

al majdal

ISSUE NO. 5 ~ MARCH 2000

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

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Photo: "Right of Return" - Deheishe Camp, Visit of Pope John Paul II

Stocktaking & Perspectives

of a BROAD, COMMUNITY-BASED CAMPAIGN for Palestinian Refugees' *Right to Return & Restitution*

Ever since the launching of official political negotiations at the 1991 Madrid Conference, some five million Palestinian refugees in exile and in the homeland have been deeply concerned over a Middle East "Peace Process" defined almost solely in Israeli terms. They are stunned and frightened by international support for models of a "final settlement" of the Israeli-Palestinian-Arab conflict, which completely violate international standards for durable solutions to refugee flows. Viewed against the backdrop of extremely unfavorable social and political circumstances, refugee efforts to place their rights - foremost the right of return and restitution - on the agenda of public debate have not remained fruitless:

Refugee grass roots initiatives, supported by non-refugee Palestinians, a small number of international activists and NGOs, have succeeded to draw increasing public attention to the plight of Palestinian refugees. Protest and public awareness raising have led to the formation of new advocacy initiatives worldwide and created new interest in research urgently needed for more efficient advocacy work.

The clear message of Palestinian refugees - "The Right of Return is the Red Line" - has resulted in the unification of Palestinian public speech, and contributed to the fact that the Palestinian leadership and its negotiating team have (not yet) surrendered the refugees' internationally recognized right of return and restitution.

subscription

annual (4 issues) - US\$20

published by

BADIL Resource Center
for Palestinian Residency & Refugee Rights

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The crisis in the Israeli-Palestinian "final status" negotiations has confronted the international community with the core issues of the historical conflict and triggered new public interest in them. Israel's blatant refusal to accept UN Resolution 194 (right of return) as the guiding principle for negotiations over the solution of the Palestinian refugee question provides Palestinian refugees and their supporters with a new opportunity to pressure for a profound re-evaluation of the discriminatory principles and policies of Zionism in the Middle East. There is a new opportunity to build international support for a durable and peaceful solution of the conflict based on international law including recognition and implementation of the right of return for Palestinian refugees.

A broad and efficient Palestinian-international campaign for Palestinian refugee rights can be built on the foundations of these achievements and circumstances, if a number of crucial issues are taken into consideration:

■ **An international refugee rights campaign must be based in the refugee community:** Palestinian refugees, especially camp refugees, represent a rather homogenous population organized in a large number of community organizations, associations, societies, and political parties. Palestinian refugee grass roots initiatives launched in Palestine between 1992 and 1995 are the pioneers of the current effort at mobilization. Palestinian refugees, the majority of whom lives in and around the refugee camps in the Middle East, are the primary stakeholders and their voice must be heard. Principles, priorities, and basic strategic decisions underlying international campaign efforts must be understood and supported by the refugee community. Only intensive efforts at maintaining and developing the dialogue with refugee grass roots organizations can guarantee that international advocacy efforts are built on a community-based consensus and mandate. An efficient international advocacy campaign for Palestinian refugee rights must be built on the active participation of the refugee communities in Palestine, Arab and western exile, in order to avoid a repetition of previous experiences with ineffective international advocacy campaigns coordinated by an isolated NGO and human rights community.

■ **An international refugee rights campaign must be issue-based and non-sectarian:** Commitment and dedication to Palestinian refugees' right of return and restitution must become the only criteria for activist recruitment and strategic planning, in order to guarantee issue-based focus and active involvement by all Palestinian and non-Palestinian social and political sectors.

■ **An international refugee rights campaign must be coordinated informally and non-bureaucratically:** Given the current weakness of the Palestinian and international solidarity network worldwide, the advocacy campaign must work through informal coordination (regional workshops, etc.), based on common principles and a division of tasks determined by capacity and specific needs in each geographic region. ■

2 March 2000

Available Now!

New BADIL Packet
Information & Mobilization for
Palestinian Refugee Rights
(2nd Edition)

BADIL's new Packet provides informational background as well as suggestions for international action in defense of Palestinian refugees' right of return, restitution, and compensation. It is a resource tool designed to strengthen the rapidly growing Palestinian and international campaign for Palestinian refugee rights.

The packet includes:

The Right of Return - A Guide to the Campaign for the Defense of Palestinian Refugee Rights: The Right of Return, Protection & Assistance, Refugee Empowerment (40 pages)

Country Profiles - Palestinian Refugees in Exile: Gaza Strip, West Bank, Lebanon, Jordan, Syria, Israel (internally displaced Palestinians), Egypt (48 pages)

Information & Discussion Briefs

- Brief No. 1:
Reinterpreting Palestinian Refugee Rights Under International Law, and a Framework for Durable Solutions
(Susan M. Akram)
- Brief No. 2:
Fora Available for Palestinian Refugee Restitution, Compensation and Related Claims
(Susan M. Akram)
- Brief No. 3:
The Evolution of an Independent, Community-Based Campaign for Palestinian Refugee Rights in the 1967 Occupied Palestinian Territories and 1948 Palestine/Israel
(Ingrid Jaradat Gassner)

*For order information see
BADIL Resources on page 35 of this
issue.*

International Human Rights Law

A Tool for the Promotion of Palestinian Refugee Rights?

Frustrated by the lack of international political support for the rights and demands of the Palestinian people in general, and refugees in particular, Palestinians and their supporters have begun to re-examine international law as a potential source for protection and enforcement of Palestinian refugee rights. The weak position of the PLO in the final status negotiations with Israel, and the lack of an enforcement mechanism for UN General Assembly Resolution 194, has accorded a strong sense of urgency to these efforts.

Reference to international law to legitimize international interventions in recent refugee problems in Africa and Europe, as well as petitions and restitution claims raised in international human rights fora by other dispossessed and displaced groups and individuals worldwide, have served as encouraging examples for Palestinians and their supporters. While awareness raising and lobbying for the Palestinian right of return and restitution has become a common advocacy strategy of Palestinian and international actors, several issues remain yet to be resolved, before international law can be transformed into an efficient tool for actual protection and enforcement of Palestinian refugee rights.

Establishing the Appropriate Legal Framework: International Refugee Law: International Humanitarian Law (i.e., Geneva Conventions) is widely used to monitor and protest Israeli human rights violations in the 1967 occupied West Bank and Gaza Strip. International Human Rights instruments (i.e., The Universal Declaration of Human Rights, Covenant on Social, Economic, and Cultural Rights; Covenant on Civil and Political Rights; Convention on the Elimination of All Forms of Racial Discrimination, etc.) have also been used by Palestinians in the homeland and in exile. While these instruments provide a framework and advocacy tool for universal humanitarian and human rights, they do not adequately address rights specific to Palestinian refugees. International Refugee Law, part of the body of International Human Rights Law, must be adopted by Palestinian and international actors for this purpose.

Establishing Consensus about the Special Protection and Assistance Regime Applicable to Palestinian Refugees: Efforts to reinterpret status and rights of Palestinian refugees in the context of International Refugee Law have only just begun. *Two important facts have thus remained widely overlooked:*

A. The fact that - based on recognition of the direct responsibility of the United Nations for the creation of the Palestinian refugee problem (UN Partition Resolution 181 of 1947) - a special regime for Palestinian refugees was established in 1948/49. The regime was to provide both protection (UN Resolution 194 and establishment of the UN Conciliation Commission on Palestine/UNCCP) and assistance (UN Relief and Works Agency/UNRWA) in the context of the durable solution defined in UN Resolution 194.

B. The fact that International Refugee Law (i.e., 1951 Refugee Convention and the 1967 Protocol to the Convention, Statute of the Office of the UN

Refugee Protection

According to the 1950 Statute of the Office of the UN High Commissioner for Refugees, protection of refugees includes:

- Promoting the conclusion and ratification of international conventions for the protection of refugees and supervising their application;
- Assisting governmental and private efforts to promote and implement, based on the choice of each individual refugee, voluntary repatriation or assimilation with new national communities;
- Representation of refugee rights and interests in the framework of negotiations for durable solutions to refugee flows.

High Commissioner for Refugees/UNHCR) includes special provisions for the Palestinian refugee case. These provisions guarantee protection and assistance for Palestinian refugees. In the case that either the assistance agency (UNRWA) or the protection agency (UNCCP) fail, protection or assistance would be provided by the UNHCR (Article 1D of the 1951 Refugee Convention).

Establishing a consensus about the status and rights of Palestinian refugees under international refugee law is urgently required. Since the early-1950s, the protection mandate of the UNCCP has been limited to refugee property documentation. Assistance for Palestinian refugees has been subject to severe austerity measures due to a chronic budget crisis in the Agency. UN Resolution 194 has been excluded from the framework of the current Middle East peace process and lacks an enforcement mechanism. Moreover, the 1951 Refugee Convention is widely interpreted as excluding Palestinian refugees.

Reaching Clarity about Representation for

Protection: Two international agencies (UNCCP and UNHCR) were mandated to provide protection for Palestinian refugees, including representation of refugee interests in the context of finding a durable solution. At present, Palestinian refugees do not receive protection from either agency. Experts must clarify advantages and disadvantages of lobbying each of these international bodies to take an active role for the protection of Palestinian refugees. Once the appropriate agency is identified, the international system of refugee protection could be used to strengthen the PLO (representing all diverse interests of the Palestinian people) by adding the dimension of a special legal representation mandated to safeguard the specific interests of Palestinian refugees.

Identification of Proper Fora for Palestinian Return and Restitution Claims:

Palestinian refugees do not at present have any fora immediately available to enforce voluntary repatriation or to file claims for restitution and compensation for losses sustained as a result of their expulsion from their lands and homes in 1948. The forum in which such claims would ordinarily be made is the place of origin, i.e., Israel. Israeli law has essentially foreclosed avenues for Palestinians to make such claims. However, there are possible fora in which claims can be made for establishing and furthering the principles of return, restitution and compensation and for raising public awareness of such rights for Palestinians. International fora include "supranational fora" such as the International Court of Justice (ICJ), International War Crimes Tribunal, and the UN Human Rights Commission (UNHRC); "regional fora" such as the European Court of Human Rights (ECHR); and, fora created under the auspices of international conventions, or treaty-based bodies. The latter include the Human Rights Committee, Committee on Economic, Social, and Cultural Rights, Committee Against Torture, Committee on the Rights of the Child, and the Committee on the Elimination of All Forms of Racial Discrimination. Other fora include domestic fora and a loose category referred to as "Negotiated Agreements or Resolutions". ■

Based on, Susan Akram: "Reinterpreting Palestinian Refugee Rights under International Law"; the complete document is available as BADIL Brief No. 1.



Print and electronic copies of the Brief are available (www.badil.org)

International Fora: Recommendations for Action

Based on, Susan Akram: "Fora Available for Palestinian Refugee Restitution, Compensation and Related Claims", BADIL Brief No. 2.

European Court of Human Rights

An initial campaign with a high likelihood of success, that could be launched with relatively few resources and with a focus on "testing the waters" in Europe, should aim at the EU conditioning trade agreements with Israel on the latter's submission to the ECHR (and/or on passage of legislation in Israel to permit restitution and compensation claims for Palestinians). Another campaign suggested by the recent cases, which appear to be strong precedent for Palestinian restitution and compensation claims, could examine the possibility of bringing claims directly to the ECHR. Palestinian residents or citizens of an EU state are prospective petitioners in such actions. Such a petition would have to be extremely well-researched, and would require a coalition of European lawyers with experience in cases before the ECHR, as well as a broad-based coalition for campaigning, to focus attention and publicity on the case/s.

Treaty Committees

A second level of campaign could focus on bringing petitions before several of the treaty bodies at the same time. This would require substantial resources, close coordination, and also sophisticated and sustained publicity. Since the treaty committee procedures are lengthy and it is difficult to maintain interest in them, it would be critical to plan such a campaign around several coordinated petitions before different committees. Simply filing petitions--such as the ones before the Economic, Social and Cultural Committee, the Human Rights Committee or the Committee on Racial Discrimination--without a coordinated campaign of publicity and public action, are unlikely to have the impact or create sufficient pressure to force necessary governmental response.



Recent findings of these Committees in relation to Palestinians in Israel are archived on the BADIL website (www.badil.org)

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

March 1998

"The right of many Palestinians to return and possess their homes in Israel is currently denied. The State Party should give high priority to remedying this situation. Those who cannot re-possess their homes should be entitled to compensation."

COMMITTEE ON SOCIAL, ECONOMIC, AND CULTURAL RIGHTS

November 1998

"In order to ensure the respect for article 1(2) of the Covenant and to ensure the equality of treatment and non-discrimination, the Committee strongly recommends a review of re-entry policies for Palestinians who wish to re-establish domicile in their homeland, with a view to bring such policies to a level comparable to the Law of Return as applied to Jews."



For more details see the UN website (www.un.org)

International War Crimes Tribunal

This option needs to be carefully evaluated. On the one hand, it could be extremely sensational in terms of the publicity that might be generated around compilation of evidence that reflects Israeli war crimes against Palestinians; on the other, if the political atmosphere is such that the special prosecutors refuse to prosecute against Israeli defendants, the entire effort could be a useless waste of precious resources. This option would require a substantial team of dedicated lawyers to prepare the evidence in such a way that the prosecutors would have a hard time refusing to file charges. It would also require significant financial resources to pay for the legal research and evidence gathering, as well as for a broad-based and multi-faceted media campaign.

Israeli Legislation/Court Claims

This appears to be the least favorable option given the apparent lack of standing of Palestinian claimants to make claims for restitution and compensation for property in Israeli courts. Nevertheless, the research should be done-and as quickly as possible-to determine precisely what Israeli law is in this regard, and whether there are indirect avenues to raise such claims that have not been adequately considered. This information could, moreover, be useful in the campaigns to pressure the EU to require Israel to implement appropriate legislation, as well as in the campaigns to use other states' domestic legislation to raise such claims. ■

Domestic Claims/Pressure

Outside the US, this arena also holds great possibility for an activist-based, rather than a legal-based campaign. The Scandinavian countries, other European countries besides Germany and France, and possibly some Latin American countries in which there are large diaspora Palestinian communities are very good candidates for pressuring governments to make claims against Israel. If there are sufficient legal resources, of course, research should be done in countries with sizable resident Palestinian populations to determine whether claims could be filed directly in the courts of those states.

The EU and Palestinian Refugee Rights

In February, two EU working groups recommended in principle that Israel be admitted as a temporary member of the UN's Western European and Others Group. They must now discuss the conditions and the status under which Israel would be admitted. Among the conditions should be those set down for Israel's membership into the United Nations under General Assembly Resolution 273(III), 11 May 1949. This included implementation of UN Resolution 194 (Right of Return). More recently, the EU has conditioned membership, in the case of Poland, on implementation of legislation for restitution of properties and assets confiscated during World War II. Similarly, Israel's membership in the UN's Western European and Others Group, as well as other international bodies should be conditioned on restitution of Palestinian refugee properties and assets. In early March 2000, EU parliament members demanded that the EC take action to stop Israel from gaining preferential treatment for goods exported from Jewish settlements, in contravention of its trade agreement with Brussels. (*Financial Times*, London, 3 March 2000) "An EU diplomat said the Commission had been turning a blind eye to Israel's violation of the trade agreement. It was reluctant, he said, "to rock the boat" in its relations with Ehud Barak, Israeli prime minister, as Brussels sought a political role in the Middle East peace process beyond economically supporting the Palestinians."

Internally Displaced Palestinians Affirm their Right to Return to their Homes and Lands

MANIFESTO

■ We, the some 250,000 internally displaced, part of the Palestinian Arab minority, citizens of this state, did not fall from the sky. We are not immigrants, but natives in our land. The Israeli government is not allowed - on ethic, moral, legal, and political grounds - to keep us displaced in our homeland, far from our towns and villages of origin. International law and principles protect our natural right of return.

■ We warn the Israeli government not to neglect our issue and demand that our file will be opened. We demand the cancellation of the Absentee Property Law which defines us as "Present Absentees", as well as the cancellation of all other laws providing for ethnic discrimination, and to return the displaced to their homes.

■ The National Committee demands its right to maintain the holy sites in all destroyed villages and to protect our historic sites.

■ We call upon all Palestinian national institutions, political parties, and our people to stand on our side.

As part of the entire Arab-Palestinian people, we wish to declare:

■ The refugee issue is the heart of the Palestinian cause and the Palestinian-Israeli conflict.

■ The Palestinian refugees' right to return to their homeland and homes is a sacred right whose implementation must be based on UN Resolution 194.

■ While internally displaced Palestinians are part and parcel of the Palestinian people represented by the PLO as its sole legitimate representative, the National Committee for the Rights of the Internally Displaced represents the needs and interests of the internally displaced Palestinians in Israel.

■ We warn of the consequences of conspiracies against Palestinian refugee rights, whether conducted openly or behind closed doors. We state with loud voice that there will be no just solution without a solution of the issue of the refugees and the internally displaced.

*National Committee for the Rights
of the Internally Displaced*

update

Campaign for the Defense of Palestinian Refugee Rights

Report: RETURN RALLY

***National Committee of the Internally
Displaced, Nazareth, 11 March 2000.***



Atty Wakim Wakim addressing the Return Rally in Nazareth

On Saturday, 11 March, internally displaced Palestinians in Israel joined Palestinian refugee communities in exile to reaffirm the right of return. "No peace with Israel without the implementation of our right to return to homes and properties" is the demand which mobilizes not only millions of Palestinian refugees in the Arab and western exile, but also the approximately 250,000 Palestinians who have remained - displaced and disowned - inside Israel.

The public Rally for the Right of Return, organized by the National Committee for the Defense of the Rights of the Internally Displaced in the sports hall of the Nazareth municipality, was attended by some 850 participants - activists from displaced communities, Palestinian political parties and movements, representatives of Palestinian local councils and public institutions in Israel, as well as solidarity delegations from the occupied Syrian Golan Heights, from refugee camps in the occupied West Bank, and the PLO. Hundreds of letters of support sent by Palestinian parties, institutions, and activists in all parts of Palestine, Lebanon, Syria, Kuwait and Canada, as well as the statements of the speakers at the Return Rally - Ramiz Jeraiyseh/Mayor of Nazareth, Muhammad Zeidan/Head of the Arab Monitoring Committee, Abdelhakim Al-

Zreikhi/PLO Refugee Department, Jamal Shati/PLC, Salman Fakhr Al-Din/Syrian community in the Golan Heights, and Muhammad Jaradat/BADIL - addressed two major common themes:

■ The determination of Palestinian refugees and internally displaced to continue the struggle for their right of return ("with my teeth I will cling to my land..." in the words of the late Palestinian poet Tawfiq Zayyad), which is expressed in the current series of popular conferences and rallies launched in all parts of Palestine: al-Far'ah (1995), Bethlehem (1996), Gaza (1996), Tulkarem (1999), and in Nazareth (1995 and 2000);

■ The need for united Palestinian action towards a solution of the Palestinian refugee question, the core issue of the Palestinian/Arab - Israeli conflict, based on the implementation of international law and UN Resolutions, especially UN Resolution 194 (Right of Return). As a step towards the required united action, Mayor Jeraiyseh announced on behalf of the Arab Monitoring Committee that the right of return of internally displaced Palestinians will feature as the central issue of the public events organized on this year's Palestinian Land Day (30 March 2000).

Atty Wakim Wakim and Suleiman Fahmawi speaking on behalf of the National Committee for the Defense of the Internally Displaced presented the Committee's Manifesto and clarified that:

■ The National Committee is the representative of the internally displaced Palestinians in Israel, while the PLO is the sole representative of the Palestinian people, including internally displaced Palestinians;

■ Any political agreement signed by the PLO with Israel that excludes the right of return will be considered null and void by refugees and internally displaced;

■ Israel continues to violate the basic rights of its Palestinian citizens; not only their right to property is denied, but even their right to vote and candidate is being questioned. Expectations of a gradual democratization of Israel are thus based on illusions.

The speakers of the National Committee called for broad support of the internally displaced by all Palestinian social and political institutions, for the immediate adoption of the file of the internally displaced by the Palestinian leadership, and for a joint and intensive effort at documentation of Palestinian eviction and displacement during the 1948 Nakba.

Israeli guest speaker Tedi Katz, summarized his research findings on the previously poorly documented Israeli massacre in the Palestinian village of Tantura in which at least 200 Palestinians were killed. He drew the attention of the audience to the fact that mosque and graveyard of Tantura were ploughed and transformed into a sea-side parking lot - a measure which strongly contradicts Israeli sensitivity to the desecration of Jewish graveyards all over the world. He emphasized that no Israeli government interested in peace will be able to escape the refugee question and reminded the audience that accurate documentation of destroyed villages and lost properties is a precondition for a strong Palestinian argument and negotiations in the future. If the history of the 530 Palestinian villages destroyed and depopulated in 1948 is not recorded now, while eye-witnesses are still alive, they will be lost forever.

"I was 21 years old then. They took a group of 10 men, lined them up against the cemetery wall and killed them. Then they brought another group, killed them, threw away the bodies and so on. I was waiting for my turn to die in cold blood as I saw the men drop in front of me."

Fawzi Tanji, refugee from Tantura
Reuters (19/1/00)

The Rally's cultural program expressed Palestinian refugees' determination to return in emotional terms. The Saffouri dance-theater group gave an artistic account of the search for a lost village. Deheishe camp's IBDA'A children again succeeded to move the audience by depicting Palestinian persistence in their struggle against all odds, as well as the power of the young Palestinian generation, ready to take up and complete the cause of their parents and ancestors.■

Contact

National Committee for the Rights of the Internally Displaced:

Suleiman Fahmawi (spokesperson),
tel. 050-267679;
(secretary), tel. 053-752601.

Palestinian refugees world-wide rally for support of their right of return - Sign on to their petitions and declarations:

Petition for the Palestinian Right to Restitution:

launched in Palestine in March 1999 by BADIL, the petition will be presented to the European Union in May 2000 in the framework of a joint Palestinian-European NGO briefing on Palestinian refugee rights (www.badil.org; info@badil.org;)

Contact

Petition for the Palestinian Right to Repatriation and Restitution:

launched in the United States in January 2000 by the Council for Palestinian Repatriation and Restitution (CPRR), the petition aims to achieve maximum international media attention to the rights and demands of Palestinian refugees. (www.rightofreturn.org/petition/index.html; info@rightofreturn.org;)

Contact

Statement for the Palestinian Right of Return:

launched in Switzerland in January 2000 by the International Observatory for Palestinian Affairs (IOPA):

Ahmad Benani,
e-mail: ahmed_benani@urbannet.ch

Contact

Declaration of the Right of Return:

announced in the press in March 2000 in Arab capitals, Europe and the United States by a committee of sponsors composed of Palestinian public figures (Edward Said, Salman Abu Sitta, Ibrahim Abu Lughod, Bilal Al-Hassan, Faisal Darraj, Haidar Abdel-Shafi, Wakim Wakim, a.o.). The declaration aims to gather broad Palestinian support and will be presented to the PLO, Arab and western governments, and UN institutions. Salman Abu Sitta,

e-mail: omranco@ncc.moc.kw

Contact

Towards International Protection for Palestinian Refugees

Report from BADIL Workshop:

"Reinterpreting the Status of Palestinian Refugees in International Law"

Kalandia Camp, 24 March 2000

Some twenty activists in Palestinian refugee organizations and national institutions, many of them members of the BADIL Friends Forum, met at the office of the Union of Youth Activity Centers (UYAC) in Kalandia Camp to discuss a BADIL proposal for a renewed joint effort aimed at obtaining international protection for Palestinian refugees. Susan Akram, Refugee Law expert at Boston University, presented the legal framework underlying this proposal. Her reinterpretation of international refugee law (1951 Refugee Convention and UNHCR Statutes) was met with much interest, and participants confirmed the urgent need for the inclusion of Palestinian refugees in the international refugee protection regime.

Dr. Nafe' al-Hassan (international law expert) noted that the exclusion of Palestinian refugees from international protection is rooted both in politically biased international decision making and in the fear, by Palestinian political forums, that the application of international refugee law would transform the Palestinian refugee case from a political issue to a humanitarian case. Dr. al-Hassan argued that such fear is not justified and reported about previous efforts at mobilizing for a Palestinian demand for international protection. He stated his belief that it is not too late to launch a renewed effort now, although Israeli-Palestinian final status negotiations are already taking place. He emphasized the need to revive and re-structure the PLO Refugee Department in order for this forum to take an active role in strategizing for the protection of refugee rights and to make the Palestinian refugee question an issue of international concern. Jamal Shati (Head of the PLC-Refugee Subcommittee) noted that mobilization for Palestinian refugee rights must not remain limited to awareness-raising about international law, because the refugee community has become quite familiar with its rights as defined by international law and UN Resolutions. He stated the urgent need for the establishment of a mechanism, Palestinian, Arab, and international, which can be employed in order to pressure for their implementation. Refugee grass-roots activists expressed

their concern about the weakness of the current regime for protection and assistance composed of UN Resolution 194 and UNRWA, as well as their fear of a future abolition of UN Resolution 194 as a result of combined US-Israeli-European pressure. They encouraged BADIL to explore, in conjunction with Palestinian and international experts, appropriate international forums (UNHCR, European Human Rights Court, War Crimes Tribunal, etc.), and to organize additional workshops on this topic in order to build a broad basis of refugee support for this initiative. ■

The legal analysis subject of this workshop is available as BADIL - Information & Discussion Brief, No. 1 and No. 2.

Pope Visits Deheishe Refugee Camp



Pope John Paul II entering Deheishe Refugee Camp

Address to Deheishe Camp (excerpts)

"You have been deprived of many things which represent basic needs of the human person: proper housing, health care, education and work. Above all you bear the sad memory of what you were forced to leave behind, not just material possessions, but your freedom, the closeness of relatives, and the familial surroundings and cultural traditions which nourished your personal and family life."

"The degrading conditions in which refugees often have to live; the continuation over long periods of situations that are barely tolerable in emergencies or for a brief time of transit; the fact that displaced persons are obliged to remain for years in settlement camps: these are the measure of the urgent need for a just solution to the underlying causes of the problem. Only a resolute effort on the part of leaders in the Middle East and in the international community as a whole-inspired by a higher vision of politics as service of the common good-can remove the causes of your present situation. My appeal is for greater international solidarity and the political will to meet this challenge."

update

Final Status Negotiations turning into Shadow Fighting

Official final status negotiations on the core issues of the Palestinian/Arab - Israeli conflict opened according to schedule in September 1999 and were temporarily discontinued four months later, without having proceeded beyond the presentation of the initial starting positions by the Israeli and Palestinian delegations (see *al Majdal* 4). Negotiations went into crisis in January 2000 over Israel's aggressive settlement policy in the 1967 occupied territories. More than 3,000 new settlement units have been started since Barak was elected, bringing the total number of units under construction in Israeli settlements to 7,120, nearly 2,000 more than under Netanyahu (Peace Now figures cited by AP, 21/2/00).

Negotiations were officially discontinued in February, as a result of the unilateral Israeli decision to exclude Palestinian lands in the vicinity of Jerusalem (Abu Dis, Anata, al-Sawwakra) from the areas scheduled for the second Israeli redeployment from 6.1 percent of the West Bank based on the Sharem Al-Sheikh Memorandum (September 1999). The persistent effort of the Barak government, confident of Israel's political and military power, to kneel and humiliate the Palestinian leadership in the process of the implementation of the outstanding interim agreements, rather than the diametrically opposed final status positions on the core issues - refugees, settlements, Jerusalem, and future borders - were thus the source of the new negotiations crisis.

The maintenance of the fragile Israeli government coalition, including religious and immigrant based political parties with diametrically opposed social programs is Ehud Barak's main concern. Rather than negotiating with his Palestinian counterpart, he has converted the negotiation process into an internal Israeli affair. Expansionist policies and an arrogant, colonialist attitude towards the Palestinian people serve as a tool for the appeasement of Barak's strong, right wing coalition partners. This approach resulted in an abortive effort in Cairo at the beginning of February to revive the quadripartite negotiations concerning the 1967 displaced Palestinians, ongoing controversy over the opening of the northern "safe passage" between Gaza and the West Bank, and the rejection of Palestinian

priorities for the transfer of West Bank land in the latest Israeli redeployment.

With the collapse of the Syrian-Israeli negotiations in February over the Israeli government's refusal to give a prior commitment to full withdrawal from the occupied Golan Heights and the brutal Israeli military attacks on Lebanon, only renewed pressure by the US government could bring the regional parties back to the negotiation table. Israeli-Syrian negotiations were initially scheduled to resume, according to US plans, following the summit meeting between US President Clinton and Syrian president Hafez al-Assad in Switzerland on March 26. No new rounds of negotiation were announced, however, following the one-day summit. On the Israeli-Palestinian track, special US envoy Dennis Ross announced in Ramallah on 8 March that Palestinian-Israeli final status negotiations would be resumed after the Moslem feast in the second half of March.

As in the past, the heavy US involvement gives rise to great concern. Determined to keep the Oslo process alive, the US administration wants to see an Israeli-Palestinian framework agreement on final status issues achieved by May 2000 (original deadline: February 2000). The setting prepared for the new round of final status negotiations under US auspices allows for maximum pressure. Starting on March 21, Israeli and Palestinian negotiation teams headed by Oded Eran and Yasser Abed Rabbo met in seclusion for one week at Bolling Air Force base on the banks of the Potomac River in Washington. "We have to do this in a way that is basically out of the limelight," stated Dennis Ross, "that allows them to do some serious brainstorming ..." (*Jerusalem Post*, 21/3/00). The initial round at Bolling ended on March 28 with talks scheduled to resume on April 6.

The question of whether or not the Palestinian delegation will be coerced this time into accepting a framework for the settlement of the historical Israeli-Palestinian conflict which falls short of meeting Palestinian rights as defined by UN Resolutions and international law is, however, of secondary importance. Palestinian alienation from the US-Israeli staged "peace process" has become universal and comprehensive. Refugees in exile, in the 1967 occupied territories, as well as internally displaced Palestinians in Israel have stated clearly that they will challenge any agreement which will not provide for the implementation of their right of return and restitution. Their stand is supported by all

sectors of Palestinian society that are no longer willing to share in a process which undermines the existence of the Palestinian people:

"We are concerned that what is being contrived is not peace, but the seeds of future wars... We state, in all clarity, that we see only two solutions for a just settlement of the Palestine question. The first solution is based on the establishment of a Palestinian state, with complete sovereignty over the lands occupied by Israel in 1967 and Jerusalem as its capital, the right of return for Palestinian refugees, and the recognition by Israel of the historic injustice inflicted on the Palestinian people... The second solution is the establishment of one democratic bi-national state for the two peoples on the historic land of Palestine... We address this message, first and foremost, to those Israelis who believe in the values of justice and equity, and to all those who aspire for peace the world over. We want to tell them that the settlement the Israeli leadership is seeking to impose on the Palestinian negotiator could not be a settlement with the Palestinian people. It will be a fragile settlement bearing within it the seeds of its own destruction. We will neither support nor accept it..." (Message to the Israeli and Jewish Public issued by 125 Palestinian public personalities, March 2000)

New from BADIL

Information & Discussion Briefs

BADIL Information & Discussion Briefs aim to support the Palestinian-Arab and international debate about strategies for promotion of Palestinian refugees' right of return, restitution, and compensation in the framework of a just and durable solution of the Palestinian/ Arab - Israeli conflict.

The Briefs are included in the new Packet for the Campaign for the Defense of Palestinian Refugee Rights (see page 2). Briefs can also be ordered separately or downloaded from BADIL's website.

New Briefs will be published on an occasional basis.

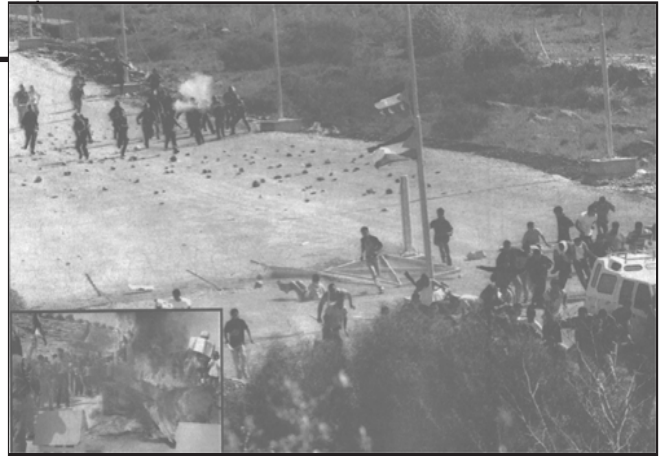
Corrections

The full reference for Refugee Voices from Lebanon in Issue No. 4 (page 33) of *al Majdal* should have read via Maysoun Soukarieh, Beit Atfal as-Sumoud.

The percentage of Special Hardship Cases in Gaza listed in Issue No. 4 (page 25) should have read 8.3%, which is a 0.8% increase over 1998.

Palestinian Land Day 2000

On 30 March, Palestinians commemorated the 24th anniversary of the violent Israeli repression of Palestinian protests against land expropriation in the Galilee in 1976, which resulted in six killed and more than 70 injured Palestinian demonstrators. The leadership of the Palestinian community inside Israel called for a general strike to commemorate land day to protest ongoing expropriation of land and discrimination in planning, development, and allocation of financial resources for Palestinian localities in Israel. Large demonstrations were held throughout the 1967 occupied territories and inside 1948 Palestine/Israel. In Jerusalem, Palestinians protested at the site of a new Israeli settlement in the eastern Jerusalem neighborhood of Ras al-Amud. A demonstration was also held at al-Ram, the northern checkpoint to Jerusalem, which was been in place since Israel imposed a military closure in 1993, denying most Palestinians access to Jerusalem. Clashes between Palestinians and Israeli police and soldiers erupted throughout the West Bank, Gaza, and inside Israel. In Sakhnin in the Galilee, Palestinians protested against the continuing confiscation of their land. Some 5,400 dunums land confiscated for so-called public purposes in 1964 is now being developed for the construction of a military base. According to Mustafa Abu Raya (*Ha'aretz*, 31/3/00), the mayor of Sakhnin, the 25,000 Palestinian residents of the town has access to 9,500 dunums of land as compared to the nearby Jewish regional council of Misgav with 10,000 residents has 180,000 dunums of land. Palestinian residents of Baka al-Gharbiya and Jat protested against the confiscation of land for construction of the Trans-Israel Highway. For the first time, protests were also held by three Druze communities inside Israel. The following section of *al Majdal* provides a brief survey of land policies under the British Mandate and inside Israel after 1948.



Nablus: Land -Day Demonstration
(*al-Quds*, 31 March 2000)

Israel to Establish Military Outpost in the Galilee to Prevent Palestinian "Encroachment" on "Israel Lands"

Despite the recent ruling of the Israel High Court against discrimination in the allocation of state land in Katzir (see page 16), the government continues to implement plans aimed at denying Palestinian Israeli access to lands. The Israeli Defense Ministry is considering the establishment of a military outpost in the Wadi Ara area of the Galilee close to Palestinian localities. According to a report in the Israeli daily newspaper, *Ha'aretz* (31/3/00), the aim of the plan is to "contain the spread of illegal construction to state land in the area."

"We were in deep sleep, like unconscious, for years. Then they came, hit us on the head, and we woke up and remembered that we have lands."

Palestinian high-school youth from Umm al-Fahm in an Israeli TV-report (25-2-2000) about the revival of Palestinian identity and nationalism triggered by the brutal police repression of the 1998 demonstrations against new land confiscation comprising some 18,000 dunums (4,500 acres) in Umm al-Fahm. The land was incorporated into an army firing range and declared a closed military area. Palestinian farmers were permitted to enter their lands only with special permits on weekends and required insurance to absolve Israeli forces of responsibility for potential injury. After an initial internal review cleared the Israeli police of all responsibility in January 2000, the investigation has been re-opened.



See Adalah for more details (www.adalah.org) and the Discrimination Diary (24 February 2000) from the Arab Human Rights Association, (www.arabhra.org)

In Commemoration of the Anniversary of Land Day

"We Learn the Lessons from our Past and Design our Tools for the Struggle for a Better Future"

Statement issued by Ittijah, the Union of Palestinian NGOs in 1948 Palestine/Israel, March 2000

The 24th anniversary of the Land Day is the best occasion to contemplate the impact of this historical day in our people's history, our points of weakness and strength, our identity, our institutions, and our responsibility towards ourselves and towards our people.

This anniversary symbolizes and embodies a major station in our people's struggle. The 1976 Land Day is considered as a qualitative step toward the crystallization of the role of the Palestinian minority in Israel in the struggle, although it was neither the first nor the last day in our fight against the ruling Israeli establishment and its discriminatory, repressive policies in place since the 1948 Nakba. Our struggle is a struggle for the Palestinian national issues, and a struggle for the collective rights of a minority who wants to live with honor in its land. Land Day proves the power of our people, if they decide - as institutions and leadership - to opt for struggle in order to achieve our collective rights and the rights of the whole Palestinian people.

This year's anniversary comes at a time when the Palestinian people face one of the most difficult challenges since 1948, i.e. the final status negotiations in which Israel is trying to impose its domination in order to liquidate our just cause. Israel is engaged in an effort to dictate a solution, which is restricted to settling the issues created by the 1967 war. Ignoring the principles of justice, Israel acts as if the conflict started in 1967, and not in 1948 when Israel was established at the expense of our people, who were displaced and made refugees either outside or inside the homeland. Their towns and villages were destroyed, and their economic, social and institutional fabric was torn apart.

The final solution is important to all Palestinians. The right of return belongs to them collectively and individually, and no one has the right to present it for bargain. The right to self-determination is the right of all Palestinians. There will be no durable and accepted solution without the return of those who wish to return and fair compensation to all Palestinian refugees.

We call upon the Palestinian people inside Israel, institutions, individuals and groups, to do their best to achieve our rights. We must not limit our battle on Land Day to the demand for equality. Our battle is a battle for all our national rights, for institutional continuity and for the development of a collective perspective guided by our national rights as defined by international law and natural justice.

If we remain mere spectators to the final solution, we will not only fail to live up to our political and moral obligation and duty towards our people, but we will also not fulfill our role in preventing Israel from imposing unjust solutions. Today, the land remaining in Arab hands is less than 3% of the Israeli "state land". It remains threatened by confiscation, either under the pretext of the need for a trans-Israel highway or as a part of long-term projects for the "development" of the Galilee and of efforts to deprive the Arab inhabitants of al-Naqab (Negev) of their land by re-settling them in restricted residential areas. Under the slogan of privatization, moreover, public land confiscated in 1948, including the Islamic Waqf land, is being transferred to private, individual and collective, Jewish property by means of discriminatory laws. The Israeli state seeks to keep these properties for the Jewish people and to prevent any possibility to raise them in the framework of a final status solution. The phenomenon of "unrecognized" Palestinian communities are yet another example illustrating the role and purpose of the repressive Israeli establishment.

We as Palestinian NGOs hold that the aims of our struggle will never be achieved, if the struggle is limited to parliamentary and legal work. We are convinced that popular struggle must remain the basic dimension. It is necessary to break the rules of the game which are imposed on us by the Israeli ruling establishment, and to work for the internationalization of the issues of the Palestinian minority, beyond past efforts at awareness-raising about the Palestinian national issues, efforts which have been partially successful in the past decade.

The current challenges require the development of our tools of struggle and a review of the structure of our representative institutions. We need to build new ones, and to reshape the old ones, in order to guarantee the transformation of our institutions into efficient and effective tools for the promotion of our collective struggle in defense of our land, our existence, as well as many other national rights.

Yes to the public strike and widest popular participation!

Yes to the empowerment of our Palestinian institutional identity!

Let's work on the occasion of this anniversary for the reconstruction of the struggle program of our people and institutions.

Land Ownership in Palestine/Israel (1920-2000)

The British Mandate

Land ownership under the British Mandate was based on the Ottoman Land Code, with additional legislation adopted during the Mandate. Under the Ottoman Code, land was classified in five categories with provisions for documentation of registration. The two basic types of land were *mulk* (private lands), and *miri* (land leased from the state). While the latter was subject to certain limitations, *miri* land was inherited, sold, and generally regarded as the land of the user. Under the code, individuals able to prove cultivation of a plot of land for 10 years or more were issued a title of ownership. *Miri* also included communal and common lands. Most *miri* land registered in the Ottoman Land Registry (*tapu*) was of this type. A considerable portion of both *mulk* and *miri* land was administered independently of the British administration by Muslim and Christian *awqaf* (religious endowment) and handled as non-transferable properties for the benefit of the religious communities.

At the time of the British occupation of Palestine, the majority of lands in the country were either unregistered in the *tapu*, or the registration was imperfect and obsolete. The Mandate government added a sixth category of lands, "Public Lands", which was defined as lands under the control of the government by treaty, convention, agreement, succession and lands acquired for public purpose. Public lands totaled approximately 1,500,000 out of 26,320,000 dunums (1,500 sq. km or 26,320 sq. km) at the end of 1943. The Mandate government also adopted measures under the 1928 Land (Settlement of Title) Ordinance for identification and registration of land according to cadastral survey. By the end of the British Mandate, titles were settled and registered on 25% of the total land area of Mandate Palestine.

Five laws were adopted between 1920 and 1940 to address Palestinian Arab concerns about Jewish/Zionist land purchases in Palestine, including the eviction of agricultural tenants by mostly absentee landlords who were not Palestinian. The laws, however, failed to provide the protection that Palestinian Arabs

demand, often due to loopholes, which allowed individuals and agencies to circumvent the legislation. In 1938, moreover, Zionist officials were granted permission by Mandate authorities to copy land registration and taxation documents pertaining to the status of Palestinian Arab land ownership for the express purpose of facilitating Zionist land acquisition. Under the British Mandate, religious *waqf* property was administered by the Higher Islamic Council and the Christian Churches. In 1937, the Higher Islamic Council was dissolved based on the Defense (Muslim *Waqf*) Regulations in the framework of the British repression of the Arab Revolt (1936-39). The previously autonomous Higher Islamic Council was replaced by an appointed commission supervised by the British High Commissioner.

Transfer of land in Palestine to Jewish ownership was mainly the result of the activities of two organizations, the *Keren Kayemet LeIsrael* (Jewish National Fund/JNF), incorporated in England in 1907 and later in Israel in 1954, and its affiliate *Himanuta*. According to its Statutes, the JNF is prohibited from the transfer of purchased land to non-Jews. *Himanuta* was established by the JNF in 1936 as a subsidiary of the JNF to purchase with transferred capital and hold land for German Jews until their immigration to Palestine. Unlike the JNF, the Statutes of *Himanuta* allow the agency to sell land to non-Jews. *Himanuta* thus afforded the JNF greater flexibility in its land dealings - trading land with non-Jews - in order to geographically homogenize scattered land purchases. On the eve of the 1948 war, the Jewish National Fund had purchased some 1 million dunums of land. Total Jewish land ownership recorded at that time comprised between 5.67% and 6.59% of Palestine.

When open military confrontations began in 1947-48, many Palestinian landowners were not in possession of their ownership certificates, because they had submitted them to the regional British Land Settlement Offices in Jaffa, Beersheba, Jerusalem, Tulkarem, Jenin, and Nablus. With the division of Palestine according to the cease-fire agreements in 1948-49, Palestinian landowners no longer had access to their documents, which were consequently transferred to and archived in capitals beyond their reach (London, Amman, West Jerusalem/Jaffa). Access to these archives has remained restricted until today.

Israeli State Legislation and Policies

In the 1948 war Israel obtained military control over 77.9% of the land of Mandate Palestine. The Palestinian-Arab minority that remained within the borders of the new Jewish state was primarily rural and impoverished. Most urban professional and political elites from the Palestinian community had been exiled. In the absence of a Palestinian legal community, Israeli land legislation met little professional challenge, effectively curbing potential international criticism of overt confiscation of Palestinian property by the state institutions. A series of some forty new laws were adopted in the first two decades of Israeli rule, in order to transfer ownership of conquered Palestinian Arab lands to the state of Israel and make it available for the benefit of its Jewish majority. These laws include:

1950 Absentees' Properties Law

authorized the government to transfer property from so-called absentee Palestinian Arabs to Jewish ownership by virtue of a government payment to the Israeli Custodian of Absentee Property. The Israeli government thus claimed that the property had been acquired legally (i.e., by payment) rather than through confiscation. An absentee is defined as any person, citizen, or resident of an enemy state or of Palestine who was present in an enemy country, or an area of Israel held by enemy forces, at any time between 29 November 1947 and the date of cancellation of the state of emergency. Under the law, the Custodian can also acquire control of property by declaring the property to be absentee. The Custodian was permitted to not only lease or hold on to property under his custodianship, but to sell it to a Development Authority established subsequently by the government. Dividends from the sale of the property (less administrative and legal expenses) were to be held by the Custodian in fund until such time as the state of emergency, under which the law was declared operational, came to an end. As regards Absentees' property, the state of emergency is still in existence. In September 1953 the Custodian signed over his "rights" to land he was responsible for in return for a price paid by the Development Authority, the sum of which was returned to the Development Authority in the form of a loan. Several million dunums of land were transferred to the JNF. Islamic Waqf

14 March 2000

Israel's "Custodian" of Absentee Property

"[The Custodian] had no duty of care toward the absentees, as they are regarded as foreign enemies who may be deprived of their property by the State."

The State versus The Custodian of Absentees' Property (1954) 10 P.D. 912. Cited in *Legal Violations of Arab Minority Rights in Israel*. Shfaram: Adalah The Legal Center for Arab Minority Rights in Israel, 1998.

Following severe criticism by the Israeli State Comptroller (Annual Report, No. 41) of the unlawful interference of the Israeli Land Authority (ILA) with the work of the Custodian of Absentee Properties, the Knesset Committee on State Comptrol Affairs convened a special hearing with the Custodian on 7 January 1992. Following are excerpts of this hearing, which illustrate the process of property confiscation.

Method used by the Custodian to declare properties as absentee properties

Custodian: *If we receive confirmation or evidence from the Mukhtar, or from another person who informs us that the owners are absentees, we issue a certificate of injunction for the property. If we receive a certificate or an affidavit made under oath from the Mukhtar, then I issue a confiscation certificate and declare the property as absentee property.*

MK Zucker: Can you identify a person, or people, who acted as regular informers, persons who would regularly declare that certain properties are absentee properties?

Custodian: *Maybe yes.*

MK Zucker: ... I would like to put this into the most blatant form: there are professional informers who pass fraud affidavits to you. And you take these properties, even without the knowledge of their owners.

Custodian: *Not always. Sometimes, as a result of legal conflicts between the tenants and the landlord, the issue reaches us, or the court involves us.*

MK Tichon: But MK Oron says that there are professional informers. Makhateer of villages, who - in exchange for money - will give you any evidence you want. And actually another person loses all his property, because of a fraud declaration that he even doesn't know of. This means that it is enough that a Mukhtar sends you a letter and the property is declared absentee property?

Custodian: *Yes.*

MK Tichon: You don't publish your decision anywhere?

Custodian: *No.*

MK Oron: You also don't check?

Custodian: *I have no ability to check.*

MK Tichon: If I write to you that in Sheikh Jarrah there is an absentee property, you will immediately take it?

Custodian: *Yes. I can act in good faith.*

Source: Affidavit of MK Haim Oron to Atty Dani Seidmann in the context of a High Court Petition against the sale of a Palestinian home in Silwan/East Jerusalem to the Jewish settler organization El'ad after it had been declared absentee property.

property, as well as lands and property of internally displaced Palestinians who were classified as "Present Absentees" was also confiscated under the Law. By 1954, more than 4.5 million dunums of land classified as absentee had been transferred to the state of Israel.

1951 State Properties Law

provided for the registration as Israeli state property of all land previously held by the British Mandate administration, including land used collectively by Palestinian Arab villages which had been registered with the British High Commissioner on behalf of the villages. Approximately 15 million dunums of Palestinian land was expropriated under this law.

1953 Land Acquisition (Validation of Acts and Compensation) Law

permitted the state to formalize the transfer of Palestinian land that on 1 April 1952 was not in the possession of its owners; that had been used or assigned between 14 May 1948 and the 1 April 1952 for military and settlement purposes; and was still required for these purposes. By 1954, more than 1.2 million dunums of land had been confiscated from Palestinians.

1943 Land (Acquisition for Public Purposes) Ordinance

allows the state to take control of lands for permanent ownership or temporary use for public purpose upon payment of compensation. Under this law, millions of dunums of land, including land in the eastern areas of Jerusalem annexed by Israel in 1967 and land in the Galilee, were confiscated to construct Jewish settlements in areas with a predominantly Palestinian population.

1960 Basic Law Israel Lands:

provides that "Lands of Israel", i.e. lands of the state, the JNF, and the Development Authority cannot be transferred by sale or in any other way. This law was consequently interpreted by the Israeli High Court as meaning that such land cannot be returned to a previous owner, even if s/he holds official title and that acquisition of ownership title through long-term cultivation according to the Ottoman Land Code is no longer possible.

1969 Land Law

concluded land registration in Israel based on the earlier British registry and all subsequent Israeli laws, and abolished all previous conflicting registration. Additional unworked lands were registered as state property, a step effecting especially the Bedouin in al Naqab (Negev) who did not hold official titles for vast lands used historically as grazing grounds.

Under the 40 some laws adopted by the state of Israel, including those cited above, close to 93% of Palestinian land, including 80% of the Islamic Waqf property, has become - in the terms of Israeli law - "Lands of Israel", i.e. defacto state lands. Palestinians inside Israel privately own no more than 3% of the land due to five decades of expropriation.

Today, Palestinian community organizations and NGOs, arguing on the basis of recent Israeli anti-discrimination legislation (1992 Basic Law: Human Dignity and Freedom and 1994), are better equipped to challenge Israel's discriminatory laws and policies. Lobby initiatives have been launched for Palestinian access to remaining Islamic Waqf properties and for the adoption of alternative Israeli master plans; confiscation of Palestinian property - whether by the Custodian of Absentee Property or by the state - no longer goes unchallenged. Persistent legal struggle of the Palestinian minority in Israel has become a tool for the protection of the lands and properties of those who remained. However, for the majority of disowned Palestinians, refugees and rightful owners of the major portion of lands and properties confiscated by the Israeli state, Israel's current legal system does not leave a loophole for effective restitution claims.

Sources: *Survey of Palestine*, Anglo American Committee of Inquiry, prepared in December 1945 and January 1946, Reprinted by the Institute for Palestine Studies, Washington, DC, 1991, Vol. 1 pp. 225-308; Sami Hadawi, *Palestinian Rights and Losses in 1948, A Comprehensive Study*. London: Saqi Books, 1988, pp. 35-75; Michael Dumper, *Islam and Israel, Muslim Religious Endowments and the Jewish State*. Washington, DC: Institute for Palestine Studies, 1994; Walter Lehn, *The Jewish National Fund*. London: Kegan Paul, 1988; David Kretzmer, *The Legal Status of the Arabs in Israel*. Denver, CO: Westview Press, 1990; and, Hussein Abu Hussein and Fiona McKay, *Access Denied: Palestinian Access to Land in Israel*. Haifa: Galilee Center for Social Research (unpublished manuscript); Israel Government Yearbook; Arab Association for Human Rights/Nazareth; Uri Davis in CPAP Symposium Proceedings (1999); Tawfiq Jabareen, adv.; Hussni Abu Hussein, adv..

Katzir and the Restrictions on Palestinian Access to Land in Israel

On the 8 March the Israeli High Court ruled against the Jewish Agency and the Israeli communal settlement of Katzir, which had attempted to prevent a Palestinian family from purchasing a plot of land to build a home in Katzir. The "lookout settlement" was established in 1982 jointly by the Jewish Agency and the Katzir Cooperative Society on so-called state land allocated by the Israeli Land Authority as part of a project to prevent the development of large contiguous Palestinian areas in the Galilee. The Cooperative Society only accepts Jewish members

After being refused the right to purchase a plot of land or a home in Katzir in April 1995, Adel and Iman Qadan, a Palestinian couple from nearby Baka al Garbiya petitioned the High Court. Not wanting to rule on the sensitive political issues raised by the case concerning the discrimination inherent in the statutes of Zionist organizations like the Jewish Agency, the Court appointed a conciliator, Jerusalem lawyer, Yoram Bar Sela, to try to resolve the dispute. With the failure of the conciliation process, however, the Court was forced to rule on the case.

The Court concluded that the state may not allocate land directly to its citizens on the basis of religion or nationality. Furthermore, the Court ruled that the state may not allocate land to the Jewish Agency knowing that the Agency will only permit Jews to use the land. "Where one may not discriminate directly, one may not discriminate indirectly." "Even if the Jewish Agency may distinguish between Jews and non-Jews, it may not do so in the allocation of State land."

The decision, moreover, did not open the door immediately for the Qadan family to purchase land and build a home in Katzir. The Court noted that its decision applied only to the "particular facts of this case" thereby preventing the ruling from being used as a precedent to challenge past land allocations nor did the Court did take a position with regard to different types of settlements and special circumstances. The decision is subject to appeal and according to the second part of the judgement: "The State must make [its] consideration based on the principle of equality, and considering various other relevant factors - including those factors affecting the Jewish Agency and the current residents of Katzir. The State of Israel must also consider the numerous legal issues. Based on these considerations, the State of Israel must determine with deliberate speed whether to allow the petitioners to make a home within the communal settlement of Katzir."

Following the decision, the Jewish Agency decided to initiate special efforts to "ensure that

areas of the Galilee, the Triangle and the Negev remain in Jewish hands." The Agency approached the government to request a jointly formulated policy to ensure ongoing Jewish settlement in these areas, which contain a Palestinian majority. On the other hand, the deal considered by Ariel Sharon and Avraham Burg for the mass transfer of so-called state lands to ownership of the Jewish Agency will probably now be made void.■

"...we ought always remember that the State of Israel will not be transformed into a democratic state when it becomes the state of all its citizens, Arabs and non-Arabs alike - rather it will become democratic when it is transformed to the state of all its citizens as well as its 'absentees', the 1948 Palestine refugees."

Uri Davis, "That's One Small Step for Adil and Iman Qaadan and One Giant Leap Towards the Democratization of the State of Israel"

Sources: #21 High Court: Decision on Katzir, 8 March 2000; *Haaretz*, 9 March 2000; *Haaretz*, 10 March 2000, *AP* 8 March 2000.

Land Claims from Lebanon

In March, Lebanon's Foreign Ministry announced that it was preparing legal files concerning the property rights of Lebanese citizens in Palestine. In one case Faruq Hamade supplied the Ministry with 45 documents and receipts for taxes paid between 1936 and 1938. The 3,000 square meters of land claimed by Hamade lies in the villages of Jarda and Itmet in Israel. Owners are invited to present their claims at the Ministry of Foreign Affairs (Center for Legal Research and Documentation) and to the Embassy of Lebanon in Washington, DC (tel. 202-939-6300; fax 202-939-6324)

Sources: FOFONET, 15 March 2000 and *AFP*, 23 February 2000.



Hamade presents his ownrwsip papers (*al-Quds*, 12 February 2000)

update

Iqrit and Bir'am

Internally Displaced Palestinians Still Waiting to Return to their Villages

Members of the current Labor government committee on the future of Palestinian residents from the villages of Iqrit and Bir'am, including Yossi Beilin, Avraham Shochat, Haim Oron, Haim Ramon, as well as Yossi Kucik, director general of the prime minister's office, visited the area in advance of the High Court's expected May ruling on the residents petition to finally return to their villages some five decades after an initial High Court ruling in their favor. Recommendations supported by the current committee (*Ha'aretz*, 21 March 2000) include those set down by a 1996 committee under the previous Labor government. These include:

- Allocation of 900 dunums of land together for both villages even though the villages owned a total of 28,000 dunums in 1948 before they were expelled and the villages were razed to the ground.
- The land will be allocated as a long-term lease with ownership remaining in the hands of the state of Israel.
- Residents will receive a 500 sq. meter plot of land on which a home limited to three stories and three living units may be built.
- The residents must sign a waiver that extinguishes all other demands.
- The new villages may not be built on the village sites, which will be declared antiquity sites. In Iqrit, this would mean that the church which still stands and is used by residents would be placed under joint administration of the Ma'aleh Yosef regional council, the Antiquities Authority and the National Parks Authority.

The recommendations, which fall far short of the basic rights of return and restitution, have been rejected by residents of the villages. ■

workshop

The Future Role of UNRWA

Summary and Issues of Concern

Following up on a workshop on compensation for Palestinian refugees in July 1999 (see *al Majdal* 3), international experts, government officials, UNRWA staff, UNHCR, representatives of the World Bank, and NGOs met outside of London in mid-February 2000 to discuss the future of the UN Relief and Works Agency for Palestine Refugees (UNRWA). Participants contributed to the two days of discussions in a personal rather than official capacity. The workshop, jointly sponsored by the Palestinian Refugee ResearchNet and the Royal Institute of International Affairs and funded by the Canadian and UK governments, focused on several themes related to the future of UNRWA: transition issues related to the permanent status; availability of resources for the transition; delivery of service issues; and the role of UN agencies in implementing the permanent status agreement.

While the aim of the workshop was to promote innovative thinking and effective policy planning in advance of an eventual permanent status agreement, the pre-determined framework presented for the workshop focused heavily on state rather than refugee interests - i.e. solving the refugee problem, per se, rather than solving the problems of the refugees. The primary state interest concerning the future of UNRWA and provision of education, health, social services was economic, particularly in the context of a rapidly expanding refugee population and declining donor resources.

Transition issues included a discussion of various permanent status scenarios with most participants agreeing that the Oslo process would not likely lead to implementation of the right of return of Palestinian refugees. Discussion also focused on implications of both a rapid and slow termination of the Agency. While a rapid termination may negatively impact efforts to marshal new monies to support implementation of an agreement, a slow termination in the context of continued budget crisis in UNRWA may negatively affect the ability of the Agency to carry out its mandate.

As regards financial resources, some experts argued that donor countries would unlikely be willing to provide long-term economic support for refugees in the advent of an agreement, even if the agreement did not provide for an immediate solution to the problems of the refugees. Other participants felt that donor

country support for refugees would also be contingent on security interests in the region and the maintenance of stability. While some experts felt that costs currently covered by UNRWA could be transferred in varying degrees to most of the host countries, it would take a substantial number of years before the Palestinian Authority could assume financially the costs of service provision to the present population of refugees living in the West Bank and Gaza.

Although a significant portion of discussions focused on economic constraints a number of ideas were raised about the delivery of services. These included harmonization of services and salary scales with existing services provided by host governments to the non-refugee population; the transfer of current services to host country governments, NGOs, and private service deliverers; shifting UNRWA's role from a service provider to a service manager; and, shifting eligibility for UNRWA services from a status-based to a needs-based criteria. Some participants also raised the prospect of the transfer of services by attrition due to continued budget constraints, rather than by agreement.

The role of other UN agencies related primarily to implementation of a final status agreement. The benefits of involvement by additional agencies, like the UNHCR, UNSCO, and UNDP, were weighed against the potential for inter-agency competition and UNRWA's current high level of efficient operations. Discussion also focused on whether UNRWA alone was equipped to provide all the necessary requirements for implementation of a final status agreement. Additional research, including demography, and facilitation of refugee participation in the process may require the active involvement of other agencies.

The workshop revealed several issues of concern from an international refugee law perspective. The framework for the workshop was focused predominantly around economic constraints, as if the primary stakeholder in the resolution of the refugee issue was donor countries rather than the refugees themselves. While a rights-based approach (i.e. international law and UN resolutions) was examined as one possible scenario for a final status agreement, most of the discussion about the future of UNRWA revolved around a so-called compromise scenario (i.e. no implementation of international law and UN resolutions) based on the current balance of power.

The design and implementation of durable solutions to refugee flows from an international

refugee law perspective is centered on the refugee and the basic principle of refugee choice. This perspective was by and large absent from the workshop framework and subsequent discussions. Some of the final status scenarios were considered to allow refugee choice, however, the choice was severely limited (limited family reunification, rather than return). The term repatriation, moreover, was often misused in reference to the resettlement of Palestinian refugees in the West Bank. Repatriation, rather applies to the return of refugees to their homes and lands, which are located inside Israel.

The workshop highlighted the urgent need to clarify the status and rights of Palestinian refugees under international refugee law. Many participants viewed the creation of a Palestinian state and the accordance of citizenship rights to refugees, even if most do not or are not able to return, as extinguishing the status of refugees as refugees. Several participants noted however, that in the case of Jordan, Palestinian refugees continue to be defined as refugees even though they carry Jordanian citizenship. Few participants were aware of the fact of that Palestinian refugees do not have a functioning protection agency, its relation to UNRWA, and the importance of such an agency in finding and implementing a durable solution for Palestinian refugees.

Finally, the workshop highlighted a basic misconception of the refugee issue, its relation to the Palestinian people as a whole, and to a resolution of the Palestinian/Arab-Israeli conflict. While refugees are a unique social and increasingly political sector of Palestinian society, the interests and demands of refugees transcend particular social and political identity. The right of return is a national Palestinian interest; a comprehensive resolution of the Palestinian - Israeli conflict (i.e. including all so-called final status issues under the Oslo framework) is dependent on a durable solution (i.e. refugee choice) to the Palestinian refugee issue according to international refugee law and practice. In this sense it is critical for workshops like the one on the future of UNRWA and its predecessors (see past issues of *al Majdal* and *Article 74*) to first address the issue of the status of Palestinian refugees under international refugee law, and then to seriously address the issue of repatriation. ■



A summary of the conference discussion and short papers is archived on the Palestinian Refugee ResearchNet website, www.prrn.org.

The West Bank Bedouin: The New Refugees?

Rosemary Sayigh

Most West Bank bedouin live in Area C, the largest of the three zones (70.2% of the whole) into which, at Oslo, Israeli maps divided the West Bank. It is also the zone where Israeli military control remains until the completion of final status negotiations. The PLO negotiators are said to have believed that Israeli phased withdrawal would ultimately include the whole West Bank except for a few military installations and settlements. If so, they were blind to the strategic nature of Area C, which forms a continuous belt surrounding the whole West Bank, interrupted only at Jerusalem, widest along the Jordan Valley, and penetrating between towns and villages. Its strategic purposes are clear: i) to separate the West Bank from Jordan and Palestinian-populated parts of Israel (Galilee and Negev); ii) to fragment the territory of an eventual Palestinian state; iii) to form a continuous space for movement of Israeli military and settlers. It is no coincidence that all but a few of around 145 Israeli settlements also lie in Area C, their location as strategic as that of Army installations and as likely to remain. Barak's recent speech at the settlement of Ma'ale Adumim makes it clear that, far from dismantling the settlements, he intends to strengthen and expand them. There has been no pause in the rate of their expansion since Netanyahu.

Only two weeks after the Sharm el-Sheikh accords (4 September), military orders closed around 120,000 dunums of land, mainly in Area C, citing security as pretext. This is reminiscent of the way that, after the restoration of Sinai to Egypt in 1979, Israel confiscated part of the only area left to Negev bedouin for the Tel-Malhata military airfield, evicting 750 families. It is likely that any further Israeli redeployments made as part of the final settlement negotiations will be accompanied by similar confiscations and evictions. A researcher with the Israeli human rights association B'tselem affirms that Israel will want any part of Area C it retains to be empty of Palestinians. Realists predict that Barak will insist on keeping most of Area C.

Since the beginning of Israeli military occupation in 1967, according to the Land Research Centre in Jerusalem 73% of the West Bank has been confiscated under various pretexts - military installations, training grounds,

'nature reserves'. Much of this confiscated or closed land has been made available to Israeli settlers, while bedouin have lost all or most of their grazing land. Their remaining flocks locked up in pens and fodder-fed, bedouin animal breeders bitterly contemplate the artificial forests planted in the name of 'nature', now inaccessible to them. Confiscation and heavy fines are an ever-present threat for animal-owners.

Bedouin vulnerability to displacement arises primarily from Israel's use of military law in Area C, in direct contravention of the Geneva conventions. But it is also linked to the nature of the land on which they live, and to the kind of relationship they have to it, land perceived as 'empty', not privately owned and not in use for crops. Just as in the Negev and Galilee, so in the occupied West Bank, Israel uses Ottoman law to claim all such land as belonging to the occupying authority. Yet it is on such arid and infertile land that the bedouin have created their ecological and economic niche, skillfully exploiting its minimal resources for animal breeding and rain-fed agriculture. According to the Palestinian Agricultural Relief Committees (PARC), bedouin produce more than 50% of the West Bank's red meat. Some have a kushan (ownership papers) issued to them by the Jordanian Government, but most bedouin claims to land use are based on custom and ad hoc arrangements. Israel refuses to recognize documents and custom alike.

In a bizarre reversal of history, Israelis view bedouin as 'intruders' or 'invaders', and their encampments as illegal. In this regard, the Israeli military and judiciary are unanimous. Whereas the High Court has occasionally upheld Palestinian ownership rights, it has never once judged in favour of the bedouin, except to delay evictions. Evictions began soon after the 1967 war when the eastern slopes of the West Bank were declared a military zone. But it was after Oslo that eviction and harassment intensified. Since 1996-97 a number of groups have been evicted, among them Froush Beit Dajan near Tamoun; Jahalin Salamat from around Ma'ale Adumim; Qa'abneh near Deir Dibwan; al-Rashayda village south of Bethlehem; Azameh near Nablus; the Da'is near Jiftlik; Jahalin Saray'an Wad Abu Hindi; and Jahalin Abu Dahouk at Bir al-Moscob. Evictions are accompanied by violence - destruction of shelters, beatings, arrests, confiscation of livestock and equipment. In the case of the attack on Rashayda village (July 1998) live ammunition

and tear gas were used. All bedouin in Area C are said to have received eviction orders. These are seldom implemented immediately but remain available for use at an opportune moment when media attention is fixed on something else.

Forms of harassment vary. In a survey of ten tribal groups in the Bethlehem and Hebron provinces, an Italian NGO found that all had experienced eviction, and in all cases flocks had been constrained from grazing. Nine groups had had their tents or shacks demolished; four had had equipment - tractors, water tanks - confiscated; five had had sheep confiscated, and two had had animals killed. Other sources say that caves near Hebron where bedouin live have been blown up; wells have been blocked, cisterns demolished. But it is in the central area, between Jerusalem and Jericho, and along the Jordan Valley, that Israeli efforts to displace the bedouin have been concentrated. The Jahalin have been particularly targeted because they lie in the path of the expansion of Ma'ale Adumim, planned to grow into a megopolis of 53 square kilometers, extending eastward to Jericho and cutting the West Bank in half. Bedouin are convinced that Israel intends eventually to displace them all to Area B, where there is no vacant land for grazing, and where responsibility for them will fall on the Palestinian Authority (PA). The majority of bedouin in the West Bank were expelled from the

Negev after 1948. Now they are being made refugees for the second or third time.

Double marginality

If the PLO at Oslo did not recognize the strategic significance of Area C, it is possibly because they shared the Israel perception of it as 'empty', inhabited only by a 'handful of bedouin'. Some say that the PA is complicit in the recent closures, being more anxious to recuperate land separating patches of A and B than bedouin areas. Other Palestinians express contradictory attitudes to the bedouin, sometimes holding them up as the embodiment of Arab values such as generosity, with others accusing them of collaboration or 'backwardness'. The taxi driver who drove us to a remote encampment southeast of Hebron said, "Bedouin are lazy, they don't like to work".

More significant, they are invisible. Knowledgeable people are ignorant about them, even their number. In the Central Bureau of Statistics in Ramallah, when I asked what percentage of the West Bank population the bedouin form, answers ranged from "less than 1%" to "at least 25%". The CBS's Statistical Brief (January 1999) does not distinguish bedouin as a separate category. Bedouin themselves and NGOs that work with them suggest figures varying between 200 to 300,000, ie. a sizeable 12% to 18% of the West Bank population of 1,601,000.

Negev Bedouin

The majority of the Naqab (Negev) bedouin were expelled or fled in 1948. Eleven tribes were systematically removed between Beersheba and Gaza for so-called security reasons, and the 19 remaining tribes were forced into concentrated areas called reservations. Today, bedouin comprise about 12% of the Palestinian population of Israel. Approximately half live in the poorest recognized localities in Israel, while the other half live in unrecognized villages. Israeli policy has attempted to forcibly concentrate the bedouin and make their traditional lands available for Jewish settlement and domesticate the indigenous bedouin economy and create a cheap source of wage labor for the Jewish economy. Prior to 1948 around 90% of the bedouin in the Naqab earned their living from agriculture, and 10% from raising livestock. Today over 90% live from wage labor. According to the Association of Forty, there are currently 22,000 unrecognized houses in the Naqab subject to demolition. In 1998, 370 homes were demolished and around 1,700 cases are currently being prosecuted in court. The figures do not include homes demolished by the owners. Out of 12,600,000 dunums of land used by the bedouin in the Naqab, bedouin are struggling to prevent eviction from some 240,000 dunums remaining with them. The transfer of the IDF to the Naqab from the Golan in the event of Israeli withdrawal may lead to the displacement of many bedouin from their present location. Under the 1980 Naqab Land Acquisition (Peace Treaty with Egypt) Law more than 55,000 dunums of land were confiscated from the bedouin to build military bases and an airport. The military base at Im Tinan, was never built, and the land was turned over to Jewish settlers in 1994. No bedouin has ever won a land claim to any of the 3,000 lawsuits filed over the past two decades.

Sources: Association of Forty Survey, Negev Office, Beersheva, September 1998, cited in *Article 26, The Arab bedouin of the Naqab*, Factsheet No. 3. Arab Association for Human Rights. Ron Kelley, "Israel's Bedouin: The End of Poetry," *The Link*, vol. 31, no. 4: Sept.-Oct. 1998 cited in AIC factsheet. Penny Maddrell, *The Bedouin of the Negev*. Minority Rights Group, Report No. 81 (1990), p. 5).

Uncertainty about their numbers reflects uncertainty about who is a bedouin. Bedouin say that only they know, and that NGOs often do not distinguish between bedouin and other poor. Social boundaries have blurred with the decline of transhumant pastoralism as a viable way of life. Deprived of grazing land and water, some bedouin have shifted into crop farming (especially in the Ghor Valley), others to unskilled labour in the settlements. Though the marginality of West Bank bedouin is part of a wider pattern linked to the rise of strong states, border control, and changing patterns of trade, yet West Bank bedouin are also victims of direct Israeli occupation and Palestinian neglect, giving their plight a double twist. Bedouin are hardly present in any Palestinian national institution, whether the Cabinet, Legislative Council, the Security apparatus, the Ministries, the NGOs, political parties, or the media. There are bedouin sections in the Ministry of Agriculture and the Ministry of Local Government, but they are headed by non-bedouin. Very few bedouin reach the universities where national elites are formed.

Poverty with a modern face

Whereas once their animals had sale value as well as providing household subsistence, today bedouin in the West Bank are mired in poverty and debt. Their settlements are startling in their bareness, lacking even earth for the greens with which Palestinians in refugee camps used to eke out their rations. Shelter types range from caves through tents, shacks made out of salvaged junk - jute sacks, wood planks, cardboard, plastic sheeting, zinco - up to cement for the better-off. Women have to manage without running water, electricity, fridges, storage cupboards, or stoves. Once or twice we saw a primus but most cooking is done on wood. There's a striking contrast between young children who looked adequately nourished even if poorly clothed and shoeless, and the women, who are skeletal.

The most basic necessities have to be bought, starting with water. Two successive years of drought has exacerbated water shortage caused by privileged settler use and the blocking of wells. A recent survey by an Italian NGO that works with Jahalin and Qa'bneh in the central

region found that most families (55%) buy water from villages at double the municipal price; 32% get it free from Israeli settlements but are liable to be cut off. Transporting water from distant sources requires transport and tankers that only better-off or NGO-assisted bedouin have.

Income sources are few and costs of living are high. Last Ramadan the PA imported frozen meat, with resulting falls in the price of fresh mutton. For many bedouin households, their flocks are their only source of income but now female lambs are being sold to reduce flock size. Many who have tried to diversify into fruit or crop production have had their trees felled and their crops destroyed. Work in settlement is insecure and poorly paid - 70 shekels (around \$16) a day - with entry permits required. Some men work as drivers. Capital or micro-credit for small enterprises are equally lacking.

The distance from population centers that bedouin prized in days of self-sufficiency is a serious disadvantage now. Encampments are often far from roads, public transport is rare or non-existent, few have cars (though some have tractors or animals). This poses problems for women who have to shop, for children going to school, and for those in need of medical care. An NGO worker by chance visiting Wad Abu Hindi recently was able to save two sick babies' lives by taking them to hospital. No encampment have on-site clinics or medical personnel. Mobile clinics may visit once a week or once a month but hospitals are only to be found in major urban centers. Veterinary services, like hospitals, have to be paid for.

Their need for schools and school buses is the bedouin's crying message to the outside world. Road and public transport deprivation means that children have to walk up to 12 km to school or to wait for hours for public transport. Many drop out, especially girls. A very few encampments, such as the Jahalin Saray'an in Wad Abu Hindi, have a school of their own. When the Israelis destroyed it in October 1997, the people rebuilt it with their own hands. Three years ago a Qa'abneh group near al-Taybeh secured help for a mobile school. The Israelis first insisted on a permit, then on a survey, and finally said that their school must be situated in Area B. Only 33% of bedouin children get to

secondary school, way below the national average of 77.6%.

Clearly such infrastructural deprivation is politically motivated. Bedouin in Area C who complain to the Israelis about settler attacks, water cuts, or lack of services are told, "Go to your Authority!". But the PA's few attempts to extend services to Area C have been blocked. Though 90% of West Bank bedouin are registered as refugees, few of them receive UNRWA assistance since they live far from distribution centres. Yet if they go to hospitals in Area A, most are excluded as refugees from PA-subsidized medical care. A similar dilemma hangs over their legal status and attempts to resist eviction: no legal aid is available to them except private Israeli lawyers. Because of the drought, emergency help from ECHO (the European Community Humanitarian Organization) has been reaching them, but the absence of plans for development aid reflects a doubtful future.

Image of the Future

Framed against the imposing hilltop spread of Ma'ale Adumim, 'Jahalin camp' may be an image of the West Bank bedouin future. It is here, on a stony hilltop at the tip of east Jerusalem, right over the municipal garbage dump, in Area B, that 60 Jahileen Salamat families were moved by massive force in January and February 1997. The crowded metal containers, tents and sheds which they now inhabit, alongside their few remaining flocks, is the antithesis of a bedouin encampment, always spaced out and set in sheltered wadis close to grazing space. Here animals are permanently penned and fed year round on barley. Sulayman Mazara'a, a spokesman for the Jahalin, deplors this diet which is costly to buy - unlike Jordan, the PA refuses to subsidize fodder - bloats the animals, and degrades milk quality. Bedouin children are also affected psychologically, he says, by the loss of their natural habitat, becoming depressed and withdrawn.

Other evictions of Jahileen encampments have been initiated since 1997. In February 1999 35 families from Wadi Muscob, on the road to Jericho, were dumped



Jahalin Bedouin family with Ma'ale Adumim settlement in the background

at night in 'Jahalin camp' after most of their encampment was bulldozed. They and another group have court cases pending; the Israeli offer is a 49-year lease on a piece of land in 'Jahalin camp' and a home-building permit, a questionable deal because the land belongs to Abu Dis people. New sites have recently been flattened on slopes under 'Jahalin camp', pointing to upcoming evictions of the hundreds of small encampments - mainly Jahalin and Qa'abneh - that lie to the north, east and south of Ma'ale Adumim.

Bedouin reactions to these pressures has been impressive: eviction notices are disregarded, displacement by force resisted, demolished shelters rebuilt. But it is a silent struggle, largely unnoticed by the media, Western or Arab. Some spokesmen evoke the word 'despair', fearing no future for the bedouin way of life. More positively, they call for the establishment of 'bedouin villages' where the transition to modernity could be managed without loss of their solidarities and culture. There have also been attempts to organize along modern lines, a difficult path because of their political/material conditions, and tribal structure. The first to form an Association in 1988, the Jahalin now also have an elected Committee. Other tribal groups are following suit. These associations are legally registered, hence equivalent to NGOs or community-based associations, and they bring the embryo of a 'bedouin lobby' to the political arena. But can it develop in time? ■

Eviction of Palestinians in Hebron Area

During October and November 1999, around 700 Palestinians living in caves in the Hebron area were evicted by Israeli forces after some 800,000 dunums were declared to be a closed military zone according to an order issued in May. Similar to restrictions placed on land declared to be a closed military zone in the Umm al-Fahm area inside Israel, access to land was restricted to Fridays, Saturdays and Israeli holidays making it impossible for the farmers to cultivate their land and graze their livestock. Tents were destroyed, caves sealed, flocks driven away, and personal property, including mattresses, blankets, utensils, and food for animals, confiscated. According to Shlomo Dror, spokesperson for the Israeli Coordinator of Activities in the Territories, "No one disputes that they own the land, but these people are Bedouin, not permanent residents, so they cannot stay in the area." The expulsion took place one week after evacuation of Ma'on settlement in an agreement between the Israeli government and Yesha, the settler's council. The expulsions appear to be related to Israeli attempts to maintain sovereignty over large areas of the West Bank. While both Deputy Defense Minister Ephraim Sneh and OC Central Command Major General Moshe Ya'alon stated that



Protest against eviction of Palestinians and land confiscation in the Hebron area (*al-Quds*, 12 February 2000)

they do not intend to allow the expellees to return, the Israeli High Court ruled on 29 March that the residents would be temporarily allowed to return to their homes and lands. The Court gave the government two months to find an arbitrator who will be responsible for determining if those Palestinians evicted by Israeli forces are residents of the area. *Haaretz* journalist

Gideon Levy recounted the experience of the families after their second eviction.

"The paratroopers raided at dawn: less than two weeks ago the soldiers in their vaunted red berets, young men from an elite unit, swooped down on Khirbet Jinba in the land of the caves in the area of southern Mount Hebron. Bursting into the caves, they removed the possessions of the 17 families - of the hundreds of residents who were expelled from them about four months ago - that had returned to them, loaded everything on a truck and without further ado left the site. After traveling for about half an hour, the truck pulled up at the village of Tawana; the paratroopers' mission flawlessly accomplished, they dumped everything along the side of the road and went on their way. The Civil Administration did the planning, the paratroopers obeyed orders and the operation went off without a hitch. During the night, soldiers were posted at the caves and prevent neighbors from supplying the cave dwellers with food and water. By the side of the road the meager heap of belongings lay exposed to the elements: a pile of rags that were perhaps children's clothes, scrawny mattresses, a few basic food products, even some pitas that had been baked at dawn. Israeli eye-witnesses who arrived at the site encountered a heart-rending site: an elderly blind man crawling among the objects looking for the remnants of his clothes. A few children who arrived broke out in tears when they saw what the soldiers had done to their things. Four months earlier, in the first eviction operation, they saw how the soldiers treated them and their parents. But their parents did not give in: they are in the caves now, with the few belongings that they hide during the daylight hours for fear of the Red Berets." "This is what is done to people who have the effrontery to return to their homes, this is how Israel behaves in its dark backyard. In its front yard, Israel dispatches rescue teams to every stricken place on the planet - medicine to Mozambique, a new village with a clinic and a shopping center for Turkey - but here it takes the possessions of a few hundred people and dumps them by the roadside, leaving them destitute." ■

Sources: *Jerusalem Post*, 27 January 2000. *Jerusalem Post*, 27 January 2000. *Haaretz*, 12 March 2000.



For a full report read the B'tselem report, www.btselem.org.

update

ID Card Confiscation in Jerusalem Official Israeli data for 1999

Source, Ministry of Interior/Population Registry

ID cards	Reason given
January 68	Moved to WBG: 25 Live abroad/hold foreign citizenship: 43
February 86	Moved to WBG: 29 Live abroad/hold foreign citizenship: 57
March 28	Moved to WBG: 2 Live abroad/hold foreign citizenship: 26
April 27	Moved to WBG: 13 Live abroad/hold foreign citizenship: 14
May 73	Moved to WBG: 25 Live abroad/hold foreign citizenship: 48
June 55	Moved to WBG: 11 Live abroad/hold foreign citizenship: 44
July 27	Moved to WBG: 15 Live abroad/hold foreign citizenship: 12
August 12	Moved to WBG: 1 Live abroad/hold foreign citizenship: 11
September 17	Moved to WBG: - Live abroad/hold foreign citizenship: 17
October 6	Moved to WBG: - Live abroad/hold foreign citizenship: 6
November 9	Moved to WBG: - Live abroad/hold foreign citizenship: 9
December 3	Moved to WBG: - Live abroad/hold foreign citizenship: 3
Total 1999 411	Moved to WBG: 121 Live abroad/hold foreign citizenship: 290
Total 1995 - 1999 3,096	
Corresponding to an estimated number of 12,384 Palestinian individuals directly affected	

Har Homa Settlement



Construction of the new Jewish settlement on Abu-Ghneim adjacent to Bethlehem/Beit Sahour has continued at a greater pace under the Labor government of Ehud Barak.

A comparison of the 1999 figure with official Israeli figures for previous years (1998: 788; 1997: 1067) suggests two major trends in the Israeli policy of ID card confiscation in Jerusalem:

1. A general decline of the number of ID cards confiscated;
2. A significant decrease in the number of ID cards confiscated from Palestinian Jerusalemites residing in West Bank areas outside the Israeli determined city borders. This trend suggests that repeated assurances by Israeli officials to adopt a more flexible definition of "center of life in the city" are being implemented by the Interior Ministry.
3. The confiscation of ID cards from Palestinian Jerusalemites living abroad or from those who have acquired permanent residency or citizenship elsewhere continues to be an issue of concern. This approach stands in marked contrast to that applied to Israeli Jews who are permitted to hold residency/citizenship elsewhere.

While 1999 data suggests that local and international scrutiny and protests against the Israeli policy of administrative ethnic cleansing through ID card confiscation from Palestinian Jerusalemites have been effective, it is important to emphasize that several important issues remain yet to be resolved.

■ The Israeli government and Interior Ministry must define what it means to maintain an "appropriate connection" to Jerusalem. According to the 31 October 1999 statement by Israel's Attorney General to the High Court, the permanent residency of Palestinians who can demonstrate an "appropriate connection" to Jerusalem will not be revoked. In the absence of a definition, however, Palestinians will not know how to protect and maintain their residency rights in Jerusalem under Israeli law.

■ The Israeli authorities must provide a mechanism for the restitution of the residency rights of the more than 3,000 Palestinian Jerusalemites and their dependents, who had become victims of this illegal policy between 1995-2000. The same mechanism must apply to reconstitute the thousands of Palestinian Jerusalemites whose residency rights were cancelled by the Israeli occupation in previous periods.

■ Israel must recognize the inalienable right of Palestinians to live in their capital Jerusalem. Despite the reduced number of ID cards confiscated in the last quarter of 1999, and the new policy, Israeli law remains unchanged. Under the 1974 Entry into Israel Regulations the right of Palestinians to freely live in their hometown remains insecure. ■

update

Palestinian Refugee Restitution US Embassy Relocation



Allenby Barracks in Jerusalem (mid-1930s). The Barracks were located on part of the land sited for the relocation of the US Embassy to Jerusalem

The American Committee on Jerusalem, along with Legal Counsel George Salem, held a congressional briefing in Washington, DC on 17 February to appraise lawmakers and the media of the fact that 19 Palestinian Jerusalem families have been traced as owners of the property, which the Israeli government has set aside for relocation of the US Embassy to Jerusalem. At least 88 of the original owners or their heirs are US citizens, 43 are Canadians and Europeans and hundreds have other nationalities.

A lease agreement was signed for the property, totaling 31.288 dunums between Israel and the US on 18 January 1989. A small amount of the land was "freehold", land requisitioned by Britain and of which it assumed ownership. The majority of the land, composed of five parcels, was "hired land." One parcel was waqf and the remaining four were rented from private owners. As of the 15 May 1948, these parcels were owned by 76 Palestinians of 19 prominent Jerusalem families. In a letter from the State Department on 6th September 1989, the Department noted that it was aware of claims from the Islamic Waqf but "has not been able to locate any record or support for this claim."

According to a letter in late December 1999 from Beth Jones, Principal deputy assistant Secretary of State for Near Eastern Affairs "The 1989 Land Lease and Purchase Agreement between the United States and Israel ... identified particular property for this purpose that might be leased to the US by the government of Israel under certain conditions." "As of today, however, the US has not entered into a lease for this or any other property under the Agreement." According to Paragraph 2.1 entitled, "Principle Terms of the Lease and Purchase" "...the Government of Israel will immediately initiate all measures required for obtaining the sole and lawful ownership of the properties, free from any encumbrances or third party claims." [www](http://www.acj.org) More details (www.acj.org)

Bethlehem Checkpoint

Construction of the access road for the new military checkpoint between Bethlehem and Jerusalem was completed in February. According to official Israeli plans, the existing checkpoint will be maintained for tourists, Israeli citizens and residents, while Palestinians seeking to enter Jerusalem will be forced to use a new checkpoint with increased Israeli security procedures. See *al-Majdal*, No. 2-4 for more details.



Israeli Positions on Jerusalem

"There is no greater threat than the demographic trends that could lead to the loss of a dominant Jewish majority."

"In 1967, right after the liberation of the city, the local Palestinian population numbered 60,000. Today, 32 years later, it numbers 230,000. I do not want to add them to the ranks of our non-Jewish citizens."

"I support the need for a clear separation between the two political entities, and I am sure we will not achieve this if we leave an opening that allows uncontrolled movement in Jerusalem. Keeping the city united under Israeli rule has exposed, and will continue to expose, Israel to the creeping infiltration of Palestinian Arabs. We must do everything we can to prevent the infiltration and settlement of Palestinians in Israeli territory."

Shlomo Gazit,
Retired Israeli General
(*Jerusalem Post*, 1 February 2000)

The Baramki House

A Case of Stolen Heritage in a Colonized Jerusalem

Tom Abowd

In Jerusalem, as in other former Palestinian urban areas, the appropriation of Arab homes has been integral to Israeli desires to consolidate its rule in and over the entire city. A powerful component of efforts to reconstitute the city as the "eternal capital" of the Jewish People has been keeping Palestinians made refugees in 1948 eternally dislocated and exiled. Yet, though documentation of the forced removals of 1948 have become better known, little research has focused on the dynamics of loss and flight in Palestinian urban centers during the birth of the Israeli state.

Over the course of 1948, roughly 750,000 Palestinians were removed by force or fled in fear from their lands in. Nearly 70,000 of these exiles resided in Jerusalem and its environs. 30,000 were driven from urban neighborhoods within the former Jerusalem municipal boundaries while another 40,000 fled from the 39 villages of the Jerusalem area.¹ Designs of the Zionist leadership to "cleanse" the land of its non-Jewish population became demographic realities. Refugees who fled the Jerusalem region and elsewhere have been prevented from returning and remain exiles fifty-two years on.

What a true transformation of Palestine's landscape necessitated-and what the establishment of an exclusivist Jewish State entailed-was that the refugees' return be foreclosed. It was not simply enough to drive them out, they had to be kept out. Failing this, Israeli planners argued, an Arab "time bomb" would arise in their midst, progressively diluting the Jewishness of the Jewish state.² Two Israeli policies initiated concurrently in the state's early years were undertaken to preclude the refugees from exercising their internationally recognized right of return. The first was the full or partial destruction of over 400 Arab villages between 1948 and 1952. The second policy was actualized primarily in urban areas such as Haifa, Jaffa, and Jerusalem where over 100,000 Palestinians resided before their expulsion. Here, in the very homes of Palestinian exiles, Israeli Jews were housed. These homes were swiftly seized by the new Israeli state, which used what it referred to as the "Absentee Property Regulations of 1948" to confiscate these properties and the movable property left within these structures. These provisions were codified as the "Absentee Property Law of 1950" and allowed all property belonging to an "absentee" to

be transferred to the Custodian of Absentee Property. Through this swift bureaucratic move, Israel "reclaimed" and reconstituted tens of thousands of Arab properties and hundreds of thousands of dunums of land. Palestinian families, believing that they were leaving their homes for a few weeks at most, found themselves unable to return to their former neighborhoods in the months following Israel's declaration of statehood.

Israeli sources have documented these practices of appropriation and contended that the housing of Israelis within these homes began to be carried out within weeks of Israel's conquest of Jerusalem's west side. Such cases of settlement were not so much devised to correct for a lack of housing for new immigrants but rather as a political strategy designed to preclude a diplomatically engineered return of the displaced.

The Lost Baramki House

Documented instances of Palestinian family structures being stolen and transformed in the last fifty years by the nascent Israeli state abound. Though Palestinian homes were most often changed into living spaces for Israeli Jews, there are many instances of such structures being re-configured as restaurants, museums, artists' studios, discos, mental health institutions, and even shelters for animals. One such expropriated Palestinian home in Jerusalem is owned by the Baramki family. This family home was built in the early 1930s, in the



former "mixed" Arab-Jewish neighborhood of Sa'ad Said, a few hundred meters north of Jerusalem's walled Old City. During the first Arab-Israeli War in 1948, this neighborhood and the structures that comprised it were split between Jordanian held-east and Israeli-held west sides of Jerusalem.

The Baramkis like hundreds of other Jerusalem families took flight during the fateful Spring of 1948. They had resided in the neighborhood of Sa'ad Said since 1929, having moved there from within the Old City walls as part of the early phase of middle and upper class home construction outside the Old City in the early 1900's. The house was designed by A. Baramki, a renowned architect trained in Greece. Like the many other grand structures he designed for Palestine's elite, the home in Sa'ad Said featured a distinctive, hybrid use of Corinthian columns and Arab-style arches and verandas. Baramki also experimented with interplay of red and white stones in the same arch or façade and which became one of his stylistic trademarks.

The Baramki house, as it happened, came to rest precisely on the edge of the emerging frontier between East and West Jerusalem. This arbitrarily defined boundary, drawn in a perfunctory manner by Israeli and Jordanian generals in 1948, actually ran along the outer edge of the property's eastern edge. Mammoth, well fortified, and strategically positioned in relation to the emerging border and the Mandelbaum Gate--this imposing three-story, stone structure was appropriated by Zionist forces soon after its Arab residents fled.

In 1948, the Israeli military transformed the commandeered property into an army post. The home's doors were reinforced and arched windows were filled in with concrete so that only an opening, narrow enough to accommodate a gun and the gaze of a marksman, remained. Weapons were placed behind the structure's thick limestone walls and aimed across a No Man's Land of mines and barbed wire at Jordanian adversaries only meters away. Israeli soldiers were positioned behind turrets and were meant to stem what the new Jewish State referred to as "Arab infiltration" across the border (i.e. usually attempts by Palestinian refugees to return across the frontier to their homes. With very few exceptions, neither Jew nor Arab were permitted to cross over to the other side of the city, an arrangement which held from May, 1948 until June, 1967.

Memories of Waiting

Unlike nearly all other Palestinian refugees exiled in 1948, the Baramki's had the double-edged privilege of glancing at their home from atop certain locales on the hilly terrain of Jerusalem's east side. Risking

sniper fire, family members would occasionally visit locales contiguous to the borderlands in an effort to peer at their home and assess its condition. One family member, at the time a young man having just returned from his studies in Beirut, remembers ascending seven floors of steps to the top of the East Jerusalem YMCA on the edge of the frontier with his architect father. From this vantage point they would gaze down at their property across the divided landscape.

Peering across the frontier at his home's bullet-ridden and crumbling facade throughout the years of the divided city, the architect's son, then a man in his thirties, remembers the overwhelming powerlessness he felt. "By the mid 1960's it became clear to me that if we were ever going to reclaim the property at all, it would not be in my father's time." Though from the heights of the YMCA he and his family could stand within 100 meters of their home, it was as though their memories and their property resided on different sides of a political abyss.

June 1967: "Liberation" or Conquest?

The years of the so-called "divided city" were to end suddenly and with little notice. During six days in June 1967, Israeli forces conquered Jordanian-held East Jerusalem in lightning fashion. Within weeks of taking the east side, the victors brought down the wall, which had for 19 years separated Jerusalem. Palestinian refugees who had waited to return to their homes in the city's West side, quickly made their way back to their former neighborhoods. The great irony was that conquest in 1967 had seemingly opened up possibilities to return and reclaim properties conquered in 1948. Initially, there existed a pervasive belief--or at least hope--among the displaced that they would be able to reclaim their homes. Upon return to their former neighborhoods, displaced Palestinians often discovered that though their former residences were discernable from the street, the structure had often been altered in different ways. Streets, squares, and locales had been renamed; signs were now in Hebrew. Old, formerly empty lots and locales had been "filled in" with an often ugly architecture of concrete, built for utility.

Though land deeds and British Mandate era keys were kept and produced by Palestinian refugees in Israeli courts, these homes now had different doors, requiring Israeli-issue keys. This now, declared Israeli governing authorities, was "state land" and--by Israeli Law--was earmarked for Israeli-Jewish use only. In no case were properties simply handed over to their Palestinian owners. The presence of the Israelis who now resided in these homes had taken on a permanence that no doubt

seemed to the new inhabitants quite natural.

The Baramkis, too, crossed over the old frontier with their keys and deeds. They made the short walk through the former no-man's-land to a property foreclosed to them for nearly twenty years. Yet they were forbidden access by military authorities still stationed amidst the home's remains. The Israeli State and courts refused to hand over the badly damaged property claiming--alternately--that it was still needed for purposes of Israeli "security," that it was in need of repair, and finally that ownership of the property was legally "murky" since a new Israeli grid of legality had been imposed on Jerusalem. Israeli authorities told the Baramki Family to "wait until there is peace."

Reconfiguring Jerusalem

Jerusalem's boundaries were re drawn unilaterally by Israel in June 1967, inflating the area the Jewish state defined as Jerusalem by a factor of five. The intention and guiding principle of the Israeli occupation in re-drawing the city's municipal boundaries was, according to Sarah Kaminkar, to take in as much Palestinian land as possible within the Israeli State, while including within those newly constituted borders the fewest number of Palestinians.³ In some cases, hundreds of acres of a particular Arab village's land became incorporated within the Israeli defined borders of the city, while the Arab owners of that land were left on the other side of the new municipal divide. The land of the villages of Beit Ikksa and Beit Hanina, for example, became the site of the sprawling Jewish settlement of Ramot, while these villagers were left outside of Israeli-defined Jerusalem.

The constitution of a radically "gerrymandered" city border, weaving around dense Arab population concentrations, underscores dominant Israeli desires for a segregated and highly policed Jerusalem. This strategy should be seen as representing a continuation of a policy to rid the Israeli polity of much of its non-Jewish population. Whereas in 1948, thousands of Arabs were removed by fear or force from Jerusalem, in 1967 they were often further excluded by the clever re-drawing of boundaries.

It was the policy of the Israeli authorities to do away with the dividing walls and army emplacements that were established along the divided frontier from 1948 until 1967. One Israeli military emplacement, however, was kept intact: The Baramki family home/Tourjeman Post. Former Israeli deputy mayor of Jerusalem, Meron Benvenisti, recounts that this one site, resting on the edge of the former divide, was retained "for posterity." The property had become known to Israelis as "the former Tourjeman Army Post" or the

"Tourjeman Building."

One Baramki family member described the lengths the Palestinian owner and architect of the home went through to win back his property after the wall dividing Jerusalem was brought down in 1967. He also relates the humiliation that accompanied efforts to contest the mechanisms of exclusion enshrined in Israel's Absentee Property Law: You know, this question of being defined "absent" or "absentee" by the Israeli Government is unbelievable. Imagine, my father at the time [1967], a 70 year-old person going to the Israelis and telling them that "here I am now and I want my property" and them telling him that you are an "absentee." And he would tell them "how am I absent? I am present!" He could not understand how he was absent and present at the same time.

The Israeli Government never did permit the owner and architect of the home to step foot in his house after 1948, and the elder Baramki died an exile.

Domination on Display: The "Tourjeman Post Museum"

Members of the Baramki family were finally permitted to enter the house in the 1980's, but the circumstances were as odd as they were painful. As was the case with hundreds of other Palestinian homes, the Israeli Custodian for Absentee Property turned the family house over to the Israeli Government for "public purposes." In the early 1980's, the home underwent another transformation. Without notice or



the permission of the owners, the Israeli Municipality silently reconstituted the dilapidated, former army garrison into the "Tourjeman Post Museum," a monument meant to celebrate Israel's "re-unification of Jerusalem." The structure's interior and exterior were designed to relate a narrative of life in the city before Israeli forces "unified" the "divided" city. Museum brochures and the plaque on the front door refer to the structure as:

"Dedicated to the Theme: Jerusalem - A Divided City Reunited."

The devastated home's exterior was left in its damaged state-"for posterity"-while a donation from

an American family helped the Israeli Municipality reconfigure the interior. In maintaining the exterior and facade in the condition it had been between 1948 and 1967, the aesthetics of the structure were designed to relate a narrative of life and longing in the city before 1967. It seems to have been the intention of the municipality to project the former home as having served as an essential component in the defense of the nascent and beleaguered Israeli state; a place of military glory and "purity of arms." Histories of the structure, which were neither Israeli nor military, have been simply silenced.

Descendents of the home's original owner recall feeling outraged and violated when word reached them that the property was being further transformed into an Israeli museum. As one family member relates:

There was an article about the house in the Jerusalem Post right after it became a museum and it was written that I, the former owner, refused to come to the opening celebrations. Well, I had not even been told that the house would become a museum--not that I would have attended the opening. But they [The Israeli Municipality] did not even have the decency to inform us that they were turning our home into this museum.

Observing the structure's remade interior, Baramki describes how those responsible for this museum had "mutilated" the structure. "The home on the inside," he explains, "they destroyed like the outside." What had served as bedrooms on the top floor had now been transformed into a dimly lit, spartan, and spacious gallery, housing an exhibit of images, artifacts, and items of material culture. Remnants of the home's history as military emplacement are plentiful. Guns and weapons used during the 1948 and 1967 war are exhibited in the gallery. The reinforced turrets on the top floor were left as they had been.

Images displayed in the gallery are drawn both from the years the city was physically divided as well as from the moments of fighting that engulfed the city in June 1967. Pervasive representations include those of triumphant Israeli soldiers, parading through the newly pacified streets of East Jerusalem, Israeli forces storming and "liberating" the Old City. In a document produced by the Israeli government press office and distributed at the museum, it is mentioned that:

In weighing ostensibly competing claims to the city, it must be recalled that the Jewish people bases its claims to Jerusalem on a link which dates back millennia and to King David, and that there is no legal basis for the "historical" Palestinian claim

that Jerusalem was their capital. Moreover, though the Palestinians may have a strong emotional attachment to Jerusalem, it does not necessarily follow that Jerusalem should become the capital of any Palestinian political entity.

A supposed site of defense and liberation is one which bolstered efforts meant to deny Palestinian exiles the right to return to their emptied neighborhoods. What has "reunification" meant for those communities in the city whose interface with Israeli military rule is antithetical to that "liberation"? Why do the experiences of longing refer only to those on one side of the boundary, to the dominant community? Why is no mention made of the thousands of Palestinians who once resided in West Jerusalem and who still wait for their right to return?

As visitors near the end of the exhibit, all are invited to gaze out from the narrow slits in the filled-in, third-story windows, which served as turrets and where once Israeli soldiers peered out across a formally divided city. From this location, one can view the East Jerusalem landscape and envision the former terrain as Israel's "defenders." From these heights one looks out over what appears to be a seamless, unified, and serene landscape. From this site, Israeli collective memory and the myths, which inform and mold it become "historical truth."

Conclusion

The Baramki home is emblematic of other places, sites, and locales stolen from Jerusalem's Palestinian population. The interface between a native presence and Israeli colonizing power has resulted in the creation of a fortified urban center, which excludes Palestinians not only from the realm of rights and justice but as well from their very histories and heritage. Serving first as an instrument of military conquest, policing the borders between Israelis and Palestinians, this structure now serves an ideological function meant to solidify the realities of Israeli rule, to legitimize Zionism's claim of exclusive rule in the city, and to silence the Arab character of Jerusalem. ■

Endnotes:

¹See *Jerusalem 1948* (Available from BADIL, see BADIL Resources on page 35).

²See Tom Segev's *1949: The First Israelis* which covers the early debates among Israeli politicians and planners concerning the "danger" such a return of Palestinian refugees would bring to the character of the Jewish State.

³Interview with Sarah Kaminker, July 1997.

Palestine 1947-48

In the Eyes of a British Mandate Soldier

BADIL interview with former British Mandate Soldier Peter Davies. Davies is on a two-year contract with the General Board of Global Ministries (GBGM) of the United Methodist Church as a member of the GBGM's five-person Palestine and Israel mission team. The team has been established to assist United Methodist visitors to Palestine and Israel acquire some understanding of the struggle of the Palestinian people for sovereignty and the return of their land from Israel, and have opportunities to meet with the Christian community of Palestine and Israel.

What were the circumstances that brought you to Palestine?

I came to Palestine as a 19-year old soldier in the early part of 1947. Confusion reigned. The British were still attempting to maintain some control over their mandate but were clearly failing in the thankless task. The Zionists looked to be well on their way to conquering all the territory to which they laid claim, that is to say the whole of Palestine and parts of Lebanon, Syria and Jordan. And the Palestinians were fighting for their lives against formidable odds (contrary to the myth put forward by the Zionists that it was the Jews who were threatened by the tremendous military might of the Arab world).

How did you come to Palestine and how did you see the country upon your arrival?

I came in a troopship that took three weeks to sail from Glasgow in Scotland to Port Said in Egypt. After some days in a military camp at Port Said those soldiers (of which I was one) who were to join units in Palestine went by train to Ramle, near Tel Aviv; those who were going to Jerusalem continued their journey by road, in my case to Allenby Barracks on the Hebron Road.

What I saw on my arrival was, first of all, sand all the way from the Suez Canal (where the train crossed over a swing bridge) to Gaza which looked to me as the set of a wild-west Hollywood movie. As the train drew close to Tel Aviv I saw land being extensively farmed and small, developing communities.

These communities, I soon learned, were usually referred to as settlements - even before the end of the mandate. In fact, they had their own Jewish police force, known as the Jewish Settlement Police which, in the mid-thirties had been trained by British Army officers led by (later) General Orde Wingate, a dedicated Zionist. (Along Highway 1 in Tel Aviv there is a sign pointing to the

Wingate Institute.) The final episode of my arrival was to pass through the Bab El Wad and up the twisting Seven Sisters section of the road to Jerusalem. In those days the drive from Ramle to Jerusalem must have taken close to two hours in an army truck.

What did you know about Palestine by the time you came here?

On reflection, I can say "precious little"! In 1942, during the Second World War, when I was 14, I enlisted as a boy apprentice tradesman in the British Army's Royal Corps of Signals. Some of the instructors we boys had were reservists who had served in Palestine during the intifada of the 1930s. From time to time my mates and I would listen to the no doubt highly embellished stories these "old soldiers" would tell. And in July 1947, some months before I came to Palestine, there was the attack on the King David Hotel in Jerusalem. At that time the King David, or one wing of it, contained the headquarters of the British Army and its main communications center. The attack, by a unit of the Jewish terrorist group Irgun Zvei Leumi led by Menachim Begin virtually demolished the wing which housed the army headquarters and some 88 people were killed, including soldiers whom I had known earlier back in Britain.

In answering this question I want to make clear to people who were not around in the late forties that there were only three years between the end of the Second World War in Europe and the departure of the British from Palestine. During those three years Britain had a new, socialist government, had left India, was in the process of bringing on an end its rule over many of its other colonies in Africa, Asia and the Caribbean and, above all, was confronted with the monumental task of rebuilding a society badly injured by the six wearisome years of war. Palestine was important but chiefly as yet another burden to get rid of.

What were your duties and your daily experience in Palestine?

My chief duty was to work as a telecommunications technician maintaining and repairing the army's extensive communications network.

I've referred earlier to the difficulties of moving along the highway between Jerusalem and Jaffa. For much of my time here I used that road frequently and each passage was a potential death trap. Along the road, which had barely room for two large trucks to pass, there were more and more signs of the growing intensity of the battles between Arabs and Jews. Once I came across the shell of a bus that had just been hit either by

gunfire of by a mine. It was a mass of twisted, burning metal with the occupants trapped inside. To this day the remains of these vehicles can be seen along the road - look for the red-lead painted shells of the Egged Bus Company's buses that are now Israeli war memorials. The road through the Bab El Wad was also the scene of one of the rather more foolish actions in which I engaged. But then, like most 19-year old males I thought of myself as invincible. One cold and foggy dawn my crew and I were on our way to repair telephone cables damaged by gunfire along the road. I thought it would be a sensible precaution to tell the mukhtar of the Palestinian village on the side of the road and the head of the Jewish settlement some hundreds of meters down the road on the other side what we would be up to for the next hour or so and to request them to be good enough, should they be inclined to open up upon each other, to hold their fire for a while. Well, they clearly had a better plan - after an hour one group opened fire on my little gang and than the other did likewise. We left.

That incident will find no place in any history book but, in a way, is rather a good description of how we soldiers regarded our presence in Palestine: Jews attack us, Arabs attack us and all we want to do is to clear out and go home.

At other times my duties took me to remote military posts in the hills where I would set up radio stations to link the posts with their headquarters miles away. What I remember particularly from those days in Palestine is how exhausting manual labour was - every piece of equipment seemed to weigh a ton and erecting a 50-ft antenna was a challenge to one's physical capability; how I envy people engaged in telecommunications today - everything seems to be so light and easy to connect up.

Perhaps I can tell you of one incident which, although it certainly wasn't part of my daily experience in Palestine, thank God, does describe the unforeseen experiences that at times confronted us. For a little while, perhaps only a few days, I shared a tent in a camp outside Netanya with Sergeant Paice and Sergeant Martin of the Army Intelligence Force Corps who were kidnapped by Menachim Begin's IZL, taken to an olive grove where their bodies were booby-trapped with explosives and hanged. The irony of that incident was that on the one or two occasions we discussed the situation in the country, all three of us expressed varying degrees of sympathy with the Zionist cause.

Where did you spend your time off-duty? Did you have contact with local Arab and Jewish people?

Most of our free time was spent in camp but I have fond memories of the YMCA in West Jerusalem where we would go (armed and in

parties of four) for mugs of hot, sweet tea (we were British, after all!) and heavy, sticky buns for a few pence. But I do remember being sent on a job to Nahariyya just south of the border with Lebanon. Nahariyya, in those days, was a small Jewish settlement way off the highway. For some reason I've quite forgotten there were just a few soldiers there and we would go to a coffee shop on the beach and mingle with the local Jewish community. It was an enjoyable time for me.

Really, there was very little interaction with either Arabs or Jews. I knew and enjoyed the company of several Christian Arabs who worked at the Jerusalem headquarters of the Palestinian Posts, Telephones and Telegraph Department. They were all well-educated, English-speaking government employees. The other Palestinians I worked with were my labour gang who came with me when we had to dig up cables or lay new cables. They were Muslims who spoke no English. (After being with them over a period of months I rather fancied myself as competent in Arabic.) I also worked with five Jews. Three were Nazi-camp survivors (and Ph.Ds...I don't think I had ever known a Ph.D. before) and two were Palestine born. They were (or claimed to be) socialists so I regarded them as political comrades but, on reflection, I realize that their socialism did not include comradeship with the Palestinian Arabs.

So how would you describe the attitude of the British soldiers toward the Arab and Jewish population in Palestine at that time?

The British, as you may know, were (and those of my generation probably still are) class conscious, cared little for foreigners and tended to be contemptuous of Jews (what a great country I come from!). So I doubt that I am altogether wrong in saying that if we had any strong views at all about the people of Palestine they would have shown a tolerant sympathy for what could be described as urban, middle-class Arabs (we had little if any contact with the Arabs in the villages) and an intolerance towards the Jews; after all, we would think, "They're the people who are giving us all this trouble and preventing us from going home."

You were in Palestine at a time when open military conflict between local Arab and Zionist forces started, especially after the UN partition resolution, and massive displacement of the Arab population, especially in Jerusalem, began to take place...

It's true that we could see the displacement of great numbers of Palestinians from their villages and land but you have to understand that, like most soldiers in most wars throughout history, our chief concern was to get home safely. Just as the Palestinians and the Jews did, in their different

ways, so we British soldiers felt that, in the army, we could do nothing to change events. Sure, we were citizens of a democracy and sure, the British working class won a great electoral victory in 1945 (to this day I still believe that we were at our best when we dumped Winston Churchill, our heroic war-time leader, and voted Labour). But we were still a disciplined body that obeyed orders even though we grumbled that we'd had enough of "running the world" and we wanted nothing more than to go home; let the Jews and the Arabs sort out their own affairs.

Did you hear about the Deir Yassin massacre?

Yes, we did. We in Signals probably heard of the massacre first; others, those who were stationed in Jerusalem, no doubt read of it in the Palestine Post. I seem to remember reading a one-page daily news report given out by the army headquarters. But most of the time, news about the events in which the soldiers were directly engaged might not be known until some days after the events. (I think I can safely say that, until now, this has been the way in which soldiers have usually heard news about events in other parts of the battle zone; there were no transistor radios, no television broadcasts, and mail (including newspapers) took a couple of weeks to arrive by sea.

How did you experience the British preparations for the withdrawal of its forces?

Well, in personal terms, as I've already tried to explain with relief and frustration that it wasn't done quickly enough; in pragmatic terms, by withdrawing from parts of the country in as orderly a fashion as we could manage.

But I did experience the withdrawal in perhaps a slightly different way from that experienced by most of the soldiers. When I worked with the Jewish technicians I've mentioned, I would pick them up at a location in Tel Aviv which we had previously agreed upon; Dizengoff Street being one such pick up point. But to enter Tel Aviv I had to pass through a checkpoint at a place called Citrus House, head offices of the Palestine citrus fruit growers association, on the border of Jaffa (at that time an Arab town) and Tel Aviv. I followed this procedure for some weeks and soon noticed changes happening. What I can only describe as Jewish soldiers (actually members of the Jewish "underground army" the Haganah) dressed in the same uniform as I was wearing except their unit identification signs were in Hebrew, and bearing British Army rifles and revolvers) were the ones calling my driver to halt and examine our identification papers. I also noticed that their webbing equipment (the belts and bags with which soldiers are draped) was a new model that we Brits had heard would soon be issued to us. But the Haganah

beat us to it! Here were the Zionists whom we were fighting in other parts of the country, giving us permission to enter Tel Aviv. Clearly, we were on our way out.

I also remember sending men to Beer Sheva to dismantle the overhead telephone system and bring back the copper wire. Even two years after the end of the war, the world-wide demand for the staff could not be fully met so we had orders to recover as much as we could. But the Bedouin beat us to it. Once they discovered that we were doing they promptly headed south ahead of us and did their own dismantling. I think my lads were tickled pink to have some entrepreneurs assisting them in their task. (Years later I did hear that my team of signallers had also gone into the copper recycling business by leaping over the Bedouin, recovering the copper wire and taking it over the border into Egypt where they sold it).

I spent the last few weeks packing up expensive technical equipment to ship from Haifa port and trucking other stuff up to Wadi Rushmeir near Haifa where it was destroyed by army flame throwers.

When it was my turn to bag up my old kit bag and go up to Haifa docks, Haganah units were entering Sarafand camp (the largest British military camp in Palestine) by one gate, the famed Arab legion of Jordan by a second and Brits were exiting by a third gate. It was all over. I headed north to Haifa.

What did you think would happen to Palestine after you left?

I would like to give you a clear answer. I cannot. I was, by this time, twenty years old. I had had an interesting, even an intense political education. But it was the wrong one. I had become a Zionist supporter. Here, I thought, was a new generation of Jews embarking on a world-shaking socialist venture that would be a model for all of us in the decadent west. I felt guilty about what we in the army were doing here yet all I had done was to write letters to my Member of Parliament (an ex regular soldier, a member of the British Labour Party and later a member of the government).

So what did you bring back to Palestine? What caused you to study the situation here as intensively as you do now?

Another sense of guilt, I suppose. I feel that supporting the cause is an act of atonement for the terrible injustice of which I was part and which continues today. To atone (perhaps a pompous word to use) means, to me, to stand in solidarity with and to work alongside everyone who is committed to justice in this land and for its people.■

Refugee Voices

Greetings from Shatilla

From the heart on behalf of Shatila, mainly children and youth from the Children and Youth Centre (CYC) send you and all our brothers and sisters in Palestine warmest greetings. We wish you more and more success. I read your kind message today in the weekly large meeting in front of 47 boys and girls, and we made it a subject for discussion - what and how we understand the right to return.

I explained to them what you are doing and encouraged them to write their opinions. I showed them a copy of *al Majdal*, which I got from my friend and some pictures I received from Jerusalem. I will try to translate certain issues from it and ask other friends to translate to make it easier for those who don't know enough English. I think it's important for the young Palestinian generation especially in Lebanon to be aware and to follow the great activities and great role you are filling.

I think that when you came to Lebanon you realized people here are living under circumstances that are not encouraging at all - politically, economically, and socially. There is a high level of mistrust between the refugees and their leadership inside and outside of Palestine. Everybody feels forgotten and people try to find solutions on a personal or individual level. That is why we find a lot of people, especially the youth, seeking to emigrate, with the support of their parents, to this or that country.

Today we buried the fifth victim killed in their house in Shatila camp. The reasons are unknown. Maybe there are thieves attacking the homes of old people to steal or maybe some gang is trying to spread fear among the people in the camp. No one really cares what is going on. Last week we called a parent's meeting at the CYC in Shatila to discuss the education and health conditions of our children and the social relations within the family and society. We also explained to the parents what the CYC is doing, its yearly work and activities report. But the discussion turned out to be about the pain they feel: the unorganized nature of the camp, the lack of electricity, water, the flood every time it rains, the bad streets, the bad authorities, etc. The people are squeezed and fed up with life in Lebanon to the point that they might accept whatever is decided for them.

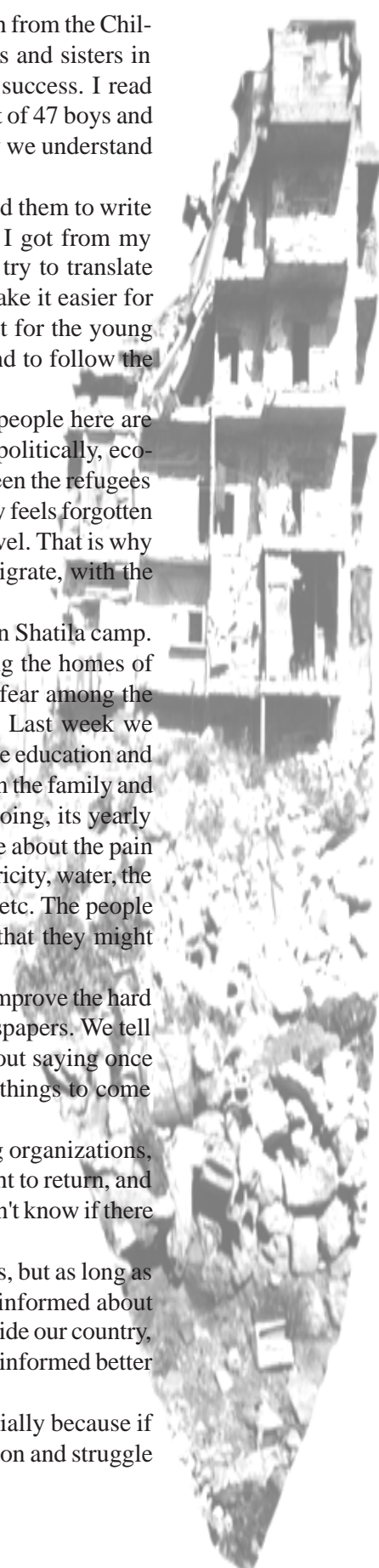
Everybody is complaining, but there are few efforts to improve the hard conditions. All of us watch the news on TV and read the newspapers. We tell each other what we heard, what others said or decided without saying once what we think or how we respond. We are just waiting for things to come from the heaven, but they will never come.

In these days we are hearing about many small and big organizations, Lebanon and in the United States, that are working on the right to return, and we are receiving long papers to sign on the right to return. I don't know if there is coordination among them.

I don't know why I am disturbing you with these stories, but as long as we are one we need to send and receive our news and to be informed about all what is going on with any part of our people inside and outside our country, although I know that there are many friends here keeping you informed better than me.

Thank you again, I felt so happy with your letter, especially because it came from Palestine where our dreams, minds, hearts, ambition and struggle are looking forward.

Mahmoud Abbas (Abu Mujahed)
Shatila Camp





What does Jerusalem Mean to Me?

Jerusalem is the capital of our country and the center of the world. It's the city of three religions (Islam, Christian and Judaism). So it has many holy places in it like the Holy Sepulcher, where there's a tomb for Jesus; the Dome of the Rock and Al-Aqsa Mosque where prophet Mohammed had visited and went to the heavens. And beside the Holy Sepulcher there's a holy mosque where Omar Ben Al-Khattab had prayed.

The most important part of Jerusalem is the Old City which is surrounded by the wall. This city was founded in around 4000 BC, and it's divided into four quarters; the Muslim, the Christian, the Jewish and the Armenian. The present walls surrounding the Old City were built by the Ottoman Sultan Suleiman Al-Qanouni in 1542. The walls surrounding the city have eleven gates, the following seven are presently open; Damascus gate, Herod's gate, Jaffa gate, Zion gate, A'-Magharbeh gate, Lion's gate and the New gate.

If we return back to look at the history of Jerusalem, we'll find that Jerusalem has passed through many events, like the Crusaders' occupation. It suffered from this occupation for a long time until the hero Salah al-Deen came and liberated the city. If we look at the history after this period, we'll find that Jerusalem passed, and it's still passing through another important event, which is the Jewish occupation since 1967.

More than fifty years ago, Jews drove the Palestinians from their home town, Jerusalem, by their power and strength. The Palestinian people had to go to the camps and poor small villages. They had no food, nothing to eat, they suffered from all those things and then enemies treated them harshly. These people are the Palestinian refugees.

The Israeli people and their presidents have done all they can to prove that they are strong and brave. All of them believed that Jerusalem is their capital now and forever.

So if someone asked me what Jerusalem means to me, what shall I answer? It's everything that I like, the thing that I can't live without. It means the past, present, the future, the origin, the history, the hope and the peace.

So me and all the people are still waiting for a hero like Salah al-Deen to come and liberate Jerusalem as he had done before. We are still believing the day to return Jerusalem to its country and its people will come.

Bushra Darwish, age 14
refugee from Malha

resources

Eviction from Jerusalem: Restitution and Protection of Palestinian Rights (BADIL, 1999)
English and Arabic, 30 pages. US\$5

**Jerusalem 1948:
The Arab Neighbourhoods of the City and Their Fate in the War** (BADIL/IJC, 1999)
The book is available in English with Arabic translation of the introduction, 304 pages. US\$20. ISBN 0-88728-274-1

Refugee Campaign Package: Reclaiming the Right of Return 2nd Edition (BADIL, 2000)
The packet includes a program of action for the campaign, background information about Palestinian refugees, refugee lands and properties, the right of return, protection, and Palestinian refugee organizations and NGOs. Includes Campaign Guidebook, Country Profiles - Palestinian Refugees in Exile, and BADIL Information & Discussion Briefs.

The packet is available in print format in English (Arabic 2nd edition forthcoming) (US\$10)

BADIL Information & Discussion Briefs

- Brief No. 1:
Reinterpreting Palestinian Refugee Rights Under International Law, and a Framework for Durable Solutions
(Susan M. Akram)
- Brief No. 2:
Fora Available for Palestinian Refugee Restitution, Compensation and Related Claims
(Susan M. Akram)
- Brief No. 3:
The Evolution of an Independent, Community-Based Campaign for Palestinian Refugee Rights in the 1967 Occupied Palestinian Territories and 1948 Palestine/Israel
(Ingrid Jaradat Gassner)

Additional Briefs forthcoming.

(US\$5 print copies; free copies on the BADIL website)

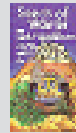
BADIL Annual Report 1999

The report is available in English and Arabic, 34 pages (free). An electronic copy is archived on the BADIL website.

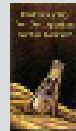
Videos



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



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



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

Posters



Right of Return Poster
Complimentary copy for subscribers to *al majdal*. Discounted price available for large orders.
US\$5

For a complete list of BADIL publications and videos please visit the Resource Center website.
www.badil.org

Websites



BADIL Arabic Website
www.badil.org/Arabic%20Website/index.htm

Across Borders Project

www.acrossborders.org
The second Across Borders Internet Centre was opened on 31 March in Khan Yunis camp, Gaza. The project aims to bring Internet technology into Palestinian refugee camps across the Middle East. The centre in Khan Yunis is being run in conjunction with the Khan Yunis Popular Committee representing activities and organizations in the camp. The launch in Khan Yunis marks an expansion of the project which has as its central aims the connection of Palestinian refugees and the creation of bilingual camp websites to provide information about the camps.

Palestinian Refugee Camp Project

www.un194.org
The project, a joint initiative between the Palestinian Diaspora and Refugee Center (Shaml) and the Across Borders Project (Birzeit University), aims to Provide professional research material on Palestinian refugee camps in Jordan, Syria, Lebanon, West Bank and the Gaza Strip.

In Our Own Affairs:

BADIL General Assembly Convened

Intensive efforts over the past year, aimed at formalizing the relationship between BADIL's professional team and our activist BADIL Friends Forum, have finally resulted in the convening of the first BADIL General Assembly on 10 March 2000. We consider the General Assembly to be step which we consider a great step forward towards the democratization of our Palestinian institutions.

BADIL's General Assembly, convened according to the new Palestinian NGO law issued in January 2000, was held at the Youth Activity Center in the 'Aida refugee camp, Bethlehem, Forty-two (from among 57) members active in West Bank refugee camp organizations and Palestinian institutions attended the General Assembly. The meeting was presided over by the Bethlehem Interior Ministry's Supervisory Committee composed of George Hazboun (head), Ghazi Gheith (legal advisor), Muhammad al-Lahham (PLO Refugee Department), and Issa Qaraqe' (Palestinian Prisoners' Club). Among the guests of our first General Assembly meeting were Jamal Shati/PLC Refugee Subcommittee and Hussam Khader/PLC, as well as representatives of the Union of Youth Activity Centers, 'Aida camp organizations and Oxfam UK.

BADIL's General Assembly approved our 1999 activity and financial report, re-confirmed BADIL's auditor in his position, and elected BADIL's new Board of Advisors and Comptrol Committee.

Elected BADIL Board members

Dr. Nayef Jarrad, Political Advisor/PNC-West Bank, Tulkarem
Adnan Ajarmeh, Union of Youth Activity Centers, 'Aida camp/Bethlehem
Tayseer Nasrallah, Yafa Cultural Center, Balata camp/Nablus
Faisal Salameh, PLO Popular Service Committees, Tulkarem camp
Salem Abu Hawwash, Activist, Doura/Hebron
Ahmad Ass'ad, Head/Palestinian National Institutions-Toubas; Al-Far'ah camp/Nablus
Afif Ghatashe, Union of Youth Activity Centers, Fawwar camp/Hebron
Bassam Abu 'Aker, Youth Activity Center, 'Aida camp/Bethlehem
Dr. Adnan Shehadeh, Union of Youth Activity Centers, 'Arroub camp/Hebron

Elected members of BADIL's Comptrol Committee

Rajeh al-Til, Activist, Dahriyyah/Hebron
Samir 'Odeh, Youth Activity Center, 'Aida camp/Bethlehem
Wissal al-Salem, Head/Women's Activity Center, Nur Shams camp/Tulkarem

**In solidarity - and until the return of our Palestinian refugees,
BADIL Resource Center**

badil

بديل المركز الفلسطيني لمصادر حقوق المواطنة والأجانب

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.

al majdal

مجدل جاد

al-majdal is an Aramaic word meaning fortress. The town was known as Majdal Jad during the Canaanite period related 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 expell the remaining Palestinians living in the city in order to gain full control of 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 some 70,595 persons of whom 51,400 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.