote of 133-4 with 16 abstentions. The US voted against both resolutions.

The full text of the resolution is archived on the BADIL website

www

www.badil.org/Resources/Intifada/al-Aqsa_Intifada.htm

International Committee of the Red Cross (ICRC) Protection Activities: The ICRC continued to issue appeals calling upon Israel and the Palestinian Authority to abide by international humanitarian law. ICRC staff have intervened to negotiate safe passage for members of the Palestine Red Crescent Society delivering bread and milk to civilians unable to leave their homes and temporary lifting of curfews to enable civilians to leave their homes to stock up on food, water and other necessities. In October ICRC was called in to negotiate access for a family in Bethlehem from one room in their home to other rooms, which they were unable to access because of the heavy shooting. In another case, in the northern West Bank, ICRC negotiated safe passage for a surgeon into Qalqilya, which was under strict curfew in order to perform a life-saving chest operation. The Committee continues to negotiate transportation of supplies, sick and wounded and during the fall access of farmers to their fields to collect olives.

For more information see the



ICRC website, <http://www.icrc.org>
and follow the country links.

UNRWA Emergency Protection Activities: According to the statement made by Peter Hansen, Commissioner-General of UNRWA, to the High Contracting Parties to the Fourth Geneva Convention, "UNRWA is still facing serious constraints on the access necessary to deliver its humanitarian aid to Palestine refugees. We will continue to protest and oppose the arrangements made by the Israeli authorities, which adversely affect our humanitarian access to Palestinians in need. Such impediments are contrary to the UNRWA's rights under international law and the agreements we have with the Occupying Power." Against this background the Operations Support Officers (OSO's) continue to monitor routes, negotiate passage for staff and supplies at checkpoints, and ensure the security of Agency installations. In October OSO staff were called upon once again to evacuate a family from their home in the 'Aida refugee camp, after Israeli forces took up positions on the upper floors and confined the family to one small apartment on the ground floor.

UN Special Rapporteur Calls for International Protection Mechanism but fails to Mention Specific Status of Palestinian Refugees: In

October the UN Special Rapporteur of the Commission on Human Rights on the Situation of Human Rights in the Palestinian territories occupied by Israel since 1967, John Dugard, issued his latest report, affirming the urgent need for an international protection mechanism and calling in clear terms for the end of Israel's military occupation. The Special Rapporteur found it "difficult to understand why no serious attempt has been made by the international community to persuade Israel to accept such a presence (the Palestinian Authority having already agreed to an international presence). International monitors or peacekeepers have been employed in many less threatening situations in the world and there is no reason why the Occupied Palestinian Territories should be treated differently." The Special Rapporteur went on to note that "[v]iolence in the Occupied Palestinian Territories and Israel during the past several months has tended to obscure the fact that the root cause of the present conflict in the region is military occupation." "The United States-brokered "Tenet ceasefire plan", while a laudable attempt to end the violence in the region, nowhere mentions the military occupation in its concern for security and crisis management. It should not, however, be forgotten that Israel occupied the West Bank (including East Jerusalem) and the Gaza Strip by force in 1967; that this occupation should be brought to an end, as by its very nature military occupation is a temporary phenomenon pending an acceptable peace settlement; and that until the occupation is terminated, Israel, as the occupying Power, is obliged to comply with the Fourth Geneva Convention." Unlike the report of the previous Special Rapporteur, however, Dugard failed to mention the specific status and protection needs of Palestinian refugees residing in the occupied territories. (UN Document, A/56/440, 4 October 2001)

Protection Issues inside Israel

Former Israeli Prime Minister and Internal Security Minister Testify at Or Commission: In November Ehud Barak and Shlomo Ben Ami testified before the Commission of Inquiry ("Or Commission"), investigating the events in Israel that led to the killing of 13 Palestinian civilians by Israeli security forces in October 2000. The testimonies addressed the foreseeability of the demonstrations,

the orders they issued to the police during the events, and their investigations directly following the events. While both Barak and Ben Ami testified that they had not foreseen the events as they had unfolded, facts and testimony already provided to the Commission indicate that the events were foreseen days before they happened and that preparations had been made for such events months prior to their occurrence. This included a request by Barak to the police following the 29 September 2000 to prepare for widespread demonstrations inside Israel. Previous training for such scenarios had taken place earlier in the year. Ben Ami was present at some of these training exercises. When the Commission asked Barak why he commented on the evening of 2 October (the day with the highest number of killings and injuring of demonstrators) that, "The work of the police was excellent," he replied that the police cannot function without support. When Ben Ami was asked about his declarations of support to the police after 2 October 2000, he answered that he only gave support publicly and that his orders to the police during closed meetings were of a different tone. The Commission noted that the official protocols of these closed meetings reflect that Ben Ami continued to support the police during such meetings as well. Based on both national and international legal standards, Adalah - The Legal Center for Arab Minority Rights in Israel, which is providing legal counsel to the victims' families, believes that both Barak and Ben Ami have a direct responsibility for the killing of 13 Palestinian Arab citizen demonstrators of Israel and the injury of hundreds more during October 2000. Both had foreseen the demonstrations of October 2000; issued orders to the police to open main roads by any means necessary; given their full support to the police in their handling of the demonstrations, including the failure to prevent further killings and injuries; and, made no effort to launch an immediate investigation into the events of October 2000. (Adalah press release, 9 December 2001)

For more information and regular reports about the
 Commission hearings, see the
 Adalah website, <http://www.adalah.org>

Israeli Government Rejects Return of Internally Displaced Palestinians: In October Israeli government deliberations about whether to respect a 1951 Israeli High Court ruling and allow

Palestinian villagers of Iqrit and Bir'am to return to their homes and properties appeared to finally come to an end when the security cabinet decided against their return. Cabinet members argued that the residents of the two villages should not be permitted to return because of fifty-year-old "security concerns" and because it "would set a precedent for other displaced Palestinians who all demand to return to their homes and lands." Attorney Wakim Wakim of The National Committee for the Defense of the Rights of the Uprooted in Israel, said in response to government decision: "This decision is a continuation to the racial attitudes of the Israeli governments, and the claim that other uprooted will ask to return is rejected." (*Kul Al-Arab*, 12 October 2001).



Entrance to Bir'am village, now a national park

Residents of Iqrit and Bir'am and their descendants are part of the approximately 250,000 internally displaced Palestinians from some 60 displaced communities inside Israel. Although they are citizens of the state, they have been denied their right to return to their villages since 1948. Their lands have been confiscated, declared "state lands", and leased to Jewish-Israeli agricultural and urban settlements. In July 1972 Gold Meir's government turned down a request from the villagers to go home, however, in 1977 Menachem Begin promised to let them return. The recent government



The Church in Iqrit village

deliberations about Iqrit and Bir'am were launched under the Rabin government in 1995 by then Minister of Justice David Liba'i. Liba'i proposed to settle the case if the Palestinian residents of the villages agreed to, **a)** partial return (only heads of households accompanied by two descendents); **b)** to forgo land restitution (only a small parcel of land would be leased to returning households); and, **c)** not to engage in agriculture. This proposal was rejected by the villages, who by then numbered some 8,000 persons with claims to 36,972 dunums of land. In total, the government had offered to lease 1,200 dunums of the villagers' original land (about 3%) back to the returning households. In 1997 the residents of Iqrit re-filed their case with the Israeli High Court, however, the issue remained unresolved under the Netanyahu and Barak governments.

In late November 2000, the High Court ordered the state of Israel to present a detailed plan for compensating the former residents of the Palestinian villages either with money or land. The government was given 90 days to present a clear program involving lands that could be given to the residents or compensation that it is prepared to pay. After the state makes its proposal the petitioners will have 15 days to respond. According to Awni Sbeat, a spokesperson for the residents, the villagers "reject any decision that will not support our full rights as it was decided in 1951 by the Supreme Court. Expropriating our lands for the sake of nearby settlements or classifying them as State property prevent any possibility of a rightful solution." (*Kul*

al-Arab, 30 November 2001) Some members of the Knesset Foreign Affairs and Defense Committee who disagree with the government decision have decided to form yet another sub-committee to review the case.

Meanwhile residents of the villages and other internally displaced Palestinians continue public protest activities to raise awareness about their outstanding claims to return to their villages and receive real property restitution. Activities have included a mass at the church in Iqrit attended by hundreds of people from Palestinian towns and villages and a demonstration in front

of the Supreme Court in Jerusalem attended by nearly 1000 people. Mohammad Baraka, a Palestinian member of the Knesset (Democratic Front for Peace and Equality/Hadash), who participated in the event stated "we realize that most of those who were evicted from Iqrit in 1948 are dead, and this protest stresses the fact that years and time will not let us forget and will not take our right of return." (*al-Ittihad*, 19 November 2001)

The cases of Iqrit and Bir'am and many other Palestinian villages inside Israel demonstrate the complete absence of adequate remedies for internally displaced and dispossessed Palestinians inside Israel. The response of the Israeli judiciary and successive governments to date constitute a blatant violation of international law. The *Guiding Principles on Internal Displacement*, for example, which were developed to enhance protection and assistance for internally displaced persons, based on a review of relevant principles of international humanitarian, human rights, and refugee law, clearly affirm both the right of internally displaced persons to return to their homes or places of habitual residence (Principle 28), and the right to restitution of properties (Principle 29).

The *Guiding Principles on Internal Displacement* are archived on the

www

BADIL website, www.badil.org/Law/Refugee_Law/GDIP.htm

www

Also see www.birem.org. Translations from the Palestinian press inside Israel from Arab Human Rights Association (AHRA), *Discrimination Diary*. To read the Diary visit the AHRA website: <http://www.arabhra.org>

www

Confiscation of Palestinian Land inside Israel:

At the same time that the Israeli government is rejecting the right of internally displaced Palestinians to return to their homes of origin, the government continues to confiscate land from its Palestinian citizens. Approximately half of the land that remained in the hands of Palestinian citizens of Israel after the 1948 war has since been confiscated by the Israeli government, leaving a community that comprises 20% of the population of the country with access to only 3% of the land. Israel's official response to the Palestinian position of "land for land" in the context of negotiations over compensation for expropriated property, is illustrated by the state's offer to Palestinian residents from the villages of Taibeh and Tira whose land is subject to confiscation for construction of the new Trans-Israel Highway. The Israeli government offered the residents land from a third Palestinian village, Zimar. Following continued protests by the two communities, during which Israeli police forces beat and wounded 20 landowners and several Palestinian members of the Knesset (Jewish solidarity demonstrators were not beaten), the government finally presented a more equitable proposal to the landowners. The agreement is to provide alternative tracts of land of equal value. Tira residents will be offered 80 dunams purchased from the nearby Kibbutz Eyal, land tracts within the jurisdiction of the Drom Sharon and Lev Sharon regional councils and other land in Tira that is now owned by local residents. Taibeh residents will be offered 160 dunams of land in She'ar Ephraim and another 1,100 dunams within the jurisdiction of the Zemer Regional Council, as well as 50 building plots within Taibeh. Land offered would not include strips with power lines or those earmarked for future transportation projects. If the alternative lands are not handed over in 18 months, the Trans-Israel Highway Company is to compensate the landowner as stated with the sum of NIS 5,000 per (expropriated) dunum every year. (*Ha'aretz*, 1 November 2001)

The Israel Lands Administration (ILA) also bulldozed 2000 dunams of olive trees in early December in the Palestinian village of Ein Mahel to clear 80 dunams of land for building a new Jewish neighborhood in Nazareth Illit. Nazareth

Illit was created adjacent to historic Nazareth as part of a government plan to "Judaize" the Galilee. The land was originally expropriated for military purposes in 1976 and residents of the village planted trees on the land in order to maintain their right to their land. In 1994 the Rabin government changed the land's purpose to public. Ein Mahel is surrounded by Nazareth Illit and the construction of the new Jewish neighborhood will close the last possible way for natural expansion of the Palestinian village. Residents of the village are planning to replant the land.

Destruction of Palestinian Holy Sites in Depopulated Villages:

In October the Israel Lands Administration (ILA) also demolished a protest tent set up in the destroyed Palestinian village of Sarafand located 20km south of Haifa by the Sarafand Mosque Committee and *Al-Aqsa* Society for the Protection of Islamic Holy Sites. The village mosque, the last remaining structure in the village, was demolished in 2000 when the ILA claimed ownership of the land. The Islamic Movement appealed to the Supreme Court, which approved re-construction and protection of the site. The ILA, however, has continually obstructed the reconstruction of the mosque and maintenance of the cemetery by displaced villagers. The request to rebuild the mosque has since been overturned. (*Sawt Al-Haqq Wal Hurriya*, 26 October 2001).

Israeli Government Establishes Mechanism to Restitute Jewish Heirs of Absentee Property:

In late November, the Israeli Justice Ministry set up a special unit to seek and locate the Jewish heirs of bank accounts and property belonging to holocaust victims. "Up to now, the General Custodian, who managed abandoned property, had to wait for missing persons or their heirs to turn up and claim their property. The new unit will operate from the General Custodian's office with 5-12 workers and will start work in 2002. (*Ha'aretz*, 20 November 2001) No such unit has ever been established to search for Palestinian owners and heirs of absentee property in Israel. Jewish property owners constitute only a small minority of persons falling under the Absentees' Property Laws, the majority being Palestinian refugees.

In Memoriam

List of 157 Palestinian victims of Israeli violence between 27 September and 30 December 2001. 31 of those killed were aged 18 and under. Between 29 September 2000 and 28 December 2001, 932 Palestinians - including 16 Palestinians inside Israel) have been killed by Israeli security forces of whom 195 younger than 18 years.

Sources: www.lawsociety.org; www.palestinercs.org; www.pcbs.org.

Between 29 September 2000 and 26 December 2001, 172 Israeli civilians were killed in the occupied territories and in Israel and 56 members of Israeli security forces.

Sources: www.btselem.org.

For the names of Palestinian Killed between 29 September 2000 and 26 September 2001, see al-Majdal, Issues No. 7, 8, 9, 10, and 11.

Imam al Sharif, 25, Hebron
Muhammad al-Tarayrah, 10, Bani Na'im
Mahmoud Sukkar, 15, Deheishe R.C.
Muhsen Arar, 17, Qarawet Bani Zeid
Ribhi al-Bayed, 51, Hebron
Ahmand Awaja, 25, Rafah
Mahmoud al-Sawwaf, 12, al-Tufah quarter, Gaza
Khalil Fayyad, 18, Deir al-Balah
Khalil al-Sarfandi, 52, Askar R.C.
Husni Abu Leil, 52, Balata R.C.
Maher Khdeir, 23, Beit Lahia
Mahmoud al-Shurafah, 25, Beit Lahia
Nour al-Deen Qweider, 25, Gaza
Mahmoud Abu Hani, 23, al-Shati R.C.
Wa'el Awwad, 25, Deir al-Balah
Sayyed Ziyara, 34, al-Tufah quarter, Gaza
Abdullah Sha'ban, 20, Jabalia R.C.
Ibrahim Rayyan, 17, Jabalia R.C.
Muhammad Shirbasi, 28, Hebron
Natheer Hammad, 27, al-Arqa
Iyyad Qafeeshah, 28, Hebron
Nidal Qafeeshah, 25, Hebron
Hazem Amru, 27, Hebron
Qasem Abu Afeefah, 48, Hebron
Ra'ed Abu Daoud, 23, Hebron
Hamzeh al-Qawasmi, 23, Hebron
Amjad al-Qawasmi, 24, Hebron
Ra'ed al-Sharif, 28, Hebron
Abdil Rahman Abu Iriban, 32, al-Breij R.C.
Jum'ah al-Sawarkeh, 17, Beit Lahia
Salah Abi Theeb, 21, al-Breij R.C.
Ahmad 'Itewi, 28, al-Nusseirat R.C.
Hamadah Abu al-Rous, 34, Rafah
Hani Rawajbeh, 24, Norther Aseerah
Abdil Rahman Hamad, 35, Qalqilya
Ahmad Marshoud, 33, Balata R.C.
Marwan Khaleefeh, 25, al-Far'ah R.C.
Riham Abu al-Ward, 10, Jenin
Muhammad Abu al-Ras, 16, Ramallah
Sa'ed al-Aqra', 22, Salfit
Atef 'Ibayyat, 32, Beit Sahour
Jamal 'Ibayyat, 35, Beit Sahour
Issa 'Ibayyat, 28, Beit Sahour
Abdil Qader Abu Srour, 25, 'Aida R.C.
Musa Abu Ideh, 19, Beit Jala
Mariam Sbeih, 38, al-Khader
Jawdat Jum'a, 21, al-Mintar
Basel al-Mubasher, 13, Khan Younis R.C.
Mustafa Nofal, 34, Qalqilya
Samer Shawahneh, 22, Qalqilya
Mustafa Zitawi, 33, Tulkarem
Rania Kharoufeh, 24, Beit Jala
Maher Abu Hasna, 33, Tulkarem
Yousef 'Ibbayat, 15, Bethlehem

A'isha Odeh, 39, 'Aida R.C.
Jonnie Thaljiyeh, 19, Bethlehem
Ahmad Abu Mandeel, 16, al-Maghazi R.C.
Muhammad Baarqa'a, 26, al-'Azza R.C.
Naahed al-Juuju, 40, Bethlehem
Fawzi al-Masalmeh, 28, al-Dawha
Ghada Ayaseh, 20, Sanour
Nidal 'Illayyan, 20, Bethlehem
Ayman Halaweh, 26, Nablus
Naser qar'an, 14, Qalqilya
Tal'at Jaber, 19, Tulkarem
Bader al-Sha'er, 50, Tulkarem
Muhammad Sama'neh, 24, Ramallah
Saleh al-Asi, 19, Tulkarem
Mahmoud al-Jallad, 19, Tulkarem
Ayman al-Jallad, 19, Tulkarem
Harees Hajjeh, 29, Beit Rima
Kamel al-Barghouti, 20, Beit Rima
Abdil Mm'ti Zawawi, 22, Beit Rima
Qasem al-Mughrabi, 26, Beit Rima
Rafeeq Saqer, 27, Beit Rima
Issa al-Ali, 55, Bethlehem
Marwan Halabiyeh, 21, Abu Dis
Wa'el 'Ibayyat, 22, Bethlehem
Salameh al-Dibes, 39, 'Aida R.C.
Firas Salahat, n.a., Bethlehem
Hasan Abu Sarriyeh, n.a., Tulkarem
Zied Abu Jalaleh, 23, Bethlehem
Eed Abu Sharakh, 35, al-Shati R.C.
Fu'ad al-Dahshan, 17, Gaza
Uthman al-Rawayneh, 22, Gaza
Iyyad al-Batsh, 21, Gaza
Haithan Samahdaneh, 25, Gaza
Firas Jaber, 24, Tulkarem
Yousef Sweetat, 22, n.a.
Tayseer Jabali, 23, n.a.
Abdullah Jarushi, 38, Tulkarem
Jamil Khalifah, 25, Hebron
Ra'ed al-Akhras, 25, Qalqilya
Muhammad Jamil, 40, Qalqilya
Muhammad al-As'usi, 29, Jaba'
Rabee' Ghanna, 22, Jaba'
Yasser Aseedah, 25, Tal
Fahmi Abu Eisheh, 28, Askar al-Balad
Salah al-Ghazali, 45, al-Zaytoun quarter, Gaza
Hatem al-Shweiki, 34, Jerusalem
Said Abu Shmeis, 26, Ramallah
Jamal Mlawwah, 27, Deir Istia
Iyyad al-Khatib, 28, Deir Istia
Ali Abu Hijleh, 22, Deir Istia
Majdi Jradat, 26, Wadi Barqeen
Ikrima Isteiti, 35, Jenin R.C.
Issa Dababseh, 48, Yatta
Musa Abu Ayya, 57, Rafah

Muhammad Kaskeen, 23, Khan Younis
Samir Abu Haleeb, 36, Khan Younis
Ahmad Abu Mustafa, 13, Khan Younis
Muhammad Rayhan, 25, Tal
Wafa' Odeh, 34, Irtah, Tulkarem
Ahed Dahrouj, 20, al-Nusseirat R.C.
Taher al-Kilani, 16, Ya'bad
Ibrahim Isaid, 50, al-Maghazi R.C.
Midhat Abu Dalal, 32, al-Nusseirat R.C.
Muhammad Hussein, 35, Abraj al-Nada
Maher Daghlis, 22, Burqa
Akram al-Astal, 6, Khan Younis
Muhammad al-Astal, 14, Khan Younis
Omar al-Astal, 13, Khan Younis
Anees al-Astal, 11, Khan Younis
Muhammad Sultan al-Astal, 11, Khan Younis
Ayman Awaysah (Hashaykeh), 37, Taluoza
Ma'moun Awaysah (Hashaykeh), 36, Taluoza
Mamoud Shuli (Abu Hannoud), 34, Aseerah al-Shamaliyah
Ahmad al-Hinnawi, 25, Gaza
Wa'el Radwan, 15, Khan Younis
Kifah 'Ibeid, 13, Deheishe R.C.
Rami Mansour, 23, al-Shujaiyeh
Ibrahim Hanani, 80, Beit Furik
Hasan Zbeidi, 24, Balata R.C.
Rashad Hija, 37, Atil
Mohammad Asaus, 19, al-Shohada camp.*
Mohammad Shahla, 12, Jenin R.C.
Mazi al-Nabils, 31, Dahiat al-Barid
Jihad al-Masri, 17, Beit Lahia
Maslama al-Araj, 20, Gaza
Mohammad Sonjk, 19, Ramin
Yahia Abed, 30, Kabatia
Mohammad Abu Morsa, 16, Gaza
Mohammad Siam, 23, Gaza
Amjad al-Tobasi, 26, Nablus
Sakir al-Diabri, 21, Rafah
Munjed Salman, 19, Quseen
Adel Turkman, 16, Tubas
Deeb al-Sarawi, 37, Nablus
Muhammad Hawwash, 58, Nablus
Wisam Imhareb, 24, Khan Younis
Jameel Abu Atwan, 23, Dura, Hebron
Waleed al-Sa'di, 53, Jenin
Muhammad Labad, 17, Gaza
Muhammad al-Madhoun, 15, Gaza
Isma'il Abu al-Qumsan, 31, Jabalia
Muhammad Salah, 19, Jabalia
Ali Imhanna, 21, Jabalia

Note: R.C: Official UNRWA Refugee Camp. * Unofficial refugee camp near Jenin

From Rights to Reality:

An Introduction to Mechanisms for Return and Restitution

Since the first popular refugee conference was held in 1996 (Deheishe refugee camp) - delineating the broad outlines of an agenda for the defense of Palestinian refugee rights - grassroots mobilization and lobby efforts have focused predominantly on raising awareness about the *right* of return, restitution, and compensation, as affirmed in UN General Assembly Resolution 194 and international law. The success of these efforts can be measured in the clarification of terminology, deeper understanding of basic rights, unification of language at all levels of Palestinian society (i.e., grassroots, media, leadership, etc.), development of a global right of return network, as well as increasing awareness and support for Palestinian refugee rights at the international level among non-governmental organizations (e.g., Human Rights Watch and Amnesty International), United Nations and governmental officials.

Over the past year it has become increasingly evident, perhaps spurred on by the experience of the complete absence of a protection mechanism (i.e., international body) in the 1967 occupied Palestinian territories in the context of the *al-Aqsa intifada*, that there is an increasingly urgent and timely need to begin examining mechanisms to facilitate implementation of Palestinian refugee rights - i.e., return, restitution and compensation. The need for information resources and discussion/debate was illustrated in several responses from the refugee community during hearings conducted in the region in September 2000 by the British (Parliamentary) Commission of Inquiry into refugee choice. When refugees were asked about what type of mechanisms would be needed to implement the durable solution set forth in UN General Assembly Resolution 194, some responded that the 'mechanism' was simply the right of return. Others stated that the United Nations and the international community provided possible mechanisms, as had been the case in Bosnia. Few, however, were able to provide a more detailed response.

The first indication of the official position of the Palestinian leadership as regards mechanisms for the implementation of the right of return, restitution, and compensation came several months later when the Paris-based newspaper *Le Monde Diplomatique*

published a draft proposal for a resolution of the refugee issue presented by the Palestinian negotiating team during the last round of final status negotiations at Taba, Egypt (January 2001). (See al-Majdal, Issue No. 12) The proposal was circulated widely in the refugee community. More recently, Palestinian refugee activists participating in the second annual meeting of the Coalition for the Right of Return (see page 6) participated in a lecture and discussion with an expert on Bosnia concerning mechanisms for return and restitution applied in the case of Bosnian refugees.

Tasks and Types of Mechanisms

The return and restitution of refugees, particularly in the case of mass exodus, is a complex process. Numerous mechanisms - i.e., institutions or bodies - are required to facilitate implementation of hundreds of tasks that transform return and restitution from a right to reality.

Mechanisms for return, for example, facilitate a wide range of tasks from determination and registration of refugee choices, creation of demographic and socio-economic profiles of the refugee community to assist in crafting plans for return and reintegration of refugees in their home communities, development and implementation of the return (i.e., repatriation) plan, provision of personal documents, basic relief and health assistance, monitoring of human rights and reintegration programs, and socio-economic rehabilitation.

Mechanisms for restitution carry out an equally wide range of tasks from property documentation, creation of profiles concerning land use and housing stock, legislative analysis, identification of problems relating to secondary occupation of refugee homes, development and implementation of restitution procedures, creation of a new property database, mediation and/or adjudication of property claims, repeal or reform of discriminatory property legislation, and reconstruction of refugee homes.

In both cases - i.e. return and restitution - mechanisms may include UN agencies, independent multilateral institutions, state bodies, as well as international and

local non-governmental organizations. Refugee problems are too complex to be solved by a single mechanism. In Bosnia, for example, over 100 international organizations have participated in the implementation of the return process.

The primary UN mechanism mandated to facilitate solutions for refugees is the Office of the UN High Commissioner for Refugees (UNHCR), often working alongside numerous other UN agencies, such as the UN Development Program (UNDP), as well as UN peacekeeping operations such as the UN Mission in Kosovo (UNMIK). In many cases, UNHCR plays the role of 'lead agency' providing a focal point for the coordination of multi-agency programs to facilitate return and real property restitution.

In other cases new institutions, often multilateral in character, may be established to facilitate return and/or restitution. In Bosnia, for example, the international community established the Commission for Real Property Claims (CRPC) to implement the right of refugees and displaced persons to real property restitution as affirmed in the 1995 Dayton Agreement. The Commission is composed of 9 members, including three that are appointed by the President of the European Court of Human Rights, and has a staff of over 300 working in its Executive Office in Sarejevo and in a network of regional offices. The CRPC works in partnership with numerous other bodies, including the Office of the High Representative (OHR), the Organization for Security and Cooperation in Europe (OSCE), UNHCR, and the UN Mission in Bosnia-Herzegovina.

Many states often set up their own mechanisms to coordinate implementation of the various tasks associated with return and restitution with UN and other international partners. In Tajikistan, for example, the government established a Central Department for Refugees and Forced Migrants in 1994 to act as UNHCR's main domestic partner in charge of returning Tajik refugees and internally displaced persons from abroad as well as resolution of property issues.

In other cases refugees may establish their own organizations to not only lobby for but also participate in the design and implementation of return and restitution. In Guatemala, for example, refugee leaders formed Comisiones Permanentes and

negotiated the terms of collective repatriation directly with their own government. Bhutanese refugees who are still struggling to return to their homes have engaged in a documentation project, through the Association for Human Rights Activists (AHURA), as an advocacy tool to authenticate the refugee's nationality status and property rights and promote their right to return and property restitution.

UNCCP, UNRWA, UNHCR and Others

The issue of mechanisms for the implementation of the right of return, restitution, and compensation would not appear to be an immediate problem in the Palestinian case. After all, the United Nations established a unique institution to facilitate implementation of the durable solution for Palestinian refugees (i.e., paragraph 11, UN Resolution 194), a second institution to provide humanitarian assistance (UNRWA), and, in addition, authorized UNHCR to carry out this mandate in the event that either institution ceased to fulfill its mandate.

During initial years of its existence, the UN Conciliation Commission for Palestine (UNCCP) attempted to carry out many of the tasks identified above, including intervention with state parties to protect and promote refugee rights, collection of basic information for the creation of refugee profiles, and investigation of methods for determining refugee choices. The Commission also created a fairly comprehensive (though not complete) database of refugee properties that is currently stored in UN Archives in New York.

The problem of mechanisms in the Palestinian case arises, however, from the fact that the UNCCP ceased to carry out its mandate to implement a durable solution based on Resolution 194 in the early 1950s (See BADIL Brief No. 5) and UNHCR has not stepped in to fill the gap created by the cessation of UNCCP protection. UNRWA, while it may play a valuable role with respect to a variety of tasks associated with return and restitution (See BADIL Brief No. 6), does not have a mandate or the broad experience to facilitate return and restitution. In other words there are no mechanisms currently functioning to facilitate a durable solution for Palestinian refugees.

The Palestinian proposal for a resolution of the refugee issue presented at Taba in January 2001 addresses this problem by proposing the creation of

an alternative approach to the regime established by the United Nations. Rather than seeking to revive the UNCCP or request UNHCR intervention, the proposal outlines the creation of several new, independent, multi-lateral institutions. This includes a Repatriation Commission comprised of the Parties, United Nations, UNRWA, Arab host countries, US, EU, and Canada. The Repatriation Commission is to: verify refugee status, determine priorities for certain categories of refugees and certain areas, determine procedures for repatriation, process applications, repatriate the refugees, provide assistance to returning refugees, and ensure the protection of returning refugees. A Compensation Commission is mandated to evaluate Palestinian material and non-material losses, administer implementation of provisions of the agreement, and administer and adjudicate claims of real property by refugees. The Commission is to be composed of the Parties, US, EU, UN, World Bank and Donor States. Finally, the proposal calls for the creation of an International Fund with a steering committee composed of Palestine, US, World Bank, EU, donor countries with the World Bank and the UN acting as a joint-secretariat. (See BADIL Bulletin No. 10 for further details, analysis and a copy of the proposal)

Palestinian researcher Salman Abu Sitta further suggests that refugees should form a Palestinian Land Commission (PLC) comprised of representatives from the 531 depopulated refugee villages. The PLC would act as a custodian for all properties until individual owners are identified and ownership of property is verified. Abu Sitta suggests that refugee properties should be transferred directly from the Israel Lands Administration (ILA) to the PLC.

Choosing the Right Mechanisms

There is a wide array of choices when it comes to deciding upon the most appropriate mechanisms for the implementation of Palestinian refugee rights, including UN agencies, multi-lateral institutions, domestic bodies, and non-governmental organizations. Choosing the appropriate set of mechanisms is critical to the success of return and real property restitution. The decision making process should pay close attention to legal, political and practical considerations.

For example, potential intervention by the UNHCR should include, among many other issues, discussion

of whether the Agency understands the legal obligations imposed by General Assembly Resolution 194 - i.e., return and restitution based on individual refugee choice. The Agency has been criticized for promoting resettlement in some cases where it considers return to be not 'practical' or not in the best interests of the refugees according to its own criteria. In a situation where Israel refused to permit the return of refugees, or where the Agency considered it in the best interests of the refugees not to return to places where they would be a minority, would UNHCR promote resettlement?

If the UNCCP were to be revived, would the Commission's membership, composed of the US, France, and Turkey, militate against objective implementation of Resolution 194? How would the position of the United States vis-à-vis a solution for Palestinian refugees affect the neutral operation of the Commission? What are the practical implications of setting up new multi-lateral institutions which do not have a track record or experience in the design and implementation of durable solutions? Can sufficient resources be seconded from existing mechanisms that have experience in other refugee cases?

Additionally, close attention should be paid to whether mechanisms have adequate financial and human resources (including an on-the-ground presence in host and country of origin). Adequate donor funding is often linked to a detailed implementation plan as well as energetic public information and external relations with donors. Is there sufficient international political support for relevant mechanisms? What is the role of refugees in relation to the mechanisms? Is there adequate attention to monitoring and effective enforcement procedures?

These are only few of many questions, which must be tackled prior to the determination of the proper mechanisms to effectively facilitate return and real property restitution for Palestinian refugees. International experience in numerous other refugee cases, including Kosovo, Bosnia, Guatemala, Mozambique, Rwanda, Cambodia, providing ample experience to study and drawn lessons from, which may be applied to the Palestinian case.■

This article is drawn from a comparative study of return and restitution forthcoming from BADIL (2002).

"From Refugees to Citizens at Home"

Excerpts from a new Book by Palestinian Researcher Salman Abu Sitta



In late September 2001, a new book - *From Refugees to Citizens at Home* - outlining a plan for the phased return of Palestinian refugees to their homes of origin inside Israel was presented to an audience of members of Parliament, diplomats, journalists and NGOs at Westminster Hall in London.

The plan, prepared by Palestinian researcher Salman Abu Sitta, builds on previous research demonstrating the feasibility of return based on a detailed study of the demography and land use inside Israel. The book includes 27 maps/figures, illustrating the mass displacement of Palestinians between 1947 and 1949, the availability of space in the refugees' areas of origin, and a phased plan for return, including maps of major urban centers.

The book includes several unique contributions not found in other research. This includes a set of two maps covering the northern and southern areas of Israel, which show the current built-up area and the location of Palestinian refugee villages. (See, for example, Figure 10) Careful study of the relationship between built-up areas and the location of refugee villages reveals that the return of refugees from 90% of the depopulated villages would not engender displacement or eviction of Israeli Jews. Of the remaining 10% of the villages (the study provides a list of specific villages), a slight adjustment would be required for the return of residents from 7% of these villages. Difficulties related to secondary occupation arise in only 3% of the villages.

The plan also includes a set of 13 maps outlining a 7-phase plan for the return of refugees to areas of origin inside Israel, including 10 maps providing a schematic framework for

urban centers. (See, for example, Figure 15 "Phase One") It is estimated that 8-10 years would be required to implement all 7 stages of the plan: 1) return of refugees from Lebanon and Syria; 2) return of refugees from Gaza; 3) return of registered village refugees from the West Bank; and 4) return of registered village refugees from Jordan; followed by a three stage plan for the return of registered and unregistered refugees to cities in Israel.

The book can be ordered from the Palestinian Return Centre, 100 A Crown House, North Circular Road, London, NW10 7PN, UK. Email: info@palestinianrefugees.com

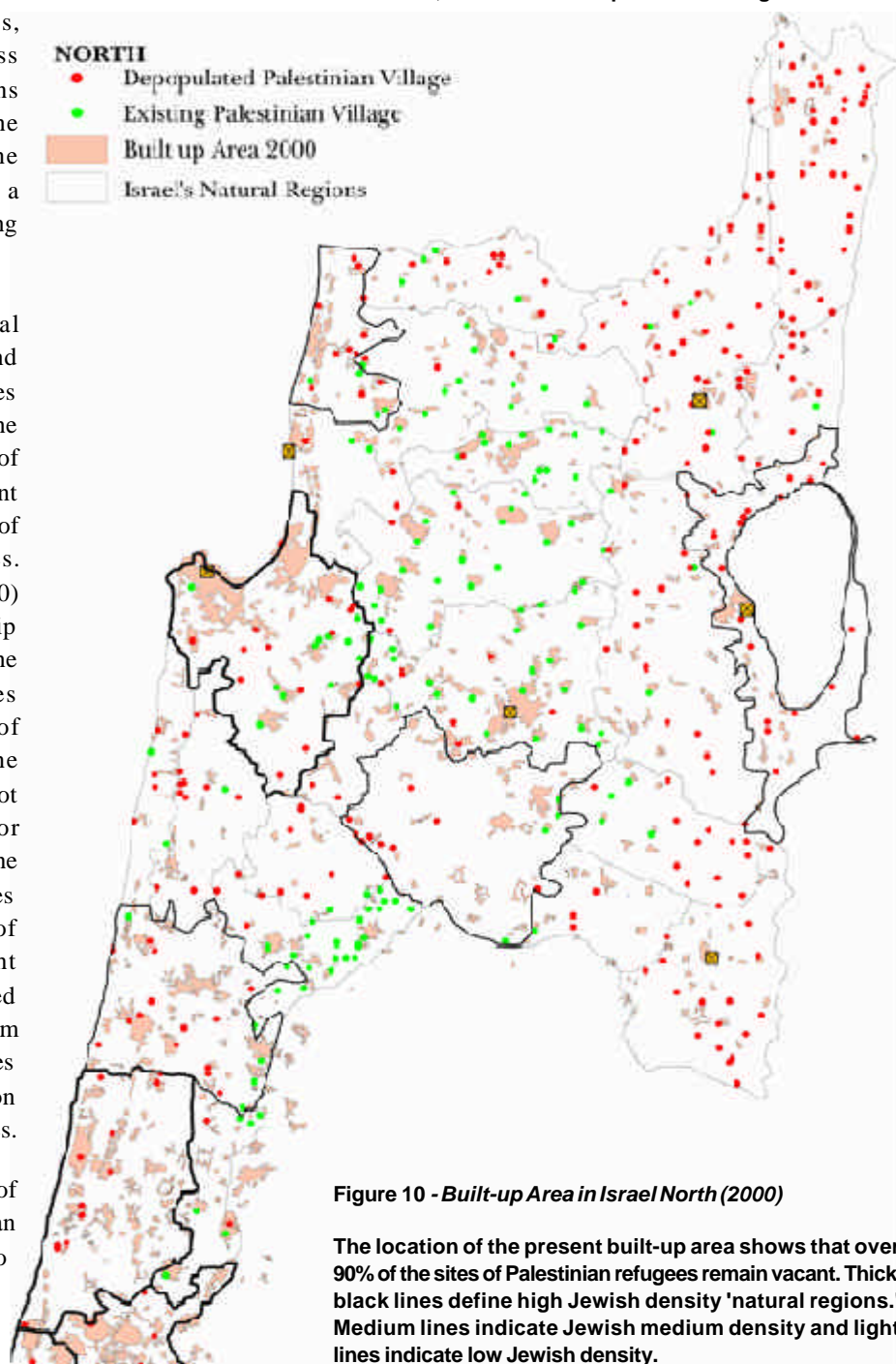
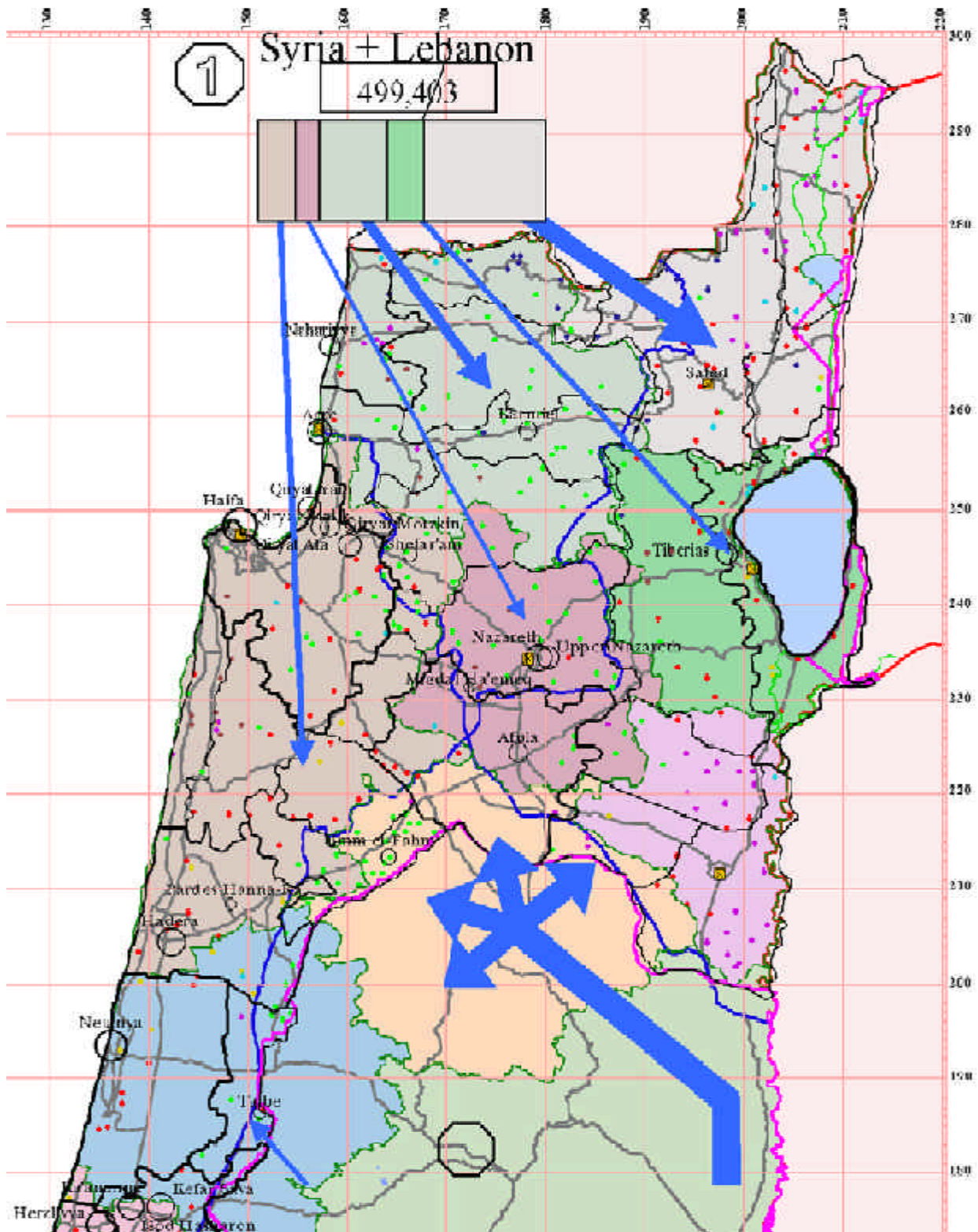


Figure 10 - Built-up Area in Israel North (2000)

The location of the present built-up area shows that over 90% of the sites of Palestinian refugees remain vacant. Thick black lines define high Jewish density 'natural regions.' Medium lines indicate Jewish medium density and light lines indicate low Jewish density.

RETURN PLAN



* Maps reprinted with the permission of the author.

Figure 15 - Return of Refugees from Syria and Lebanon

Figure 15 illustrates the return of refugees in the northern areas of Israel (See Figure 10 detailing built-up areas). The approximate number of refugees from these two areas of exile is 500,000. Refugees originate from the districts of Haifa, Acre, Tiberias, Safad and Nazareth - excluding cities (covered in phases 5-7 of the return plan). There are only a few affected villages in this area, where the village has been partially or fully built-over. The only two villages fully built-over are Tira, and Wa'arat es-Saris in the Haifa district.

Refugee Assistance



During October, UNRWA released its *Annual Report* summarizing Agency operations in the West Bank, Gaza Strip, Jordan, Lebanon and Syria during 2000-2001. The report highlights the continued importance of UNRWA's regular and emergency programs for Palestinian refugees, not only on a day-to-day basis, but also in reference to the maintenance of regional stability and a future durable solution for refugee based on UN Resolution 194, and international law.

UNRWA's schools, for example, continue to lead in annual examinations set by host countries in its five fields of operations. The schools also enjoy gender parity. Graduates of the Agency's vocational and training centers are also in demand with nearly 80% of graduates finding employment in 2000. Health standards of Palestinian refugees are also among the highest in the region.

Funding Gaps

The 2000-2001 *Annual Report* also highlights, however, the continued difficulties faced by UNRWA in funding both regular and emergency

programs. At the end of November the estimate for 2001 funding of the Agency's regular budget only reached US\$ 285 million against a budget of US\$ 311 million. In December, UNRWA made an appeal for US\$ 330.7 million to fund operations in 2002. While the figure is an increase of US\$19 million over 2001, it represents a decline in relative terms when inflation and the rapidly growing refugee population are taken into account. During the annual donor conference in New York, the EU informed UNRWA that its contributions in 2002 would rise by 45 percent, bringing the EU's annual contribution to around US\$ 76 million.

In 2000-2001, Jordan reported expenditures of US\$ 392.1 million for Palestinian refugees and displaced persons compared to UNRWA's expenditure of around US\$ 70 million. Syria reported expenditures of US\$ 68.4, more than triple that of UNRWA.

Refugees themselves continue to make substantial contributions to UNRWA. In 2000-2001, refugees in Syria donated around one-half million dollars to the Agency's emergency program in the occupied

Facts and Figures, 2000-2001 (Figures as of 30 June 2001)

Number of registered refugees	3,874,738 (3.5% increase)
Number of students enrolled in UNRWA schools	474,742 (1.67% increase)
Number of UNRWA schools	634

Under existing exchange agreements between UNRWA and the host authorities to provide schooling for pupils in remote areas, 191,602 refugee students were reportedly enrolled at government and private schools at the elementary and preparatory levels. A total of 39,437 non-refugee students attended UNRWA schools at the two levels. UNRWA offered secondary level education on a limited scale in Lebanon to address low access of refugees to government schools and prohibitively high cost of private schools. Five secondary schools accommodated 2,474 students.

Number of students in vocational and technical training centers	4,700
Number of educational staff	16,246
Outpatient facility visits	6.1 million
Dental visits	500,000
Number of Special Hardship Cases (SHC)	217,388 (4.7% increase)
Number of SHC shelters rehabilitated	358
# of loans - microfinance and microenterprise program	10,083
Value of loans	US\$ 9.92 million

Palestinian territories. In all fields except Gaza, nominal contributions at prescribed rates were collected from pupils and trainees on a voluntary basis to improve facilities and equipment in schools and training centers. Total contributions exceeded US\$ 1.3 million. Other forms of community support included donations of equipment, furniture, photocopiers, tape recorders, videos, overhead projectors, personal computers, printers and other equipment and supplies.

The vast majority of Palestinian refugees continue to require emergency assistance from UNRWA, including employment, food, cash and shelter assistance, in order to cope with the impact of Israel's ongoing military and economic siege. According to the latest survey (November) from the Graduate Institute of Development Studies - University of Geneva (IUED), 42% of respondents received help from UNRWA between July and November 2001. This constitutes an increase of 8% since January 2001.

In refugee camps 92% of the people in Gaza and 72% of those in the West Bank received UNRWA assistance. Outside camps UNRWA assistance is more widespread in Gaza (55%) than in the West Bank (24%) or Jerusalem (23%). The number of

respondents receiving assistance from UNRWA in Gaza and West Bank refugee camps in November was slightly lower in November than in June 2001, but higher in general in Gaza, the West Bank and Jerusalem. UNRWA's emergency assistance program continues to focus primarily on food assistance (76.3%), followed by financial aid (15.7%), non-financial aid (5.4%), employment (1.9%) and medication (0.7%).

Pledges to UNRWA's Third Emergency Appeal rose further during October, reaching 72 per cent of the US\$ 76.9 million required under the appeal.

Contributions actually received rose significantly

during the month, but amounted still to only 31% of appeal requirements. Total confirmed cash and in-kind contributions for Agency emergency programs as of 15 November amounted to US\$ 125,863,468, more

than one-third of UNRWA's regular budget for all areas of operation.

Austerity Measures

Lack of adequate funding continues to force UNRWA to implement a number of austerity measures affecting its regular and emergency programs. UNRWA schools continue to run

"This responsibility [to fund UNRWA programs for Palestine refugees] calls for great resolve on the part of the international community - resolve that is essential if the refugees are to feel assured that the commitment of the international community to their well-being remains firm."

Peter Hansen, Commissioner-General of UNRWA, Annual Donors Conference, December 2001.

Top 13 Donor Contributions to UNRWA's Regular Budget, 2000

Source	Total 2000 Contribution	% increase/decrease from 1999
United States	89,299,900	+ 10.0
EU	52,411,761	- 18.0
UK and Northern Ireland	27,549,362	+ 112.0
Netherlands	22,221,793	+ 105.0
Norway	12,731,278	- 2.4
Sweden	18,504,731	- 1.4
Canada	10,754,233	+ 6.8
Japan	10,324,147	- 60.0
Denmark	8,479,288	- 5.1
Germany	5,663,634	- 34.0
Switzerland	5,513,931	- 27.0
Italy	5,296,399	+ 51.0
France	4,809,559	+ 5.0

Contributions from the top 13 donors represented 90% of UNRWA's 2000 funding. Wide fluctuation in annual contributions may be related to domestic funding cycles. In general, however, UNRWA donor contributions need to increase by 5% per annum to keep pace with the growth in the refugee population.

Top 13 Emergency Donor Contributions as of 15 November 2001, Compared to Top 13 Donors in 2000 Regular Budget. Emergency Funds include 4 October 2000 Flash Appeal, 8 November Emergency Appeal, February 2001 Emergency Appeal, and June 2001 Emergency Appeal. Includes value of in-kind contributions.

Donor Country	Received (US\$)	Outstanding (15-11-01)	2000 Regular Budget
US/USAID	28,117,047	8,000,000	89,299,900
EC/ECHO	14,958,590	13,872,727	52,411,761
UK	19,307,584	0	27,549,362
Netherlands	13,624,004	0	22,221,793
Islamic Development Bank	0	5,000,000	- - -
Italy	1,387,082	3,521,292	5,296,399
Switzerland	2,721,522	0	5,513,931
Germany	325,368	1,859,245	5,663,634
Denmark	1,841,424	0	8,479,288
Norway	1,759,032	0	12,731,278
Ireland	1,415,510	0	839,801
Belgium	261,386	1,126,789	2,177,951
Finland	1,135,712	0	1,807,007

2000 Top 13 UNRWA Regular Budget donors who are not in the top 13 of donors contributing to UNRWA's emergency fund include Canada, Japan and France.

During 2000-2001, 9 of 23 members of the League of Arab States contributed to UNRWA's regular budget, comprising 2.3% of total contributions. The largest contributor was Saudi Arabia followed by Kuwait and the UAE. The figure is substantially lower than the figure (7.8% of the total regular budget) to which Arab states committed themselves under Resolution No. 4645 (1987) adopted by the Arab Council of Foreign Ministers. A level of 7.8% would have required contributions of \$22,878,005 in 2000-2001.

double-shifts (74% of schools in the five areas of operation) with the highest rate of double-shifting in Jordan (93%). Double shifting has not decreased despite an increased program of school construction since 1993. Classroom occupancy rates average around 43.5%, with some fields reporting a rate of over 50 students per class. In addition, funding shortfalls mean that teacher's salaries are not keeping pace with inflation resulting in increasing difficulties retaining and recruiting the best qualified staff who seek better paying jobs elsewhere.

Due to funding shortfalls in 2000-2001, UNRWA was not able to extend the educational cycle from 9 to 10 years in the West Bank and Gaza Strip, in keeping with changes introduced by the Palestinian Authority. In Jordan, the Agency was only able to offer computer science at the 10th grade while courses were introduced in government schools from grades 8 through 10. UNRWA was also unable to introduce new or expand the capacity of existing courses in 2000-2001 in the Agency's vocational and technical training centers without reducing old courses. The

Agency remains unable to support its scholarship program through its regular budget which was cut in 1997/98.

In the field of health, medical consultations in the Agency's health centers exceeded 100 patients per day per doctor with higher rates in the Gaza Strip. Owing to funding constraints the average health expenditure per refugee during 2000-2001 was maintained at US\$ 13.50, a fraction of the current level of expenditure by other health care providers in the Agency's operations.

It is estimated that 11,100 Special Hardship case (SHC) families are in need of selective cash assistance but existing allocations will only enable UNRWA to respond to acute crises. Available resources for shelter rehabilitation continue to fall short of identified needs. Some 14,000 SHC case families, comprising some 54,000 persons, still live in housing that does not meet minimally acceptable standards for structural soundness, hygiene, ventilation and space relative to family size. An estimated US\$ 12 million is needed to repair these shelters, compared to the US\$ 2 million spent for

shelter rehabilitation in 2000-2001. The average caseload of social workers during 2000-2001 was around 316 cases, well in excess of the recommended 250 cases per year.

As regards emergency programs, UNRWA relief activities were able to pick up in September 2001 with the arrival of new consignments of food in the Gaza Strip, enabling food distribution to recommence. Food assistance had come to a virtual standstill in the summer due to funding constraints. In the West Bank, mobile clinics returned to service in October, in co-operation with Palestinian non-governmental organizations. These medical teams visited 77 villages and treated a total of 9,737 patients.

Employment Assistance

In the Gaza Strip, as of the beginning of November, a total of 9,116 refugees had benefited from the emergency employment program since January



Nuseirat refugee camp, Gaza, April. 2001 (UNRWA Photo)

2001. Approximately one-quarter were women. In the West Bank some 3,198 refugees had obtained temporary employment under the emergency program. Over 35% of refugees who obtained temporary employment in the West Bank were women.

Food Assistance

Nearly 60% of food aid in the occupied territories comes from UNRWA. According to the November IUED survey, UNRWA delivers food in camps to an average of one resident of every two. Food distribution by UNRWA was more widespread in Gaza (64% in camps, 37% outside) than in the West Bank (32% in camps, 6% outside).

In the Gaza Strip, the food distribution cycle recommenced in late September. As of November, UNRWA had distributed a total of 674,613 food rations to 123,974 families in the

Gaza Strip. During October food packages were also issued to non-refugee families at the al-Mawasi area of Khan Younis/Rafah, where a tight military closure has been imposed. In the West Bank, UNRWA distributed food rations out of residual stocks in September and October to families in Jenin, the old city of Hebron, 'Aida and Nur Shams refugee camps, and the villages of Deir Sudan, Beit Rima and Burqa. Families in these areas were particularly hard hit due to curfews, road closures and incursions by Israeli forces that limited severely freedom of movement.

The November IUED survey found that, in general, Palestinians have reduced consumption of dairy products, meat and even carbohydrates as a means of coping with the severe economic situation. The reduction in consumption of these products is more pronounced among families from refugee camps (10-15% more).

Cash Assistance

According to the November IUED survey, around one-fifth of Palestinians received financial assistance throughout Gaza and West Bank refugee camps. People living outside camps in the West Bank (9%) and in Jerusalem (2%) received less financial assistance. Financial help is almost 3 times higher among refugees than in the rest of the population.

As of the beginning of November, UNRWA had issued US\$ 1,939,486 to 5,784 families in the Gaza Strip in need of cash assistance. More than half was issued to families with pressing emergency-related cash requirements, such as utility payments that they could not otherwise afford. Approximately one-fifth was issued to cover relocation fees for families forced to vacate their homes as a result of Israeli shelling of their areas of residence. The remaining cash assistance was disbursed to families who have lost their breadwinner or whose breadwinner had suffered serious injuries. As of November UNRWA had disbursed a total of US\$ 621,070 to assist families in the West Bank. During September and October, the majority of the disbursements helped to defray the costs of children's school supplies, primarily for residents of refugee camps.

Shelter Assistance

In the Gaza Strip, by the end of September the total number of houses demolished as a result of Israeli military operations since the start of the *intifada* reached a total of 196, accommodating 291 families. Approximately 65% of the families had no alternative housing facilities to which they could be moved. It remains impossible to construct housing for these families in their original locations, given the continuing threat of military action at these sites. Nearly 100 refugee shelters have been slated for construction in the Rafah area of Gaza alone.

In the West Bank, UNRWA provided financial assistance to over 1,000 families to help repair damages incurred as a result of Israel's military invasion of Palestinian-controlled areas in August and October. Over half of the families reside in refugee camps, with the two Bethlehem camps of 'Aida and Beit Jibrin/Azza sustaining the highest level of damages. Other camps receiving assistance during this period included Fawwar and Arroub in



Khan Younis refugee camp, Gaza, July, 2001
(UNRWA Photo)

the Hebron district. The grants covered the cost of replacing windows, doors, water tanks, plumbing and electrical fittings, or repairing minor structural damage. As of the beginning of November, UNRWA had helped 2,531 families repair their dwellings, the total value of the grants being US\$ 640,962.

In total and since the beginning of the beginning of the *intifada*, the Agency has also distributed 77,618 blankets, 8,179 mattresses, 141 tents, 236 mats and 119 kitchen kits to Palestinian refugees.

Health Assistance

Pressures on UNRWA's health care services continued to increase over the past three months. In part this is due to the deteriorating economic circumstances, as patients previously seeking medical care at private clinics have increasingly turned to UNRWA. The large number of injuries sustained in clashes with Israeli forces, as well as stress-related illnesses, have also led to increased demand. Many of these will be



The following indicators for the Gaza Strip show the increase in demand for UNRWA's medical care, by comparison with the situation prevailing prior to the *intifada*:

Curative Medical Services

Medical consultations increased by 21 per cent
Dental consultations increased by 18 per cent
Laboratory tests increased by 16 per cent

Physiotherapy Services

New cases increased by 30 per cent
Sessions increased by 25 per cent

Chronic Diseases

Diabetes Mellitus patients increased by 12 per cent
Hypertension patients increased by 12 per cent
Bronchial Asthma patients increased by 13 per cent

Medical Supplies

Consumption increased by approximately 17 percent

Supplementary Feeding Programme (Dry Rations)

The number of pregnant women receiving rations increased by 21 per cent
The number of nursing mothers receiving rations increased by 3 per cent

chronic cases, imposing a long-term impact on Agency services.

UNRWA continues to provide special care, including physical rehabilitation, prosthetic devices and cash assistance, for refugees injured in clashes with Israeli occupation forces. As of November, the Agency had assisted 550 refugees in the Gaza Strip who sustained physical disabilities over the past 15 months. UNRWA continues to operate special physiotherapy clinics in the West Bank.

Education Assistance

The ongoing Israeli siege in the occupied territories continues to have a severe impact on UNRWA schools. In September 2,281 absences were recorded, almost 40 per cent of the total number during the entire 2000/2001 academic year. In Gaza alone, 25 students registered at UNRWA schools were killed and more than 550 have been injured since the start of the *intifada*. Over three-hundred school children from al-Mawasi in the Gaza Strip have been delayed an average of one hour each day at a checkpoint on their way home to school in Rafah and often subjected to humiliating inspections including with the use of dogs.

In October the Israeli reoccupation of areas of the West Bank once again seriously disrupted the Agency's schools. A total of 31,386 students lost between one and nine days in the classroom. UNRWA recorded 3,169 absences among its teachers, an average of 122 per day. Some 5,500 teacher days were lost in September and October 2001. The loss is the same as the total lost in the entire 2000/2001 school year. The problems in mobility forced the Agency to continue to appoint additional teachers to fill in for colleagues who were unable to reach their workplaces and conduct remedial classes. In an attempt to respond to the psychological needs of the children enrolled in its schools in the West Bank, UNRWA extended the contracts of 23 counsellors recruited in February 2001.

Humanitarian Access

In the West Bank during September, UNRWA vehicles were detained at Israeli checkpoints in record numbers. Nearly 300 armed incidents were

reported, an average of 10 each day. In the Gaza Strip, Israeli imposed restrictions continue to hamper both the Agency's regular and emergency operations. More than 45 ten-tonne truckloads of supplies remain at the Agency's West Bank Field Office awaiting transport to Gaza. Difficulties continued to be faced in obtaining travel permits for area staff members engaged in duty travel arrangements. No permits have been given to any of the area staff drivers, thus creating major obstacles to the Agency's operations.

Sources: UNRWA Emergency Appeals Progress Reports, Graduate Institute of Development Studies, University of Geneva - IUED (Report III, December 2001), *Palestinian Public Perceptions on Their Living Conditions, The Role of International and Local Aid during the Second Intifada*.

UNRWA Award King Hussein Humanitarian Award

In November, the UN Relief and Works Agency for Palestine Refugees (UNRWA) was awarded the King Hussein Humanitarian Leadership Prize for its 50 years of services to Palestinian refugees and its emergency work in the Israeli-occupied West Bank and Gaza Strip over the last 13 months of Israeli violence. The prize is given annually on the late King Hussein's birthday by the King Hussein Foundation for exceptional humanitarian leadership in the effort to advocate sustainable development, human rights, equity and peace. UNRWA, which was nominated by BADIL, was selected for the prize from among 67 different nominations from 29 countries.

BADIL Resource Center considers the successful nomination of UNRWA for the King Hussein Peace Prize to be part of the broader effort to highlight to the Arab and international community the importance of UNRWA services to the Palestinian refugee community, as well as the international obligation to cater for the needs of the growing refugee population, until a durable solution of their plight can be implemented in accordance with UN Resolution 194 (return, restitution, and compensation). UNRWA announced that the prize of US \$50,000, which accompanies the award, will be used by the Agency for its program of trauma counseling for Palestinian children psychologically affected by the recent Israeli violence in the occupied Palestinian West Bank and Gaza Strip.

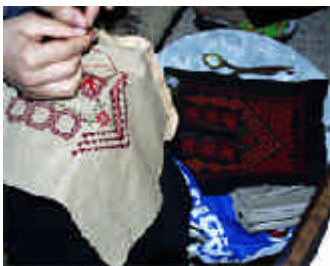
Refugee Voices

"Stitching a Homeland"



"Though she has never seen Hebron, young Ola Abass can imagine what its moon must look like. Huddling around a space heater with her sister, mother, and 18 other women at Rashidieh refugee camp, [9 year old] Ola is spending this cold winter morning embroidering the blue Hebron moon onto squares."

"In spite of the bad situation we're living in, we create embroidery and send it all over the world," says [Aidia Gadban, one of the women in the embroidery group]. "We just want the right to life, the right to return, and like embroidery we have to hold onto that from one generation to the next."



"For Palestinian refugees in Lebanon embroidering has long been a way of, quite literally, holding onto hope. During the 1982 Israeli invasion Palestinians fleeing for their lives brought their thread with them, embroidering for al-Badia in the bomb shelters. That same year, when refugees from Ain al-Hilweh were left sleeping beside the sea near Sidon, an Italian women named Adel Manzini chose to help by distributing thread and cloth pieces rather than food. Soon 300 women were embroidering beside the sea."

"Palestinian embroiderers still read pieces of cloth like maps holding secrets to lost villages - with different colored roses, stars and cyprus trees revealing the landscapes of Ramallah, Bethlehem and Jerusalem. Though these women [have] never [seen] Palestine, to embroider is to understand that in the world of cloth, and perhaps in reality, Ramallah and Hebron have different cyprus trees, Bethlehem and Jerusalem have different roses. Even the "gates of heaven," a traditional Palestinian stitch, rise differently depending on your origins."



"[According to Hamida] Othman [a group coordinator], for the women embroidering, no difference exists between embroidering, and holding on to the right of return. "Often, when we speak of Palestinian issues, the first thing we speak about is traditional embroidery. We talk about traditional dresses, and how our families used to wear them in Palestine, and what that meant. It makes us remember that each traditional stitch first belonged to us in Palestine." "Here, they feel like they are also somehow helping the intifada. For us, creating traditional embroidery is our way of continuing to struggle."

Established in 1977 with women left widowed by the Tel al-Zaatar massacre, [al-Badia, a Najdeh Association program] today has two main workshops in Rashidieh and Ain al-Hilweh camps, with smaller groups active in Bourj al-Shamali, Mieh Mieh, Shatila, Beddawi, and Nahr al-Bared. Their embroidered goods are sold primarily in the al-Badia shops in Beirut, with some of the products being exported to Europe.

BADIL Information Packet (3rd Edition) - Includes Right of Return, Campaign for the Defense of Palestinian Refugee Rights Brochure, Palestinian Refugees in Exile Country Profiles, and BADIL Information & Discussion Briefs. (*English & Arabic*)

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The Packet is also available on the BADIL website.

Follow-Up Information Submitted to the Committee for Economic, Social and Cultural Rights, Regarding the Committee's 1998 "Concluding Observations", Regarding Israel's Serious Breaches of its Obligations under the International Covenant on Economic, Social and Cultural Rights, for the 13 November 2000 Convening of the Committee, With Special Documentary Annex (*Prepared by Dr. Salman Abu Sitta*), Quantifying Land Confiscation inside the Green Line. (*English and Arabic*), 65 pages

Report to the Committee on Economic, Social and Cultural Rights, 25th Session, 23 April 2001, General Item: Follow-Up Procedure (Israel). (*English and Arabic*), 28 pages

The 1948 Palestinian Refugees and the Individual Right of Return: An International Law Analysis, January 2001. Prepared by Gail J. Boling, Coordinator of the BADIL Legal Unit (*English and Arabic*), 50 pages

Occasional Bulletin No. 8 - A Climate of Vulnerability - International Protection, Palestinian Refugees, and the al-Aqsa Intifada One Year Later. (*English and Arabic*), 4 pages

Occasional Bulletin No. 9 - A Two-State Solution and Palestinian Refugee Rights - Clarifying Principles (October 2001)

Occasional Bulletin No. 10 - Principles and Mechanisms for a Durable Solution for Palestinian Refugees: "The Taba Proposals" (*English and Arabic*), 4 pages

Occasional Bulletin No. 10 - Annex Annex to Bulletin No. 10 - Full text of the Taba Proposals. (*English and Arabic*), 4 pages

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For a complete list of BADIL Occasional Bulletins, see the BADIL website

Palestinian Refugees and the al-Aqsa Intifada: The Legal Obligation to Provide International Protection and to Work for a Durable Solution. Submitted to the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories, July 2001

The First Regional Coordinating Meeting between Organizations working in the field of the Defense of Palestinian Refugee Rights, Cyprus (October 2000). (*Arabic*), 80 pages

Jerusalem 1948: The Arab Neighborhoods of the City and their Fate in the War (BADIL/IJS, 1999). The book is available in English with Arabic translation of the introduction, 304 pages. ISBN 0-88728-274-1. 2nd Revised edition forthcoming. Arabic edition forthcoming.

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BADIL Website
www.badil.org

To order BADIL publications, please contact BADIL:
Tel/Fax. 274-7346 or email: admin@badil.org

Videos



Yoom Ilak, Yoom Aleik, Palestinian Refugees from Jerusalem 1948: Heritage, Eviction and Hope (BADIL 1998) US\$ 25



Seeds of War in Jerusalem: The Israeli Settlement Project on Abu Ghna'im Mountain (BADIL/AIC 1997) US\$ 10



Jerusalem: An Occupation Set in Stone? (PHRM 1995) US\$ 20

For a complete list of BADIL publications and videos, please see the BADIL website. For a list of other websites on Palestinian refugees see the links on the BADIL website:

www

www.badil.org/Refugees/links.htm

BADIL Library - Donations



BADIL welcomes **donations of books, periodicals, monographs** (*English & Arabic*), as well as **photographs**, to its library on subjects covering Palestinian history, the Palestinian-Israeli conflict, international law, refugees in general, and Palestinian refugees in particular. The collection is intended as a community resource for information and research on Palestinian refugees.

If you would like to donate **materials** to the library or make a monetary contribution, please contact Terry Rempel, Coordinator of Research & Information: resource@badil.org.

Due to pressing research and production needs, BADIL is also in need of a **volunteer** with library skills in order to facilitate organization and cataloguing of our resources. Interested persons should contact the Resource Unit: resource@badil.org

Documents

This section includes recent statements from refugee community organizations, human rights organizations, and other relevant documents related to Palestinian refugee rights.

1. Public Statement Issued by Palestinian Popular Institutions, Organizations and Unions, 20 November 2001
 2. Concluding Statement of the Second Coordinating Meeting of the Coalition for the Palestinian Right of Return. Brussels, 27-30 November 2001
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1. PUBLIC STATEMENT ISSUED BY PALESTINIAN POPULAR INSTITUTIONS, ORGANIZATIONS AND UNIONS, 20 November 2001

On October 17, 2001, the New York Times newspaper published an article on a lecture given by Dr. Sari Nusseibeh at Jerusalem's Hebrew University on October 15. In that article, Dr. Nusseibeh is said to have "criticized the Palestinian uprising as hopelessly mired in bloodshed and argued that a peace agreement incorporating a Palestinian state could only be reached if the Palestinians abandoned a longstanding demand for the return of refugees dislocated in war more than 50 years ago to their former homes in Israel." "The Palestinians have to realize," the article quotes Dr. Nusseibeh as saying, "that if we are to reach an agreement on two states, then those two states will have to be one for the Israelis and one for the Palestinians, not one for the Palestinians and the other also for the Palestinians" (Source: Joel Greenberg, "Palestinian Offers Idea: Get Israelis On Our Side", The New York Times, October 17, 2001). Dr. Nusseibeh has also made those statements to a number of media outlets, including Al-Jazeera TV, and to Israel's Channel One Television, on November 7, 2001.

Based on the above mentioned article, and on other statements made by Dr. Nusseibeh to various Western, Israeli and Arab media - statements which are much more loaded than the above-mentioned quote, and are against the Intifada, and ridicule the Palestinian mentality, and marginalize the legitimate rights of the Palestinian people - we as popular refugee institutions, unions and organizations would like to stress the following:

First: Dr. Nusseibeh represents only himself. We deem his speech at the Hebrew University, and his subsequent statements in general as a flagrant violation of our national rights, particularly of our brave Intifada, and of our right of return to our homes from which we were forcibly displaced by Zionist terrorism. Our right of return can neither be abrogated nor cancelled by Dr. Nusseibeh and the like.

Second: Mr. Nusseibeh's call for the establishment of two ethnic states contradicts the right of every individual refugee to return to his/her homeland. It also goes in contradiction with the struggle of our people inside the Green Line who bitterly suffer every day and every moment from ethnic racism practiced against them. It is worth reminding Dr. Nusseibeh and others that there are 1.3 million Palestinian citizens inside "Israel," among them some 250,000 internally displaced who live as refugees in their homeland, often a very short distance from their original homes and properties. These refugees are denied the right to return to their homes and lands by the ethnic racist state, and they are prevented from practicing their natural right to live on their properties and reap their fruits. This is their fate solely because they are Palestinians. Does Nusseibeh therefore advocate the establishment of an ethnically pure and racist Jewish Zionist state, as do the extreme racist Zionists?

Third: There are international resolutions and laws, and there are human rights laws that guarantee the refugees' right to return to their homes, irrespective of who holds the power or has the authority. Do we surrender our individual and collective rights to an abhorrent ethnic excuse and to the law of the jungle!? What is it that Dr. Nusseibeh wants us to "realize!?" We fully understand that no people in the world except our own has had to accept an unjust UN resolution like Resolution 181 (UN Partition Plan for Palestine), which was a violation of international law, as well as consequent UN resolutions, such as 194, 242, in order to establish their state on the remaining part of Palestine, and for the return of the refugees to their homes. We as a people, along with our leadership, fully understand that the rights of refugees are guaranteed in resolution 194, specifically in its explicit text on their right to return to their homes, and to practice the freedom of choice.

Fourth: What Dr. Nusseibeh is stating can not be considered within the freedom of expression or personal opinion. The rights of nations and of individuals can not be subjected to intellectual or academic exercise. These are rights with clear interpretations, and with clear basic rules.

Fifth: We demand that Dr. Nusseibeh stop damaging our rights and that he stop abusing the freedom of opinion and expression. We also demand that he follow the Palestinian National Program to which we have all agreed, as a people along with our leadership. Unless Dr. Nusseibeh has his own national or political agenda, there is no reason why he should not follow this program. If however he does have his own agenda, then we demand that he spell it out publicly. We urge him to read various statements made by Palestinian President Yasser Arafat in Arab, international and Islamic forums, wherein Mr. Arafat repeatedly affirms that the basis for solving the Palestinian refugee question lies in UN General Assembly Resolution 194, with international law and international legitimacy serving as terms of reference.

Signatories:

Popular Committees - Gaza Strip
Union of Community Youth Centers in the Refugee Camps - Palestine
National Society for the Defense of the Displaced Inside Israel - 1948 Palestine
Union of Women Activity Centers - West Bank Refugee Camps
BADIL Resource Center, Bethlehem, Palestine
Committee for the Defense of Refugee Rights - Balata Camp, Palestine
Jafa Cultural Center - Balata Camp, Palestine
Higher National Committee for the Return of the Refugees - Sana'oud - Nablus Governorate, Palestine
Office of National Institutions - Tubas Governorate, Palestine
Students Council - Jerusalem Open University - Nablus, Palestine
Handicapped Rehabilitation Committee - West Bank Refugee Camps, Palestine
The Coordinating Committee of Political Factions - Nablus Governorate
The Coordinating Committee of Political Factions - Tubas Governorate
All-Party Coordinating Committee-Jerusalem, Palestine
Aidun Group, Syria
High Committee for the Defense of the Right of Return, Jordan
Al-Awda Network, UK
Al-Awda, Palestine Right to Return Coalition-Steering Committee, North America
Palestinian Right of Return Coalition-Europe

2. Concluding Statement of the Second Coordinating Meeting of the Coalition for the Palestinian Right of Return. Brussels, 27-30 November 2001

There is no question that the *al-Aqsa intifada* (uprising), now in its second year of noble sacrifices, has strengthened the Palestinians' resolve and determination in seeing through to completion their struggle for their national rights, which have become the unifying and focal point of Palestinian sentiment whether in the homeland or in exile.

The sacrifices of the Palestinian people during the brave *intifada* have forged certain developments and changes on the ground. This, in turn, has contributed to constructing new frameworks for struggle and unity which proved more effective in protecting the *intifada* and maintaining our people's national goals, defined as: ending the Israeli occupation; establishing an independent sovereign Palestinian state, with Jerusalem as its capital; and adhering to our right of return, as spelled out in UN General Assembly Resolution 194.

As part of our people's efforts to secure their national rights, this Second Coordinating Meeting was held in Brussels between 27-30 November 2001 on an invitation from the Bethlehem-based BADIL Resource Center for Palestinian Residency and Refugee Rights, in cooperation with OXFAM / Belgium. Various NGOs, committees and centers working for the defense of our right of return (listed below) also took part in this meeting and were consulted. At a time when our people is engaged in a valiant struggle for their national rights, under the most difficult and complicated of international situations, the aim of this meeting was to improve the level of coordination and cooperation among the participating organizations in order to strengthen the position of Palestinian refugees and internally displaced persons.

The following goals were set for this Second Coordinating Meeting:

1. Improving the level of coordination and cooperation among the participants.
2. Formulating a unified discourse on return which is based upon international laws and principles.
3. Designing a joint action plan for the year 2002.

The meeting began with an evaluation session during which participants reviewed their activities related to the defense of the right of return. They reviewed the achievements in this respect and elaborated upon the obstacles and difficulties they faced. They then moved on to a presentation and discussion of the working papers and the topics on the agenda, **including:**

1. The participants' reports on their activities for the previous year.
2. A paper entitled "The Right of Return and Self Determination - Principles and Priorities," presented by the two 'Aidun groups of Lebanon and Syria.

3. A paper entitled "The Palestinian Refugees' Right of Return and the European NGO Solidarity Movement," presented by BADIL Resource Center.
4. A paper entitled "Towards the Publication of an Arabic-Language Periodical by the Right of Return Coalition," presented by BADIL Resource Center.
5. A study of the Bosnian refugees' experience and of the mechanisms for their return to their homes of origin.

At the end of the discussion sessions and in light of the conclusions and results reached, the participants made **the following decisions:**

1. Declaring that the "Coalition for the Palestinian Right of Return" shall serve as the main umbrella organization, which will include all current member organizations and will be open to all NGOs, committees and centers working on the right of return who wish to join the coalition.
2. Agreeing to reach out to Palestinian organizations and centers working on the right of return in those countries that were not represented in this meeting, to invite them to join the coalition.
3. Agreeing to strive to strengthen relations with other (i.e., non-Palestinian) solidarity organizations and groups in order to widen support for our right as refugees to return to our homes of origin, in accordance with Resolution 194, and to impress upon the international community its obligation to guarantee our return.
4. Emphasizing that the general principles on return which were part of the Concluding Statement of last year's First Coordinating Meeting, held in Cyprus, remain part of the unified basis for the Coalition for the Palestinian Right of Return.
5. Entrusting BADIL Resource Center with the responsibility for coordinating among coalition members during the year 2002.

The following recommendations were agreed upon:

1. To continue discussion on the publication of an Arabic-language periodical under the name of the coalition. It was agreed that a decision should be reached on this issue by the end of February 2002.
2. To refine the paper presented by the two 'Aidun groups from Lebanon and Syria, in light of the recorded remarks and suggestions.
3. To address world public opinion in accordance with the bases and principles of the coalition's discourse on return.
4. To work to alert Palestinian refugees living in Europe and America of the importance of registering with UNRWA.
5. To confront adamantly any statement made or position taken that infringes upon our right of return or tries to relegate this right to a mere bargaining chip.
6. To hold the next coordinating meeting of the coalition in one year's time.

The right of return has become an essential part of the current Palestinian national struggle and the core foundation of the work of several of our NGOs, popular centers and committees. This being the case, it is imperative that the coalition strengthen itself in order to be able to shoulder the tasks for which it has taken responsibility.

The participants in the meeting also stressed the belief that defending our right of return is a responsibility of all Palestinians wherever they may be and that the decades-old struggle to achieve our national rights will not end until these rights are fully granted. Our people are all united on all these rights and will struggle for them all.

At the closing of the meeting, the participants saluted with appreciation our brave intifada, in which our unarmed people are confronting the occupation forces with steadfastness and resolve to achieve their full rights. The participants also saluted our brothers in the 1948 territories, who are struggling against Israel's racism, all the while clinging to their national identity and their sense of belonging to their nation.

A salute of reverence to our martyrs.

A salute of appreciation and reverence to our steadfast prisoners in Israeli jails.

We shall return to our land.

Brussels, 30 November 2001

Participants in the Second Coordinating Meeting of the Coalition for the Palestinian Right of Return:

1. BADIL Resource Center for Palestinian Residency and Refugee Rights - Palestine.
2. Committee for the Defense of Palestinian Refugee Rights & Yafa Cultural Center - Palestine.
3. Union of Youth Activity Centers - Refugee Camps, Palestine.
4. National Society for the Rights of the Internally Displaced - 1948 Palestine/Israel.
5. High Committee for the Defense of the Right of Return - Jordan.
6. 'Aidun Group - Syria.
7. 'Aidun Group - Lebanon.
8. Forum of NGOs in Lebanon (an umbrella coalition including most major Palestinian NGOs operating in Lebanon) - Lebanon.
9. Palestine Right to Return Coalition (Al-'Awda Network) - North America.
10. Al 'Awda Network, UK
11. Palestine Right of Return Coalition - Europe.

About the meaning of *al-Majdal*

Al-Majdal is an Aramaic word meaning fortress. The town was known as Majdal Jad during the Canaanite period to the god of luck. Located in the south of Palestine, al-Majdal had become a thriving Palestinian city with some 11,496 residents on the eve of the 1948 war. Al-Majdal lands consisted of 43,680 dunums producing a wide variety of crops, including oranges, grapes, olives and vegetables. The city itself was built on 1,346 dunums. During Operation Yoav (also known as 10 Plagues) in the fall of 1948, al-Majdal suffered heavy air and sea attacks by Israel which hoped to secure control over the south of Palestine and force out the predominant Palestinian population. By November 1948, more than three quarters of the city's residents of the city's residents, frightened and without protection, had fled to the Gaza Strip. Within a month, Israel had approved the settlement of 3,000 Jews in Palestinian homes in al-Majdal. In late 1949 plans surfaced to expel the remaining Palestinians living in the city along with additional homes for new Jewish immigrants. Using a combination of military force and bureaucratic measures not unlike those used today against the Palestinian population in Jerusalem, the remaining Palestinians were driven out of the city by early 1951. Palestinian refugees from al-Majdal now number over 71,000 persons of whom 52,000 are registered with UNRWA. Like millions of other Palestinian refugees, many of whom live close to their original homes and lands, they are still denied the right to return. Al-Majdal, BADIL's quarterly magazine reports about and promotes initiatives aimed at achieving the Palestinian right of return and restitution of lost property as well as Palestinian national rights in Jerusalem.

BADIL aims to provide a resource pool of alternative, critical and progressive information and analysis on the question of Palestinian refugees in our quest to achieve a just and lasting solution for exiled Palestinians based on the *right of return*.