

# al majdal

ISSUE NO.20 ~ December 2003

 a quarterly magazine of  
BADIL Resource Center for Palestinian Residency & Refugee Rights

## **The Other 'Disengagement'**

**Human Rights, Popular Democracy  
and a Just Peace**



**LAND TO THE LANDLESS!  
TAKE BACK:  
Unused land  
Unproductive land  
Land of abusive farmers  
Land of absentee owners**

**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.

**BADIL** was established in January 1998 and is registered with the Palestinian Authority and legally owned by the refugee community represented by a General Assembly composed of activists in Palestinian national institutions and refugee community organizations.

**Printer:** Al-Resalah Press, Jerusalem

**Cover Photo:** Landless People's Movement (LPM), Soweto Township, November 2003.

---

BADIL welcomes comments, criticism, and suggestions for al-Majdal. Please send all correspondence to the editor at, [resource@badil.org](mailto:resource@badil.org).

The views expressed by independent writers in this publication do not necessarily reflect the views of BADIL.

**al- Majdal** is a quarterly magazine of BADIL Resource Center that aims to raise public awareness and support for a just solution to Palestinian residency and refugee issues

[www.badil.org/majdal/al\\_majdal.htm](http://www.badil.org/majdal/al_majdal.htm)

**Annual Subscription**  
**(4 issues)**  
**US\$ 20**

**Published by**  
BADIL Resource Center for Palestinian  
Residency and Refugee Rights  
PO Box 728  
Bethlehem, Palestine  
Tel/ Fax: 972- 2- 274- 7346  
Email: [info@badil.org](mailto:info@badil.org)  
Web: [www.badil.org](http://www.badil.org)

**ISSN 1726-7277**

**Editor**  
Terry Rempel

**Editorial Team**  
Terry Rempel, Nihad Boqai', Mohammad  
Jaradat, Ingrid Jaradat Gassner

**Layout & Design**  
Atallah Salem

**Advisory Board**  
Salem Abu Hawash (Palestine)  
Salman Abu Sitta (Kuwait)  
Abdel Fattah Abu Srou (Palestine)  
Susan Akram (USA)  
Mahmoud al- Ali (Lebanon)  
Aisling Byrne (UK)  
Marwan Dallal (Palestine)  
Randa Farah (Jordan)  
Arjan al- Fassed (Netherlands)  
Jalal Al Hussein (Switzerland)  
Mahmoud Issa (Denmark)  
Mustafa al- Khawaja (Palestine)  
Scott Leckie (Switzerland)  
Ali Nasser (Syria)  
John Quigley (USA)  
Rosemary Sayigh (Lebanon)  
Rami Shehadeh (Palestine)

# Contents



## Editorial:

- The Other 'Disengagement': Human Rights, Popular Democracy and a Just Peace** 4

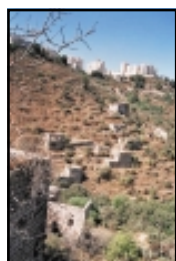
## Campaign for Palestinian Refugee Rights



- Survey of Palestinian Refugees and IDPs* Given Official Launch in UK  
Right of Return Conference (London)  
*by Aisling Byrne* 7
- 4<sup>th</sup> Annual Right of Return Meeting  
*by Jaber Suleiman* 7
- South Africa Study Tour  
*by Nihad Boqai' and Mahmoud Issa* 10
- Zochrot Seminar on the Palestinian Refugee Issue  
*by Ingrid Jaradat Gassner* 19

## War Crimes Update

- The Burj ash-Shemali Massacre (*excerpts*)  
*by Jaber Suleiman* 22



## Feature

- Relative Humanity: The Fundamental Obstacle to a Secular Democratic Solution  
*by Omar Barghouti* 31

## Refugee Protection

- Housing and Property Restitution for Palestinian Refugees, Report from the 2<sup>nd</sup> BADIL Expert Forum 37
- Update on Palestinian Refugees from Iraq 29
- House Demolition in Rafah 40
- American and European Initiatives Attempt to Cancel the Right of Return 40
- Impact of the Apartheid Wall on Registered Refugees (*Excerpts*) 42



## Refugee Assistance

- UNRWA's Role in Housing Reconstruction 43  
*by Ron Wilkinson*
- UNRWA Faces Serious Decline in Donor Contributions for Emergency Programs 48

## In Memoriam

- List of Names of Palestinians Killed by Israeli Military Forces During the Second *Intifada*,  
28 September - 31 December 2003 49

## Resources on Refugees 50

## Documents



1. National Lawyers Guild, Resolution Affirming the Individual and Collective Palestinian Right of Return 52
2. Fatah Statement on the Geneva Understandings 52
3. Final Statement and Recommendations, 4<sup>th</sup> Annual Meeting of the Palestine Right of Return Coalition 53
4. Statement by Unions, Syndicates, National and Popular Organizations in the Gaza Strip, Concerning the Geneva Understandings 54





## The Other 'Disengagement' Human Rights, Popular Democracy, and a Just Peace

---

*"The Apartheid Wall", Qalqilya, West Bank. Source: Tineke D'haese, Oxfam Solidarity/Belgium.*

*There are three critical factors for a comprehensive and durable solution to the Palestinian-Israeli conflict. First, it should be consistent with international law and relevant UN resolutions. Secondly, the process must allow for broad public participation. And finally, based on the above, a comprehensive and durable solution must respect refugee rights while the process itself must include refugees.*

Unfortunately, the flurry of official and unofficial political activity among many international diplomats, and Israeli and Palestinian political figures over the past several months signals a further disengagement from human rights and popular democracy and a setback in the search for a just peace. In terms of end results, there is not a lot of distance between Ariel Sharon's recent talk of 'unilateral disengagement' from the Palestinians and many of the high-profile alternative efforts to find a solution to the conflict.

Given the moribund state of the so-called Road Map, which is still viewed as 'the only game in town', many international actors have thrown their political support behind alternative initiatives, including the so-called 'Geneva Understandings' that were released in a glitzy ceremony in the Swiss capital in December 2003. Those who drafted the initiative in the relative seclusion of Dead Sea resorts and the luxurious trappings of Lake Geneva argue that the initiative is meant to prove, first and foremost, that it is possible to reach a "fair and executable agreement" between the two sides.

The Geneva Understandings, however, are far more notable for the complete lack of respect for basic human rights and popular participation in the peacemaking process. They go so far as to state that where such an agreement contradicts the Charter of the United Nations, the agreement itself would override the Charter. Like Oslo the understandings are predicated on Israeli perceptions of security and the exclusive character of the Jewish state. Equality and basic human rights, including the rights of more than 5 million Palestinian refugees, are therefore dismissed as obstacles in the grand pursuit of a final status arrangement.

Refugees were never consulted about the substance of the so-called understandings until after the fact. Even then, it was only those refugees in 1967 occupied Palestine, who comprise the smaller part of the total refugee community, that were actually 'consulted', albeit only through opinion polls. This cavalier attitude is not unlike that of Labor Zionists at the Israeli Foreign Ministry who observed in 1949 that of the nearly 1 million Palestinian refugees "the most adaptable and best

survivors would 'manage' by a process of natural selection and others will waste away. Some will die but most will turn into human debris and social outcasts and probably join the poorest classes in the Arab countries."<sup>(1)</sup>

What is also troubling is the extent to which many international actors appear willing to turn a blind eye to the absence of these principles.

Perhaps taking a cue from a recent American measure requiring Palestinian NGOs to sign an ill-defined 'anti-terrorism' pledge (that could potentially include all forms of resistance to the Israeli occupation) as a pre-condition for USAID support, some European states appear to be linking continued financial support to the cessation of NGO critique of the Geneva Understandings, thereby undermining the very essence of civil society which they claim to

support. At the same time these very same governments are encouraged by opinion polls, like the one conducted by the Baker Institute and the International Crisis Group, claiming that close to a majority of Palestinians support the understandings, not giving much credence to the fact that the polls exclude the majority of the Palestinian people - i.e., refugees - who reside in exile.

One of the few positive developments in the last three months is an initiative, sponsored by a number of Arab states, South Africa, and Cuba (UNGA Res. ES-10/14, 3 December 2003) requesting an advisory opinion from the International Court of Justice (ICJ) on the legal consequences of Israel's apartheid wall, considering the rules and principles of international law, including the Fourth Geneva Convention of 1949. The resolution followed the submission of a first report by the UN Secretary General noting Israel's non-compliance with GA Resolution ES-10/13, 27 October 2003 calling upon Israel to stop and reverse construction of the wall.

The initiative is a welcome step towards a return to the rule of law. More than fifty years ago the UN General Assembly rejected a similar request seeking an ICJ Advisory Opinion about the whether the UN had the authority to recommend the partition of Palestine. As was the case in 1947, the current ICJ initiative has wider legal and political implications. It raises fundamental questions about Israel's legal regime that has been used for more than five decades to displace and denationalize the indigenous Palestinian population of historic Palestine, expropriate their land, and segregate remaining Palestinians into separate living spaces.

Neither Sharon's threat of a unilateral disengagement from the Palestinians nor international efforts that disengage basic principles of human rights, public participation and refugees from the peacemaking process will lead to a just peace. Without a significant reassessment and change in Israeli and international attitudes towards a just peace, what is likely to be achieved is no more than what Sharon himself has called 'a long-term interim arrangement with a territorial dimension'. Palestinians and Israelis deserve far better.

The ICJ initiative also focuses attention on a fundamental political question at the heart of the Palestinian-Israeli conflict - is separation or partition a feasible let alone just and durable solution. Already in 1937, the Woodhead Commission warned that any attempt to partition the country, given the diffusion of the Arab and Jewish population, held a real danger of sparking a mass involuntary population transfer. Following decades of

involuntary transfer, which has created a situation where the majority of the Palestinian people reside in forced exile outside their historic homeland, it must be asked whether partition or a two-state solution really provides a solution to the root causes of the conflict.

Regardless of the final architecture of a solution, human rights and popular democracy are critical elements of a just and durable peace. While human

rights may not provide ironclad guarantees for successful implementation of a peace agreement nor absolute guarantees against future violations, they do provide a common framework to regulate relations between former antagonists, mediate disputes, reconcile past injustices, and ensure that no individual or party is above the law and can act with impunity. Even when the UN went ahead with the ill-advised partition plan in 1947 (Resolution 181), the plan included extensive human rights provisions for these very purposes. "It is important, in the interest of orderly society, and of the well-being of all Palestinians," wrote those who drafted the recommendation for the General Assembly, "that full safeguards be ensured for the rights of all."<sup>(2)</sup>

Popular participation in the peacemaking process is important not only for determining the will of the people in ending the conflict, but also in determining the shape of a final peace. Public participation strengthens democratic principles and structures, expands the range of solutions to complex issues, lends greater legitimacy to agreements, engenders broad public ownership of the agreement and contributes to its long-term durability.<sup>(3)</sup> Since the 1919 Paris Peace Conference, when British Foreign Secretary Arthur Balfour boasted that in Palestine "we do not propose even to go through the form of consulting the wishes of the present inhabitants of the country,"<sup>(4)</sup> ordinary Palestinians have been largely excluded from the very process of determining their own future, including making peace.

Respect for human rights and public participation in the peacemaking process also mean that any agreement must

recognize refugee rights while the process leading to such an agreement must include refugees themselves. "In a balanced human rights perspective," writes Gervaise Coles, "the primary aspect is the right to remain in, or return to, the country of origin. It is the violation of this right which is the cause of the problem of refugees."<sup>(5)</sup> The popular mobilization of the internally displaced inside 1948 Palestine-Israel and refugees inside 1967 occupied Palestine beginning in the 1990s was not only a demand for the recognition of basic refugee rights, but it was more broadly a demand for the democratization of the peacemaking process from which refugees, who comprise the majority of the Palestinian people, have been excluded.

Neither Sharon's threat of a unilateral disengagement from the Palestinians nor international efforts that disengage basic principles of human rights, public participation and refugees from the peacemaking process will lead to a just peace. Without a significant reassessment and change in Israeli and international attitudes towards a just peace, what is likely to be achieved is no more than what Sharon himself has called 'a long-term interim arrangement with a territorial dimension'. Palestinians and Israelis deserve far better.

The role of human rights in peacemaking is addressed in this issue in the summary report of the second BADIL Expert Seminar that focused on the issue of housing and property restitution for Palestinian refugees. This issue is also addressed in two reports about BADIL's second community fact-finding mission. The delegation of Palestinian refugee activists and researchers travelled to South Africa to examine land restitution in the post-Apartheid era.

The role of human rights as a means of reconciling past injustices, and the absence of such rights and mechanisms in the Palestinian-Israeli peacemaking

process, is further examined through testimonies of the survivors of the Burj al-Shemali massacre. Recent EU and US Congressional resolutions highlight ongoing efforts to ignore the basic rights of Palestinian refugees, including the right of return and right to housing and property restitution.

The fact-finding mission also looked at the issue of popular participation in the peacemaking process in South Africa. Issues related to popular participation are also discussed in articles about 4<sup>th</sup> Right of Return Coalition Meeting and a joint seminar between Israeli activists from Zochrot Association and refugee activists from the Bethlehem and Hebron areas about the *Nakba* and the right of return.

In *al-Majdal's* feature section, Omar Barghouti looks into the debate around a secular democratic state in all of historic Palestine as a just solution to the Israeli-Palestinian conflict. Finally, an overview of recent UNRWA efforts in housing rehabilitation and reconstruction in Syria and the West Bank raises important questions about the role of the Agency in implementing durable solutions for Palestinian refugees. ■

### Endnotes

(1) Middle East Information, The Problem of Arab Refugees, State Archives, Foreign Ministry, Refugees, 2444/19 cited in Tom Segev, 1949: *The First Israelis*, 1998.

(2) UN Doc. A/364, 31 August 1947.

(3) Catherine Barnes, *Owning the Process: Mechanisms for Political Participation of the Public in Peacemaking*. Conciliation Resources, 2002.

(4) British Government, Foreign Office No. 371/4183 (1919).

(5) Gervaise J.L. Coles, *UNHCR and the Political Dimension of Protection*, 1995.

## Upcoming Events

### 15-17 January 2004: BADIL community workshops, Ramallah-Bethlehem

Topic: "*Mechanisms and structures for civic participation in shaping Palestinian politics and peacemaking*" (Dr. Karma Nabulsi)

### 30-31 March 2004 (tentative): Palestinian Land Day, First Right-of-Return Conference in Israel (Haifa)

Organized by the Emil Touma Center and the Association for the Defense of the Rights of the Internally Displaced (ADRID)

### April 2004 (date to be set): 2nd Annual Convention of Al-Awda, The Palestine Right to Return Coalition

New York City; for details contact: Musa al-Hindi, malhindi@netzero.net

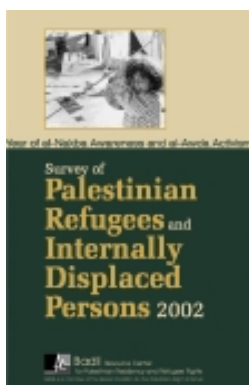
# Campaign for the Defense of Palestinian Refugee Rights

**2003** Year of *al-Nakba* Awareness and *al-Awda* Activism

## Survey of Palestinian Refugees and IDPs Given Official Launch in UK

by Aisling Byrne (al-Awda, UK)

The first edition (2002) of the annual *Survey of Palestinian Refugees and Internally Displaced Persons*, produced by BADIL, was launched in the British House of Commons in London on 6 November 2002, at an event organized by al-Awda, the Palestine Right to Return Coalition UK, and the Joint Parliamentary Middle East Councils in Britain.



The event was chaired by Ernie Ross MP. Speakers included Dr. Mahmoud Issa (RoR Coalition, Denmark), Jaber Suleiman (Aidoun, Lebanon) and Nihad Boqai (BADIL). The event was attended by members of the British Parliament and the House of Lords - including Richard Burden MP, Neil Gerrard MP, Valerie Davey MP, Clive Betts MP, Lord Biffen, Lord Jacobs, Lord Ahmed and Baroness Northover, in addition to Mr. Ali Hamid, Ambassador from the Arab League in London and representatives from the Palestinian General Delegation to the UK, the Labour Middle East Council, the Palestine Solidarity Campaign UK and the Palestinian Return Centre in the UK.

Delegates from the RoR Coalition Workshop being held in London (see below) were also present at the launch: Reem Abu-Sbaih (al-Awda USA), Omar Fares (RoR, Poland), Raja Deeb (Aidoun, Syria), Mofid Hadron (RoR Coalition, Denmark), Soliman Fahmawi (ADRID), Jaber Suleiman (Aidoun, Lebanon), Kassem Aina (Co-ordinating Forum of Palestinian NGOs in Lebanon), Adnan Ajarma (BADIL), Wajih Atallah (Union of Youth Activities Centres, Palestine), Fayez Mustafa (RoR Coalition, Holland), Ibrahim al-Baz (RoR Coalition, Holland), Majed Saleh (RoR Coalition, Holland), Anwar Hamam (Committee for the Defence of Palestinian Refugee Rights, Balata Refugee Camp), Mahmoud Issa (RoR Coalition, Denmark), Nihad Boqai (BADIL), Amjad Taha, Aisling Byrne and Wassim Bahja (al-Awda UK).

## 4<sup>th</sup> Annual Right of Return Coalition Meeting (London), 5-10 Nov. 2003

by Jaber Suleiman (Aidoun, Lebanon)

The 4<sup>th</sup> Annual Right of Return Coalition Meeting took place in London from 5-10 November 2003. The meeting was hosted by al-Awda, the Palestine Right to Return Coalition, UK. Participants came from historic Palestine, Arab countries (with the exception of Jordan), Europe, and North America, and included some 16 societies, organizations, committees, groups, and coalitions working in the field of the defense of the Palestinian right of return.

Since the first meeting of the Coalition in Cyprus (October 2000), on the eve of the *al-Aqsa intifada*, the return movement has expanded in membership and geographic representation. It has also received more attention among Palestinian refugees. The right of return has also become central to several official and unofficial international proposed solutions for the Palestinian refugee issue.

The 4<sup>th</sup> Annual Meeting was held in the context of international and regional developments that witnessed the collapse of the so-called peace process with the "Road Map" reaching a dead end. Among various alternative initiatives, the Geneva understandings constitute the most dangerous unofficial agreement signed by Palestinian and Israeli personalities. The Geneva understandings constitute the first agreement in which Palestinian figures clearly compromised the right of return, the central component of UN General Assembly Resolution 194.

### In Memoriam

Tijl Declercq, a long time supporter of the Palestinian struggle for freedom and justice passed away in Belgium on 25 December 2003 at the age of 81. Tijl was a founding member and president of the Flemish Palestine Solidarity Committee. He was previously co-president of the Belgian-Palestine Association. He was also a deputy in the Belgian Parliament and a Senator for the Christian Democrats. In addition, he helped found the 'Parliamentary Association for Euro-Arabic Cooperation.'





4th Annual RoR Coalition Meeting, London, November 2003.

Based on the conclusions of the 3<sup>rd</sup> Annual Meeting (Copenhagen, December 2002), this year's annual meeting focused on the internal structure of the coalition. Participants at the Copenhagen meeting recognized that the Coalition needed a stronger and more active structure in order to better coordinate work among refugee initiatives, committees, groups, and organizations in Palestine and in exile. Improvements to the internal structure of the Coalition will also facilitate the expansion of the Coalition and assist in encountering current and future difficulties (See, Introduction, *Third Annual Strategy Workshop*, BADIL 2003).

Since the first meeting of the Coalition in Cyprus there has been a perception that random expansion of the Coalition, without strict internal rules governing the relations between the members on the one hand, and with external parties on the other, would inhibit realization of the desired goal of transforming the Coalition into an active lobby in various areas and under different political conditions.

Coalition members recognized the need for a constitution that clearly defines the criteria for membership, and at the same time, sets out the aims of the Coalition, and establishes the necessary structures responsible for organizing and coordinating the work of the Coalition on a democratic basis, including follow-up with Coalition members between annual meetings.

The establishment of internal structures was the main item discussed in the closed sessions of the 4<sup>th</sup> Annual Meeting of the Coalition. Three working papers were prepared to guide discussion and debate: the primary working paper was prepared by the Coordinator of the meeting, Mohammad Jaradat (BADIL); a second working

paper, based on the first, was prepared by Coalition members from Lebanon (Aidoun Group, Forum of NGOs in Lebanon), from Syria (Aidoun Group). Both papers examined potential structures to facilitate further expansion of the coalition and regulation of the relationship between its various bodies. The third paper, prepared by the Right of Return Coalition in Denmark, included comments and suggestions related to the expansion, activation and development of the Coalition in a manner that would guarantee the independence of the return movement as a popular non-governmental movement.

After a review and thorough discussion of the working papers, the 4<sup>th</sup> Annual Meeting adopted the Constitution of the

Palestine Right of Return Coalition. The Constitution includes, in addition to the preamble, three main sections covering the objectives and methodology, guiding principles, and regulations governing internal relations. The Constitution also establishes three bodies: the Annual Meeting, the Executive Office, and Regional Branch Offices. The Annual Meeting constitutes the highest authority of the Coalition, responsible for planning and strategizing Coalition work. The Executive Office is responsible for implementation of the Coalition work plan through the Regional Branch Offices, taking into consideration the distinct characteristics of each region in general, and of each area of the region in particular. The Executive Office is composed of nine members representing various regions (3 members from Palestine; 1 each from Jordan, Syria, Lebanon, Europe, United States and Canada; in addition to BADIL Resource Center which will act as Secretariat of the Executive Office). The Coalition members in each region will nominate an individual to serve in the Executive Office for a period of one year (i.e., between annual meetings). The Regional Branch Offices for Coordination and Follow-up include four offices that cover four geographical areas (Arab host countries, Europe, and North America, and Palestine). Coalition members in each region will determine the location of the regional branch office.

In addition to the 4<sup>th</sup> Annual Meeting of the Coalition, al-Awda UK organized two public activities aimed at raising awareness about Palestinian refugee rights among the British public and in the media. The first activity was organized in the British House of Commons on 6 November (See above), while the other was organized in the University of Westminster, London on 8 November (See below).



## **Right of Return Conference (London):** **"The Right of Return for Palestinian Refugees is the Real Road Map to Peace"**

An international conference was held in London on Saturday, 8 November 2003 organized by al-Awda UK, in partnership with the RoR Coalition. The conference was chaired by Neil Gerrard MP, Chair of All Party Parliamentary Group on Refugees in Britain.

Keynote speakers included: Professor Avi Shlaim, St. Anthony's College, Oxford: "On Old and New History;" Dr. Karma Nabulsi, Nuffield College, Oxford: "Bringing 1948 into the Heart of the Peace Process;" Professor Anat Biletzki, Chair of Philosophy Department at Tel Aviv University, and Chair of the Board of B'tselem: "All Ten Million of Us;" and Omar Barghouti, Palestinian political analyst and writer: "Relative Humanity: The Fundamental Obstacle to a Secular Democratic State Solution." (See page 30 in this issue)

Following the speakers a workshop was held on: International Campaigning on the Right of Return. The workshop was chaired by Victoria Britain, and speakers included: Sharif Nashashibi, Director, Arab

Media Watch, London; Julia Wickham, Co-ordinator, Labour Middle East Council; Jaber Suleiman, Researcher and Writer, Lebanon; and Dr. Mahmoud Issa, RoR Coalition, Denmark.

*RoR Conference, London, November 2003.*



### **Community Statements on Recent Political Initiatives**

Refugees and non-refugees alike have criticized and rejected recent political initiatives, including the so-called Geneva Understandings, because, among other reasons, they do not recognize the right of Palestinian refugees to return and repossess their homes and properties. In addition to civil society organizations both the Palestinian Legislative Council Refugee Committee and the Palestinian National Council have rejected the Geneva understandings. For a selection of views from the grassroots, including Palestinian refugees and non-refugees, concerning recent political initiatives for a comprehensive peace agreement between Israel and the PLO that do not recognize the basic rights of Palestinian refugees, see Documents in this issue, page 50.



[www.omayya.com](http://www.omayya.com)

## **BADIL Fact Finding Visit to South Africa, 10-19 November 2003**



**BADIL Resource Center Fact Finding Visit to South Africa, 10-19 November 2003. Masithuthuke, Rietvlei, KwaZulu-Natal Region**

*In November 2003 BADIL organized a fact finding mission to South Africa that aimed to provide an opportunity for Palestinian refugee activists to learn more about the process of land restitution and public participation in peacemaking. A first mission visited Bosnia-Herzegovina in June 2002. BADIL staff member Nihad Boqai and refugee activist and researcher Mahmoud Issa (Denmark) report on the trip.*

### **Part One: by Nihad Boqai' (BADIL)**

During the 20<sup>th</sup> century, especially during its second half, South Africa and Israel were 'twin' examples of racist colonial projects and ongoing violations of basic human rights of 'native' peoples. During the 1990s, two relevant historic reconciliation processes took place: the Oslo agreements between the Palestine Liberation Organization (PLO) and the Israeli government in Palestine, and the agreement between the African National Congress (ANC) and the "White" government of South Africa.

As is well-known, the first process witnessed a total collapse following the failure of final status negotiations between Palestinians and Israelis at Camp David, USA (2000) and Taba, Egypt (2001). Israel subsequently extended its control over more Palestinian land through further land expropriation and displacement. Basic human rights are still ignored. Refugees remain especially vulnerable. In South Africa the national reconciliation process is ongoing. It has faced significant challenges, but at the same time, it has made significant achievements.

Between 10-19 November 2003, BADIL Resource Center organized a fact finding delegation to South Africa to



**BADIL Delegation to South Africa**

study the process of land reform and property restitution, community participation, and the challenges faced by South Africans in the post-Apartheid era. The delegation consisted of 9 Palestinian activists and researchers in the field of refugee rights from historic Palestine, Lebanon and Europe. The first BADIL fact finding delegation traveled to Bosnia-Herzegovina in June 2002 to study the return process of the Bosnian refugees and internally displaced persons. (See, *al-Majdal* 14, June 2002)

During the visit to South Africa, members of the delegation met with a number of government officials,



NGOs and researchers, in addition to community leaders and activists. The delegation also participated in a workshop on rural land restitution in the city of Nelspruit (Mpumalanga Province), and made a number of field visits in KwaZulu-Natal Province and around the city of Johannesburg.

Land reform is a critical issue for South Africa, in general, and for the reconciliation process, in particular. The history of land dispossession, which was characterized by brutal forced removals and evictions, has left a nation divided along racial lines and a black majority in need of land. These people, especially those from rural areas, lost their lands through a long process of dispossession combining elements of purchase, negotiation, force, legal fiat, fraud and displacement.

### *A history of dispossession*

Dispossession of the black South Africans from their lands began in 1652, when the first European settlers arrived in the Cape Province of South Africa, and continued until the 1990s. During the last latter part of the 19th century, white European settlers promulgated a number of laws that provided the basic framework for the creation of separate African reserves to serve as a source of labor for the "white farms". This legislation included, the 1894 Glen Grey Act and the 1899 Cape Private Locations Act.

The government of the Union of South Africa, established in 1910, also adopted policies to inhibit the further growth of the African peasantry, and relocate them on white-owned farms. This included the introduction of the Native Land Act of 1913. The Act created a number of African "reserves" for the settlement of black South Africans, which would serve as pools of migrant labor for white-owned farms and urban-based industry.

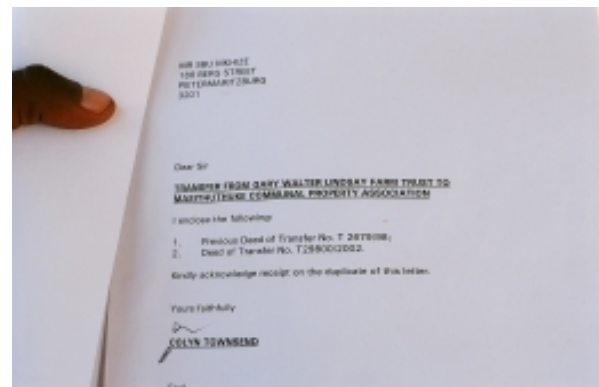
The government adopted further discriminatory laws to acquire control of more land. The Masters and Servants Law (Transvaal and Natal) Amendment Act of 1926, the Native Service Contracts Act of 1932, and the Native Trust and Land Act of 1936 forced all Africans outside of the reserves into the white agricultural economy, while extending existing controls over labour tenancy. In total, approximately 2 million people were tied to white farms through these laws.

During the Apartheid era (1948-1990), the "Nationalist government" embarked on a systematic program of eliminating squatting and transforming labor tenancy into wage labor through the vigorous enforcement of the 1936 Act. Attempts to increase the removal of "squatters" from farms, and from urban areas, led to the introduction

of the Prevention of Illegal Squatting Act of 1951. This legislation empowered white farmers and local authorities to evict farm tenants with relative impunity. These powers were given further effect through the 1964 Bantu Laws Amendment Act, which allowed for the rapid eviction and removal of tenants and "black spot" (segregation areas) residents.

As result, over 600,000 black people living in black spot communities were resettled through large-scale brutal removals carried out by government until 1958. In addition, it is estimated that between 1960 and 1983, a total of 2.3-3.5 million people were removed from white rural areas around the country. About 450,000 people in rural Natal were forcibly removed from their homes and their land under apartheid legislation between 1948 and 1982. With the end of the Apartheid era, land reform became a major focus due to the fact that 80 per cent of the country's population was living on only 13 per cent of the land due to apartheid policies and laws.

### *Land restitution*



*Land claims decision, KwaZulu-Natal Region*

Addressing the history of land dispossession in South Africa was, therefore, one of the first steps and the main challenge of the new government after the collapse of the Apartheid regime. Through meetings with South African officials, including the Chief Commissioner on the Restitution of Land Rights, Mr Tozi Gwanya, and Cheryl Walker, former Commissioner for the Restitution of Land Rights in KwaZulu-Natal province, and NGOs, the delegation looked at the government program on land reform and restitution in the post-Apartheid era. Since 1994, land reform policy in South Africa has focused on three components: the restitution of land rights, the reform of tenure systems, and a land redistribution program. Each of these components have established their own laws and institutions to implement land reform.

The restitution component aims to restore rights in land to those who lost them as a result of racially discriminatory legislation or practice since 1913. Victims of land



*Meeting with residents of Masithuthuke in the Rietvlei area, KwaZulu-Natal region.*

dispossession were given until December 1998 to lodge a claim for the restoration of their rights with a Land Claims Commission, which would endeavor to reach a settlement between claimants and land owners, or provide settlement or compensation via the Land Claims Court. The basic principle of the process is a commitment to restorative justice and redress for the land dispossession suffered by black individuals and communities during the colonial period and under apartheid.

There are two significant policy frameworks governing the restitution of land rights: the Constitution of South Africa, and the Restitution of Land Rights Act of 1994. The Constitution of South Africa (1996) outlines the basic principles under which restitution shall take place in Section 25(7): "A person or community dispossessed of property after 19 June 1913 as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to restitution of that property or to equitable redress." The Restitution of Land Rights Act of 1994 provided for the establishment of a Land Claims Commission and Court to implement the requirements of the Constitution.

Restitution proceeded from 1994 to 1998 at an extremely slow pace, and proved to be a difficult process for communities. By mid-1998, a paltry 28 claims had been resolved out of a total of 42,000 submitted. Of the 63,455 claims lodged, only 41 were settled by March 1999. This led the Department for Land Affairs and the Land Claims Commission to change the land restitution policy in order

to resolve different categories of claims. Through this strategy the large numbers of individual urban claims would be rapidly resolved through financial compensation payments. Until 2000, around 10,000 households received lands (around 174,000 hectares), in addition to another some 3,000 households, which received compensation. In total, around 4,000 claims were settled.

The pace of restitution accelerated rapidly since 1999. By March 2003 this had risen dramatically to 36,488 claims, affecting more than half a million hectares (750,000 by end of June). However, a study by the Programme for Land and Agrarian Studies in the University of Western Cape (PLAAS) found that most of the settled claims are urban claims that have been settled through financial compensation. Despite the political pressure that has been applied to settle all claims by 2005, there is no indication that this is possible, given the number of outstanding large rural claims.

One of the important issues raised by the delegation and discussed during various meetings and field visits was the case of the rural land restitution, especially during meetings with Association for Rural Advancement based on Pietermaritzburg city-Kwazulu-Natal Province (AFRA), and the National Land Committee (NLC) in Johannesburg. The BADIL delegation also participated in a workshop on this issue in Nelspruit organized by PLAAS, in addition to the field visits to the farms and "townships" in Kwazulu-Natal Province that are home to the majority of the rural population.



Despite the rapid increase in the total number of settled claims, the bulk of the rural claims are still outstanding, yet these hold most potential to transform landholding, redress the past and address poverty. Of the 36,488 claims settled by March 2003, the PLAAS study could identify only 185 rural claims settled with land rather than compensation. According to the same study, in Mpumalanga Province (61.5 percent of the total population are rural), there are 6,473 claims lodged (1,226 urban 19 percent and 5,210 rural 81 percent), however, until March 2003, only 635 claims were settled, of which 297 were rural.

### ***Land redistribution***

The Land Redistribution Program provides the poor with land for residential and productive purposes in order to improve their livelihoods. Land redistribution was intended to assist the urban and rural poor, farm workers, labor tenants, and emergent farmers. The Program aimed to redistribute 30 percent of farmland in the period until 1999. The Program provided a Settlement and Land Acquisition Grant to households or groups to purchase land from willing sellers, including the state, according to the Provision of Certain Land for Settlement Act of 1993. The Constitution of South Africa (1996) also outlines (Section 25(5)) also the basic principles for redistribution: "The state must take reasonable legislative and other measures, within its available resources, to foster conditions which enable citizens to gain access to land on an equitable basis."

There are approximately 82.8 million hectares in use by commercial farmers in South Africa. Until 2000, only 667,285 hectares of farmland was redistributed, or approved for redistribution, or around 0.81 percent to date.

### ***Land tenure reform***

Land tenure reform as the third component of the program aims to protect people from evictions. Tenure reform refers to changes in the terms and conditions, under which land is held, used and transacted. There are four major tenure laws: the Extension of Security of Tenure Act of 1997, which provides people living on commercial farms with measures to regulate evictions and provide tenure security; the Land Reform (Labour Tenants) Act of 1996, which protects residential and land use rights, such as grazing and crop rights, of labor tenants on farms where they live, and gives them the right to purchase that land; the Communal Property Association Act of 1996, which enables communities or groups to acquire, hold and manage property in terms of a written constitution; and, the Interim Protection of Informal Land Rights Act of 1996, which provides a short term measure to protect people with informal land rights and interests in land -

primarily in previous homeland areas - from eviction or other infringement. In addition, the Constitution reinforces land reform under the Section 25 (6). "A person or community whose tenure of land is legally insecure as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to tenure which is legally secure or to comparable redress."

In practice, the government program has faced many challenges, problems and obstacles that make the land reform process slow. One of the problems is related to political basis of land reform. Although the first explicitly segregationist and comprehensive Land Act was introduced in 1913, it is clearly an arbitrary date from which to determine justice in restitution. Segregationist land reform was already well under way by the time the 1913 Land Act was introduced, and well before its introduction black South Africans lost their land, or their rights in land. Ways of dealing with pre-1913 claims that satisfy the needs of these communities have still not been found. A second contentious area has been how to deal with the existence of a range of rights that are not explicitly recognized in a historical context of colonialism, segregation and apartheid. Throughout the period before and after 1913, many black South Africans struggled to retain access to land through a range of agreements which, while initially temporary, grew permanent over time. Labor tenancy and sharecropping are examples of this. Although the Restitution Act recognizes that a right in land may include such interests, they have not been accepted as restitution claims.

In addition, claims for commercial agricultural land are costly and most of the rural population (around half of the rural population are unemployed) cannot pay. Current owners must also agree to the sale of the land and compensation to current landowners must also be fair and just. These underlying limitations of the redistribution process provide special protection to the current property owners. The "willing-buyer, willing-seller" framework and the requirement of "fair and just" compensation for existing landowners, has placed financial constraints on the extent of land transfer. NGOs and land activists have expressed their lack of trust in the government's commitment to the land reform process.

### ***Voices of the grassroots***

During the visit, members of the delegation met with a number of popular leaders of landless South Africans, especially in the townships. In addition to the NGOs that support land rights for black South Africans, like NLC and AFRA, delegation members met with activists of the Landless People's Movement (LPM) that are leading the struggle for the defense of land rights.

Most of the activists of the landless movement in South Africa accuse the government and the African National Congress of excluding rural black communities, and the NGOs and other civil society organizations from real participation in the decision-making processes of land reform. At the same time, community activists are pressing officials to implement their rights. LPM has conditioned its support for the ANC in getting lands for the residents, and has threatened to boycott the election next year, under the slogan of "No Land, No Vote".

At the same time, activists are pessimistic about the future, and their relations with the government and the ANC. While government officials express their hope to complete land reform by 2005, activists claim that the social movement on land will become stronger in the future, especially because of "government inaction".

The challenges and the problems concerning the land restitution and land reform process in South African demonstrate that the process is incredibly complex and fraught with dangers. Peace agreements, therefore, need to have as many details as possible tied up at the beginning. Insufficient political will combined with agreements that leave issues open for future disagreement may not only delay but set back the entire reconciliation process. The South African experience also demonstrates the danger of political compromises over basic rights such as the decision not to address pre-1913 land claims. Community participation in the decision-making process

is therefore critical to ensure that such compromises have popular support and can be sustained during implementation of the agreement.



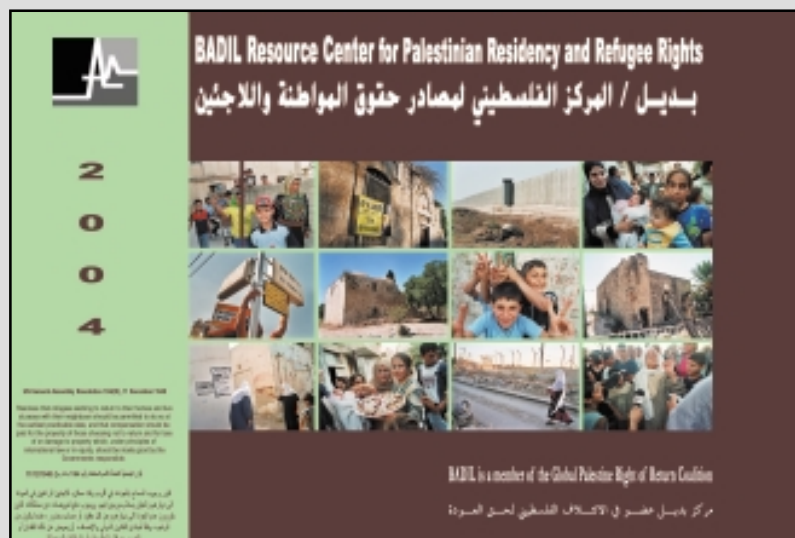
KwaZulu-Natal region.

## BADIL's full-color 2004 calendar is now available!

The calendar features photos of Palestinians visiting their lost homes in Israel; the resigning of streets in Majdal to commemorate the Palestinians who lived there until it was depopulated of Palestinians in 1948 and after; living in the shadow of the "security" wall and refugee camp life in West Bank.

Special dates in Palestinian history are listed by month and the introduction outlines the role of international law in the search for a durable solution to the Palestinian refugee issue. The calendar is in English and Arabic.

Copies of the 2004 calendar can now be ordered by contacting [admin@badil.org](mailto:admin@badil.org). Cost is \$12 including postage and handling. All subscribers to BADIL's quarterly Al-Majdal will receive a copy of the calendar with the next issue of the magazine.



## Part Two: by Mahmoud Issa

Writing a quick impression about a ten-day visit to South Africa may be a difficult task, especially if one seeks to do justice to a cause that goes back four centuries in history. It is not so difficult, however, for a Palestinian refugee who too has been deprived of his home and land for more than half a century. The resemblance between what happened in South Africa and what happened in Palestine is striking, although the actual history of these two countries is quite different.

The planting of a memorial tree for my village, Lubyba (located in the Galilee), in Pretoria, South Africa by the Minister of Water Affairs and Forestry, Mr. Ronnie Kasrils, a South African Jew, is in itself an event with historical significance. The forest, which was planted on the debris of Lubyba by a Jewish national organization is called South African Forest. The act of planting a tree accompanied by a plaque "renaming" the village to its original name is in itself part of the process of undoing the injustices that befell our own village in 1948.

The memorial reads as follows:

Lubyba

Dedicated by the Honourable Minister  
(Minister of Water Affairs and Forestry)

To the Palestinian village of Lubyba upon whose ruins  
a forest was built where cows were permitted to graze  
but the displaced occupants are not allowed to return.

### *Meeting with the Landless People's Movement*



*Field visit to the township of Soweto*

On 7 November 2003, shortly before we arrived in South Africa, the Landless People's Movement (LPM) held a demonstration urging people to boycott the upcoming national elections under the slogan: "No Land, No Vote!" The LPM accuse the government of reneging on its 1994 election promise to return land to those dispossessed under apartheid. "We were slaves under Apartheid and now we are still landless. Our land is sold to international

companies," says Samantha Hargreaves from the Landless People's Movement, which was established in 2001.

"They have a willing-buyer, willing-seller policy. But the poor don't have money to buy land," Mnisi, the LPM's Gauteng chairperson wrote in an article one day before the demonstration. "We want positive feedback within seven days. If our demands are not met we will take the land by force... We voted before, but our voices weren't heard." Samson Lesabe of Thembelihe, also from the LPM said: "I voted for Mandela because he cares for the people. But I won't vote for Thabo Mbeki's government. They can come and shoot me. I will die for my land."

The slow pace of land reform has fuelled anger among the rural and urban poor. Ten years after the end of Apartheid many black South Africans are still landless, still face evictions and human rights abuses on farms, and still suffer from insecure land tenure in their former homelands. The motto of the Landless People's Movement is: "Land Now! Organize and Unite." According to their Charter, the government must expropriate the land of absentee landlords, abusive farmers, indebted farmers, all unused or under-utilised land, and all land that is otherwise unproductive.

### *Chief Commissioner's version of the land story*



*Meeting with the Chief Commissioner in Pretoria*

In Pretoria, Tozi Gwanya, Chief Commissioner on the Restitution of Land Rights, compared racism in the old South Africa with that in Israel. According to Gwanya, the problem in South Africa started in 1652 when the white settlers arrived and started taking the land from the blacks. Resistance from the black population intensified in the 1800s provoking the two colonial powers - the English and the Dutch Afrikaners - to unite and establish a unitary government in 1910. In 1913 they issued the Native Land Act giving exclusive rights in land to the white minority. The process of dispossession continued until the end of the Apartheid regime in the early 1990s.

One of the first acts of the post-Apartheid era was the adoption of legislation to undo the historical process of dispossession since 1913. According to Chief Commissioner Tozi, the black population initially did not trust the process. It was only through an act of Parliament and an amendment to the Constitution that people and communities were given more opportunities to reclaim their property. The Commissioner said that all forms of documentation should be used to settle property claims, including oral evidence, graves and family trees.

The Commissioner gave as an example a recent case where 6,000 hectares of land was transferred to black South Africans. The current white owners of the property meanwhile received 63,000,000 Rands (USD 10 million) in compensation. "Before expropriating the land, we should give the farmers a chance," said The Commissioner. "We decide where we buy the land. Where people have their graves we will buy the land." Many white farmers took the opportunity to sell their land to the government at market value, which NGOs claim is much higher than its actual worth. Many farmers who had gone bankrupt for other reasons, therefore, had an interest in selling their lands to the government for the purpose of land restitution.

I asked the Commissioner whether international donors, the World Bank, and other international actors had pressured South Africa to accept the 1994 compromise which led to the end of Apartheid but where the white minority still controls the economy, suggesting that the situation was somewhat similar to the Oslo accords which ended catastrophically with more confiscation of land, an apartheid wall, and the doubling of settlements. Commissioner Tozi stated that the international environment had been unfriendly and this had created a necessity for compromise.

In response to criticism that the land reform process was not moving fast enough, The Commissioner said: "I said to the LPM, 'Go and educate the people first.' 'Go and make the land more productive.' We gave 799,000 hectares of land to the blacks. But it is embarrassing to say to you that sometimes some people will not work the land given to them."

### ***Restitution is a rights based program***

Driving five hours from Johannesburg, we met with Ruth Hall, an academic from Cape Town University, who has examined the deficiencies in the land restitution process and various solutions. We also attended a workshop on land reform conducted by the Programme for Land and Agrarian Studies in the University of Western Cape (PLAAS).

One of the main difficulties facing the land restitution process in South Africa, says Hall, has been the length of time required to settle claims. Out of the 36,488 claims involving more than half a million hectares settled by March 2003, only 185 were rural claims (PLAAS). It is also expensive. Rural claims cost about 10 million Rand per claim with urban claims running about 1 million Rand.

Hall pointed out that any restitution process must be clear about what rights can be restored. For example, restitution can involve more than just land. Should it also cover assets like housing and infrastructure or less tangible things like damage to social networks? Should it focus on restitution of rights or broader notions of development. Should the process cater to individual or community interests, or both? What happens when current owners are unwilling to sell the land? Are there mechanisms for enforcement?

According to Hall, "restitution in South Africa has not been adequately monitored." "It is important as a political symbol," she said, "but it is clear that political support is insufficient." Hall also said that the deadline for the resolution of claims was not achievable. "We cannot limit constitutional rights by law." In other cases military interference in land use led to further complications in the restitution process.

During a subsequent workshop with local activists, the question of land reform in Zimbabwe and the taking of land by force evoked emotional responses from local participants. Some doubted the sincerity of Robert Mugabe's reforms. "Why now, and not before?" commented one activist. Others felt that in South Africa, unlike Zimbabwe, NGOs and the balance of power would prevent land grabs by the dispossessed black majority, although they admitted that frustration is building up among the people.

### ***Meeting with AFRA and the church land program in Kwazulu - Natal***

"We find that the forces against us are global," said Mark, one of the members of the Association for Rural Advancement (AFRA) who we met in Kwazulu-Natal. "We should see the broader global struggle against neo-imperialism." Mark viewed the situations in Palestine and in South Africa as part of the same struggle against neo-imperialism. He saluted the Palestinian people in their struggle against occupation and dispossession of their land. Everywhere we went, local organizations in South Africa greeted us with the word *intifada*.

We also sent a message of solidarity to landless South Africans. Mangaliso, one of the landless members of the community, described the situation of the Magombato



family as symbolic of the problems landless South Africans are facing with white farmers. "They asked us to evict the dead people from the farm. One of our friends died two months ago and is buried there with his family." He told us how a farmer shot at one of his friends, and when the Association for Rural Advancement contacted the farmer to send a lawyer to settle the issue, the farmer answered: 'The lawyer who is coming should have a weapon with him, because I have weapon with me.'



*Meeting with the Association for Rural Advancement (AFRA)*

We also met with the Church Land program which is active in the restitution process. In South Africa some churches also participated in the dispossession of the black population. According to Graham, who works for the Church Land program, "church missionary programs and the colonial enterprise went hand in hand." The fact that churches did not keep records for rural lands, however, makes it difficult now to investigate claims to church properties. Nevertheless, churches should play a key role in the reconciliation process. "Land should not be a financial asset for the priests but a tool for reconciliation with the poor," said Graham. "We should avoid what we call now cheap reconciliation." In cases where a white farmer agrees to sell his land to the government, which is then returned to the original owner, there is no process to address historical reconciliation. The process is merely financial.

Other members of AFRA, like Sihle, restated that restitution is a rights based issue and that the property market should not play the main role in the process. Sihle supported the idea of expropriating the land if the claims are agreed upon. Some farmers are profiting from existing laws which make it possible to rezone their land for tourism, and therefore receive more financial compensation from the government. If you offer a poor man a cheque or a piece of land, he will take the cheque. "We think that financial compensation is not a good option for the people. Returning the land without development is not enough."

In the past black farm workers were bound to white farmer

according to old feudal relations. Today technology is replacing many farm workers. Mark argued that it is therefore necessary to change the policies of the African National Congress (ANC) from a reconstruction and development program (RDP) to a growth, employment and redistribution (GEAR) strategy. As Mark observed, however, the government prefers stability over radical reform. He also felt that although there is profound disappointment in the post-Apartheid era, although forced take overs of land, like those in Zimbabwe, are not yet likely to occur in South Africa.

### *Field Visits*

We also made several field visits to see the land restitution and land reform process in action. Twista Majolla from Entabeni was awarded title to 156 hectares of land for eight families in 1996. Every family also received a government grant of 15,000 Rand. This was not enough, however, to buy trucks and equipment for the land.

In Tantluown (Greytown) we heard about a situation in 1997 where black farm workers were evicted by force because they participated in what local white farmers called an unlawful strike. The farmer's private police forced the people on trucks and dumped them off along the roadside. One member from the evicted families named Vousi said that 17 families received eviction orders from the Magistrate's office. Despite limited resources, the Association for Rural Advancement helped provide an attorney to represent the community. "People have the right, but we haven't the money," added Pen from AFRA. The court upheld the eviction and now the families are living on temporary alternative municipal land with little infrastructure, not unlike the early refugee camps for Palestinians. The new settlement is 17 km from their original farm.

"We are not allowed to use mud for construction because they said this place is temporary," said Vousi. Family members are now forced to look for work in nearby towns rather than working on the land. An entire day's earnings amount to no more than 10 to 25 Rand. "I am born there. Our grandparents graves are there. The farmers used to give us 10 Rand for our work from 6am to 4pm," said Vousi. "Here people die in greater numbers than before." When they arrived at the temporary settlement site the families were promised that they would be able to return to the farm in two weeks. Six years have now passed and they are still waiting.

In Rietvlei, previously known by black South Africans as Mbalani, we visited a community where an English land owner who held title to some 20,000 hectares of land had donated 1,250 hectares to 12 landless families.

**"Closing the Gaps: from Protection to Durable Solutions for Palestinian Refugees"**

*Hosted by the al-Ahram Center for Strategic and Political Studies, Cairo*

The Cairo Seminar is the third in a series of four seminars to be held in the framework of BADIL's Expert Forum on the Palestinian Refugee Question. This Expert Forum aims to convene legal experts, academic researchers, practitioners of refugee law, human rights activists and media workers, in order to examine obstacles to and strategies for rights-based solutions for Palestinian refugees.

The Cairo Seminar aims to further the debate and reach maximum consensus about strategies towards improving regional and international protection for Palestinian refugees. The seminar will carry out stocktaking of the existing protection regime, gaps, and measures to advance a more comprehensive protection regime in the Arab world in the context of a just and durable solution for Palestinian refugees that includes recognition and implementation of the right of return and right to housing and property restitution.

The Cairo Seminar is hosted by the Al-Ahram Center for Strategic and Political Studies and sponsored by Stichting Vluchteling/Netherlands, ICCO/Netherlands, Oxfam Solidarity/Belgium, and the Flemish Palestine Solidarity Committee.

**Additional Seminars/BADIL Expert Forum are scheduled as following:**

- Seminar 4: Obstacles to Implementation of Durable Solutions for Palestinian refugees, Palestine (1-4 July 2003)
- Closing Conference: Agenda to be determined (2005)

For more on the BADIL Expert Forum see the BADIL website: [www.badil.org/Campaign/Expert\\_Forum.htm](http://www.badil.org/Campaign/Expert_Forum.htm). Copies of working papers presented by the participants are available in electronic format on the website.

Looking at the land, however, there is little resemblance between the quality of land donated to the 12 families, which is mostly rocky, and that retained by the white land owner.

Our last visit was to the renamed town of Masithuthuke, which means, 'let us develop'. After the previous owner of the land passed away in 1997, the new owner began to harass the black farm workers so as to evict them from the land. Following interference by AFRA on behalf of

the community, the black tenants finally received title to some of the land. Some 335 hectares is now owned by 13 families. The quality of the land, however, is also poor and rocky.

Both communities greeted and bid us farewell with songs, dance, and hospitality that reminded me of the hospitality in Palestinian refugee camps: those who have nothing are so often more generous, open and willing to sacrifice.

The Palestinian delegation joined in the folkloric dance with cheer and happiness in a sign of anticipation of the day that they too will repossess the titles and deeds to their lands.



For more information on the land reform and land restitution in South Africa visit the following websites:

- The National Land Committee-NLC, <http://www.nlc.co.za>
- The Association for Rural Advancement-AFRA, <http://www.afra.co.za>
- The Department of Land Affairs, <http://land.pwv.gov.za>

*Visit to Tantown (Greytown), KwaZulu-Natal*

## Zochrot Seminar on the Palestinian Refugee Issue, Tel Aviv, 14 November 2003

by Ingrid Jaradat Gassner

Some 40 Israeli activists, most of them young people, followed the invitation of Zochrot for an in-depth study day dedicated to two aspects of the Palestinian refugee issue: international law and internally displaced Palestinians. Three guest-speakers were invited: Ingrid Jaradat Gassner (BADIL) and Israeli attorney Michael Sfard as respondent, and Muhammad Kayal, on behalf of the Association for the Defense of the Rights of the Internally Displaced in Israel.

The BADIL presentation on the right of return of Palestinian refugees under international law started with a brief overview of key questions: why human rights and international law should matter? What are the individual rights of Palestinian refugees? When does a right of return usually apply? It was argued that war crimes, genocide and crimes against humanity committed in the first half of the 20th century lead to a worldwide consensus about the important role of international law as a means to ensure justice, peaceful coexistence and development of nations. Codified in the UN Charter, the Bill of Rights, and a growing body of customary law, international law has served, in the post-WWII era, as a yardstick for best practice in conflict resolution and reconciliation worldwide. Under international law, refugees are entitled to the same basic human rights as all other people. Since refugees are a particularly vulnerable to rights abuses, a special set of laws and norms (International Refugee Law) serves to protect their rights while in forced exile and during the implementation of durable solutions. One of these rights is the right of refugees to return. It usually applies when people are deliberately barred from returning to their homes and property after temporary departure and in cases of forcible (mass) expulsion.

Do Palestinian refugees also have a right of return under international law? Both, the BADIL speaker and the Israeli respondent agreed that the answer would no doubt be positive, if their massive and forced displacement had happened in the year 2000: a Palestinian Nakba would be considered ethnic cleansing and a crime against humanity, while modern human rights treaties and state practice have established a universal right of return that must be considered customary law. But the Palestinian Nakba dates back to 1947/8, when modern international law was far less developed, thereby providing the basis for Israel's legal argument that a right of return does not apply to Palestinian refugees.

The BADIL speaker and the Israeli respondent subsequently disagreed about whether a strong legal



argument could be made for the Palestinian right of return based on the international law in place in 1948.

BADIL argued that the right of return should be considered a customary norm already in 1948, based on existing international law (Law of Nations/state succession, humanitarian law, the Universal Declaration of Human Rights) and state practice, especially remedies and obligations enforced by the Allies in the context of the International Military Tribunal of Nuremberg. Moreover, Israel cannot exempt itself from its obligations under customary law by making use of the fact that it has persistently objected to the return of Palestinian refugees ('persistent objector rule'), because international law does not permit exceptions in the case of norms that may not be violated by any state (i.e. *jus cogens* norms). BADIL argued that the Zionist/Israeli measures applied against the Palestinian civilian population in 1947/48 represent violations that were codified as *jus cogens* violations already in that time (i.e. war crimes, crimes against humanity, genocide; right to self-determination, right of access to basic resources; prohibition against discrimination and acquisition of territory by force). Therefore, Israel is obliged under international law to readmit Palestinian refugees in line with UN Resolution 194.

The Israeli respondent emphasized that what is legal is not necessarily just, and that international law is based on consensus among states. He also raised that it may be





*Meeting between refugee community activists and Zochrot, December 2003.*

difficult to obtain a consensus about a customary right of return already back in 1948, and that Israel may well argue its case as a persistent objector to such right. This also, because it is doubtful that a convincing case for *jus cogens* violations can be made with regard to Israeli actions in 1947/48 for mainly technical reasons: humanitarian law of the time (i.e. the Hague Conventions) applied to state actors, while neither the Zionist movement nor the Palestinian people represented sovereign state actors in 1947/48. With regard to the current situation and implementation of rights principles, attorney Sfard pointed to the fact that the demand for implementation of Palestinian refugees' right of return conflicts with the individual human rights of Jewish Israelis living in the country today. In such a situation of conflicting individual rights, international human rights law stipulates that human rights are not absolute and that the rights of both parties must be respected.

The legal session was followed by a briefing about the case and positions of internally displaced Palestinians in Israel by the representative of ADRID. Discussion in two working groups aimed to deepen the debate about issues raised in the seminar. Participants in this debate agreed that a precise understanding of the legal underpinnings of the historical Zionist-Palestinian conflict was key to drawing conclusions about current Israeli responsibility and obligations towards Palestinian refugees. While the majority of the discussants raised that the events of 1947/48 had to be described in terms of illegal ethnic cleansing, the debate also showed the scope of issues yet requiring clarification: What exactly is ethnic cleansing? What was the legal status of British Mandate Palestine, the indigenous Palestinian people and the Zionist immigrant community there? What are the legal provisions and status of the 1947 UN partition resolution? Is there a legal foundation - and/or international recognition of the 1967 cease-fire line as Israel's borders?

The seminar concluded with a presentation of a video-

clip documenting highlights of a recent Zochrot study visit of the remnants of the Palestinian town *Majdal* and a decision to hold a second workshop with BADIL and local Palestinian refugee community activists in Bethlehem.

### ***Bethlehem Follow-up Meeting***

On 26 December, fifteen Zochrot activists met at BADIL offices with an equal number of Palestinian community activists from Hebron and the Bethlehem area refugee camps, among them members of the Popular Service Committees, the Palestinian Prisoner's Society and BADIL.

The discussion was opened by a presentation of the Zochrot initiative aimed at raising Israeli awareness and recognition of the Palestinian *Nakba* among the Jewish society in Israel. Zochrot activists described how awareness of the destruction of Palestinian society in 1948 necessarily led them to the question about Israeli responsibility and affirmation of the right of Palestinian refugees to return, a process of mental and emotional transformation many more Israelis are likely to undergo, if exposed to the Palestinian experience on a personal level. This was followed by a round of debate over current popular Palestinian conceptions of the right of return. Palestinian participants affirmed that durable peace and reconciliation cannot be achieved without recognition of the right of return held by millions of Palestinians. They emphasized that the right of return represents a forward-looking demand for Palestinian-Jewish coexistence based on equality and justice, and not a backward oriented demand for the re-establishment of the Palestine lost in 1948. Palestinian participants welcomed the initiative of Zochrot, which - unlike other Israeli 'peace initiatives' - carries a message that identifies with the historical narrative of the Palestinian people and holds that Jewish-Israeli society must come to terms with its role in it. While it will remain the role of Zochrot to convince its public of the benefits of an inclusive and non-racist alternative to Zionist positions and policies, the Palestinian participants present at the meeting expressed their readiness to cooperate and support Zochrot initiatives.

A number of possible joint activities were raised, including coordinated study visits to the Palestinian refugee villages of origin now in Israel, guided debates between displaced Palestinian land owners and Jewish secondary occupants of these lands, and presentations in Israeli schools and universities. Palestinian participants raised the need to receive information and reports from Zochrot, in order to be able to show to the Palestinian public that there is an alternative to the Zionist discourse and 'peace proposals.' The meeting concluded with the decision that a smaller group of representatives from both sides will meet in the near future, in order to plan and coordinate joint activities for 2004.



## Zochrot Letter to Tel Aviv University re: Sheikh Muwanis

19th October 2003

Prof. Itamar Rabinowich  
President  
University of Tel Aviv

Dear Prof. Rabinowich,

We are writing you with a rather unusual request. As you are probably aware, the campus of the Tel Aviv University was built on land belonging to Sheikh Muwanis. With the development of the campus, there is almost no sign of the village - while the 'Green House' (the only remaining house of the village) which is obviously out of place, has become the University's clubhouse in Marcel Gordon's name.

This letter is signed by employees and students of Tel Aviv University; the descendents of Palestinians who lived in Sheikh Muwanis until 1948; and members of the Zochrot Association, whose goal is to raise awareness among the Israeli people about Palestinian life before 1948. We all know that it is only through honest and brave historical recognition that it will be possible to build a just future in this torn country. You, being a historian, will probably agree with us that a first rate cultural institution such as Tel Aviv University, should be an example for historical recognition.

Our request is that Tel Aviv University contribute to this historical recognition. We thought of the following ways for proper remembrance, but we would like to have a meeting regarding different possibilities:

(1) Adding reference to Palestinian history in a document that describes the Green House and in a plaque to be hung on one of the walls. The present document (attached herewith) blurs this past. Regarding the relevant years it states that in 1924 part of the village land was sold. It then states that in 1948 a Lehi camp was set up in the village and after the State was established, housing was set up for Machal and Airforce personnel in the village. Nothing is mentioned about what happened to the Palestinian residents, and, in fact, even their existence is not specifically mentioned. Academic research carried out at Tel Aviv University has drawn attention to this lack of information. Therefore, it should not be a problem to briefly mention these details in the University Club document. We also believe that the plaque on the Club building should also note that the University was established on the grounds of Sheikh Muwanis. The current manifest for the University Club and the plaque explain history in a warped fashion, which does not befit a respectable institution such as Tel Aviv University.

(2) Placing a memorial sign in a central position in the university, or at the main entrance that mentions that the university campus was built, at least partially, on land belonging to the Palestinian village of Sheikh Muwanis.

In many cultural sites around the world it is customary to place memorial signs, as mentioned above, detailing the history of the place. Denial and suppression of the past, unless challenged, will only cause bitterness and rage. The way to reconciliation is through remembrance of the past.

[www.nakbainhebrew.org](http://www.nakbainhebrew.org)



## Fifteen Years after the June 1982 War: Testimonies on the Battle of Burj al-Shamali Refugee Camp and Israel's Massacres and Air Raids (excerpts)

by Jaber Suleiman

*In Burj al-Shamali refugee camp in Lebanon, there is a small area reserved for collective memory. In the eastern side of the camp, the ruins of al-Hulah Club and its shelter, site of the Israeli Air Force's horrific massacre, still remain. The shelter has become a collective tomb. The residential areas around the site have now expanded, and with the exception of a few square meters on which a very modest memorial monument has been erected, houses today take up much of the area and its surroundings. Shaded beneath a majestic cedar, several layers of cement blocks make up this memorial, which carries no engravings or testimonials. On any given ordinary day, its proximity allows the living, in an intimate harmony, to remain close to their departed loved ones. On special occasions and religious holidays, they visit the memorial, lay wreaths of myrtle, burn incense, light candles, and then go back home to their once suppressed, but now reawakened pain and sorrow.*

It was by coincidence that I began my interviews on the third day of the al-Adha Holiday. I poked at the ashes of sorrow, and they ignited anew. One of those I interviewed would tell me later that a cloud of sadness hung over their home for at least a week after the interview.

### ***Muhammad Mustafa Abdallah (45), al-Na'imeh***

Muhammad was born in 1953, in the diaspora. He received a technical Bachelor's Degree in electrical mechanics, and works as a truck driver. Muhammad lost his wife and four of his children in the massacre at the al-Hulah Club's shelter. The children were 6 year-old Nidal, 4 year-old Yumna, 2 year-old Sawsan, and newborn Nisreen, just one month old.

As soon as we sat in his living room, his mother, the Hajeh Um Khamees came in. Feeling that a stranger had come for an unusual reason, she asked, in her own way, why I was there. Muhammad did not tell her anything. For my part, I would have preferred if she had stayed and talked with me. When I asked Muhammad why he did not tell her about the purpose of my visit, he said that he did not want to bring back her sorrow again. Alas, what sorrow! In the al-Hulah shelter, the Hajeh lost her 18 year-old daughter Zeinab. Her son Hassan lost his 1 year-old son Usama, and his wife Suad, who survived, suffered some burns. After being treated, Suad and Hassan were "killed" on their way to Beirut. Adding to her tragedy, another of the Hajeh's sons, Ni'mat lost his wife, son and daughter, and her daughter, Mariam (Um al-Izz) who suffered burns and serious gashes, lost her five children.

Once I took in all these tragedies, I understood why Muhammad chose not tell his mother why I was there.



*Memorial to the victims of the Burj al-Shemali massacre*

### ***Um Khamees - the Old Oak Tree***

"The 1982 war was the worst of wars," said Mohammad. "The refugee camp was demolished and the conditions there were as if doomsday had come. Right at the height of the shelling and destruction, people were running in different directions, frantically searching for their relatives.... An entire wall fell on me as I was running in the street. My friend, Nuh al-Fayez covered his head with a wooden box to protect himself from the shelling. When they got me out from under the rubble, I did not

feel my physical pain.... The greater pain was when we found out about the al-Hulah Club massacre. I ran to the Club. I was the first to arrive. I saw the victims, drowned in pools of their own blood. I was able to dig out three of my children, but I did not find the fourth, and I did not find my wife. Through destroyed streets, I carried my children to the Jabal 'Amel Center, but there was no medical aid at the Center. By morning, my children had died. I buried them in a collective tomb, in a garden inside the camp. I was arrested with the rest of the youths, and moved to a detention center, then to the Ansar Detention Center, both inside '48 Palestine. I and some of the others were eventually released."

I asked Muhammad: "How did you overcome this tragedy and start your life again?" He answered: "Two years after I was released from Ansar, I wondered a lot about whether I wanted to start a new family, only to have them killed again! I hesitated, but in the end, I decided that life had to go on. When I was at Ansar, my feelings about the value of life - my life and that of others - deepened. I said to myself then, 'If I was not a prisoner, I could very well be dead.' All I worried about then was how to hold on and not weaken and endanger my and my comrades' life. Privately, I rehearsed my answers to the prison interrogators' expected questions. I clung to life. I got married again in 1984, and I now have five children, 8 year-old Salam, 6 year-old Samah, 3 year-old Zeinab, 2½ year-old Mustafa, and 6-month old Shadi. They are now at about the same ages as my martyred children."

I asked Muhammad if he ever told his children about the tragedy; whether he keeps pictures of his children's martyred brothers and sisters; whether he lets them see those pictures; and why he did not name his children after their martyred siblings.

Muhammad told me that he did not name his new children after the names of their martyred siblings because he wanted the wounds to heal. "My children know they had brothers and sisters who were massacred by Israel, and they see the pictures from time to time, and they ask about their names. The brothers and sisters look alike. They will grow up knowing everything, just as our generation knows everything about the tragedy of the September 1970 massacres, even though we did not live it. Every generation of Palestinians knows the tragedies, and they pass them down to the next generation."

### ***Ni'mat Mustafa Abdallah (49), al-Na'imah***

Ni'mat lost his wife, Mariam, and his two children, 6 year-old Rami, and 4 year-old Rania, in the massacre. His wife was pregnant at the time, due to give birth the very day of the massacre. I met him in the house of his sister Mariam (Um al-Izz), and he was ready to talk.

He told me about the camp's siege, about the Israeli forces' failure to enter it all day on 6 June 1982, and about the threats to destroy the camp if the "terrorists" did not lay down their arms and surrender by 12 noon on 7 June 1982. Ni'mat said: "On the evening of 6 June, I took my wife and children to the shelter at Jabal 'Amel Center, adjacent to the camp. When the shelling started at midday the next day, I feared that my children were killed. I left the shelter at al-Najdah al-Ijtima'iyah, where 13 people were martyred only minutes before the intensive shelling began, and I rushed to the shelter at Jabal 'Amel to search for my family. I was told that they went to the al-Hulah Club shelter. I felt my suspicions were right.... I don't know how I made it to the shelter, because all the roads were full of debris and rubble. I went down to the shelter, and my hair turned white from the sight of the victims' naked bodies, their clothes completely burned off. Some people told me that they took my sister, Um al-Izz to the clinic of the Palestine Liberation Army because she was badly burned and blinded by the attack. When I found out that my other sister, Zeinab was martyred in the shelter, I lost my mind, and I cried for a long time, praying 'my God, at least save this sister, keep this sister with me,' referring to Um al-Izz. We rescued the children, among whom were my children, my brother Muhammad's children, and my sister Mariam's (Um al-Izz), who were all in the shelter. As I held my 4 year-old daughter Rania in my arms, after we pulled her from the rubble, she cried out, weak and dying: 'Daddy, daddy, I will not go back to school anymore!' I don't know how, but I managed to answer her, tears streaming down: 'No, my darling, you will not go back at all.' I took her to the Liberation Army's clinic, and Dr. Mahmoud Ataya had only two words for me: 'No hope.' I went back to the shelter to help in the rescue. I removed an infant, still alive, from her dead mother's tight embrace. No one recognized the child, so I said 'this baby girl will be mine. I will raise her, and she will be God's compensation to me.' But the child died shortly after the air touched her body."

Ni'mat continued telling his story: "During the night, I moved the children to the Jabal 'Amel Center, and prayed to God that he would keep at least one of them alive. The children asked for water, but there was no water in the center. I dipped a piece of cotton in the toilet bowl, where the water was red from the rust, and dabbed their lips with it.

On 8 June, my brother and I decided to move our and our sister's children, those who had survived, to the Emergency Forces' facilities in Qana. We did not care about the dangers. We only wanted to save as many of them as possible. They were received without even having to register their names. I found out later, through the Red Cross, when I was at Ansar, that the children were taken to Tabneen Hospital, and that they never came back from there.





*Burj al-Shemali refugee camp, Lebanon, May 2003.*

We went back to the refugee camp, knowing that we had to bury the martyrs. Because it was not possible to take them to the camp's cemetery, which is located in the Ma'shouq region, we decided to bury them inside the camp. Some of them, including my brother's wife, were buried near the Jabal 'Amel Center. My children were buried not far from here, in my uncle the Haj's garden. The rest were buried in the shelter itself. They said to me: 'Come and take your wife's body from the shelter.' But where would I take her, I could not reach the Ma'shouq Cemetery or anywhere. So, like many others, she is buried in the shelter."

Ni'mat went on to say: "After burying my wife and children, I almost lost my mind, because I had nothing left in this world. I set fire to everything left in my house and in my sister Um al-Izz's house. How could anything be of any value, now that I had lost what is most dear to me! Like our popular Palestinian proverb says: 'If the house is lost, one should not be sorry for the cupboards.' I went to my brother's house in the town of Burj ash-Shamali, where I stayed for 20 days. Then the landlord asked us to leave, and threatened us if we didn't. We left for Sidon. In Sidon, I was arrested and taken first to a detention center in Atlit, and then to Ansar. Six months later, the Red Cross gave me a choice: go back to Sidon or go to Tyre. I chose to go back to Sidon."

Ni'mat's story is also long in Sidon, but he managed to return to the camp before the Israeli forces' withdrawal from the region.

At this point, I asked Ni'mat how he started his life again, and he said: "After the massacre, I did not think of starting a new family. I kept saying to myself that this is my lot in life, and it was enough. But when I was in Sidon and Ein al-Hilweh, I learned to deal with my tragedy when I found myself overwhelmed by others' tragedies. Many families were entirely exterminated. My father, who lost 18 relatives, among them some of his children, was very strong and loving, and he also helped me. He told me then: 'If the tree bark is still green, then the tree will blossom.' I married a friend's sister, and we have five children, 6 year-old Rami, named after my first martyred child, 9 year-old Miriam, named after my martyred wife, 12 year-old Nagham, 8 year-old Amani, and 2 year-old Lial." I asked him if he told his children about the massacre, and he answered: "No. I don't hang the pictures of their martyred sisters and brothers at home, but keep them in a locked box. Every time I remember the tragedy, I get a headache. I cannot see massacre scenes on the television. I was not able to watch the news coverage of the Qana massacre." At this point, his tears spoke what his lips could no longer utter.

***Mariam Mustafa Abdallah***  
***(Um Al-Izz), al-Na'imeh***  
***Kamal Jum'ah Mushairfeh***  
***(Abul Izz), al-Na'imeh***

Mariam, Kamal Jum'ah's (Abul Izz) wife, was one of the survivors, but she lost all of her five children in the massacre at al-Hulah Club's shelter: 8 year-old Fadwa, 6 year-old Fadi, 4 year-old Faten, and the 6 month-old twins Firas and Iyhab. Scars from the severe burns she suffered are still visible. She temporarily lost her sight and hearing, regaining both only after long treatments.

Abul Izz was the one who arranged for us to hear the testimonies of Fayez Hassan al-Ghoul, also known as Abu Khalid, and Ni'mat Mustafa Abdallah. Um al-Izz was with her children (born after the massacre) in the next room, and she heard the two testimonies through the door. When her brother, Ni'mat spoke about her and her martyred children, she was unable to hold back her tears, and her children witnessed her pain and sorrow. She ran into the room we were sitting in and burst into tears. In a pained voice overwhelmed by her weeping, she started to tell her story, speaking for a long time about intimate human details too extensive to be all mentioned here. Her words were often interrupted by crying that came from the depths of her soul, and like a volcano, Um al-Izz suddenly erupted, releasing her deepest sorrows. With the written word, one can never really feel another's ache of the heart, and the real value of Um al-Izz's testimony is the tone of her recorded voice.



### *"I became in the other life"*

The words of Ni'mat, Abu Khalid, Um al-Izz, and Abul Izz overlapped. Abu Khalid said: "When I arrived at the shelter, Um al-Izz was there, at the door. I did not recognize her because of her burns. I asked her who she was." At this point, Ni'mat interrupted to indicate that there was some kind of substance oozing out of her eyes. Then Um al-Izz said: "I recognized Abu Khalid from his voice." She went on to say: "When the shelter was shelled, I was inside nursing my child, and I don't know what happened after the explosion. All I remember is that I was walking on bodies, some lifeless, but others still managing pained moans. ... I went out of the shelter, but could not see anything, I had lost my sight completely, and I did not know where I was. I said to myself that I must definitely be in heaven. I recognized the voice of our neighbor Abu Ali talking to his wife. I called out to him: Uncle Abu Ali! 'Who are you?' he yelled back. 'I am Um al-Izz,' I answered. 'Are you Um al-Izz? Oh, my God!' he shouted."

Um al-Izz was still weeping as she spoke, and Abu Khalid wiped away his tears. Abul Izz tried to stop her so that she could control herself, but did not succeed. The volcano of pain within her continued to erupt, and she talked and wept at the same time. "I did not know where I was, and then you (pointing at Ni'mat) said to me 'Come sister let me help you.'" At this point, Ni'mat started talking: "I took her to the clinic where they laid her next to three dead bodies, because there were no means of aid." Then Um al-Izz said: "I was in a coma for a long time, and felt nothing until Abu Rami (Ni'mat) came." She turned to him and started to remind him: "Do you remember when you said to me 'Sister, I brought you bread,' and I told you that I just wanted some water?" Um al-Izz then continued to tell her story, and spoke about her feelings when she was then slipping in and out of consciousness. She spoke about Mariam ash-Shantiri, the nurse who tried to help her, and remembered the wife of the martyr Mer'i (the first martyr of the revolution in the camp) who tried to console her "beloved Um al-Izz." She recalled a series of misty memories of people, siege and death.

Um al-Izz would fully regain consciousness only when she was in a Haifa hospital, in '48 Palestine. She was moved from the clinic to Tyre, and then to Haifa by the International Red Cross. She spoke about Kamal, an Arab nurse, who took extremely good care of her, not only out of his sense of professional duty, but also because of his own overflowing nationalist sentiment. At that point in time, she still did not know that here five children had been killed in the massacre. She said she wept when she saw her burned face and shaven head in the mirror. She wondered how her

children would feel if they saw her in that terrible condition. Nurse Kamal came to her one day and said: "Mariam, I have good news for you." She was so eager to hear anything about Burj ash-Shamali. Kamal told her that there was a woman in the next room who came from Lebanon and who said that she knew her. It was a strange coincidence when she discovered that this woman was none other than her sister-in-law Suad, her brother Hassan's wife. They embraced each other, and then Um al-Izz begged Suad for information on the people in Burj ash-Shamali. Suad could no longer hold in the tragic news, and she simply repeated the traditional lamentation when informing people about the death of a loved one: "We are compensated by your survival! Um al-Izz shouted out: "What do you mean? My children dead, my brother Hassan's children dead, my brother Muhammad's children dead, and my sister Zeinab dead...and you are compensated by my survival!?" And she wept in Suad's arms, refusing to believe the news. It was not until she went back to Sidon and was reunited with her brother Ni'mat and with her parents that she finally accepted the news.

Um al-Izz left Haifa after spending 13 days in the hospital. She left the estranged homeland and its coldness, and returned to the camp's affection and intimacy. But the camp is not a homeland, and she went back to be with her surviving relatives, searching for her fragmented self. Um al-Izz said: "I asked my brother Ni'mat to take me to my children, and he did not want to prolong my torture. He asked me: 'Are your children more precious than your brother Muhammad's children, or your sister Zeinab?' I said no, and he said: 'We are compensated by your survival, every body was martyred.'" Um al-Izz went on to say: "I cried and cried and cried, but what can I do?" Her father tried to console her, telling her: "My dear daughter, you cannot be more generous than God! These martyrs were a gift from him and he has now reclaimed his gift." Her mother, al-Hajeh Um Khamees, the old patient and strong oak tree, said to her: "Go see all the people who died in the streets, not just your children and sister." She was telling her this only to comfort her, but, as Um al-Izz told us, even this strong oak tree was suffering and would sometimes aimlessly roam in the gardens, as if to escape from something.

Um al-Izz told me that one day recently she was near the UNRWA clinic, and a beautiful young woman came to her, took her hands warmly into hers and asked: "Don't you recognize me, Um al-Izz? I was the friend of your martyred daughter Fadwa!" Um al-Izz's eyes filled with tears as she told this story, saying at the end: "It felt as if a knife had been jabbed into my heart!" Sorrows never die.

## *The story is not yet over*

Now Abul Izz continued his story. When the massacre occurred, he was engaged in the resistance's battle for the defense of the camp. Bilal, alongside whom he was fighting, asked him to go and check on the Club shelter. "It was around sunset," Abul Izz said. "Houses were destroyed, and debris and rubble covered the roads. I walked in the direction of the shelter, and I heard my cousin shouting 'Where are all you Arabs! Where are all you leaders!' I moved towards the voice, and tried to enter the shelter through an opening caused by the shelling. The scene inside the shelter was horrible: scores of people, their bodies and limbs tangled together into piles of burned human flesh. The shelter reeked of sulfur and phosphorous, from the incendiary bombs. I heard weak moans from various parts of the shelter. I tried to pull a woman up through the opening. I took her arm but, as I started to pull, it came unhinged from her body, and all I had in my hand was her severed arm. I picked up a child through the shelter's entrance, but he died the moment he was brought out. I got other children out, all with burnt bodies, and then I heard a faint moan from a little girl. I looked and saw that it was my daughter Fadwa. I took her out of the shelter and, still moaning, she said: "Help me, daddy!" I looked for my wife, but remembered that she had been taken to the Palestine Liberation Army clinic, where she clung to life, her body like a black charcoal laying along side the bodies of a number of martyrs. My daughter's calls for help made me even more determined to continue the resistance. I left the site of the massacre, and rejoined Bilal." In moments like this, Abul Izz says, life and death become equal, with death maybe having more value.

Abul Izz continued telling his story, saying: "I went with the groups of fighters out of the camp, to Sidon, on a long march, which I describe in the play entitled "The Siege and the Resistance." Then, after the massacres at Sabra and Shatila, I went to Beirut, where I rented a house in the Shatila refugee camp. There, I also saw the tragedies of people after the massacres. I was unemployed for a while, but then I made my decision: I have to live. Our sacrifices are our unavoidable fate. So I brought my wife Um al-Izz from the south, and I worked very hard in order to be able to continue the medical treatment she had started in '48 Palestine.

We started a new family, and we have five children: 14 year-old twins Zeinab and Iman, 11 year-old Rula, 8 year-old Nesreen, and 6 year-old Muhammad." This once "black charcoal" has given life to five young branches.



*Burj al-Shemali refugee camp, Lebanon, May 2003.*

## ***Fayez Hassan Yunis Al-Ghoul/Abu Khalid (56), al-Zouq/Safad***

Abu Khalid works as a taxi driver between Tyre and Burj ash-Shamali refugee camp. I met him at the end of a long day of work for him, that evening we were at Abul Izz's home, where we gathered to record several testimonies. In the massacre at the al-Hulah Club, Abu Khalid lost his wife and all eight of his children: 12 year-old Khalid, 13 year-old Awsaf, 8 year-old Walid, 6 year-old Muna, 5 year-old Dalal, 4 year-old Suhail, 3 year-old Mazen, and 2 year-old Tareq.

After telling me about the siege and resistance of 6-7 June, we started talking about the massacre, and he said: "After the massive shelling in the afternoon of 7 June, we discovered that the al-Hulah Club shelter was totally demolished. I and my cousin Nimr were among the first to reach the site, and we found Um al-Izz crying. I was the first to go down into the shelter. The scene was unimaginable. There was a raid when we were inside the shelter, and my cousin ran out yelling for me to get out also, but I said that I wanted to die here. I passed out and, for about fifteen minutes, lay alongside the dead and injured. When I came to, I heard the people's moans, and I rushed out into the street, running aimlessly without knowing where I was going. I came across Abu Talal and Abu Nabil, and I was crying and shouting that the Club shelter is over, and the people there are over, along with my wife and children." Abu Khalid had a lump in his throat as he recalled that horrible moment,

and said "I lost my mind. I was carrying a gun and I wanted to shoot my self, but youths took it from me, and calmed me down. For may be more than one week, I remained unaware, losing my memory."

Abu Khalid joined the fighter group of Ahmad Rahheel (later martyred), and left the camp along with the other groups. Speaking about the exodus, he said: "We were walking at night, and hiding during the day. Small groups would go and scout out the road ahead of time, and then come back. When we reached al-Zaharani, Ahmad Rahheel led one such group, but did not come back. Along with losing my friend, I also lost my feeling of security, and I took a hasty decision to leave the group and walk in the day time. As I neared al-Ghaziyyah, I met another group of fighters, but did not join them and continued walking alone. I saw a shepherd I knew, and asked him for some bread and food, and he gave me a pack of cigarettes. I met another lone fighter, and we decided to walk together. The Israelis ambushed us and ordered us to raise our hands. I stood still, hands raised and with grenades in my pockets. My comrade ran, and they shot and killed him instantly. I made sure that I was close enough to a high fence that led to an orchard. In the blink of an eye, I jumped over the fence - I don't know how I did that - and there I was, in the orchard, having fallen into a ditch, with a chest injury from the fence wire. I also found a wound in my stomach. I crept away and slept until the morning, and then continued my march towards al-Ghaziyyah, until I reached another orchard, where I rested and slept under a tree, for three days without food. The landlord found me, and thought I was dead. I heard him say 'You deserve this.' I gathered my strength and answered back: we deserve this for what, what did we do? He apologized, saying 'I didn't mean it, by God, I didn't mean it!'" I changed my place, and his wife came with some bread and medicine. She cried and started to curse the Arabs. They invited me into their home, but I declined. I continued my march along the railway tracks leading to Ein al-Hilweh. I reached my relatives' house one month after I had left the camp. We were then five days into the month of Ramadan, the Muslim month of fasting.

I was arrested in Sidon, when we were ordered to gather at the *maslakh* (slaughter house), and someone from the camp was able to recognize me. I was taken to the Atlit detention center where I was held for one month, and then to the Ansar detention center where I spent sixteen months. When I was released, I returned to the camp."

### ***A stranger in the land***

Abu Khalid continued: "I went back to the camp and started again from square one. I had no house, no money, and no one was caring for us, as if we had come from the moon. My parents encouraged me to take charge and change my situation, and they encouraged

me to get married again. At first, I didn't want to, and I told my parents that I felt very strange in this land, and that I must leave. When I was in Ansar, I had decided then that I wanted to leave the country. My mother, who is very loving, said to me: 'If you leave, I will not know you, and I will not want you to know me any more!' I changed my mind, and got married after I had rebuilt a two-room home with tin sheets for a roof. I have five children: 12 year-old Muhammad, 9 year-old Awsat, 7 year-old Fatima, 6 year-old Rima, and 4 year-old Ahmad."

Abu Khalid also said: "I usually take my son Muhammad with me, when I go to visit the memorial to the martyrs at al-Hulah Club, on holidays and special occasions. This way, one generation after another, no one will ever forget."

### ***Kamal Hassan Deeb (49), al-Smairiyyah***

Kamal Hassan Deeb, known as the "Mukhtar," had inherited this title from his father who died following the 1978 Israeli invasion of south Lebanon. In the massacre of al-Hulah Club's shelter, the Mukhtar lost 37 family members, including his wife and eight children, his mother, his brother and sister-in-law and their eight children, a sister and her seven children, another unmarried sister, his two daughters-in-law (one of whom was also pregnant) and their four children, and his uncle and wife and children. Two of his sons survived the massacre because they were with the Palestine Liberation Army. Because the Mukhtar's home and the homes of his relatives were all very near the shelter, they all had taken refuge there.

The Mukhtar told me that right before the attack, he had been sitting at the shelter's door, smoking a hubbly-bubbly, "but my uncle, Sheikh Hammoud, may God have mercy on him and on all the dead, was thirsty, and I went home to bring him some water. At that moment, there was an explosion at the shelter, and I saw flesh flying everywhere. I went to the shelter and saw the people dead, and I cried out 'My children have died in the shelter.' I went around to the other shelters in the camp, shouting 'Leave the shelters, run away.' And while I was going from place to place, I saw that the camp's low-lying neighborhood had been destroyed."

The Mukhtar left the camp with Ahmad Rahheel's (who was martyred later) group, and eventually reached Ein al-Hilweh, after spending three months in orchards along the way. The Mukhtar said that after Ahmad Rahheel was martyred, he and the rest of the group hid their arms in the orchards of al-Ghaziyyah and infiltrated into Ein al-Hilweh camp through the railway tracks. "We started to enter the camp in groups of two or three people at a time. His two surviving sons, who were in the Palestine Liberation Army,



were arrested in Sidon, and taken to prisons in '48 Palestine, but were later released in a prisoners' exchange operation. The Mukhtar returned to Burj ash-Shamali six months after the camp was occupied, and he lived with his sister. He was arrested on charges of arms possession, and was imprisoned at the Azmi Zughayyar Building in Tyre, where he spent four months, and released only ten days before the building was destroyed.

Talking about his interrogation at the detention center, he said that he constantly emphasized to the Israelis: "You are interrogating me, when you have killed my wife, my children and my relatives!" To this, the Israelis answered "Stop saying this, and we will give you whatever you want, cement and iron." "But I kept repeating it," he said.

### ***Vision***

After his release, the Mukhtar, who wanted to remarry, went to Sheikh Mahmoud, the Mosque's Imam, and asked him to go, on his behalf, and ask for the girl's hand in marriage. The Mukhtar, who got married while his two sons were still in prison, now has two children, his 12 year-old son Muhammad, who is physically disabled, and his daughter Dheeba, whom he named after his martyred mother.

The Mukhtar told me that he was encouraged to start a family again after a vision came to him in his sleep, where he was in the middle of wide-open fields of *sabbar* (cactus fruit), white birds perched on his chest, his eight children and wife were all sitting around him, and they were all talking to each other and they were happy.

The Mukhtar said: "I thought hard about my vision, and did not tell anyone about it. I understood the fields of *sabbar* as meaning patience (in Arabic, the word *sabbar* is very close to *sabr*, which means patience), and I interpreted the presence of the birds and my wife and children's happiness as symbols of a new family and home."

### ***Ghassan Ali al-Rameed (30) al-Hajeh Um Salem al-Rameed (65)***

During the war, Ghassan was a 13 year-old boy who was, along with his mother, al-Hajeh Um Salem, the only two to survive the shelling of the Ali al-Rameed/Abu Khanjar cave (which was named after the family). The cave, which became a collective tomb for 21 victims after the massacre, lies beneath the house's courtyard, only a few meters away from where we sat and talked. In this cave, seven members of Ali al-Rameed's family are buried. The seven who left the physical life, but are still in the house are the 22 year-old eldest son, Salem and his 22 year-old wife

Aidah, their children Buthainah, 2 years old, and Haitham, 1 year old, and Ali al-Rameed's younger children; 14 year-old Lamia, 12 year-old Amineh, and 8 year-old Saleh. Twelve year-old cousin Fatimah also died.

Ghassan described the scene in detail, as if this young man's memories were still very fresh ever since that day. Then Hajeh Um Salem came, limping as her foot was injured during the cave's collapse, and was the first to start talking, but then quietly listened to her son, occasionally interrupting only to confirm his recollection, or to lament.

After the shelling, the Hajeh endured about 24 hours under the cave's rubble. She said that "the cave was full of people, and they demolished it right on top of our heads. No one remained. I was trapped until the next day, and I did not know what happened in the camp, because they took me straight to the hospital. And now you see my leg. I cannot walk on it."

Um Salem paused, and stared far away. And in her tired eyes, I saw old and new sorrows reborn. She stopped talking, and her son Ghassan took over.

### ***Life under ground is different***

"At first, we hid in the Abu Riyadh shelter. But when we heard that shelters were being shelled, my mother, sisters, brothers and I, and a few other families all went to the cave." His father, Ali al-Rameed did not go with them. Ghassan said that Israeli jet fighters

*Burj al-Shemali refugee camp, Lebanon, May 2003.*



immediately began bombing the cave when they saw someone entering. Parts of the cave collapsed, and its entryway was blocked by a huge fallen bolder. Ghassan described his feelings at that moment: "I thought someone brought a blanket and wrapped me in it. I was covered with dirt. I started to scream for help. I started digging, and eventually I managed to free my right leg out from under the rubble. At that point, I noticed a faint ray of light streaming through an opening between the rocks, so I imagined there was another world, a different world from the one we live in, under the ground." Ghassan then summarized the whole situation in one word: "Stunned...I was stunned. I tried to move, but my mother was in front of me under the rubble. So I moved the dirt away from her chest as much as I could, but one can not do much alone...so I went out."

When Ghassan came out of the cave, it was like "doomsday"...destruction and horror all around as a result of the shelling.

The first thing Ghassan saw in the above-ground world was a blind woman lying in the middle of the street. Manwah Abu Kharroub, who was already blind in one eye before the shelling began, went out of the cave to get her radio from her home. She was still in the street, being led by Suade, a blind man himself, when the Israelis began bombing the area. Suade ran for his life, and the woman was left behind. "The woman was hit by a splinter, and now she was blind in the other eye. A blind man leading a half-blind woman, in times of war...a surrealist scene, but a very human and compassionate scene. The worst crime is the one that makes you laugh," Ghassan said.

Ghassan led the woman to the Abu Riyadh shelter, where she was aided by a young girl, Najah Hadrus. Ghassan went around the camp, looking for any one who could help him remove the rubble, but no one dared leave the shelters because of the shelling. He and his cousin went out. "My cousin is naïve," Ghassan said. Then the shelling stopped, and Ghassan saw people coming out of their homes and shelters, and going towards the neighboring orchards.

At this point, Ghassan saw his father in the distance, walking very tiredly, a wall having fallen on him during the shelling. "He was hiding behind the wall, and it fell on his back," Ghassan said. The father asked about the family, but Ghassan did not tell him anything at first, and he took him to a shelter near the Mosque.

"A number of youths arrived, carrying picks and shovels, and began clearing away the rubble from the cave. The first survivor they brought out was Jum'ah

al-Nahili (Abu Shihab), but he would later die of his wounds. Then they brought out Aidah, my brother Salem's wife, and they carried her to the clinic. Aidah asked for water. They dabbed her lips, and then she died. Then they brought out my mother, and we moved her to the Istiraha in Tyre."

### *The prisoner's story*

"As we were carrying Abu Shihab to the clinic," Ghassan said, "and as we were near the house of (name withheld), which is right on the main road, we heard moans, (name withheld) was with us then. We entered the house, and we found a person with burns over half of his body, laid out on a stretcher, and dressed in a military uniform that was adorned with several stars on his epaulettes. We recognized the Israeli star and the Hebrew writing, and we decided to help him and save his life. They said: 'We are now at war. If we were not, then it would be an eye for an eye!' At that moment, Bilal came with a group of fighters, and they took the prisoner away and disappeared into the orchards."

Ghassan went on to relate more details: "A few days later, an Israeli officer came to me and asked me, in Arabic, about what happened at the cave during the shelling. He was afraid to go inside alone, and wanted me to accompany him. I refused and said to him: 'If you want to shoot me, go ahead, but I will not go in.' And then he said: 'We do not kill civilians.' 'What about these people who died, did they all die by themselves?' I asked him, and he said: 'Shut up! They were terrorists!' The next day, bulldozers came and leveled the cave."

The cave is now inside the al-Rameed family's home, and the victims continue to live in the house, their bodies and souls forever witnesses to the crime. As al-Hajeh Um Salem, Ghassan and I talked, a few of the neighbor's children came. They shouted a little, listened a little, and then asked: "Did all these people die?" They got no answer.

### *Muhammad Ja'far Taher/Abu Ja'far (66)*

The Abu Ja'far Cave is located in the rocky cliffs on the camp's northern side, and it leads to a valley filled with citrus orchards, including Abu Ja'far's. The cave and orchard were not randomly named, for Abu Ja'far is the one who reclaimed the land, and had been cultivating it with citrus ever since he was forced to flee from his village, al-Hussainiyyah, in the Safad district of Palestine, in 1948. Ever since then, he has never left his orchard, becoming one of its rocks or one of its trees that cannot be uprooted.

Abu Ja'far welcomed us, Abul Izz and me, as guests in his home located at the edge of the orchard, right by the gate. When we asked him about the shelling of the cave, memories older than the recent massacre flooded back, and he took us back to the day in 1948 when Zionist gangs carried out a massacre in al-Hussainiyyah, in which more than 25 villagers were killed, and when houses were demolished right over the heads of their residents, after the youths had tried to defend it. Among the victims then were Abu Ja'far's father, and his eldest brother Hussein. After the massacre, the people of al-Hussainiyyah were deported.\*

In Abu Ja'far's cave, there were about 50 people, women, elderly and children. Three of them were martyred and a number of others were injured, among them Um Ja'far who was hit with a rock that fractured her skull. The first bomb to hit the cave did not demolish it, because the cave was located beneath a depression, under thick layers of sedimentary rocks. This gave the people some time to flee the cave and spread out into the orchard, before the second bomb was fired, and before the cave was destroyed, its entryway blocked by a fallen bolder. Three people were not able to escape, and the cave is now their grave.

Abu Ja'far led us to the cave/grave through a narrow road, amid grass as tall as ourselves. He started to give us many details about the siege, and the resistance, and about the massacre at the al-Najdah al-Ijtima'iyyah, where Um Ja'far and others were injured.

### ***The prisoner's story***

We asked Abu Ja'far about the Israeli officer and his story, and he said: "The Jews came here and cordoned off my place... an officer said to me: 'You have a cave here,' but he was talking about another cave, not the one that was shelled." That other cave lies adjacent to Abu Ja'far's house, and he told us that he denied that the Israeli officer was there and that he, Abu Ja'far did not see anything, and that he was not in the orchard the evening of 7 July, because he had to take his wife to Tabneen Hospital for treatment of her wounds.

Abu Ja'far went on to tell us the story of the Israeli prisoner: "When I came back from Tabneen, I saw someone thrown here in the cave... Who threw him? It was Abu Dalleh and (name withheld)...the officer was taller and heavier than me, with stars on his epaulettes. I wondered what I should do. I brought a rope, and dragged him into (name withheld)'s house."\*\*

Abu Ja'far said that the Israeli forces accused fighter Hassan Sami Taha, who is known as Abu Dalleh, of hiding the Israeli prisoner's body. They would, from time to time, gather the camp's residents in the orchard, and interrogate them on this prisoner's whereabouts. In the end, the Israeli forces would bring police dogs to search for the prisoner. "They continued to smell the blood until they reached the house of (name withheld)."

We asked Abu Ja'far if the Israeli forces ever found the officer's body, and he said that a group of youths had thrown the body in the orchards, in the area of Shadeenah, a little to the east of the camp. The police dogs eventually found it, and Abu Dalleh would later confess, under torture, that he was the one who threw the officer's body in the orchard's cave.

Abul Izz said that when arresting Abu Dalleh, the Israeli forces put him in a tank and rode out of the camp. And that would have been the last time anyone saw or heard from Abu Dalleh. To this day, his fate remains a mystery.

In his testimony, Abu Ja'far said that the Jewish prisoner's father, who was born in Tiberias in '48 Palestine and spoke fluent Arabic, came to the orchard asking for help in searching for his son. "Please Abu Ja'far! I just want to see something of him." He was crying, pulling out his hair, hitting himself in the head, saying: "We were living together...damned be the Jews' religion for what has happened to us."

Abu Ja'far commented on what this Jewish father said: "Do we believe the Jews? You know I was born in '48 Palestine, and I know the Jews...we do not trust them," he said.

Abu Ja'far bid us farewell, and then went off to take care of his trees and fruits. It was as if someone had threw a stone into a deep lake, disturbing the calm waters and causing innumerable ripples, before finally sinking and resting at the bottom of the lake.

Jaber Suleiman is a Palestinian researcher. Translation by Khalil Toma. This article first appeared in Arabic in *Majjalat ad-dirasat al-Falastinyya*, Issue 32, (Autumn 1997), pp. 67-97. The article was translated from the Arabic and reprinted with permission of the author.

\* According to written records, the al-Hussainiyyah massacre was perpetrated on 13 March 1948, killing 30 people.

\*\* The name of this home owner is the same as the one given by Ghassan Al-Rameed in his testimony. At the request of the interviewees, we refrained from divulging these names.



## Relative Humanity: The Fundamental Obstacle to a Secular Democratic State Solution

by Omar Barghouti

*'[A] Conquest may be fraught with evil or with good for mankind, according to the comparative worth of the conquering and conquered peoples.'*<sup>(1)</sup>

*Theodore Roosevelt*

*From the scandalous Nusseibeh-Ayalon agreement to the irreparably flawed Geneva Accords, the last true Zionists -- with the crucial help of acquiescent Palestinian officials -- have tried their best to resuscitate the two-state solution with the declared intention of saving Zionism. But it is arguably too little, too late.*

From the scandalous Nusseibeh-Ayalon agreement to the irreparably flawed Geneva Accords, the last true Zionists -- with the crucial help of acquiescent Palestinian officials -- have tried their best to resuscitate the two-state solution with the declared intention of saving Zionism. But it is arguably too little, too late.

The two-state solution for the Palestinian-Israeli conflict is really dead. Good riddance! But someone has to issue an official death certificate before the rotting corpse is given a proper burial and we can all move on and explore the more just, moral and therefore enduring alternative for peaceful coexistence between Jews and Arabs in Mandate Palestine: the one-state solution.

Blinded by the arrogance of power and the ephemeral comfort of impunity, Israel, against its strategic Zionist interests, failed to control its insatiable appetite for expansion, and went ahead with devouring the very last bit of land that was supposed to form the material foundation for an independent Palestinian state.

The current phase has all the emblematic properties of what may be considered the final chapter of the Zionist project. We are witnessing the rapid demise of Zionism, and nothing can be done to save it, for Zionism is intent on killing itself. I, for one, support euthanasia.

Besides having passed its expiry date, the two-state solution was never a moral solution to start with. In the best-case scenario, if UN resolution 242 were meticulously implemented, it would have addressed most of the legitimate rights of less than a third of the Palestinian people over less than a fifth of their ancestral land. More than two-thirds of the Palestinians, refugees plus the Palestinian citizens of Israel, have been dubiously and shortsightedly expunged out of the definition of the Palestinians. Such exclusion can only guarantee the perpetuation of conflict.



*Israeli military checkpoint at Qalandiya, September 2003.  
Source: Tinaeke D'haese, Oxfam Solidarity/Belgium.*

### ***Relative Humanity and the Conflict***

From the onset, the two main pretences given by the Zionists to justify their colonization of Palestine were: a) Palestine was a land without a people, an uncivilized wasteland; and, b) Jews had a divine right to "redeem" Palestine, in accordance with a promise from no less an authority than God, and because, according to the Bible, the Israelites built their kingdoms all over the Land of Canaan a couple of thousand years ago, giving them historical rights to the place.

By now, both the political and the religious arguments have been shown to be no more than unfounded myths, thanks in no small part to the diligent work of Israeli historians and archaeologists.<sup>(2)</sup> Only brute colonial interest remains as the main logical motive and explanation for the dispossession and expulsion of most of the Palestinian people in 1948 to establish Israel in their stead.

At the very core of the rationalization of such an expulsion lies an entrenched colonial belief in the irrelevance, or comparative worthlessness, of the rights, the needs and aspirations of the native Palestinians. For instance, the author of the Balfour Declaration wrote: "The four Great Powers are committed to Zionism. And

Zionism, be it right or wrong, good or bad, is rooted in age-long traditions, in present needs, in future hopes, of far profounder import than the desires and prejudices of the 700,000 Arabs who now inhabit that ancient land."<sup>(3)</sup>

It is a classic case of what I call 'relative-humanization'. I define 'relative humanity' as the belief, and relative-humanization as the practice based on that belief, that certain human beings, who share a specific common religious, ethnic, cultural or other similarly substantial identity attribute, lack one or more of the necessary attributes of being human, and are therefore human only in the relative sense, not absolutely, and not unequivocally. Accordingly, such relative humans are entitled to only a subset of the otherwise inalienable rights that are due to "full" humans.

Perceiving the Palestinians as relative humans has played a decisive role in inhibiting the evolution of a unitary state solution, as will be shown below.

### ***Paths to "Solving" the Conflict***

Given the impossibility of realizing a negotiated two-state solution that can give Palestinians their minimal inalienable rights, there are three logical paths that can be pursued: 1) Maintaining the status quo, and managing the conflict, mainly by keeping some hope for the two-state solution alive, if only on paper; 2) "Finishing the job" by implementing full ethnic cleansing of the Palestinians out of the entire Mandate Palestine; and, 3) Launching new visionary, moral and practical decolonizing processes that can eventually lead to the establishment of a unitary democratic state between the Jordan and the Mediterranean.

Let us explore each of the three options:

### ***Maintaining the Status Quo***

Above everything else, the status quo is characterized by three attributes: 1) Denial of Palestinian refugee rights; 2) Military Occupation and repression in the West Bank and Gaza, and 3) a Zionist version of apartheid in Israel proper.

#### Denial of Palestinian Refugees' Rights

Far from admitting its guilt in creating the world's oldest and largest refugee problem, and despite overwhelming incriminating evidence, Israel has systematically evaded any responsibility. The most peculiar dimension in the popular Israeli discourse about the "birth" of the state is the almost wall-to-wall denial of any wrongdoing. Israelis by and large regard as their "independence" the ruthless destruction of Palestinian society and the dispossession of the Palestinian people. Even committed "leftists" often

grieve over the loss of Israel's "moral superiority" after occupying the West Bank and Gaza in 1967, as if prior to that Israel were as civil, legitimate and law-abiding as Finland! It is as if most of those Israelis who actively participated or bore witness to the *Nakba* were collectively infected by some chronic selective amnesia.

This denial has its roots in the Holocaust and in the unique circumstances created as a result of it, which allowed Israel to argue that, unlike any other state, it was obliged to deny Palestinian refugees their unequivocal right to return to their homes and lands, specifically to preserve the Jewish character of the state. This, the argument went, was the only way to maintain a safe haven for the world Jewry, the "super-victims," who are unsafe among the Gentiles, and that goal is of course of much more import than the rights of the native Palestinians. No other country on earth today can ever get away with a similarly overt, racist attitude about its right to ethnic purity.

Besides being morally indefensible, Israel's denial of the right of return also betrays a level of moral inconsistency that is in many ways unique. The Israeli law of return for Jews, for instance, is based on the principle that since they were expelled from Palestine over 2,000 years ago, they had a right to return to it. So by denying the rights of Palestinian refugees, whose 55-year-old exile is a much younger injustice, to say the least, Israel is essentially saying that Palestinians cannot have the same right because they are just not equally human.

Here are some more examples of this moral inconsistency. Thousands of Israelis whose grandparents were German citizens have successfully applied for their right to return to Germany, to gain German citizenship and receive full compensation for pillaged property. The result was that the Jewish population of Germany jumped from 27,000 in the early 90's to over 100,000 last year.<sup>(4)</sup> Belgium has also passed a law 'enabling properties that belonged to Jewish families to be returned to their owners.' It also agreed to pay the local Jewish community 55 million euros in restitution for stolen property that 'cannot be returned' and for 'unclaimed insurance policies belonging to Holocaust victims.'<sup>(5)</sup>

But the quintessence of moral hypocrisy is betrayed by the following example reported in the Israeli newspaper *Ha'aretz*: "More than five centuries after their ancestors were expelled from Spain, Jews of Spanish origin ... called on the Spanish government and parliament to grant them Spanish nationality... Spain should pass a law 'to recognize that the descendants of the expelled Jews belong to Spain and to rehabilitate them,' said Nessim Gaon, president of the World Sephardic Federation.... Some Sephardic Jews have even preserved the keys to their forefathers' houses in Spain...."<sup>(6)</sup>

Despite the above, one must not deny that the right of return of Palestinian refugees does contradict the requirements of a negotiated two-state solution. The latter requires Israel's consent, which can never materialize. This makes the right of return the Achilles' heel of any two-state deal, as the record has amply shown. This is precisely why the right of return cannot really be achieved except in a one-state solution, which would allow the Palestinians' weakness to be turned into strength, especially if they decide to adopt a non-violent path to establishing a secular democratic state, thereby gaining crucial international backing and transforming the conflict into a non-dichotomous struggle for freedom, democracy, equality and unmitigated justice. South Africa's model has to be tapped into for inspiration in this regard.

#### Military Occupation: War Crimes<sup>(7)</sup>, Large and Small

Much has been written about Israel's crimes in the occupied West Bank and Gaza. I shall therefore limit myself here to a few particularly disturbing reminders.

Following a visit to the completely fenced Gaza Strip, Oona King, a Jewish member of the British parliament commented on the irony that Israeli Jews face today, saying: "...in escaping the ashes of the Holocaust, they have incarcerated another people in a hell similar in its nature - though not its extent - to the Warsaw ghetto."<sup>(8)</sup>

Although Israel is now trying to present its Apartheid Wall<sup>(9)</sup> as a security barrier to "fend off suicide bombers," the truth is that the current path of the Wall is anything but new.<sup>(10)</sup> It has been recommended to Ariel Sharon by the infamous "prophet of the Arab demographic threat," Israeli demographer, Arnon Sofer, who insists that the implemented map was all his. And unlike the slick Israeli politicians, Sofer unabashedly confesses that the Wall's path was drawn with one specific goal in mind: maximizing the land to be annexed to Israel, while minimizing the number of "Arabs" that would have to come along.

But Sofer may be taking too much credit for himself. Ron Nahman, the mayor of the West Bank settlement of Ariel, has revealed to the Israeli mass-circulation *Yediot Ahronot* that: "the map of the fence, the sketch of which you see here, is the same map I saw during every visit [Ariel Sharon] made here since 1978. He told me he has been thinking about it since 1973." There weren't many "suicide bombings" going around then!

Four years ago, well before the *intifada* started, Ariel Sharon himself, it turned out, had evocatively called the Wall project the "Bantustan plan," according to *Ha'aretz*. Despite the Wall's grave transgression against Palestinian livelihood, environment, and political rights, a "near total consensus"<sup>(11)</sup> exists amongst Israeli Jews in supporting

it. Several official and non-governmental bodies in Israel, however, are concerned about the adverse effects the Wall might have on animals and plants.

The Israeli environment minister Yehudit Naot protested the wall, saying: "The separation fence severs the continuity of open areas and is harmful to the landscape, the flora and fauna, the ecological corridors and the drainage of the creeks. The protective system will irreversibly affect the land resource and create enclaves of communities [of animals, of course] that are cut off from their surroundings. I certainly don't want to stop or delay the building of the fence, because it is essential and will save lives.... On the other hand, I am disturbed by the environmental damage involved."<sup>(12)</sup>

Her ministry and the National Parks Protection Authority mounted diligent rescue efforts to save an affected reserve of irises by moving it to an alternative reserve. They've also created tiny passages for animals and enabled the continuation of the water flow in the creeks. Still, the spokesperson for the parks authority was not satisfied. He complained: "The animals don't know that there is now a border. They are used to a certain living space, and what we are concerned about is that their genetic diversity will be affected because different population groups will not be able to mate and reproduce. Isolating the populations on two sides of a fence definitely creates a genetic problem."<sup>(13)</sup>

Even Thomas Friedman, has predicted -- quite accurately, in my view -- in the *New York Times*<sup>(14)</sup> that the wall will eventually "kill" the two-state solution, thereby becoming 'the mother of all unintended consequences.'

#### Israel's System of Racial Discrimination: Intelligent, Nuanced but still Apartheid

US academic Edward Herman writes: "If Jews in France were required to carry identification cards designating them Jews (even though French citizens), could not acquire land or buy or rent homes in most of the country, were not eligible for service in the armed forces, and French law banned any political party or legislation calling for equal rights for Jews, would France be widely praised in the United States as a "symbol of human decency" (*New York Times*) and paragon of democracy? Would there be a huge protest if France, in consequence of such laws and practices, was declared by a UN majority to be a racist state?"<sup>(15)</sup>

Advocating comprehensive and unequivocal equality between Arabs and Jews in Israel has become tantamount to sedition, if not treason. An Israeli High Court justice has recently stated on record that: 'it is



necessary to prevent a Jew or Arab who calls for equality of rights for Arabs from sitting in the Knesset or being elected to it."<sup>(16)</sup>

In every vital area of life, including marriage laws, urban development and education, Israel has perfected a comprehensive apparatus of racial discrimination against its Palestinian citizens that is virtually unparalleled anywhere today.

### ***Ethnic Cleansing: Israel's Final Solution to the Palestinian "Demographic Threat"***

Israeli politicians, intellectuals and media often passionately debate how best to face the country's demographic "war" with the Palestinians. Few Israelis dissent from the belief that such a war exists or ought to exist. The popular call to subordinate democracy to demography,<sup>(17)</sup> for instance, has entailed the adoption of *reminiscent* population control mechanisms to keep the number of Palestinians in check.

In a stark example of such mechanisms, the Israel Council for Demography was reconvened last year to 'encourage the Jewish women of Israel -- and only them -- to increase their child bearing; a project which, if we judge from the activity of the previous council, will also attempt to stop abortions,' as reported in *Ha'aretz*. This prestigious body, which comprises top Israeli gynecologists, public figures, lawyers, scientists and physicians, mainly focuses on how to increase the ratio of Jews to Palestinians in Israel, by employing 'methods to increase the Jewish fertility rate and prevent abortions.'<sup>(18)</sup>

More concerned about the imminent rise of an Arab majority between the Jordan and the Mediterranean than with the oft invoked and sanctified "Jewish purity," Ariel Sharon has indeed called on religious leaders to smooth the progress of the immigration and absorption of non-Arabs, even if they weren't Jewish, in order to provide Israel with 'a buffer to the burgeoning Arab population,' reports the *Guardian*.<sup>(19)</sup> The Israeli government's view is that 'while the first generation of each wave of immigration may have difficulty embracing Israel and Jewishness, their sons and daughters frequently become enthusiastic Zionists. In the present climate, they are also often very rightwing.'

The Israeli far-right minister, Effi Eitam, prescribes yet another alternative: 'If you don't give the Arabs the right to vote, the demographic problem solves itself.'<sup>(20)</sup> But, by far, the all-time favourite mechanism has always been ethnic cleansing. Incessantly practiced, forever popular, but persistently denied by the Zionists, ethnic cleansing has in the last few years been resurrected from the gutters of Zionism to occupy its very throne.

The famous historian, Benny Morris, has recently argued that completely emptying Palestine of its indigenous Arab inhabitants in 1948 might have led to peace in the Middle East.<sup>(21)</sup> In response, Baruch Kimmerling, professor at Hebrew University, wrote: "Let me extend Benny Morris's logic .... If the Nazi program for the final solution of the Jewish problem had been complete, for sure there would be peace today in Palestine."<sup>(22)</sup>

Then why doesn't Israel act upon its desire now, one may ask? Prof. Ilan Pappé of Haifa University has a convincing answer: "The constraints on Israeli behaviour are not moral or ethical, but technical. How much can be done without turning Israel into a pariah state? Without inciting European sanctions, or making life too difficult for the Americans?"<sup>(23)</sup>

Offering a diametrically opposing explanation, Martin Van Creveld<sup>(24)</sup>, Israel's most prominent military historian, who supports ethnic cleansing, arrogantly shrugs off any concern about world opinion, issuing the following formidable warning: "We possess several hundred atomic warheads and rockets and can launch them at targets in all directions, perhaps even at Rome. Most European capitals are targets for our air force. ... Let me quote General Moshe Dayan: 'Israel must be like a mad dog, too dangerous to bother.' ... Our armed forces are not the thirtieth strongest in the world, but rather the second or third. We have the capability to take the world down with us. And I can assure you that that will happen, before Israel goes under."

That should amply explain why Europeans have lately ranked Israel first among the countries that are considered a threat to world peace.<sup>(25)</sup>

Yet a third explanation, which concurs with Pappé's, is that Israel currently enjoys the best of both worlds: it is implementing -- on the ground -- an elaborate mesh of policies that are making the Palestinians' lives progressively more intolerable, and therefore creating an environment conducive to gradual ethnic cleansing, while at the same time not making any dramatic -- Kosovo-like -- scene that would alarm the world, inviting condemnation and possible sanctions.<sup>(26)</sup>

### ***Israel - The Untenable Contradictions***

Putting aside its colonial nature for the moment, can a state that insists on ethnic purity and institutionalized suppression of minority rights ever qualify as a democracy, without depriving this concept of its essence? Even Israel's loyal friends have started losing faith in its ability to reconcile the fundamentally irreconcilable: modern liberal democracy and outdated ethnocentricity. Writing in the *New York Review of Books*, New York University professor

Tony Judt affirms that: "In a world where nations and peoples increasingly intermingle and intermarry, where cultural and national impediments to communication have all but collapsed, where more and more of us have multiple elective identities and would feel constrained if we had to answer to just one, in such a world, Israel is truly an anachronism. And not just an anachronism, but a dysfunctional one. In today's "clash of cultures" between open, pluralist democracies and belligerently intolerant, faith-driven ethno-states, Israel actually risks falling into the wrong camp."<sup>(27)</sup>

Avraham Burg, a devoted Zionist leader reached a similar conclusion.<sup>(28)</sup> Attacking the Israeli leadership as an 'amoral clique,' Burg asserts that Israel, which 'rests on a scaffolding of corruption, and on foundations of oppression and injustice,' must 'shed its illusions and choose between racist oppression and democracy.'

### ***Secular Democratic State: New Horizons***

No matter what our hypocrites, Uncle Toms or "false prophets" may say, Israel, as an exclusivist and settler-colonial state<sup>(29)</sup>, has no hope of ever being accepted or forgiven by its victims -- and as it should know, those are the only ones whose forgiveness really matters.

Despite the pain, the loss and the anger which relative-humanization undoubtedly engenders in them, Palestinians have an obligation to differentiate between justice and revenge, for one entails an essentially moral decolonization, whereas the other descends into a vicious cycle of immorality and hopelessness. As the late Brazilian educator Paulo Freire writes: "Dehumanization, which marks not only those whose humanity has been stolen, but also (though in a different way) those who have stolen it, is a distortion of the vocation of becoming more fully human. ... [The] Struggle [for

*"The Apartheid Wall", Qalqilya, West Bank.  
Source: Tineke D'haese, Oxfam Solidarity/Belgium.*



humanization] is possible only because dehumanization, although a concrete historical fact, is not a given destiny but the result of an unjust order that engenders violence in the oppressors, which in turn dehumanizes the oppressed. ... In order for this struggle to have meaning, the oppressed must not, in seeking to regain their humanity (which is a way to create it), become in turn oppressors of the oppressors, but rather restorers of the humanity of both."<sup>(30)</sup>

Rejecting relative humanity from any side, and insisting on ethical consistency, I believe that the most moral means of achieving a just and enduring peaceful compromise in the ancient land of Palestine is to establish a secular democratic state between the Jordan and the Mediterranean, anchored in equal humanity and, accordingly, equal rights. The one-state solution, whether bi-national -- a notion which is largely based on a false premise that the second nation in question is defined<sup>(31)</sup> -- or secular-democratic, offers a true chance for decolonization of Palestine without turning the Palestinians into oppressors of their former oppressors. The vicious cycle launched by the Holocaust must come to an end altogether.

This new Palestine should:

First and foremost allow and facilitate the return of and compensation for all the Palestinian refugees, as the only ethical restitution acceptable for the injustice they've endured for decades. Such a process, however, must uphold at all times the moral imperative of avoiding the infliction of any unnecessary or unjust suffering on the Jewish community in Palestine; grant full, equal and unequivocal citizenship rights to all the citizens, Jews or Arabs; recognize, legitimize and even nourish the cultural, religious and ethnic particularities and traditions of each respective community.

Israelis should recognize this moral Palestinian challenge to their colonial existence not as an existential threat to them but rather as a magnanimous invitation to dismantle the colonial character of the state, to allow the Jews in Palestine finally to enjoy normalcy, as equal humans and equal citizens of a secular democratic state -- a truly promising land, rather than a false Promised Land.

That would certainly confirm that Roosevelt is not only dead but is also DEAD WRONG!

Omar Barghouti is a political analyst, whose articles have appeared in the Hartford Courant, Al-Adab (Beirut), Al-Ahram (Cairo), Z Magazine and Counterpunch, among others. His article "9.11 Putting the Moment on Human Terms" was chosen among the "Best of 2002" by the Guardian. He is also a dance choreographer with El-Funoun dance ensemble in Palestine. He holds a Masters degree in electrical engineering from Columbia University, NY, and is currently a doctoral student of philosophy (ethics) at Tel Aviv University. He contributed to the recently published book, "The New Intifada: Resisting Israel's Apartheid" (Verso Books, 2001).

## Endnotes:

- (1) Theodore Roosevelt, *The Winning*, reproduced in: Norman Finkelstein, "History's Verdict: The Cherokee Case," *Journal of Palestine Studies*, Volume XXIV, Number 4, Summer 1995, University of California Press.
- (2) Several archaeological studies have shown that most of the stories in the Bible used by Zionists to buttress their claim to Palestine were indeed not supported by the region's history, which is 'based on direct evidence from archaeology and historical geography and is supported by analogies that are primarily drawn from anthropology, sociology and linguistics,' as archaeologist Thomas L. Thompson has written (<http://www.bibleinterp.com/articles/copenhagen.htm>). His findings are supported by the extensive, painstaking and authoritative research of distinguished Israeli archaeologists, including Ze'ev Herzog (<http://www.prometheus.demon.co.uk/04/04herzog.htm>) and Israel Finkelstein (see Aviva Lori, "Grounds for Disbelief," *Ha'aretz*, May 10, 2003).
- (3) The Origins and Evolution of the Palestine Problem, UN Committee on the Exercise of the Inalienable Rights of the Palestinian People, <http://domino.un.org/UNISPAL.NSF/0/aeac80e740c782e4852561150071fdb0?OpenDocument>.
- (4) Reuters, "Germany: Growing Number of Israelis Seeking Citizenship," *Ha'aretz*, Monday, June 17, 2002.
- (5) Yair Sheleg, "Belgian Prime Minister Apologizes for his Country's Actions During Holocaust," *Ha'aretz*, October 07, 2002.
- (6) DPA, "Sephardi Jews Demand Recognition from Spanish Government," *Ha'aretz*, October 15, 2002.
- (7) Amnesty International's examination of Israel's conduct during the current intifada led it to conclude that: 'There is a pattern of gross human rights violations that may well amount to war crimes.' <http://www.cnn.com/2000/WORLD/meast/11/01/mideast.amnesty.reut>.
- (8) Oona King, "Israel Can Halt This Now," *The Guardian*, June 12, 2003. <http://www.guardian.co.uk/comment/story/0,3604,975423,00.html>.
- (9) The dubbed 'Separation Barrier' has been shown by many researchers to be in effect separating Palestinians from their lands, and isolating them in restrictive Bantustans, fully under the control of the Israeli military. As such, the only proper and accurate name that can be applied to this mammoth barrier is: Apartheid Wall, as many have begun to call it. For details on the Wall, refer to the Amnesty International report at: [http://web.amnesty.org/pages/isr-index\\_2-eng](http://web.amnesty.org/pages/isr-index_2-eng), which considers the wall a form of collective punishment, and therefore illegal, the Human Rights Watch report at: <http://www.un.org/News/Press/docs/2003/ga10179.doc.htm>, the B'Tselem detailed position paper at: <http://www.btselem.org>, or the UNGA resolution condemning the wall at: <http://www.un.org/News/Press/docs/2003/ga10179.doc.htm>.
- (10) Meron Rappaport, *ibid*.
- (11) *Ha'aretz* Editorial, "A Fence Along the Settlers' Lines," October 3, 2003.
- (12) Mazal Mualem, "Old Habitats Die Hard," *Ha'aretz*, June 20, 2003.
- (13) *Ibid*.
- (14) Thomas Friedman, "One Wall, One Man, One Vote," *New York Times*, September 14, 2003. <http://www.nytimes.com/2003/09/14/opinion/14FRIE.html>.
- (15) Edward S. Herman, "Israeli Apartheid And Terrorism," *Z-Magazine*, 29 April 2002. <http://zena.secureforum.com/Znet/ZMag/articles/may94herman.htm>.
- (16) Herman, *ibid*.
- (17) Lily Galili, "A Jewish demographic state," *Ha'aretz*, July 01, 2002.
- (18) Gideon Levy, "Wombs in the Service of the State," *Ha'aretz*, September 9, 2002.
- (19) Chris McGreal, "Sharon Takes on Rabbis Over Jewish Identity," *The Guardian*, December 31, 2002.
- (20) Yuli Tamir, "Divide the Land or Divide Democracy," *Ha'aretz*, April 14, 2002.
- (21) Benny Morris, "A new exodus for the Middle East," *The Guardian*, October 3, 2002. <http://www.guardian.co.uk/israel/comment/0,10551,803417,00.html>.
- (22) Baruch Kimmerling, "False logic," *The Guardian*, October 5, 2002. <http://www.guardian.co.uk/letters/story/0,3604,805123,00.html>.
- (23) Geraldine Bedell, "Set in Stone," *The Observer*, June 15, 2003.
- (24) Ferry Biedermann, *Interview with the Israeli Military Historian Dr Martin van Creveld*, January, 2003. <http://www.de.indymedia.org/2003/01/39170.shtml>.
- (25) Thomas Fuller, "European Poll Calls Israel a Big Threat to World Peace," *International Herald Tribune*, October 31, 2003. [http://www.ihf.com/ihfsearch.php?id=115858&owner=\(IHT\)&date=20031031121947](http://www.ihf.com/ihfsearch.php?id=115858&owner=(IHT)&date=20031031121947).
- (26) Peace activists Gadi Algazi and Azmi Bdeir explain: Transfer isn't necessarily a dramatic moment, a moment when people are expelled and flee their towns or villages. It is not necessarily a planned and well-organized move with buses and trucks loaded with people ... . Transfer is a deeper process, a creeping process that is hidden from view. ... The main component of the process is the gradual undermining of the infrastructure of the civilian Palestinian population's lives in the territories: its continuing strangulation under closures and sieges that prevent people from getting to work or school, from receiving medical services, and from allowing the passage of water trucks and ambulances, which sends the Palestinians back to the age of donkey and cart. Taken together, these measures undermine the hold of the Palestinian population on its land.' Ran HaCohen, *Ethnic Cleansing: Past, Present, and Future*, [www.Antiwar.com](http://www.Antiwar.com), December 30, 2002.
- (27) Tony Judt, "Israel: The Alternative," *New York Review of Books*, Vol. 50, #16, October 23, 2003. <http://www.nybooks.com/articles/16671>.
- (28) Avraham Burg, "The End of Zionism," *The Guardian*, September 15, 2003. Reprinted with permission of The Forward, which translated and adapted this essay from an article that originally appeared in *Yediot Aharonot*.
- (29) Even the former deputy mayor of Jerusalem, Meron Benvenisti, says: "in the past two years I reached the conclusion that we are dealing with a conflict between a society of immigrants and a society of natives. If so, we are talking about an entirely different type of conflict. ... Because the basic story here is not one of two national movements that are confronting each other; the basic story is that of natives and settlers. It's the story of natives who feel that people who came from across the sea infiltrated their natural habitat and dispossessed them." Ari Shavit, "Cry, the Beloved Two-State Solution," *Ha'aretz*, August 10, 2003.
- (30) Paulo Freire, *Pedagogy of the Oppressed*. New York: Herder & Herder, 1972, p. 28.
- (31) Binationalism makes two problematic assumptions: that Jews are a nation, and that such a nation has a right to exist as such in Palestine. Clearly bi-nationalism cannot work between Palestinians on the one hand and the world Jewry on the other. But will Israeli Jews define themselves as a nation? Most probably not, since that would contradict the fundamental premise of Zionism. Then do Israelis regard themselves as a nation? Certainly not, since aside from parting with Zionism, that would include the 20% Palestinian minority within it.



# Refugee Protection

## Housing and Property Restitution for Palestinian Refugees

Report from the Second BADIL Expert Forum, 2-4 October 2003, Geneva

Hosted by the Graduate Institute of Development Studies, University of Geneva

*The right of refugees and displaced persons to return to their homes of origin is well established in international law. Today, most peace agreements that provide solutions for refugees and displaced persons recognize the right of such individuals to return to their homes. This includes agreements in Macedonia, Kosovo, Croatia, Bosnia-Herzegovina, Tajikistan, Georgia, Burundi, Rwanda, Liberia, Sierra Leone, Mozambique, Cambodia, and Guatemala.*

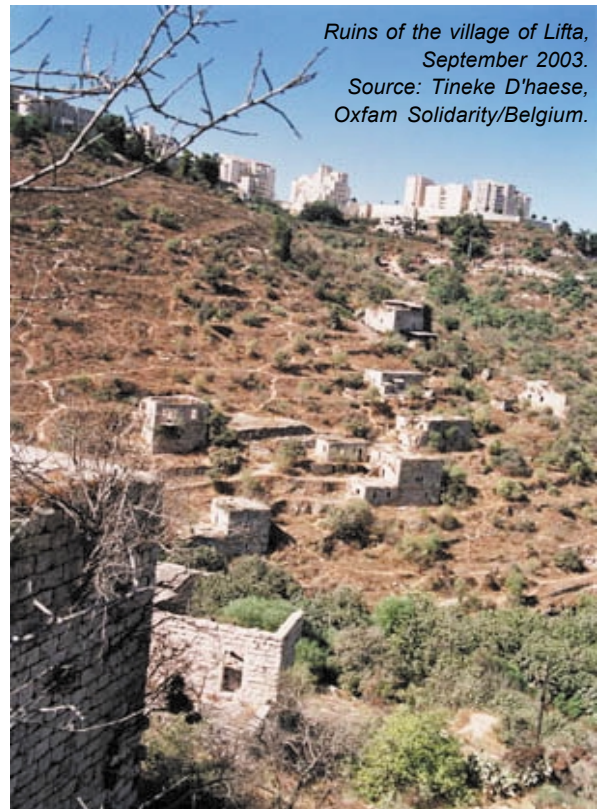
The right of refugees and displaced persons to repossess property they have lost during conflict is also starting to be recognized on a regular basis. Most peace agreements addressing situations of mass displacement in the 1990s, for example, included provisions for housing and property restitution. The Office of the UN High Commissioner for Refugees (UNHCR) and the Commission on Human Rights have also elaborated more detailed policies on housing and property restitution for refugees and displaced persons.

Between 2-4 October 2003, approximately 30 international experts, practitioners, UN and government officials gathered in Geneva to discuss housing and property restitution in durable solutions for Palestinian refugees. The seminar aimed to clarify relevant international law; review the scope of Palestinian refugee claims, the quality of available documentation, Israel's expropriation laws and policies and past Palestinian efforts at property restitution; examine lessons learned from comparative experience, including Bosnia, South Africa, and Cyprus, as well as precedents for restitution before 1948; and, develop a set of suggestions to guide future efforts for the promotion of Palestinian refugees' right to housing and property restitution.

This summary report examines lessons learned from case studies examined at the seminar and strategies for Palestinian refugees. For a complete summary of seminar proceedings and electronic copies of working papers visit the BADIL website, [www.badil.org/Campaign/Expert\\_Forum.htm](http://www.badil.org/Campaign/Expert_Forum.htm). The seminar was sponsored by the Swiss Federal Department of Foreign Affairs (PD-IV), Stichting Vluchteling/Netherlands, ICCO/Netherlands and the APRODEV NGO Network.

### Lessons Learned

In the context of other case studies, the Palestinian situation can appear rather hopeless. However, the situation in South Africa was equally bleak and difficult,



Ruins of the village of Lifta,  
September 2003.  
Source: Tineke D'haese,  
Oxfam Solidarity/Belgium.

and yet restitution has been feasible. Implementation of restitution for Palestinians may be difficult but it is doable. There are many issues that require further elaboration in order to ensure that every person who has been arbitrarily deprived of their property has a real chance to repossess that property.

The case studies of Bosnia, South Africa and Cyprus raised a number of important questions. On the one hand, they demonstrate that the right of return and restitution are basic to any agreement. At the same time, it is important to know to what extent states can derogate from the right to return and the right to property. What happens when the right of certain refugees clashes with the rights of other refugees to possess property? In what situations should compensation override the right to restitution? To what extent and when does political will

affect the right to return and the right to property?

Peace agreements should be as detailed as possible. A peace agreement should set out expressly the right of refugees and displaced persons to return, to restitution and to compensation. Return and repossession of property must be grounded in the rule of law and not simply on political understandings between the parties. Specific drafts of legislation are needed for the establishment of adequate administrative and/or judicial institutions. They should also provide for an adequate review mechanism. Drafts of domestic legislation attached to the agreement should be as detailed as possible. An agreement's provisions must stipulate that all discriminatory laws and measures enacted during the conflict must be immediately annulled or amended. It should also specify the rights of secondary occupations. Secondary occupants who are required to vacate a claimant's property should not be deprived of basic social and economic rights.

One of the most significant issues that needs to be addressed is enforcement. Peace agreements should also include obligations for the signatories of the agreements. It is important to establish a mechanism to ensure that signatories of the peace agreement respect obligations they signed up to. If the agreement establishes an administrative process rather than a judicial process for restitution, the extent to which the judiciary may get involved to ensure that the administrative process functions efficiently should also be clarified. Political support is very important. Political backing needs to be mobilised. Without such strong political support, the process in Bosnia, for example, most likely would not have worked.

Finally, the financial issue has to be taken into consideration. The entire process can be extremely expensive. In addition to funds for compensation, financial resources are required to set up the restitution process itself, including the establishment of offices, the hiring of researchers and lawyers, and the entire process from the filing of claims through to the issuing of decisions. Compensation itself is also very expensive and complex. It requires substantial funds. Innumerable details must be sorted out in advance including methods of valuation and the source of and guarantee of adequate funds to make the entire process work. It must be clear from the beginning who is going to pay for the process. A clear delineation of tasks must be set out in order to avoid the inefficient use of available resources.

### ***Strategies***

Civil society initiatives are very important. They can contribute to the development of issues that are excluded

from official debate. This is especially true with regard to housing and property restitution in the Palestinian case. In South Africa, civil society has played an active role in raising the right to land and restitution. In contrast, civil society has had little impact on negotiations concerning housing and property restitution in Cyprus. Civil society organizations have mostly reacted to the results of political negotiations which are being held behind closed doors. In Rwanda some public debates were organised to discuss land and property issues, however, it is not clear to what extent these activities influenced the political negotiations.

New initiatives are required in order to raise awareness among Palestinian refugees, Israelis, and the international community about basic principles of housing and property restitution. Most refugees suffer from the lack of information about their legal or elementary rights. Basic principles on the right to housing and property restitution should be circulated as widely as possible through public education. Comparative and experiential learning (e.g. study visits) are also important. Initiatives should engage Israelis to recognize that a durable peace agreement must be consistent with international law and practice, including the right of refugees to return to their homes of origin. Little has been done in this area.

At the regional level there is less awareness of relevant legal conventions and mechanisms that exist for the protection of refugee rights. Solidarity with the Palestinian people must also be developed into a relationship of reciprocal solidarity among other oppressed people and with NGOs working on the issue of property restitution and the right of refugees and displaced people to return in all parts of the world. In this context, NGO cooperation at the 2001 UN World Conference Against Racism (WCAR) in Durban should be re-visited and critically analyzed for its achievements and shortcomings.

Efforts must be made to link current issues (new occupation policies, economic issues, international reaction toward apartheid, etc.) to Palestinian refugee rights. A number of advocacy topics as well as existing advocacy campaigns were identified: use of refugee lands by foreign companies operating inside Israel; the naming of parks and forests planted by Zionist organizations on refugee lands after third countries (e.g. 'Canada Park' on the lands of Emwas, Yalo and Bayt Nuba, or the 'South African Forest' on the land of Lubya); access of individual refugee claimants to the United Nations property database on Palestine; the destruction and abuse by Israel of Palestinian religious sites; and, for restitution of religious (*waqf*) property to the respective Palestinian religious community in Israel.

Legal strategies can strengthen civil society initiatives. Actual restitution and compensation can only be obtained via mechanisms for direct claims. Unfortunately such mechanisms are not readily available for Palestinians. There might be possibilities for Palestinian refugees living in Europe who are able to convince their governments to apply pressure against Israel by diplomatic means. However, the most interesting would be the establishment of a 'UN Claims Commission' for Palestine. Regional courts may also receive claims, particularly the European Court of Human Rights and the Inter-American Court. The European Court already has developed jurisprudence and has interesting precedents relevant for the Palestinian case. The Inter-American Court has not yet issued similar decisions. Claims could be filed with the International Court of Justice based on a legal opinion holding that the PLO could file a claim on behalf of Palestinians before the ICJ.

Injured parties may use indirect claims mechanisms to obtain declaratory rulings and perhaps some form of indirect compensation. Restitution or full compensation is not available under this category. Indirect claims mechanisms are claims filed with domestic courts under universal jurisdiction legislation available for prosecution of international treaty violations. Current examples include: the Alien Tort Claim Act (ATCA) and the Tortured Victim Protection Act (TVPA) in the United States and the notion of universal jurisdiction for international crimes (war crimes, genocide, crimes against humanity) developed by some states (e.g. Belgium, UK, Spain, Switzerland). Based on the Rome Statute, the International Criminal Court (ICC) has jurisprudence over international crimes committed after the cut-off date of 1 July 2001, however, the ICC cannot enforce its jurisdiction against non-signatory states, among them Israel.

There are also various mechanisms for laying the legal

foundation for future Palestinian claims. This category includes UN Treaty Body reporting mechanisms (e.g., UN Committee on Social, Economic and Cultural Rights) in which there has been significant civil society reporting. Treaty body 'concluding observations' are moving in the right direction. Special Complaint Procedures (1230, 1503) of the UN Human Rights Commission have not yet been used extensively and should be used, in order to strengthen UN principles on the Palestinian right to restitution.

Discriminatory application of legal principles by Israeli authorities on both sides of the 'green line' should also be highlighted in order to raise Palestinian refugee rights. Zionist-Israeli quasi-state agencies operate openly all over the world as charitable institutions. Their activities contribute to the dispossession of Palestinians and refugees. The possibility of claims against these Zionist organizations and their activities based on the jurisdiction of the states where they operate should be explored and pursued. Any legal strategy can be effective only if accompanied by political and media work. No legal strategy can work and succeed alone. An effective strategy depends on assembling all these ideas and creating a grass-roots/civil society movement that can garner international political support.

A list of outstanding research topics related to the Palestinian right to restitution should be developed for circulation among students and scholars. Specific topics for further research, in addition to legal strategies, could include: the relation between the right to restitution and lapse of time; retroactivity and the right to restitution; pre-1948 precedents for restitution; specific legal doctrines, including the inter-temporal doctrine, the Stimson doctrine and the persistent advocate/objector doctrine; the rights of Jewish Israeli secondary occupants of Palestinian refugee properties; gender and

restitution of individual and communal property; return of Christian *waqf* as a precedent for restitution; how to resolve clashes between individual and communal property claims; and precedents established by Jewish restitution claims. A schematic model for restitution of Palestinian land should also be developed. Such a framework/outline will be a useful tool for engaging people (Israelis and others) and advocacy work. Support of Palestinian researchers and academic institutions must be a priority of the international academic community.





## House Demolitions in Rafah

The year 2003 witnessed another severe rise in Israeli violations of the right to housing in 1967 occupied Palestine. According to figures compiled by UNRWA, Israel demolished an average of 73 Palestinian homes per month during the first six months of 2003, a rate which was double that of 2002.



*Rafah refugee camp, October 2003. Source: UNRWA.*

From 9-11 October 2003 alone, Israeli military forces destroyed some 200 refugee shelters in Rafah in the southern Gaza Strip leaving homeless some 1,900 Palestinians. In a statement released by the United Nations on the 6 November, the Special Rapporteur on adequate housing restated that "house demolitions, confiscation of land and destruction of property and other actions by Israel breach international human rights and humanitarian law, including the human rights instruments Israel has ratified, the Geneva Conventions and Hague Resolutions as well as various binding UN resolutions." The Special Rapporteur further called upon the international community "to act decisively to protect Palestinians by taking urgent steps to remove the impunity that Israel enjoys."

At the end of October, UNRWA estimated that Israel had destroyed some 2,130 refugee shelters since the beginning of the second intifada at the end of September 2000 leaving more than 16,000 Palestinians homeless. The escalation in house demolition in 2003 comes at a time when UNRWA facing increasing donor shortfalls leaving it unable to keep pace with both regular shelter rehabilitation and reconstruction of destroyed shelters.

## Update on Palestinian Refugees from Iraq

As winter sets in across the Middle East, an estimated 1,800 people who fled Iraq are living in refugee camps in eastern Jordan. This include more than 400 Palestinians who had previously lived in exile in Iraq. Throughout the winter the refugees will remain sheltered under canvas tents and will have to rely in simple cooking and heating stoves for warmth.

Most of the Palestinians have Iraqi resident documents. Fourteen hold Egyptian papers and three have Lebanese travel documents. None have so far expressed a desire to return to Iraq. UNHCR does not consider Iraq to be conducive for return. Many have expressed a readiness to go to the West Bank and Gaza, as well as to Israel. UNHCR's primary focus is the lasting solution of returning to their homeland in safety and dignity.

UNHCR has also called upon other states in the region to help find a place for the 427 Palestinian refugees remaining at the border camp. The UNHCR has appealed specifically to Egypt and Lebanon to grant individuals holding travel documents issued by these two states to permit them to reenter. It has also suggested that other Arab and non-Arab countries share the burden by offering Palestinian refugees temporary residency so that they might get employment and access to social services until a more durable solution is found.

(UNHCR Briefing Notes, 28 November 2003 ).



*Refugees in the no man's land between Iraq and Jordan are ill-equipped to cope with the approaching winter. Source: UNHCR/P.Kessler, 2003*



## American and European Initiatives Attempt to Cancel the Right of Return

*Over the past several months American actions at the UN General Assembly, and individual American and European legislators have adopted new initiatives that aim to undermine the basic human rights of Palestinian refugees to return to their homes and repossess their properties.*

At the United Nations, the US delegation sought to take advantage of the annual adoption of UN General Assembly resolutions relating to Palestinian refugees to consolidate existing resolutions and further remove all references to international law and UN Resolution 194. Based on a draft resolution proposed by the United States (A/C.4/58/L.9, 31 October 2003) and the revised draft resolution (A/C.4/58/L.9, 7 November 2003) submitted by Australia, Canada, Dominica, Palau, Uganda and the US, the United States introduced a consolidated GA resolution on Assistance to Palestine refugees and Support for the United Nations Relief and Works Agency for Palestine Refugees in the Near East (Res. 58/95, 17 December 2003). Unlike the non-consolidated resolutions (Res. 58/91, 17 December 2003 and Res. 58/93, 17 December 2003), the US-sponsored resolution excludes, for the first time, reference to GA Resolution 194, reference to the UNCCP (mandated to facilitate implementation of the right of return, restitution and compensation), and expressing the concern of the General Assembly that the repatriation and compensation of Palestinian refugees has not yet been effected.

The measure follows efforts by the former Clinton administration to remove all references to UN resolutions. Since 1993, the United States has voted against UNGA Resolution 194(III). Explaining the US vote, then Ambassador to the UN Madeline Albright stated, "We believe that resolution language referring to 'final status' issues should be dropped, since these issues are now under negotiation by the parties themselves. These include refugees..." (Letter to Ambassadors to the United Nations, New York, 8 August 1994).

In the US Congress, meanwhile, Rep. Ileana Ros-Lehtinen (Republican) sponsored Resolution 311, 28 October 2003, expressing the sense of the Congress that UNRWA "should establish a program for resettling all of the Palestinian refugees under the authority of UNRWA in the host countries or territories in which they are living, other Arab countries, or third party countries willing to assist, and a timetable for implementing the program within 6 months of the date of the adoption of this resolution." The resolution appears to be part of a concerted effort by the World Jewish Congress (WJC) and its supporters to undermine Palestinian refugee rights and at the same time weaken US support for

UNRWA in the run-up to the renewal of its mandate in 2005. (For more on the attack on UNRWA, see *al-Majdal* 19). At the same time that the WJC is calling for a change in UNRWA's mandate to effect resettlement of all Palestinian refugees, including the extinguishment of Palestinian refugee rights, it is also campaigning for international support for the rights, including housing and property rights, of Jews from Arab countries.

Similar efforts were underway in the European Parliament, which adopted a non-binding Resolution on Peace and Dignity on 23 October 2003 calling upon Palestinian officials "to take a realistic approach to the sensitive question of the right of return for refugees." The resolution recommends "that the right of return for Palestinian refugees be confined to the Palestinian state, with exceptions that may be freely negotiated, and that the international fund for solidarity and economic aid referred to below should provide a generous and equitable system of compensation for those refugees not wishing to return or unable to do so because their place of origin is located outside of the Palestinian state." The Resolution was based on a European Parliamentary Report on Peace and Dignity in the Middle East (A5-0351/2003), prepared by Special Rapporteur Emilio Menendez del Valle (Spanish Socialist MEP and Vice-President of the European Parliament Delegation for relations with the Palestinian Authority), of the Committee on Foreign Affairs, Human Rights, Common Security and Defense Policy.

Ironically, the recommendations on Palestinian refugees in the lengthy resolution are contradictory to other sections of the resolution which state that the Parliament "Is convinced that this agreement can only secure a fair, honourable, full and lasting peace that will guarantee stability and security in the region if it is based on: *international law and the resolutions of the United Nations Security Council and General Assembly*; a commitment from both parties to democracy, the rule of law and human rights, ...." [Emphasis added]

These efforts are inconsistent with American and European policy vis-à-vis refugees and displaced persons elsewhere, including Bosnia, Kosovo, and East Timor, where both the US and the EU have supported the right of refugees and displaced persons to return to their homes, regardless of so-called demographic concerns.

## Impact of the First Phase of the Wall on Registered Refugees - UNRWA Assessment (*exerpts*)

---

On 31 July 2003, the Israeli Ministry of Defence announced the completion of the first phase of the security barrier ['Apartheid Wall'], officially launched on 16 June 2002.<sup>(1)</sup> The first stage comprises a 123-kilometre-long-section extending from Salem checkpoint in the northwest Jenin district, through the Tulkarm and Qalqilya governorates, to Masha village in the Salfit area. In practice, work is still continuing on the southern section of this phase: the pedestrian and agricultural gates are being installed and the electronic "smart fence", the central component of the system, has yet to become operational. The subsidiary barriers, including deep trenches or "depth barriers" have yet to be built, although construction of the depth barrier around Tulkarm appears to be imminent.<sup>(2)</sup>

Another stage, approximately 20 kilometres of the "Jerusalem envelope", has been constructed: in the north four kilometres from Kalandia checkpoint to Opher military camp in the Ramallah area, and the rest from Gilo settlement to Beit Sahur in the Bethlehem area. As work is still ongoing it is difficult to gauge the likely effects of this phase, particularly as residents of these areas already have to pass through the Kalandia and Gilo checkpoints to enter Jerusalem. Affected areas in the northern Jerusalem area include A-Ram, Kalandia, Kufr Aqab, El-Bira and Rafat, and the barrier will eventually extend to the Jaba junction. Kalandia camp residents will end up on the "Palestinian" side of the barrier: according to PENGON, "the northern Jerusalem Wall is isolating 15,000 Jerusalem ID holders, living in Kufr Aqab and Qalandiya Refugee Camp from the city, their familial and social ties, and public services."<sup>(3)</sup> Conversely, Abu Dis, el-Azariya, Anata, Hizma and Beit Ikhsa will lie on the "Israeli side" of the barrier.<sup>(4)</sup> Although the US administration has objected to the inclusion of Palestinian areas within the "Jerusalem envelope" it appears that the Israeli authorities are prepared to disregard these objections.<sup>(5)</sup>

In the Bethlehem area, part of the barrier has been constructed from the Gilo tunnel on Route 60, past Aida Camp, Rachel's Tomb and Har Homa settlement to Route 356 past Beit Sahur. The new checkpoint/gate for Bethlehem will be 200 metres south of the current Gilo checkpoint and the route of the barrier around Rachel's Tomb will leave approximately 500 Bethlehem residents on the "Jerusalem side".<sup>(6)</sup> The barrier will closely abut Aida camp and three houses in the camp will also be isolated on the "Israeli side".<sup>(7)</sup>

A 40-kilometre section is currently underway in the northern Jenin district from Salem checkpoint to Jalbun, to be complete by 31 December 2003. Here the barrier appears to closely follow the Green Line, although constructed entirely within the West Bank. The overall impact is as yet unclear, but may be less detrimental to the Palestinian communities concerned than in other phases.

### Endnotes:

---

(1) "Without Celebrations: First Stage of Separation Fence Inaugurated", Yediot Ahronot, 1 August 2003

(2) Interview with residents of Jarushiya village, Tulkarm, 8,9 August 2003.

(3) PENGON: The Wall in Palestine: Facts, Testimonies, Analysis and Call to Action, June 2003, p. 63.

(4) "Israel Considers Changing Separation Fence Route", Yediot Ahronot, 7 July 2003

(5) "The Fence that will Unit Jerusalem", Ma'ariv, 12 August 2003

(6) PENGON: pp.68, 69.

(7) PENGON: p.121.

### Impact of Phase One on Registered Refugees

Population statistics are based on mid-2003 projections of the PCBS 1997 census figures. Refugee family numbers are from the Relief and Social Services Department in UNRWA West Bank Field Office.

- of the 14 communities isolated between the barrier and the Green Line, there are 13,636 Palestinians, including 374 refugee families or 1,870 individuals.

- 15 communities will be affected by so-called 'depth barriers' to the east of the fence affecting 138,593 Palestinians, including 13,450 refugee families or 67,250 individuals.

- An undetermined number of communities will be impacted through the loss of land, irrigation networks or infrastructure during the construction and experience access problems once construction is complete. This includes at least 33 communities or 69,019 persons of whom 1,467 are refugee families or 7,335 persons.

- In total over 220,000 people will be affected including 15,291 refugee families, or 76,455 individuals representing one third of the total population

For a list of the individual affected communities see the entire UNRWA report available at [www.unrwa.org](http://www.unrwa.org).

# Refugee Assistance

## UNRWA's Role in Housing Reconstruction

by Ron Wilkinson



*Barracks in Neirab Camp to be replaced by new housing. Source: UNRWA*

*UNRWA, the United Nations Relief and Works Agency for Palestine Refugees, is currently involved in two major, but very different, housing projects in Palestinian refugee camps.*

For more than 50 years UNRWA has been helping to provide housing for Palestinian refugees. In the early days of their flight, UNRWA and other organizations such as the ICRC and the Quakers provided tents that were gradually replaced with more durable shelters in the 1950s. Again in 1967 after the Israeli occupation of the West Bank and Gaza Strip, tents were needed to house fleeing refugees in Jordan and Syria. UNRWA also completely rebuilt refugee camps in Lebanon after the 1982 Israeli invasion and the "camps war" in the mid-1980s.

In Jenin, West Bank, UNRWA is rebuilding homes for 2,000 refugees as a result of the Israeli assault on Jenin in the spring of 2002 that left 400 homes destroyed and dozens damaged, piles of rubble and a dangerous landscape replete with booby-traps, grenades and other unexploded ordinance.

In Neirab camp, near Aleppo, Syria, UNRWA is rehabilitating housing for refugees living in

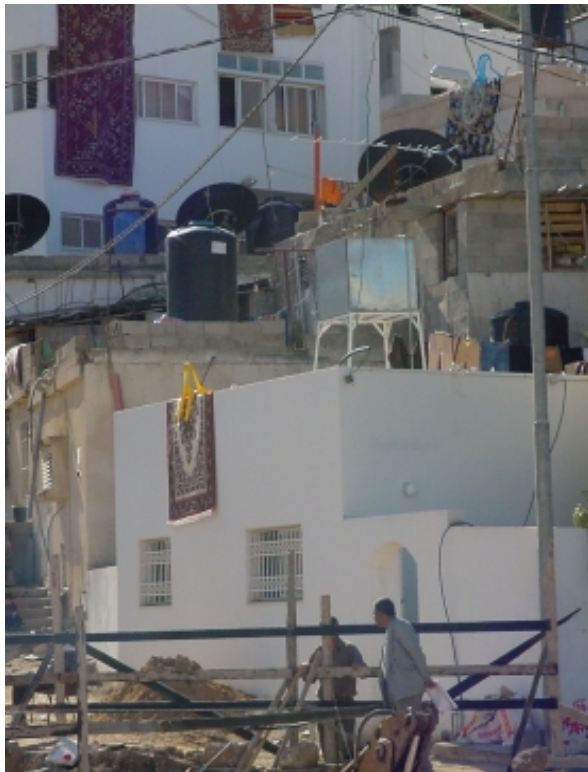
dilapidated army barracks built before World War II. It will take several years to complete the move of 300 families to a nearby vacant site, but UNRWA has been able to carefully design the project and closely involve the refugee community in planning and implementation. In addition to improving the housing of 7,500 refugees directly, it will reduce the population density for others in Neirab from nearly 90 persons per 1000 m<sup>2</sup> to 70 per 1000 m<sup>2</sup>.

Each in its own way is an emergency, one brought on by violent external forces and the other by 55 years of decay and lack of money.

These two projects are in addition to UNRWA's emergency program in Gaza and West Bank to repair or rebuild homes damaged or destroyed by Israeli military action over the past two years and its regular shelter rehabilitation program under which the Agency helps refugees repair or construct their own shelters.

## Jenin-Picking up the pieces

In April 2002, as a result of Israeli army incursions into Jenin camp and ensuing fighting with Palestinians in the camp, hundreds of refugee shelters were destroyed, hundreds were damaged along with camp infrastructure, UNRWA installations and other community facilities.



*Reconstruction at Jenin Camp. Source: UNRWA*

Jenin camp was established in 1953 to house refugees who fled from areas of northern Palestine, including Haifa and Akka, after the Israeli declaration of independence in 1948 and the takeover of their homes and lands by Israelis. It is located north of Nablus in the Israeli-occupied West Bank.

The immediate need in 2002 was to provide emergency housing and humanitarian aid to the some 13,000 residents of Jenin. By July 2002, the Red Crescent Society of the United Arab Emirates had offered \$27 million to UNRWA for the Jenin Camp Rehabilitation Project. This encompasses rebuilding destroyed housing, repairing damaged housing and developing infrastructure and communal facilities.

The project is divided into three phases:

- Preparations for reconstruction (architectural and engineering design for housing and infrastructure and repair of damaged housing and other facilities);
- Rebuilding housing and developing infrastructure; and
- Developing communal facilities.

Phase I is complete and Phase II, at a cost of \$16.8 million, is underway. Detailed engineering designs for Phase II are near completion.

### *Israeli incursions delay rebuilding*

Even before the major invasion of Jenin in April 2002, the camp had been invaded seven times in the previous year and a half. By the time Israel forces withdrew from Jenin in late April, more than 50 Palestinian refugees had been killed, hundreds injured and a quarter of the camp destroyed.

The UN Security Council passed resolution 1405 on 19 April 2002 asking for an impartial investigation into evidence of serious human rights violations and breaches of international law, including war crimes in Jenin. However, the investigation was allowed to collapse due to Israeli intransigence and non-cooperation.

Since the events of 2002, Jenin camp has been under curfew for 137 working days out of a possible 459 days meaning 30 per cent of available work time has been lost. The most recent incursion by the Israeli army involving property damage occurred on 14 November 2003.

Although the frequency of curfews and incursions has diminished since March 2003, restrictions on movement in and out of Jenin for Palestinian personnel and vehicles have not been eased. A series of incursions in September and October 2003, brought on-site construction to a halt. Delays in awarding construction contracts have caused considerable frustration within the refugee community.

Physical threats against UNRWA project staff while traveling in UN cars have been frequent as well as searches and long delays at checkpoints for staff and vehicles.

The most serious incident was the death of Project Manager Iain Hook who was shot by Israeli soldiers on 22 November 2002.

Before beginning any reconstruction, the first task was to remove thousands of tons of rubble from the 373-dunum site, and dispose of unexploded ordnance. This was done at a cost of more than \$500,000.

In planning the project, UNRWA aimed to reduce crowding in the camp, improve housing standards and provide each housing unit with open outdoor space. Agency staff meet weekly with the community to inform refugees of progress and plans as well as obtain feedback and input into the process. Refugees are also being included in the process of rebuilding homes.





*Jenin Camp after rubble cleared. Source: UNRWA*

Contracts were signed in September 2003 to install a water and wastewater network, a main waste trunk line, roads and storm water drainage. Work was delayed on most of these projects for weeks because of renewed Israeli incursions into Jenin.

Despite the enforced delays, UNRWA is continuing to plan and design housing and community facilities. The aim is to have all refugees rehoused by September 2004. Tenders have been issued and are now being evaluated for construction of a school, a women's program center and kindergarten and a community and youth center.

Work on the infrastructure, especially water and sewage lines is underway at a cost of \$4 million. Major repairs to 389 refugee shelters and 30 shops at a cost of \$2.5 million and minor repairs to 1,723 homes at a cost of \$1.2 million are nearly completed. The main re-building project, building 198 homes to house some 1,900 refugees is due for completion in September 2004. Remaining funds will provide the community facilities and assist other refugee families affected by more recent Israeli incursions.

### **Neirab--Fear of resettlement**

Lack of funds has always been a barrier for UNRWA in upgrading Palestinian refugee shelters. Another reason preventing large-scale housing improvements was the fear among refugees and host governments that this would be tantamount to resettling refugees without securing their right of return and compensation as promised by relevant UN resolutions.

In the late 90s, however, both the PLO and host governments have gradually agreed to improvements of refugees' living conditions without prejudicing their rights. In January 2002, the Arab League Conference of Supervisors of Palestinian Affairs in the Arab Host

Countries endorsed the "necessity for UNRWA to continue providing services...until a solution to the refugee issue is found on the basis of Resolution 194 of 1948 and implementation of this resolution".

It also called on UNRWA "to coordinate with the competent authorities in the Arab host countries to carry out projects relating to the infrastructure in the Palestinian camps in these countries..." thereby further underscoring support of Arab host governments for initiatives such as the project in Neirab camp near Aleppo, Syria that will eventually better the living conditions of some 13,000 Palestinian refugees.

Before embarking on the venture, UNRWA studied the situation from both a socio-economic and technical point of view; commissioned feasibility studies; involved the Government of Syria and consulted the refugees who would be affected. The project involves replacing dilapidated World War II army barracks in Neirab camp which now house 1,300 refugee families, most of whom having been living there for 55 years and moving 300 families to a nearby refugee camp, Ein el Tal, which has 60,000 sq. meters of land available and a population of only about 4,000. Neirab has no unused land for housing.

Although developed in response to the miserable housing conditions in the Neirab barracks, UNRWA has approached the project as an integrated urban development initiative, addressing the health, housing, education and socio-economic needs of the refugee community. New initiatives include training courses to help develop skills for the construction industry, a pilot community banking and housing loan scheme in Ein el Tal and the development of areas in both Neirab and Ein el Tal for stores and workshops. The Agency is also continuing to study, with outside specialists and community involvement, how to implement socio-economic development/livelihood strategies in the two communities.

The families moving to Ein el Tal are among the most disadvantaged of the refugees in the area so the Agency is focusing its development activities among them and through community outreach programs is trying to ensure their smooth integration into the existing community of some 4,000 persons.

While the Syrian government has built a secondary school in Ein el Tal, UNRWA has made plans to expand its existing primary school, community center and clinic

in parallel with the arrival of the refugee families from Neirab. The first 28 families will have moved into their new shelters by January 2004.

### ***Consultation and participation***

A major aspect of UNRWA's planning process involved consultation with refugees on the kind of housing they wanted, whether or not they wanted to move to another area, and what kinds of on-going community participation refugees would like.

This resulted in the formation of resident committees in both Neirab and Ein el Tal; setting up of two information centers staffed by community liaison officers; discussions with current residents of Ein el Tal to solicit their views on the process and inform them of the changes to their environment including improved infrastructure (sewers, water, schools, clinics) and visits by residents of the Neirab barracks to Ein el Tel to see demonstration housing units and meet its current inhabitants to discuss living conditions and work opportunities in the area.

Part of the rehabilitation is being done on a self-help basis with UNRWA providing the basic housing unit and residents doing the finishing work. This will cut the total cost of construction by some 15 per cent. The Government of Syria and the local administration in the Aleppo area are providing water connections, sewage pipes, electricity grid, roads and a new secondary school.

The community liaison officers surveyed the populations of both camps for construction skills among the refugee population. This is enabling contractors building the infrastructure networks and housing units to use local workers and also assess how refugees can participate in the completion of their units.

### ***Phased approach to rehabilitation and development***

In brief, the project has two phases:

- New housing and infrastructure development in Ein el Tal followed by the gradual move of residents from Neirab to the smaller camp (5,500 beneficiaries).  
Time frame: September 2002 to early 2006
- Rehabilitation/development of housing and communal services in Neirab (7,500 beneficiaries).  
Time frame: 4-6 years Partly overlapping with the first phase)

The project will include proper urban planning for both camps, replacement of the Neirab barracks by two- and three-storey housing; and support for sustainable livelihoods in both camps.



*New housing at Ein el-Tel camp for former Neirab residents. Source: Ron Wilkinson*

### **Jenin Camp Statistics**

Camp established	1953
Camp area	373 dunums
Population (3 April 2002)	13,929 registered refugees (3,048 families)
Origin of refugees	Northern Palestine, including Akka and Haifa
General curfew imposed	3 April 2002
Curfew lifted	18 April 2002
Other curfews	137 days since April 2002
Buildings destroyed	30 percent of the camp
Infrastructure destroyed/damaged	water, sewage, electrical networks
Refugee homes	destroyed (800), damaged (1,700)
UNRWA installations damaged	health center, school, sanitation office, vehicles
Homeless	800 families
Rehabilitation cost	USD 26.7 million
Donor	UAE Red Crescent
Estimated completion date	September 2004



UNRWA information office in Ein el-Tal camp.  
Source: Ron Wilkinson

### ***Financing the project***

The complete Neirab-Ein el Tel project is based on a Swiss-funded feasibility study. So far Switzerland has contributed nearly \$300,000 to the project and recently announced it plans to invest a further \$700,000 towards the Ein el Tal phase from 2004-06.

The United States has contributed \$1 million and Canada recently pledged the equivalent of US\$ 5 million. This gives UNRWA enough to complete Phase I of the project and the Agency is now looking for \$12.8 million to fund Phase II, the rehabilitation of housing in Neirab camp.

The Syrian Government and the Aleppo governorate have played an important role in building infrastructure in Ein el Tel and providing land valued at \$3.3 million. Aleppo extended the main municipal sewerage network to the camp entrance at a cost of almost \$700,000 and is upgrading the water pumping station and assisting with building utility networks within the camp. A new government secondary school has been constructed in Ein el Tel.

### ***Progress to date***

Most of the 28 homes in Ein el Tel and related infrastructure funded by the United States have been completed and refugees have begun to move from Neirab.

Two brothers, Amer and Mahmoud Bach, and their families are among the first to move. Currently Amer, his wife Khaldieh and their four children live in one room in Neirab, part of a shelter without ventilation that they share with four other families.

"There are 25 people living here," says Amer (34) a seasonal worker who was born and raised in Neirab. In his family's room there is a refrigerator and mattresses

stacked against the wall to quickly convert the room from a living and dining room to a bedroom.

Amer's mother Subhieh who came to Neirab in 1948 is excited about the move to a 3-room house in Ein el-Tal. "I'm happy but I will miss them," she says. Subhieh has lived in and given birth to five children in the same shelter that Amer is now leaving.

Her son Mahmoud will also be moving with his wife and two children to a house next to Amer's. Mahmoud and his wife recently lost a six-month-old son to a lung disease partly brought on by the cold and dampness of their Neirab shelter where cloth pressed into a gaping hole in the wall served to block the worst drafts.

Like other families relocating to Ein el-Tal, the two brothers did all of the internal finishing and installation of light and plumbing fixtures themselves or had friends and neighbors help them.

"It's very nice and big compared with the shelter in Neirab," says Amer. His wife Khaldieh agrees saying she will feel some independence with her family living in three rooms rather than crowded into a tiny space in Neirab with 25 other family members. "I will miss having everyone under the same roof but the private space will be good for the children."

### ***Where did the refugees come from?***

The refugees living in Neirab and Ein el Tal fled northern Palestine in 1948 mainly from the cities of Akka, Haifa, Safad and the surrounding area. Many went on foot to the Lebanese border, then boarded trains for unknown destinations in Syria. Some disembarked in Homs, Syria and others went on to Aleppo and the Neirab barracks. Whole lives and careers have been spent in Neirab in hopes that some day their lives would improve.

## UNRWA Faces Serious Decline in Donor Contributions for Emergency Programs

At the end of 2003 UNRWA released its Emergency Appeal for 2004, covering all emergency programs in 1967 Occupied Palestine. In total the Agency is requesting USD 193 million for emergency employment, health, education, and housing reconstruction programs for the coming year.

Due to shortfalls in donor contributions, UNRWA has been forced to cut emergency programs as described below from the 2004 Emergency Appeal. The shortfalls in donor contributions is also affecting UNRWA's regular budget. Despite an increasing beneficiary base, the 2004 budget declined by some 5 percent in real terms to USD 330 million.

As the crisis continues, the ability of the majority of families to sustain themselves has steadily eroded as savings are drawn down, assets sold, and extended families, who may in the past have been relied on to provide assistance, also fall into poverty.

Shortfalls in funding have seen food distributions almost halved in the Gaza Strip, with only five of the eight food rounds required being provided. The West bank Field Office was likewise forced to reduce the volume of food made available to beneficiaries so as to stretch existing stocks until the end of the year. The basket of goods now distributed covers only 40% of the nutritional needs of the population, down by a third from the previous appeal.

For example, in the Gaza Strip, only \$966,000 of the \$7.7 million required for re-housing was available in the first six months of 2003. With these funds, the Agency was able only to purchase tents, blankets and mattresses for those made homeless. The situation improved marginally in the second half of the year with \$4.1 million available for rebuilding 167 dwelling units. Funds are required to

rebuild 1,109 housing units. In the West Bank, the Agency has had to suspend its shelters repair programme because of the lack of funds.

During 2003, in-kind assistance in the form of shoes and basic school supplies, planned for 70,000 school children, was cancelled. In the first half of the year, cash assistance was cut from \$3.4 million to \$950,000 in the Gaza Strip and of the \$3.3 million required in the West Bank, only \$2,600 could be allotted.

Of the \$9.2 million required for the emergency health programme during 2003, only \$1.3 was available, largely covering emergency medical supplies. Funding for hospitalisation in the West Bank was sufficient to assist only those with life threatening conditions in the first six months of the year. During the second semester the Agency had to cancel hospitalisation contracts in three governorates. Repairs to water and sewage lines, severely affected by IDF activity which saw sewage lines destroyed and waste removal services hampered, has been suspended.

In Gaza, no funding was available in the first half of the year to support planned indirect hire activities for the construction of vital infrastructure using labour intensive methods. The situation improved somewhat in the second half of 2003. In the West bank, the planned 1600 active monthly contracts under direct hire was first cut to 1300 and then further decreased to 900. Finally the education component of the response was cut significantly in both fields. The development of self standing learning materials, education kits and after school activities were all suspended.

For complete details of the 2004 Appeal, see the UNRWA website, [www.unrwa.org](http://www.unrwa.org).

### 2004 Emergency Appeal Requirements

Description	West Bank Amount USD	Gaza Strip Amount USD	Total USD
Food Security	18,695,720	36,956,952	55,652,672
Emergency Employment	20,720,000	41,298,803	62,018,803
Cash/in-kind assistance	13,854,400	12,862,080	26,716,480
Health	3,938,444	1,492,064	5,430,508
Psychosocial	1,904,000	1,764,450	3,671,450
Education	860,346	1,334,301	2,194,647
Shelters	2,274,720	30,580,342	32,855,062
Operational Support	2,183,929	2,840,250	5,024,179
<b>Total</b>	<b>64,431,559</b>	<b>129,132,242</b>	<b>193,563,801</b>

UNRWA Emergency Appeal 2004.



# In Memoriam

---

List of 111 Palestinian victims of Israeli violence between 28 September 2003 and 31 December 2003. In total 26 of those killed were 18 and under. (JMCC) Between 29 September 2000 and 31 December 2003, 2,536 Palestinians, including 23 inside Israel, have been killed by Israeli security forces. (PRCS)

Between 29 September 2000 and 18 December 2003, 575 Israeli civilians and 255 members of the Israeli security forces were killed. (B'tselem)

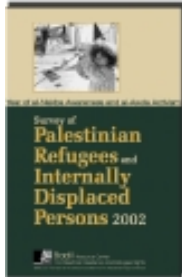
Mazen Yousef Salameh Mubarak, 24, Shweikah  
Rabah Abu Daqqa, 23, Gaza  
Saleem Mohammed al-Bayoumi, 60, Rafah  
Sarhan Sarhan, 28, Tulkarem  
Mohammed Ayman Yousef Barahmeh, 10, Tulkarem Camp  
Mustafa Abdul Qader Badrasawi, 2, Khan Yunis  
Saeed Mohammed Saeed Suleiman, 40, Jenin  
Zaki Yahya al-Sharif, 19, Rafah  
Bilal Zaidan, 32, Tulkarem  
Walid Abdul Wahab, 30, Rafah  
Walid Abdul 'Aal, 20, Rafah  
Shadi Saqer, 42, Rafah  
Widad Attiyye al-Ajrami, 33, Rafah  
Tareq Abul Hussein, 39, Rafah  
Hussam Mughayyer, 19, Rafah  
Yahia Hassan Mahmoud Rayhan, 14, Shofa  
Shadi Nabil Abu Eilwan, 20, Rafah  
Dr. Zein Shaheen, 35, Gaza  
Abdul Haleem Tabazeh, 23, Gaza  
Mohammed al-Masri, 18, Gaza  
Ahmad Khalifeh, 42, Gaza  
Atiyyeh Younes, 21, Gaza  
Ayyoub Malek, 65, Gaza  
Mohammed Ziad Baroud, 17, Gaza  
Khaled al-Masri, 28, Gaza  
Iyad al-Hilo, 27, Gaza  
Hadi Salim Ayyash, 26, Bureij Camp  
Ali Mustafa Abu Taha, 28, Bureij Camp  
Abdul Hadi Abu Eisheh, 34, Bureij Camp  
Ahmad Attiyye, 28, Qalqilia  
Ayyoub al-Malek, 26, Gaza  
Bilal Saeed Hammoudeh, 20, Der al-Balah  
Ismail Ayyad, 35, Bet Lahia  
Ayyoub Misbah al-Malek, 22, Bet Lahia  
Abdul Rahman Musa Hashisho, 34, Gaza  
Raed Saeed Khaled, 23, Nablus  
Masoud Ali Ayyash, 35, Nusierat Camp  
Rami Ismail Eliyyan, 23, Nusierat Camp  
Akram Hamed Bakroun, 18, Nablus  
Jamal Qadous, 39, Gaza  
Kareem Eliyyan al-Kafarneeh, 28, Gaza  
Baha' Zbeidi, 12, Nablus  
Mohammed Sobhi Awad, 26, Shate' Camp  
Salah Abdul Ghaffar As'ad, 16, Nuseirat Camp  
Mohammed Hosni Hammad, 23, Nablus  
Sbieh Abu-A-Sou'd, 17, Nablus  
Imteyaz Abu-Ras, 40, al-Kasaba  
Fayez Ahmad Salameh, 44, Tulkarem  
Mu'men Omar Maghari, 21, Maghazi Camp  
Muhammed Tawfiq Najjar, 21, Khan Yunis  
Nathmi Fawzi Najjar, 30, Khan Yunis  
Mahmoud Sabri Qayd, 11, Khan Yunis  
Muhammed Nathmi Hashash, 23, Balata Camp  
Muhammed Shharneeh, 19, Jenin  
Mohammed Jradat, 22, Ramallah  
Mohammed Abdul Rahman Salah, 18, Jenin

Mu'taz Wasef al-Amoudi, 14, Burqin  
Shadi Rafiq Hboub, 20, Bet Lahia  
Mahmoud Hasan Abu Shakl, 21, Bet Lahia  
Samer Suleiman Abu Asab, 24, Balata Camp  
Ahmad Muhannad Miri, 12, Jenin Camp  
Subhi Saleh Sharreer, 62, Khan Yunis  
Shadi Abu Anzeh, 14, Rafah  
Ahmad Marwan Nasr Hanani, 14, Bet Foureek  
Hasan Abu Khatleh, 55, Rafah  
Sameer Eliyyan Qishtah, 43, Rafah  
Ahmad A'ssaf, 22, Gaza  
Hani Salem Rabay'a, 9, Rafah Camp  
Khaled Ahmad al-Smeiri, n/a, Der al-Balah  
Osama Suleiman al-Sumeiri, n/a, Der al-Balah  
Ibrahim Musa al-Smeiri, n/a, Der al-Balah  
Rashad Tawfiq Abdul Rahman, 17, Yatta  
Yousef Abu Matar, 35, Rafah  
Muayyad Mazen Hamdan, 9, Amari Camp  
Saleh Mahmoud Hussein Talahmeh, 38, Burj  
Abdul Kareem Sheikh Qasem, 30, al-Bireh  
Mohammed Salem Mahmoud, 29, Hebron  
Amjad Sa'di, 24, Jenin  
Hussein Hamdi Hussein Rummaneh, 28, Amari Camp  
Mohammed Ahmad Zahran, 14, Aboud  
Hind Suleiman Sharatheh, 23, Abu Deis  
Ashraf Abdul Salam al-Hayyah, 17, Rafah  
Abdul Kareem Mohammed Sukkar, 20, Rafah  
Jihad Musa al-Akhras, 16, Rafah  
Jihad Rasmi Dofash, 24, Hebron  
Hatem Shafiq al-Qawasmi, 26, Hebron  
Fares Ibrahim Mohammed Jamzawi, 16, Qalandia Camp  
Naser Abu al-Naja, 28, Rafah  
Muhammad Zeino, 25, Rafah  
Kamleh Mohammed As'ad al-Sholi, 21, Aseerh Shimaliyye  
Riyad Fakhri Khalifeh, 30, Kufr Nimeh  
Wael Sakher, 26, Beit Hanoun  
Younes Al-Bali, 24, Beit Hanoun  
Mustafa Abdul Hameed al-Hams, 18, Yubna Camp  
Hafeth Oqeili Dar Mohammed, 65, Huwara  
Majdi al-Bahsh, n/a, Nablus  
Ala' Dawaya, n/a, Nablus  
Jibril Awwad, n/a, Awarta  
Fadi Hanani, n/a, Bet Dajan  
Kamal Tantawi, 32, Qalqilya  
Mohammed Naeem Al-Araj, 5, Balata Camp  
Zuheir Oweis, 46, Balata Camp  
Nour Eddin Ahmad Izzat Omran, 16, Der al-Hatab  
Nathmi Mahmoud, 62, Balata Camp  
Wi'am Musa, 25, Rafah  
Iyad Alawneh, 27, Jaba'  
Muhammad Mustafa, 22, Gaza  
Jihad's As'ad al-Uti, 26, Der al-Balah  
Maqlad Hameed, 40, Gaza  
Rajai Mazen Rayyan, 15, Nablus  
Fadel Fawzi Al-Najjar, 22, Khan Yunis

# Resources on Refugees

## New BADIL Publications

### **Survey of Palestinian Refugees and Internally Displaced Palestinians 2002.**



This new publication by BADIL provides basic historical and current information on Palestinian refugees and internally displaced persons. The Survey includes 6 chapters covering the historical circumstances of Palestinian displacement, population, legal status, socio-economic profile, international protection and assistance, and durable solutions. The Survey will be published annually by BADIL Resource Center.

Available in English and Arabic. 200 pages. ISSN 1728-1679. For orders contact, [admin@badil.org](mailto:admin@badil.org) (US \$10/copy).

### **Experiencing the Right of Return, Palestinian Refugees Visit Bosnia.**



This 20 video documents a study visit of a delegation of Palestinian refugees to Bosnia-Herzegovina in June 2002. The delegation, comprised of refugees from Palestine/Israel, Lebanon, Jordan, Syria, and Europe traveled to Bosnia in order to understand: What was done and how? What didn't work and why? What are the lessons for Palestinians and their struggle for the implementation of the right of return and real property restitution?

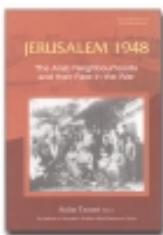
Producer (Copyright): BADIL Resource Center.

Technical Production: ISIS for Audio-Visual Production.

Director: Alexander Goekjian. Palestine, 2002.

Available in English and Arabic. For orders contact, [admin@badil.org](mailto:admin@badil.org) (US \$10/copy).

### **Jerusalem 1948, The Arab Neighborhoods of the City and their Fate During the War.**



Salim Tamari (ed.).

Available in English and Arabic. Published by BADIL Resource Center and the Institute for Palestine Studies, 2002. ISBN 9953-9001-9-1. To order contact IPS-Beirut, [ipsbrt@cyberia.net.lb](mailto:ipsbrt@cyberia.net.lb), or [www.palestine-studies.org](http://www.palestine-studies.org).

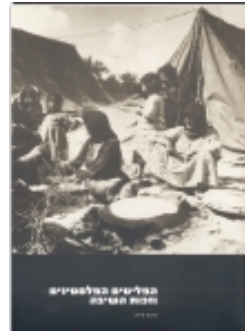
### **Proceedings of the Third Annual Meeting of the Global Palestine Right of Return Coalition.**



Includes working papers submitted to the third annual meeting of the Global Palestine Right of Return Coalition held in Copenhagen, December 2002. The publication also includes a summary of discussions and debate as well as the final statement issued by the Coalition. Arabic with English summaries.

For orders contact, [admin@badil.org](mailto:admin@badil.org).

### **BADIL Hebrew Language Packet/The Right of Return.**



The Packet includes:

- Main Reader, 'Palestinian Refugees:' overview of the issue and demands of Palestinian refugees; law and principles guiding solutions to refugee problems; answers to frequently asked questions; obstacles to be tackled by a law- and rights-based solution (24 pages);
- Legal Brief, 'Palestinian Refugees and their Right of Return, an International Law Analysis' (16 pages);

- Executive Summary, 'The Right of Return:' Report of the Joint British Parliamentary Commission of Inquiry into Refugee Choice (28 pages; translation from the English original published in London, March 2002);

- Readers' feedback sheet and background information about BADIL Resource Center for Palestinian Residency and Refugee Rights.

The BADIL Hebrew-language Information Packet is available for NIS 30. For postal orders inside Israel, please send a check to Andalus Publishers, PO Box 53036, Tel Aviv 61530 ([andalus@andalus.co.il](mailto:andalus@andalus.co.il)).

### **BADIL Expert Forum Working Papers:**



*The Right to Housing and Property Restitution in Bosnia and Herzegovina.*

#### **Working Paper No. 1**

Paul Prettitore

28 pages, English and Arabic  
ISSN 1728-1660

*Justice Against Perpetrators, The Role of Prosecution in Peacemaking and Reconciliation*

#### **Working Paper No. 2**

Alejandra Vicente

19 pages, English and Arabic  
ISSN 1728-1660

*The Role of International Law and Human Rights in Peacemaking and Crafting Durable Solutions for Refugees: Comparative Comment*

#### **Working Paper No. 3**

Lynn Welchman

19 pages, English and Arabic  
ISSN 1728-1660

*Popular Sovereignty, Collective Rights, Participation and Crafting Durable Solutions for Palestinian Refugees*

#### **Working Paper No. 4**

Karma Nabulsi

13 pages, English and Arabic  
ISSN 1728-1660

A complete list of all working papers is available on the BADIL website: [http://www.badil.org/Campaign/Expert\\_Forum.htm](http://www.badil.org/Campaign/Expert_Forum.htm)

## Resources from other Publishers

### **Access Denied: Palestinian Land Rights in Israel**

Hussein Abu Hussein and Fiona McKay



The struggle for land has been a key element of the conflict between Jews and Arabs in Palestine for the past hundred years. While international attention focuses on Israeli settlements in the West Bank and Gaza Strip, legally outside Israel's boundaries, there is another dimension to the land question altogether. Nearly one-fifth of Israel's population is Palestinian. This book examines how Israeli land policy today inhibits access

to land for its own Arab citizens even within the 1948 boundaries of the state of Israel.

Its authors - one a Palestinian lawyer and Israeli citizen, the other a British international human rights lawyer who worked in Israel for many years - examine the system of land ownership, the acquisition and administration of public land, and the control of land use through planning and housing regulations. The book reveals that the law is used to discriminate against non-Jewish citizens and restrict Israeli Palestinians' access to land. The authors demonstrate that Israeli land policies breach international human rights standards and that these standards could be used as a basis to challenge discriminatory policies.

The book may be ordered from Zed Books, [www.zedbooks.demon.co.uk](http://www.zedbooks.demon.co.uk)

Hb/ISBN 1 84277 122 1 £ 49.95 \$75.00

Pb/ISBN 1 84277 123 X £ 15.95 \$25.00

### **Records of Dispossession, Palestinian Refugee Property and the Arab-Israeli Conflict**

Michael R. Fischbach



Afforded unprecedented access to the UN Conciliation Commission for Palestine's untouched archives, Michael Fischbach has written a path-breaking study of one of the largest and most vexing refugee movements of the twentieth century. From late 1947 through 1948, more than 726,000 Palestinians - about one-half the entire population - left their homes and villages. While some middle class refugees fled with liquid capital, the majority consisted of small-scale farmers whose worldly fortunes were the land, livestock, and crops they had left behind. For the first time this book tells the full story of how much property was left behind, what it was worth and how it was used by the fledgling state of Israel. It then traces the subsequent decades of diplomatic activity on the issue.

December 2003, 520 pages, 99 figures. ISBN 0-231-12978-5. USD 39.50. Contact [www.columbia.edu/cu/cup](http://www.columbia.edu/cu/cup)

### **National Perspectives on Housing Rights**

Scott Leckie (ed.) Forward by Nelson Mandela



More than one billion people around the world do not have adequate housing. How far does human rights law help to remedy this problem? What measures must governments take to protect people against housing rights violations? What are the strengths and weaknesses of human rights law in the housing area? Is the current law enough, or are new laws necessary? These and many other questions are addressed in the various chapters contained in this book.

May 2003, 335 pages/hardcover. ISBN 90-411-2013-0. USD 125.00. To order contact, [www.kluwerlaw.com](http://www.kluwerlaw.com)

### **The Politics of Denial, Israel and the Palestinian Refugee Problem:**

Nur Masalha

The aim of this book is to analyse Israeli policies towards the Palestinian refugees as they evolved from the 1948 catastrophe (or nakba) to the present. It is the first volume to look in detail at Israeli law and policy surrounding the refugee question. Drawing on extensive primary sources and previously classified archive material, Masalha discusses the 1948 exodus; Israeli resettlement schemes since 1948; Israeli approaches to compensation and restitution of property; Israeli refugee policies towards the internally displaced ('present absentees'); and Israeli refugee policies during the Madrid and Oslo negotiations.

October 2003, 298 pages, ISBN/cloth 0 7453 2121 6 USD 75.00 or ISBN/hardcover 0 7453 2120 8 USD 24.95. To order contact Pluto Press: <http://www.plutobooks.com>

### **Beer Sheba and Gaza Map 1948**

Palestine Land Society



Second Edition, February 2003

This map, covers an area which has been largely unknown or misunderstood. It provides information 77 Bedouin clans in the Beer Sheba and Gaza area, including their location in 1948, their expulsion,

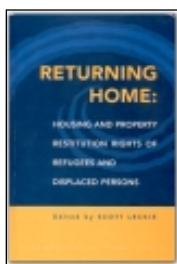
their current place of refuge and their land claims. The map is based on travellers and military maps before WWI, British Mandate maps, papers of the Beer Sheba District Officer Aref al-Aref, information from Beer Sheba District Societies in Gaza, Jordan and Israel, and personal interviews.

Scale 1:120,000. Size: 70 x 100 cm.

For orders contact: [info@prc.org.uk](mailto:info@prc.org.uk)

### **Returning Home: Housing and Property Restitution Rights of Refugees and Displaced Persons.**

Scott Leckie (ed.). Forward by Theo van Boven



This volume is a unique effort to cover the topic of the restitution of housing and property in light of lessons learned in the Balkans, South Africa, East Timor, and in a range of other countries that have made the shift from conflict to peace. Individual chapters by authors with direct experience dealing with housing and property restitution in particular contexts will bring into focus the legal and human rights aspects of this question. Several chapters deal with

unresolved restitution cases, all of which will require resolution sooner or later, including in Georgia, Turkey, and for specific groups including Palestinian refugees, indigenous peoples and the internally displaced themselves. Housing and property restitution is now viewed as an essential element of post-conflict reconstruction. It is a primary means of reversing 'ethnic cleansing' and vital to securing a war-torn nation's future stability. All parties involved in human rights, refugee assistance, post-conflict reconstruction and reconciliation, and property rights will find this volume to be an indispensable resource.

Summer 2003. Approx. 450 pages. ISBN 1-57105-241-0. USD 125.00/hardcover. Special 30% Pre-Publication Discount for Orders Received by 8/30/2003.

Contact Transnational Publishers, Inc., [info@transnationalpubs.com](http://info@transnationalpubs.com) or [www.transnationalpubs.com](http://www.transnationalpubs.com)

# Documents

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

- 1. National Lawyers Guild, Resolution Affirming the Individual and Collective Palestinian Right of Return**
- 2. Fatah Statement on the Geneva Understandings**
- 3. Final Statement and Recommendations - 4th Annual Meeting of the Palestine Right of Return Coalition**
- 4. Statement by Unions, Syndicates, National and Popular Organizations in the Gaza Strip, Concerning the Geneva Understandings**

## 1. National Lawyers Guild, Resolution Affirming the Individual and Collective Palestinian Right of Return

Whereas, the Palestinian Right of Return and Compensations is sacred and enshrined in international law and political practice, especially UN Resolution 194;

Whereas, the Right of Return is an individual and collective right of the Palestinians that is not negotiable and may not be postponed or subsumed under other issues;

Whereas, UN Resolution 194 instructs the Conciliation Commission to render progress reports periodically to the Secretary General for transmission to the Security Council and to the Members of the United Nations;

Whereas, UN Resolution 194 calls upon all Governments and authorities concerned to co-operate with the Conciliation Commission and to take all possible steps to assist in the implementation of this resolution;

Whereas, UN Resolution 194 has been reaffirmed over 130 times and more than any other UN resolution;

Therefore be it Resolved that,

The National Lawyers Guild recognizes the inalienable, individual and collective Palestinian Right of Return;

Resolves, that the Palestinian refugees wishing to return to their homes should be permitted to do so immediately and that compensation should be paid for the property of those choosing not to return and for the loss of or damage that, under principles of international law or in equity, should be made good by the Governments;

Resolves to submit a written request to the UN for a progress report on the implementation of Resolution 194;

And, further Resolves, that the National Lawyers Guild will initiate an education campaign to promote and implement fully UN Resolution 194.

## 2. Fatah Statement on the Geneva Understandings

*The following is an unofficial translation of a statement from Fatah issued 1 December with its views on the Geneva initiative:*

In the Name of God

Our Freedom Fighting People, Our People in Palestine and in Exile

Initiatives and proposals for solving the Arab-Israeli Conflict appear from time to time. Whether Israeli or Israeli-Palestinian, regional, or international, these proposals are based on the premise that the Palestinian refugee issue can be resolved within the framework of a future Palestinian State.

Of even greater danger is the fact that the current Palestinian regime has opened the door for such initiatives without having a clear vision that is consistent with our people's aspirations! The current regime has encouraged and participated in these initiatives, justifying their position by saying that they are searching for a political breakthrough with the Israeli and international community. Oblivious to the harm being done to the unity of the Palestinian people, this regime includes those who initiate and direct and those who reject such initiatives. This situation is pushing the Palestinian people towards an internal conflict that could lead to a "civil war" just to maintain the interests of the Palestinian elite currently in power. This elite - guided by their own self-interests - threatens the unity and steadfastness of the Palestinian people and the right to return of the Palestinian refugees, which is the core of the Palestinian issue.

Concerned about a unified Palestinian position that is consistent with the national consensus, we affirm the following:

First: Taking into consideration that the Right of Return is the foundation of the Palestinian consensus; the core of the Palestinian struggle; the justification for the current revolution; and the dream of two-thirds of the Palestinian people, we strongly reject all initiatives, agreements, and understandings, whether formal or informal - including Beilin-Abu Mazen, Nusseibeh-Ayalon, the Geneva agreement, among others - that compromise this sacred right. We see such initiatives and agreements as a dangerous trend that transforms the national consensus into a bargaining chip for negotiations.

Second: We do not place responsibility only on those who participated in such initiatives. We also blame the Palestinian regime which plays with the fate of the people and contributes to the damage done to the people's aspirations. For the last three months, this regime has been consumed with petty internal conflicts over the formation of a government rather



than the concerns of our people and the critical issues. The regime, which has placed the most corrupt persons in positions of responsibility in ministries, security and civil organizations, has persisted in playing with and harming the unity of our people and the national consensus - foremost being the right of return - in an unprecedented manner, in order to maintain Palestinian sovereignty over any square meter.

Third: We remind those who play with the future of our people that an independent Palestinian State on the 1967 occupied land is not part of the strategic consensus, but only a transition program adopted by the PLO at the 1974 meeting of the Palestinian National Council (PNC). The right of return is a key element of the Palestinian National Charter and the primary reason for the beginning of the Palestinian revolution. If there was a need for tactical measures it is the Palestinian State which should be used as a bargaining chip in order to achieve the return. The Palestinian State is no longer a priority nor in the popular interest of the Palestinian people. It has become an Israeli security interest that also happens to serve some in the current Palestinian regime, who see the Palestinian State as a means to increase their own illegitimate profits. Sacrificing the Palestinian State for the sake of achieving the return, therefore, serves the comprehensive Palestinian strategy, while sacrificing the right of return for the sake of a pseudo State with limited sovereignty sacrifices the people's rights, dreams and aspirations.

Fourth: We believe that we can reach a comprehensive and just peace, a peace in which this land accommodates both peoples within a democratic secular state; a peace that recognizes the rights and duties of both Palestinians and Israelis; a peace that removes borders, walls and checkpoints; a peace that is not based on displacement and the separation of cities, but rather one that is based on the return of Palestinian refugees; a peace in which everyone is a winner and not a compromiser; and, a peace in which both parties triumph and no one loses.

Fifth: In order to maintain the unity of our people; build democratic Palestinian institutions; and, facilitate each person's right to contribute and participate in the building of civil society and the formation of policy, we call for transparent democratic elections on all levels, starting with the FATEH Central Committee, through Municipal Councils, the Palestinian Legislative Council, the Presidency and the Palestinian National Council. The purpose of these elections is to reorganize the Palestinian house and protect it from ongoing administrative, financial, and political corruption, and stop the process of collapse and division.

Based on the abovementioned concepts, and without hesitation, we will start a Popular Campaign in Palestine and in Exile under the Title: "Return First, and Peace for Two Nations in One State".

With this slogan, we will be faithful to our people's dreams and ambitions. We will be faithful to the blood of our martyrs. We will adopt a more realistic approach to achieve a comprehensive and just peace that does not impose painful compromises on anyone. A solution to the conflict that ignores the interests of two-thirds of the Palestinian people can only be considered as a ceasefire between two parties.

Unified and together until achieving Return, Liberation, and Peace

FATEH - Palestinian Liberation Movement  
Palestine, 1/12/2003

### 3. Final Statement and Recommendations - 4<sup>th</sup> Annual Meeting of the Palestine Right of Return Coalition

The Palestine Right-of-Return Coalition held its fourth annual coordination meeting in London 5-10 November 2003.

The meeting was convened in a period characterized by growing challenges and threats to the Palestinian national question accompanied by more suffering inflicted on the Palestinian people by the Israeli occupation, state terrorism and the denial of basic human and national rights.

Palestinians, however, remain determined to preserve and defend their basic national rights. They clearly reject all initiatives by some Israelis and Palestinians to take advantage of the siege imposed on our people and their national issue to distort the significance of these rights. The recent "Geneva Understandings" is yet another manoeuvre aimed at shaking the steadfastness of the Palestinian people and is an extension of previous initiatives, all of which were totally rejected. We Palestinians have responded by continuing the Intifada and upholding with even more determination our basic national rights foremost among them the right of return to our cities and villages of origin in historic Palestine.

In the context of the forced dispersal and exile of our people, national unity remains sacred and the key to attaining our national rights. The Right-of-Return Coalition is an expression and a voice of this unity as it includes among its members the Association of the Internally Displaced Palestinians inside Israel as well as refugee initiatives from the West Bank, Gaza Strip and the wider diaspora. The Coalition makes major efforts to strengthen unity on the refugee question, challenge the isolation and marginalization of Palestinian refugees in the host countries and coordinate refugee initiatives within historic Palestine and outside. It encourages and supports refugee actions to build a solid community base able to pressure all relevant parties to implement the right of return in accordance with UN Resolution 194.

In relation to current political developments the Coalition emphasizes that:

- 1- The right of return is a basic, non-negotiable and indivisible right; it cannot be bartered away by any Palestinian body. Thus the Coalition rejects all such political initiatives regardless of their source.
- 2- The right of return is an individual and a collective right as well as an historical and a legal right recognized by all international humanitarian and human rights law. This is the basis for our legitimate claims and our endeavors to attain this right.
- 3- The Palestine Right of Return Coalition is a body that speaks for the interests of the refugees. It has no political ambitions believing that PLO is the sole representative of all Palestinians.
- 4- The Coalition is part of the broader refugee movement in general, and the right of return movement in particular. It supports and aims to cooperate and coordinate with other supporters of this movement as long as this does not contradict its objectives.
- 5- Peace and stability in our region cannot be achieved without a just solution of the Palestinian refugee question. Such a solution must be based on all relevant international conventions, treaties and other international law that guarantee the right of return for the Palestinian refugees according to UN Resolution 194.

Based on an evaluation of its work over the past year, participants in the 4th annual meeting discussed working papers presented by delegates from various regions. The

papers dealt with the Coalition's internal organizational structure with the aim of improving its capacity to undertake its commitments, foremost of these, the defense of the right of return of the Palestinian refugees.

As a result, the Coalition approved new bylaws and established a nine-member executive: three from Palestine and one each from Jordan, Syria, Lebanon, the United States and Canada. This is in addition to the secretary, a position entrusted temporarily to BADIL. Four regional offices, one in Palestine, one for the Arab host countries and one each in Europe and North America will handle coordination and follow up.

The meeting also agreed on a set of recommendations on how the Coalition should function internally and relate to the political environment:

#### **A: Internal Organization**

- BADIL will act as the secretariat of the Coalition's Executive Office and will be responsible for preparation of a Coalition brochure and logo;
- The Coalition will organize an annual summer camp for Palestinian youth in exile, as well as visits to their towns and villages of origin in Palestine;
- The regional Coordination Office-Europe is responsible for registration of the Coalition as an international non-governmental organization with the European Union; and
- The Coalition and its members will individually and collectively publish information materials to widen the return culture.

#### **B: Political Environment**

- Continue advocacy and lobbying in the international community for protection of Palestinian refugees according to international conventions, treaties and commonly applied standards;
- Call upon UNRWA donor countries to fulfill their funding obligations and commitments, especially since UNRWA embodies the moral and political responsibility of the international community for the creation of the Palestinian refugee question;
- Encourage international participation in anniversaries such as Palestinian Land Day, Nakba Day, Balfour Declaration, UN Day of Solidarity with the Palestinian People, UN Resolution 194, and days of remembrance of Israeli crimes against the Palestinian people.
- Raise the issue of Palestinian refugees in Iraq to the international community, in order to pressure UNHCR to carry out its proper functions and alleviate the suffering of these refugees in the new Iraqi context.
- Call on the Lebanese government to endow Palestinian refugees in Lebanon with civil rights according to standards set by international conventions and Arab League resolutions.

In conclusion, the Coalition salutes the courageous Intifada and the Palestinian people, including their leaders imprisoned by Israel, with special recognition of Hussam Khader, head of the Committee for the Defense of Refugee Rights in Palestine.

Long live the Intifada  
Eternal glory for our pious martyrs  
The right of return is the real road map for Palestine

Association for the Defense of the Rights of the Internally Displaced; Right of Return Committee-Denmark; BADIL Resource Center for Palestinian Residency and Refugee Rights; Right of Return Committee-Sweden; Popular Service

Committees-West Bank Refugee Camps; Right of Return Committee-Netherlands; Union of Youth Activity Centers - Palestine Refugee Camps; Arab Culture Society, Poland; Committee for the Defense of Palestinian Refugee Rights, Palestine; Palestinian Community - France; Palestinian NGO Forum, Lebanon; Right of Return Committee - Germany; Aidun Group- Lebanon; Aidun Group-Syria; Al-Awda Coalition, North America; Al-Awda U.K.

#### **4. Statement by Unions, Syndicates, National and Popular Organizations in the Gaza Strip, Concerning the Geneva Understandings**

Unions, Syndicates, National and Popular Organizations in the Gaza Strip consider that the act of signing the Geneva 'Understandings' has caused serious harm to the Palestinian national consensus, especially in the shadow of Israel's brutal attacks against our Palestinian people, including assassinations, collective arrests, house demolitions, land sweeping, uprooting of trees, and the confiscation of thousands of dunums of land to build the apartheid separation wall. We affirm the following:

- Rejection of the Geneva 'Understandings', the process and its substance, in general and in detail, because of its harmful consequences to our national consensus;
- The national consensus, represented by the right of return, self-determination, and the establishment of a fully sovereign Palestinian state are not subject to interpretation, but goals that everyone must work hard at to achieve. This is the last will and testament of the Martyrs and the principles of the PLO;
- The Right of Return is sacred. No one can compromise this right. It is an individual and collective right embodied in international law (UNGA Resolution 194) which Israel pledged to implement as a condition for its acceptance as a member of the United Nations;
- Participation in the signing ceremony for the Geneva 'Understandings' or participation in any of its activities is to be considered as normalization with the Israeli occupation, which is a violation of the resolutions of the relevant unions and syndicates. All members are requested to carry out their legal obligations concerning this issue;

We support a comprehensive and just peace that is based on international law and UN resolutions. We take upon ourselves and promise to our people, the Martyrs, the injured, and our heroic prisoners to uphold the national consensus and remain faithful to our struggle until full liberation.

Union of Palestinian Contractors; Syndicate of Dentists - Palestine; Syndicate of Veterinarians; Syndicate of Supportive Engineering Professions; Syndicate of Supportive Medical Professions; League of Palestinian Journalists; Society of Palestinian Social Workers; General Union of Palestinian Teachers; Society of Palestinian Artists; Syndicate of Palestinian Physicians; General Union of Palestinian Workers Syndicate; Syndicate of Palestine Lawyers; Syndicate of Palestinian Agricultural Engineers; Society of Accountants and Legal Audits; Syndicate of Palestinian Pharmacists; Society of University Graduates; Union of Palestinian Writers; General Union of Palestinian Women; Palestinian Nursery Syndicate; Syndicate of Palestine Engineers

23 November 2003

## 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, 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.



*Remnants of AL-Majdal / Asqalan*  
Source: [www.palestineremembered.com](http://www.palestineremembered.com)

# **2003 Year of**



## ***Al-Nakba Awareness & Al-Awda Activism***

**al- Majdal** is a quarterly magazine of BADIL Resource Center that aims to raise public awareness and support for a just solution to Palestinian residency and refugee issues